

A RESOLUTION ADOPTING A POSITION STATEMENT RELATED TO AGRICULTURAL LAND USE AND AGRITOURISM RELATED ACTIVITIES IN THE UNINCORPORATED AREAS OF JOHNSON COUNTY, KANSAS

At a regular meeting of the Board of County Commissioners of Johnson County, Kansas, conducted on Thursday, November 16, 2017, there came before the Board for consideration the matter of adopting a policy statement related to agricultural land use and agritourism activities in the unincorporated area of the County. The Board, upon a motion duly made, seconded and carried, adopted the following Resolution, to-wit:

WHEREAS, the Board of County Commissioners has the authority and responsibility to adopt zoning and subdivision regulations for and within the unincorporated area of the County to ensure that property interests are recognized, that public safety is preserved, and that land uses are compatible, and, since 1984, zoning and planning matters in the unincorporated area have been exercised by the Board pursuant to K.S.A. 19-2956 *et seq.*; and

WHEREAS, it has been the policy of the State of Kansas, as with many states, to preserve agricultural land uses and to prevent or minimize the regulation of farming and agricultural related activities, and to that end, by statute, the State legislature has provided an exemption from local government zoning regulations for land used for agricultural purposes and for agricultural buildings, as long as that land and/or buildings are used for agricultural purposes and not otherwise; and

WHEREAS, the State legislature has further adopted the Agritourism Promotion Act, codified at K.S.A. 2016 Supp. 32-1430 *et seq.*, to promote rural tourism and rural economic development by encouraging owners and operators of farms, ranches, and rural attractions to invite members of the public to view, observe and participate in such operations and attractions for recreational or entertainment purposes; and

WHEREAS, application of the statutory exemption from local government zoning regulations, together with the purposes behind the Agritourism Promotion Act, to land uses and development in Johnson County and its suburban character have caused issues and concerns for the County and its residents, including court litigation; and

WHEREAS, state government officials and state legislators have provided a variety of opinions and guidance intended to clarify the position of the state government to limit the ability of local governments to regulate agricultural land uses or the agritourism events conducted as a part of agricultural land uses; and

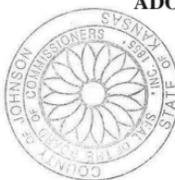
WHEREAS, the County has, through its comprehensive planning and zoning regulations, attempted to balance the need for preserving agricultural land uses with the zoning goal of compatibility for surrounding property owners and with the necessity to protect the public safety at and during the events associated with agritourism; and

WHEREAS, the Board believes it prudent to consider and adopt a Position Statement to better provide clarity and direction for the residents of the County and for county staff regarding the review and consideration of zoning matters related to agricultural land uses and agritourism related activities in the unincorporated areas of Johnson County, Kansas, and, after holding a joint study session with the Johnson County Planning Commission and requesting that the Planning Commission consider and discuss a proposed Position Statement, the Board now deems it necessary and advisable to establish and adopt the attached Position Statement applicable for the unincorporated area of Johnson County.

IT IS, THEREFORE, HEREBY RESOLVED by the Board of County Commissioners of Johnson County, Kansas, that:

1. **POSITION STATEMENT.** The attached Position Statement shall be and hereby is adopted as and for clarification and guidance to the residents and county staff in the review and processing of zoning matters related to agricultural land uses and agritourism related activities in the unincorporated areas of Johnson County, Kansas.
2. **APPLICATION.** From the effective date of this Resolution, county agencies, departments and staff shall utilize the Position Statement in the review and processing of zoning matters, including but not limited to determinations regarding the interpretation and/or application of the County's Zoning and Subdivision Regulations and in the review and processing of public safety matters, such as the County's public safety codes and regulations.
3. **EFFECTIVE DATE.** This Resolution shall become effective immediately upon its adoption.
4. **PUBLICATION.** This Resolution and the attached Position Statement, shall be published once in the official county newspaper, following its adoption.
5. **COPIES.** Copies of the Position Statement shall be placed and kept in the same manner and location as the County's zoning and subdivision regulations, shall be made available to members of the public upon request, and shall be conspicuously posted on the Planning Department's website at <http://www.jocogov.org/dept/planning-and-codes>.

ADOPTED THIS 16TH DAY OF NOVEMBER, 2017
BOARD OF COUNTY COMMISSIONERS
OF JOHNSON COUNTY, KANSAS




 Ed Eilert, Chairman

ATTEST

 Linda Barnes
 Deputy County Clerk

APPROVED AS TO FORM

 Richard J. Lind
 Assistant County Counsellor

POSITION STATEMENT FOR AGRICULTURAL
 LAND USES AND AGRITOURISM RELATED ACTIVITIES

A POSITION STATEMENT RELATED TO AGRICULTURAL LAND USE AND AGRITOURISM

RELATED ACTIVITIES IN THE UNINCORPORATED AREAS OF JOHNSON COUNTY, KANSAS

1. If the use of the property has received registration for agritourism in Kansas, then the county will recognize that the use and its related events and activities are exempt from zoning regulation by the county, with two exceptions -the county will seek to enforce public safety codes and regulations to protect members of the public attending the events, and the county will object and may seek enforcement against an event which exceeds some defined standard -such as the rock concert mentioned by the court.
2. If the use of the property is agricultural but the use is not registered as agritourism, then the county will recognize that the use and those events that are directly in support of the agricultural purpose are exempt from zoning regulation.
3. If the property is used as an event center without an agritourism registration or underlying primary agricultural use, then the county will consider that the use is subject to the county's zoning regulations.