

## ARTICLE III. PROVISIONS GOVERNING AGRICULTURAL DISTRICTS

---

### Sect. 300 A-1 Agricultural Zone

Intent: The Agriculture District is intended to (1) conserve agricultural lands for continued farm use, and (2) minimize urban-type development in rural areas (3) preserve the natural beauty and open space character of the Spencer County rural countryside and (4) protect the public health, safety and welfare from hazardous and/or unsafe waste, whether solid, semi-solid or liquid generated or disintegrate from a municipal commercial or industrial waste water treatment plant, water supply treatment plant, air pollution control facility or any other such waste having similar characteristics and effects; due to the presence of sinkholes, losing streams and sinking streams associated with the karsts topography of Spencer County.

1.) Uses permitted:

- a.) One Principal Single Family Dwelling of site built construction and limited to one manufactured home or site built home per farm used as a dwelling, which is permanently occupied by members of the immediate family of the farm owner or by full-time employees working on the farm.
- b.) Agricultural uses including one principle farm dwelling and storage of farm products.
- c.) Roadside stand for sale of agricultural products produced on the premises.
- d.) Churches, parish halls, temples, convents, monasteries, educational or similar institutions.

2.) Accessory uses allowed:

- a.) Riding academies and stables subject to KRS 100.111 pertaining to agricultural uses
- b.) Non-commercial kennels
- c.) Home Occupations
- d.) Garage or other accessory building
- e.) Private recreational facilities

3.) Conditional Uses allowed:

- A.) Land farming may be permitted by special Conditional Use of the following conditions:

1.) Storage of any sludge or special waste shall be stored on the farm on which the sludge or special waste will be spread, provided it is not stored more than ten (10) days; and provided a plan which provides appropriate measures to prevent wind or water erosion or leaking of the sludge or special waste is submitted to the Board of Adjustments. The Board of Adjustments may grant a "Restricted Conditional Use" permit for storage of any sludge or special waste for a period exceeding ten (10) days in an Industrial District.

2.) The applicant (landowner and sludge generator) shall submit to the Board of Adjustments the following:

(a) For informational purposes, a copy of the surface and ground water Quality Assurance Plan required by 401 KAR 48:200.

(b) The affidavit of a geologist, physical geographer, agricultural or civil engineer, with professional experience in karsts hydrogeology, certifying that the land farming site is not within the catchment / drainage area of a sinkhole, losing stream, or sinking stream; with citations to the sources used in preparing the certification which shall include but not be limited to a physical on-site inspection of the proposed land farming site. Said affidavit shall detail the affiant's educational background and experience with karsts hydrogeology.

(c) Copies of all test results used to determine that the sludge is non-hazardous in accordance with all criteria to be considered for identifying hazardous waste as set forth in 401 KAR, Chapter 31 of Natural Resources and the Environmental Protection Cabinet.

(d) Copies of all test results establishing that the sludge does not contain any pathogens, or toxic substances regulated by the Toxic Substances Control Act.

3.) The grant or denial by the Cabinet for Natural Resources and Environmental Protection of a request for determination of waste classification for a proposed land farming site prior to the applicant's submittal of a complete permit application pursuant to 401 KAR 48:200, Section 1 may be considered by the Board of Adjustments in approving or denying the Special Conditional Use Permit, but shall not be dispositive of that determination.

4.) Any Special Conditional Use permit granted shall be conditional upon the granting of a land farming permit pursuant to 401 KAR 48:200 and shall become effective upon date the land farming permit

is issued by Kentucky's Cabinet for Natural Resources and Environmental Protection.

5.) For informational purposes, a copy of the permit application required by 401KAR 48:200, Section 3 to be submitted to Kentucky's Cabinet for Natural Resources and Environmental Protection shall be submitted simultaneously to the Board of Adjustments.

6.) For informational purposes, the Permit-tee shall provide to the Board of Adjustments a copy of the results of periodic soil sampling tests required by 401 KAR 48:200 section 8 (20), (a), (b) within 30 days of the date said sampling tests are conducted together with an affidavit by the applicant stating that said results are within the guidelines set by 401 KAR 48:200 Section 8. Applicant shall send copies of the sampling results and the affidavit described herein above to the Kentucky Cabinet for Natural Resources and Environmental Protection.

