For Agricultural Use Exemption

Douglas County Zoning and Codes
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For use in Douglas County, Kansas

Determination of Agricultural Use Exemption

The State of Kansas has given Kansas counties the authority to develop and adopt zoning regulations for their unincorporated areas. However, K.S.A. 19-2908 mandates "except for floodplain regulations in areas designated as a floodplain, regulations adopted pursuant to [the county planning and zoning enabling act] shall not apply to the use of land for agricultural purposes, nor for the erection or maintenance of buildings thereon for such purposes so long as such land and buildings erected thereon are used for agricultural purposes and not otherwise." No definition of agricultural purpose or use is provided in this section of the Kansas statutes.

The Kansas Attorney General (96-89 Opinion Attorney General 3, 1996) has summarized the "agricultural purpose" test as follows: "The agricultural use must be substantial enough to indicate that the owner is not masking a residential use of the property with an agricultural pretense as a ruse to gain exemption from zoning regulations." The purpose of this section is to outline a process and specific criteria by which agricultural exemptions may be determined and granted in Douglas County in accordance with the requirements of K.S.A. 19-2908.

Authority

The Director of the Douglas County Zoning & Codes is hereby granted the authority to determine when an agricultural use exemption is warranted in accordance with the criteria specified in this section. Upon such determination, the Director shall issue a letter granting the exemption and a record of such exemption shall be maintained by the Department. Any person not in agreement with the Director's determination may appeal the decision to the Douglas County Board of Zoning Appeals. In the case of an appeal, an application fee shall be charged but will be refunded if the Board of Zoning Appeals grants the exemption.

Exemption Use

To receive an agricultural use exemption, the landowner requesting the exemption must complete and apply using forms provided by the Department, along with all required supplemental documentation. No application fee shall be charged for an agricultural exemption determination.

Exemption

When an existing agricultural tract or on any tracts to be created by subdividing land, the Director must determine whether a significant agricultural operation exists or is planned which would warrant support of an agricultural operation. In making this determination, the following criteria shall be used:

a. There must be an agriculture use, as defined herein, on the subject property or on adjoining property owned or leased by the applicant, which in total constitutes a significant agricultural operation providing documentation that the operation has received or intends to produce income.

b. A significant agricultural operation cannot be defined in precise terms but shall include the following minimum standards:

1) The applicant must have filed a Schedule F, Profit or Loss from Farming, with the Internal Revenue Service for the preceding year. If the applicant is a new agricultural producer and does not have a record of a Schedule F, the applicant must submit an approved business plan, approved agricultural loan from a lending institution or similar itemized documentation qualifying the applicant's investment in the agricultural operation; and

2) The amount of land in agriculture uses which constitutes the entire agricultural operation of the applicant must be at least three (3) acres.

c. The applicant must demonstrate they are "engaged in agriculture". For purposes of granting the exemption, "engaged in agriculture" shall include, but not be limited to, one or more of the following actions:

1) The applicant must regularly and frequently make or take an important part in management decisions substantially contributing to or affecting the success of the agricultural operation.

Required Inspections

Douglas County has the right to inspect your land in determining the justification for your request.

Agricultural Property

Has the land been farmed before? How?

Is the land a working farm now? How?

What livestock do you or will you raise? _____

What will your proposed building be used for? _____

What is the total acreage? _____

The following requirements must be furnished to the Douglas County Zoning and Codes Office before an exemption may be issued.

1. Approval of the road access entrance from the Douglas County Public Works Department, Kansas Department of Transportation, or Township Board, as appropriate.
2. A site plan or recorded boundary survey plat (Zoning and Codes can provide an aerial upon request).
    a. Direction-North Arrow
    b. Name and Address of Applicant
    c. Legal description of property.
    d. Copy of the recorded deed filed at the Douglas County Register of Deeds Office
    e. Floodplain delineation
    f. Location of proposed building in the lot with all dimensions.
    g. Base setback line and yard setback lines
    h. Show driveway & distance of driveway to side property lines.
3. One copy of a floor plan or construction drawing for all buildings to be built.
    a. Total square feet of building
    b. All rooms should be designated as to their use
    c. Electrical, plumbing and mechanical must be identified if applicable and require a permit and inspection
    d. If plumbing is proposed, approval by DG CO Health Dept. is required

Use Change

A change in use from agricultural is subject to a building permit and qualification of the structure by a licensed professional for the construction methods used.

Signature _____

Print or Type Full Name _____

Signature Date _____ Email Address _____

Phone Number _____

Agricultural Use Affidavit

Definition

Agricultural Building is a structure designed & constructed solely to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This structure should not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged; nor should it be a place used by the public. See Section 12-306.3 and 12-315.1 of the Douglas County Code for full definition.

Please provide evidence or documentation of farm income for this property. Example: Schedule F of the IRS Income Tax Statement.

Agricultural Property Information

1. The undersigned has an ownership interest in certain agricultural land located in the unincorporated area of Douglas County, Kansas described as follows:

Legal Description

Farm Name (if applicable) _____ Farm EIN _____

Owner Name _____

Mailing Address _____

City _____ State _____Zip _____

Phone Number _____ Email Address _____

Plate Number _____ PIN Number _____ Acreage _____

Explain in detail the agricultural use of the building, including what will be stored here, such as chemicals, equipment, crops, materials, etc. (Attach additional pages if necessary)

Will this structure contain any of the following? (Check all that apply)

☐ Electrical

Contractor's Full Name _____

Street Address _____

City _____ State _____ Zip _____

☐ Mechanical (HVAC)

Contractor's Full Name _____

Street Address _____

City _____ State _____ Zip _____

☐ Plumbing *

Contractor's Full Name _____

Street Address _____

City _____ State _____ Zip _____

*Plumbing – If checked, please contact Douglas County Health Department

2. The undersigned acknowledges that the Board of Douglas County Commissioners has adopted zoning regulations and has also adopted certain codes (including but not limited to building, mechanical, plumbing and electrical codes, collectively referred to as "building codes"), both of which govern the use, construction and maintenance of buildings in the unincorporated areas of Douglas County.
3. The undersigned further acknowledges that the Douglas County zoning regulations and building codes currently do not apply to the use of land and structures for agricultural purposes.
4. The undersigned desires to build a structure on the above-described land and claims the construction and use of the structure is exempt from the Douglas County Zoning Regulations and building codes, because the use will be solely for agricultural purposes. The following is a brief description of the proposed structure. (Required documents: floor plan drawing, construction plans and a site plan):

5. The undersign executes this Certificate pursuant to Section 12-306.3 and 12-315.1 of the Douglas County Code to certify that the use of the proposed structure will be solely for agricultural purposes.

Signatures

Now, therefore, the undersigned hereby certifies to Douglas County, Kansas, its departments and employees, as follows:

1. The proposed structure will be used solely for agricultural purposes.
2. If the use of the structure is changed at any time in the future such that it is no longer used solely for agricultural purposes, the undersigned acknowledges that the undersigned has been informed that the building must be made to comply with the then-current building codes.
3. Under oath and penalty of perjury, the undersigned makes the foregoing certification.

Signature _____

Print or Type Full Name _____

*Entity Name (if applicable) _____ Position _____

Signature Date _____

*If the owner is a legal entity, provide the name of the **legal entity** and the **position** of the individual signing this certification, i.e. President, Manager, Member, Trustee, etc.

Notary Public

County of [ ]
State of [ ] SS

Notary's Signature

Signed and sworn to (or affirmed) before me by the affiant listed below on the date provided.

Affiant Name _____

Signature Date _____

Notary Signature _____

Print Notary Name _____

Appointment Expiry Date _____