7.) For informational purposes, the Permit-tee shall provide the Board of Adjustment a copy of the written notice regarding excessive cumulative concentration of contaminants required by 401 KAR 48:200 section 8 (25) and a copy of any report describing corrective actions to be taken pursuant to 401 KAR 48:200 Section 8.

8.) When a Special Conditional Use permit for land farming is revoked, notice of revocation shall be provided by letter from the Board of Adjustments to the Kentucky Cabinet for Natural Resources and Environmental Protection. A Special Conditional Use Permit for land farming shall be revoked:

- (a) When permit-tee fails to provide copies of test results, affidavits or notices required by this article hereof to Board of Adjustment within 60 days of the date tests are taken or notice or report is due to be sent to the Cabinet for Natural Resources and Environmental Protection.
- (b) When the area ceases to be used as a land farming site;
- (c) When the permit-tee's land farming permit issued pursuant to KRS Chapter 224 and 401 KAR 48:200, and any amendments thereto, is revoked by the Kentucky Cabinet for Natural Resources and Environmental Protection;
- (d) If the information on which the application for special Conditional use permit was granted is proved to have been false; or

- (e) When the information contained in the hydro geologist affidavit becomes incorrect as a result of hydro geological changes in the land farming site which affect the site's capacity for removal and/or control of contaminants.
- 9.) No Special Conditional Use which has been revoked shall be reactivated or renewed until the Board of Adjustments has received from the Permit-tee a copy of the written authorization by the Kentucky Cabinet for Natural Resources and Environmental Protection to recommence land farming.
- B.) Commercial Greenhouses, Plant Nurseries. Conditions may be imposed that limit the size and type of structure, hours/seasons of operation, location of structures, number of employees, limitations on type of merchandise offered for sale, limitations on the storage of refuse and waste material. A conditional use granted under this section allows commercial greenhouses and plant nurseries only (other than permitted use) as the primary use.
- C.) Pay Fishing Lakes, Riding and Boarding Pens and Stables, Commercial Kennels, Animal Clinics/Hospitals. Conditions may be imposed that limit the size, type and location of any structures, that limit the number of animals accommodated at any one time, limit the number of employees, impose special requirements for screening and buffering, the number of clients served at any one time, limitations on hours or seasons of operation as well as any other condition that allows the use to blend in with its unique surroundings.
- D.) Instructional/Research Facilities, Rehabilitation Centers. Conditions may be imposed that limit or specify the size and type of structure or structures, that impose a maximum number of employees and/or individuals to be accommodated on site at any one time, limit seasons or hours of operation, limit the specific area to be used for the particular use, impose specific screening and/or buffering requirements, as well as any other requirement or condition that allows the use to blend in with its particular surroundings.
- E.) Owner-Operated, Specially Skilled Shop. The intent of this section is to permit the resident craftsman to benefit from his specialty skill at his residence. Examples of the type of uses so permitted are welders, mechanics, wood workers, sawmills, re-upholsters, appliance repair persons, sign painters, etc.. Conditions which may be imposed or which shall be mandatory (\*) include: the business may be operated by the resident owner and immediate family members residing at the location, no outside employees are allowed(\*); no person may own or operate more than one such business (\*); no more than one structure be permitted for such operation (\*); such structure not exceed 2500 sq. ft. in area(\*); storage of any equipment, necessities, or accessories to

said business which incidentals to the business must be completely and entirely stored and contained within said structure (\*); limits may be placed on hours of operation; impose special screening and buffering requirements; as well as any other requirement that allows the use to blend in with its unique surroundings.

F.) Contracting Businesses (electrical, general, plumbing excavation, concrete, etc.) at the contractor's place of residence: Conditions that may be imposed or that are mandatory (\*) include: that the lot or parcel on which the business is located must be at least five (5) acres in size (\*); no activity related to the business shall occur within 100 feet of any adjoining property (\*); that the use involve one building only being no more than 2500 square feet in size (\*); that the area of the lot or tract to be used for the purposes of the conditional use, excluding a driveway, is to be no more than 25,000 square feet (\*); that there are no more than three (3) employees, including the landowner and other resident employees, employed or associated with the business on-site (\*); that there are no more than four (4) pieces of business equipment or vehicles (trailer to carry a piece of equipment not counting as a separate piece of equipment) allowed on-site (\*); special screening or buffering may be required; as well as any other condition that allows the particular use to blend with its unique surroundings.

G.) Bed and Breakfast Establishments: allowing sleeping accommodations to be rented for profit with minimal food service provided. The Board of Adjustment when granting requests for bed and breakfast establishments may, limit the number of rooms to be used, limit the area of structure to be dedicated to the use, require a specific number of parking spaces as well as impose any other requirement that it deems necessary to help the requested use blend into its unique surroundings.

H.) Automobile and agricultural equipment sales and service at the residence of the owner/operator: The Board of Adjustment when approving a Conditional Use Permit for an establishment for the sales and service of automobiles and/or agricultural equipment may consider the impact of the proposed use on the surrounding area, in particular to the properties adjacent. This type of establishment shall not be considered as altering the agricultural or residential character of its particular area and shall not be justification for zoning map amendments. Conditions may be impose by the Board addressing the area to be used for sales or service; parking; screening and buffering; hours of operation or any other restriction required to allow the establishment blend with its particular environment. In addition the Board may put a time limit or expiration date on the permit after which the applicant may reapply for extension of the permit. In the case of automobile sales, no more than five (5) automobiles may be displayed for sale at any one time. When appropriate the Board of Adjustment may limit the number of automobiles displayed to less than five (5). All

automobiles displayed for sale must be operative.

- I.) One (1) accessory dwelling unit of permanent construction having no more than 1000 square feet in living area provided that the parcel on which the accessory dwelling is located has approved on-site sewage disposal for both the principal use dwelling and the accessory dwelling and that the lot or tract is at least two (2) acres in size.
- J.) Rifle Shooting Range: Conditions may be imposed that limit or specify the size and type of structure or structures, hours of operation, safety measures required including but not limited to direction of fire and berming, limit the specific area to be used for the particular use including setbacks from property lines, impose specific screening and/or buffering requirements, as well as any other requirement or condition that allows the use to blend in with its particular surroundings.
- K.) Circus/Carnivals: Conditions may be imposed that limit or specify the size and type of structure or structures, hours and frequency (seasons) of operation, traffic safety measures required including but not limited to direction of flow and required parking, limit the specific area to be used for the particular use including setbacks from property lines, impose specific screening and/or buffering requirements, as well as any other requirement or condition that allows the use to blend in with its particular surroundings.

4.) Dimensional Requirements – subject to the special requirements of Article VIII.

- a.) Road Frontage - 50 feet
- b.) Front Yard - 50 feet from right-of-way
- c.) Side Yard - 15 feet\*
- d.) Street Side yard - 30 feet
- e.) Rear Yard - 40 feet \*
- f.) Minimum lot/tract size – 10 acres
- g.) Maximum Height – 35 feet

\* SPECIAL NOTE: on land used solely for agriculture, stock raising, dairying or similar purposes, the regulations as to construction permits, certifications of occupancy, height, yard, location, or Courts Requirements is not applicable for Agriculture Buildings other than the residence, except that set-back lines required for protection of existing or proposed streets or highways must be observed; and no structure may be built in a designated floodway or flood plain which would tend to increase flood heights or obstruct water flow unless permitted by the Division of

Water. An Agricultural Construction Permit Exemption Affidavit is to be acquired for all agricultural structures stating that all buildings are being used as farm buildings incidental to the farming operation.

5.) Parking.

a.) Three All-weather off-street automobile parking, paved with bituminous asphalt, concrete, crushed stone, gravel, or slag shall be provided on all lots on which any of the following uses are established such space shall be provided with vehicular access to a street or alley.

b.) All other parking shall be provided as indicated in Article XIII.

c.) Parking Exceptions Article XIII, Section 1301.

6.) Signage.

Signs permitted as indicated in Article X.

## **Sect. 301 A-2 Agricultural Zone**

Intent: The A-2 Agriculture District is intended to (1) conserve agricultural lands for continued farm use, and (2) allow low density, low-impact residential development in rural areas that is compatible with agricultural operations, and (3) preserve the natural beauty and open space character of the Spencer County rural countryside and (4) protect the public health, safety and welfare from hazardous and/or unsafe waste, whether solid, semi-solid or liquid generated or disintegrate from a municipal commercial or industrial waste water treatment plant, water supply treatment plant, air pollution control facility or any other such waste having similar characteristics and effects; due to the presence of sinkholes, losing streams and sinking streams associated with the karsts topography of Spencer County.

### 1.) Uses permitted:

- a.) One Principal Single Family Dwelling.
- b.) Agricultural uses including one principle farm dwelling and storage of farm products.
- c.) Roadside stand for sale of agricultural products produced on the premises.
- d.) Churches, parish halls, temples, convents, monasteries, educational or similar institutions.

### 2.) Accessory uses allowed:

- a.) Riding academies and stables subject to KRS 100.111 pertaining to agricultural uses
- b.) Non-commercial kennels
- c.) Home Occupations
- d.) Garage or other accessory building
- e.) Private recreational facilities

### 3.) Conditional Uses allowed:

A.) Land farming may be permitted by special Conditional Use of the following conditions:

- 1.) Storage of any sludge or special waste shall be stored on the farm on which the sludge or special waste will be spread, provided it is not stored more than ten (10) days; and provided

a plan which provides appropriate measures to prevent wind or water erosion or leaking of the sludge or special waste is submitted to the Board of Adjustments. The Board of Adjustments may grant a "Restricted Conditional Use" permit for storage of any sludge or special waste for a period exceeding ten (10) days in an Industrial District.

- 2.) The applicant (landowner and sludge generator) shall submit to the Board of Adjustments the following:
  - (a) For informational purposes, a copy of the surface and ground water Quality Assurance Plan required by 401 KAR 48:200.
  - (b) The affidavit of a geologist, physical geographer, agricultural or civil engineer, with professional experience in karsts hydrogeology, certifying that the land farming site is not within the catchment / drainage area of a sinkhole, losing stream, or sinking stream; with citations to the sources used in preparing the certification which shall include but not be limited to a physical onsite inspection of the proposed land farming site. Said affidavit shall detail the affiant's educational background and experience with karsts hydrogeology.
  - (c) Copies of all test results used to determine that the sludge is non-hazardous in accordance with all criteria to be considered for identifying hazardous waste as set forth in 401 KAR, Chapter 31 of Natural Resources and the Environmental Protection Cabinet.
  - (d) Copies of all test results establishing that the sludge does not contain any pathogens, or toxic substances regulated by the Toxic Substances Control Act.
- 3.) The grant or denial by the Cabinet for Natural Resources and Environmental Protection of a request for determination of waste classification for a proposed land farming site prior to the applicant's submittal of a complete permit application pursuant to 401 KAR 48:200, Section 1 may be considered by the Board of Adjustments in approving or denying the Special Conditional Use Permit, but shall not be dispositive of that determination.
- 4.) Any Special Conditional Use permit granted shall be conditional upon the granting of a land farming permit pursuant to 401 KAR 48:200 and shall become effective upon date the land farming permit is issued by Kentucky's Cabinet for Natural Resources and Environmental Protection.

- 5.) For informational purposes, a copy of the permit application required by 401KAR 48:200, Section 3 to be submitted to Kentucky's Cabinet for Natural Resources and Environmental Protection shall be submitted simultaneously to the Board of Adjustments.
- 6.) For informational purposes, the Permit-tee shall provide to the Board of Adjustments a copy of the results of periodic soil sampling tests required by 401 KAR 48:200 section 8 (20), (a), (b) within 30 days of the date said sampling tests are conducted together with an affidavit by the applicant stating that said results are within the guidelines set by 401 KAR 48:200 Section 8. Applicant shall send copies of the sampling results and the affidavit described herein above to the Kentucky Cabinet for Natural Resources and Environmental Protection.
- 7.) For informational purposes, the Permit-tee shall provide the Board of Adjustment a copy of the written notice regarding excessive cumulative concentration of contaminants required by 401 KAR 48:200 section 8 (25) and a copy of any report describing corrective actions to be taken pursuant to 401 KAR 48:200 Section 8.
- 8.) When a Special Conditional Use permit for land farming is revoked, notice of revocation shall be provided by letter from the Board of Adjustments to the Kentucky Cabinet for Natural Resources and Environmental Protection. A Special Conditional Use Permit for land farming shall be revoked:
  - a) When permit-tee fails to provide copies of test results, affidavits or notices required by this article hereof to Board of Adjustment within 60 days of the date tests are taken or notice or report is due to be sent to the Cabinet for Natural Resources and Environmental Protection.
  - (b) When the area ceases to be used as a land farming site;
  - (c) When the permit-tee's land farming permit issued pursuant to KRS Chapter 224 and 401 KAR 48:200, and any amendments thereto, is revoked by the Kentucky Cabinet for Natural Resources and Environmental Protection;
  - (d) If the information on which the application for special Conditional Use Permit was granted is proved to have been false; or
  - (e) When the information contained in the hydro geologist affidavit becomes incorrect as a result of hydro

geological changes in the land farming site which affect the site's capacity for removal and/or control of contaminants.

- 9.) No Special Conditional Use which has been revoked shall be reactivated or renewed until the Board of Adjustments has received from the Permit-tee a copy of the written authorization by the Kentucky Cabinet for Natural Resources and Environmental Protection to recommence land farming.
- B.) Commercial Greenhouses, Plant Nurseries. Conditions may be imposed that limit the size and type of structure, hours/seasons of operation, location of structures, number of employees, limitations on type of merchandise offered for sale, limitations on the storage of refuse and waste material. A conditional use granted under this section allows commercial greenhouses and plant nurseries only (other than permitted use) as the primary use.
- C.) Pay Fishing Lakes, Riding and Boarding Pens and Stables, Commercial Kennels, Animal Clinics/Hospitals. Conditions may be imposed that limit the size, type and location of any structures, that limit the number of animals accommodated at any one time, limit the number of employees, impose special requirements for screening and buffering, the number of clients served at any one time, limitations on hours or seasons of operation as well as any other condition that allows the use to blend in with its unique surroundings.
- D.) Instructional/Research Facilities, Rehabilitation Centers. Conditions may be imposed that limit or specify the size and type of structure or structures, that impose a maximum number of employees and/or individuals to be accommodated on site at any one time, limit seasons or hours of operation, limit the specific area to be used for the particular use, impose specific screening and/or buffering requirements, as well as any other requirement or condition that allows the use to blend in with its particular surroundings.
- E.) Owner-Operated, Specially Skilled Shop. The intent of this section is to permit the resident craftsman to benefit from his specialty skill at his residence. Examples of the type of uses so permitted are welders, mechanics, wood workers, sawmills, re-upholsters, appliance repair persons, sign painters, etc.. Conditions which may be imposed or which shall be mandatory (\*) include: the business may be operated by the resident owner and immediate family members residing at the location, no outside employees are allowed(\*); no person may own or operate more than one such business (\*); no more than one structure be permitted for such operation (\*); such structure not exceed 2500 sq. ft. in area(\*); storage of any equipment, necessities, or accessories to said business which incidentals to the business must be completely and entirely stored and contained within said structure (\*); limits may

be placed on hours of operation; impose special screening and buffering requirements; as well as any other requirement that allows the use to blend in with its unique surroundings.

F.) Contracting Businesses (electrical, general, plumbing excavation, concrete, etc.) at the contractor's place of residence: Conditions that may be imposed or that are mandatory (\*) include: that the lot or parcel on which the business is located must be at least five (5) acres in size (\*); no activity related to the business shall occur within 100 feet of any adjoining property (\*); that the use involve one building only being no more than 2500 square feet in size (\*); that the area of the lot or tract to be used for the purposes of the conditional use, excluding a driveway, is to be no more than 25,000 square feet (\*); that there are no more than three (3) employees, including the landowner and other resident employees, employed or associated with the business on-site (\*); that there are no more than four (4) pieces of business equipment or vehicles (trailer to carry a piece of equipment not counting as a separate piece of equipment) allowed on-site (\*); special screening or buffering may be required; as well as any other condition that allows the particular use to blend with its unique surroundings.

G.) Bed and Breakfast Establishments: allowing sleeping accommodations to be rented for profit with minimal food service provided. The Board of Adjustment when granting requests for bed and breakfast establishments may, limit the number of rooms to be used, limit the area of structure to be dedicated to the use, require a specific number of parking spaces as well as impose any other requirement that it deems necessary to help the requested use blend into its unique surroundings.

H.) Automobile and agricultural equipment sales and service at the residence of the owner/operator: The Board of Adjustment when approving a Conditional Use Permit for an establishment for the sales and service of automobiles and/or agricultural equipment may consider the impact of the proposed use on the surrounding area, in particular to the properties adjacent. This type of establishment shall not be considered as altering the agricultural or residential character of its particular area and shall not be justification for zoning map amendments. Conditions may be imposed by the Board addressing the area to be used for sales or service; parking; screening and buffering; hours of operation or any other restriction required to allow the establishment blend with its particular environment. In addition the Board may put a time limit or expiration date on the permit after which the applicant may reapply for extension of the permit. In the case of automobile sales, no more than five (5) automobiles may be displayed for sale at any one time. When appropriate the Board of Adjustment may limit the number of automobiles displayed to less than five (5). All automobiles displayed for sale must be operative.

- I.) One (1) accessory dwelling unit of permanent construction having no more than 1000 square feet in living area provided that the parcel on which the accessory dwelling is located has approved on-site sewage disposal for both the principal use dwelling and the accessory dwelling and that the lot or tract is at least two (2) acres in size.
- J.) Rifle Shooting Range: Conditions may be imposed that limit or specify the size and type of structure or structures, hours of operation, safety measures required including but not limited to direction of fire and berming, limit the specific area to be used for the particular use including setbacks from property lines, impose specific screening and/or buffering requirements, as well as any other requirement or condition that allows the use to blend in with its particular surroundings.
- K.) Circus/Carnivals: Conditions may be imposed that limit or specify the size and type of structure or structures, hours and frequency (seasons) of operation, traffic safety measures required including but not limited to direction of flow and required parking, limit the specific area to be used for the particular use including setbacks from property lines, impose specific screening and/or buffering requirements, as well as any other requirement or condition that allows the use to blend in with its particular surroundings.

4.) Dimensional Requirements – subject to the special requirements of Article VIII.

- a.) Road Frontage - 50 feet
- b.) Front Yard - 50 feet from right-of-way
- c.) Side Yard - 15 feet\*
- d.) Street Side yard - 30 feet
- e.) Rear Yard - 40 feet \*
- f.) Minimum lot/tract size – 5 acres
- g.) Maximum Height – 35 feet

\*SPECIAL NOTE: on land used solely for agriculture, stock raising, dairying or similar purposes, the regulations as to construction permits, certifications of occupancy, height, yard, location, or Courts Requirements is not applicable for Agriculture Buildings other than the residence, except that set-back lines required for protection of existing or proposed streets or highways must be observed; and no structure may be built in a designated floodway or flood plain which would tend to increase flood heights or obstruct water flow unless permitted by the Division of Water. An Agricultural Construction Permit Exemption Affidavit is to be acquired for

all agricultural structures stating that all buildings are being used as farm buildings incidental to the farming operation.

5.) Parking.

- a.) Three All-weather off-street automobile parking, paved with bituminous asphalt, concrete, crushed stone, gravel, or slag shall be provided on all lots on which any of the following uses are established such space shall be provided with vehicular access to a street or alley.
- b.) All other parking shall be provided as indicated in Article XIII.
- c.) Parking Exceptions Article XIII, Section 1301.

6.) Signage.

Signs permitted as indicated in Article X.