

1 AN ACT relating to agritourism.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 100.111 is amended to read as follows:

4 As used in this chapter, unless the context otherwise requires:

- 5 (1) "Administrative official" means any department, employee, or advisory, elected, or
6 appointed body which is authorized to administer any provision of the zoning
7 regulation, subdivision regulations, and, if delegated, any provision of any housing
8 or building regulation or any other land use control regulation;
- 9 (2) "Agricultural use" means the use of:
- 10 (a) A tract of at least five (5) contiguous acres for the production of agricultural
11 or horticultural crops, including but not limited to livestock, livestock
12 products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco,
13 timber, orchard fruits, vegetables, flowers, or ornamental plants, including
14 provision for dwellings for persons and their families who are engaged in the
15 agricultural use on the tract, but not including residential building
16 development for sale or lease to the public;
- 17 (b) Regardless of the size of the tract of land used, small farm wineries licensed
18 under KRS 243.155;
- 19 (c) A tract of at least five (5) contiguous acres used for the following activities
20 involving horses:
- 21 1. Riding lessons;
 - 22 2. Rides;
 - 23 3. Training;
 - 24 4. Projects for educational purposes;
 - 25 5. Boarding and related care; or
 - 26 6. Shows, competitions, sporting events, and similar activities that are
27 associated with youth and amateur programs, none of which are

1 regulated by KRS Chapter 230, involving seventy (70) or less
 2 participants. Shows, competitions, sporting events, and similar activities
 3 that are associated with youth and amateur programs, none of which are
 4 regulated by KRS Chapter 230, involving more than seventy (70)
 5 participants shall be subject to local applicable zoning regulations;~~or~~

6 (d) A tract of land used for the following activities involving horses:

- 7 1. Riding lessons;
- 8 2. Rides;
- 9 3. Training;
- 10 4. Projects for educational purposes;
- 11 5. Boarding and related care; ~~or~~
- 12 6. Shows, competitions, sporting events, and similar activities that are
 13 associated with youth and amateur programs, none of which are
 14 regulated by KRS Chapter 230, involving seventy (70) or less
 15 participants. Shows, competitions, sporting events, and similar activities
 16 that are associated with youth and amateur programs, none of which are
 17 regulated by KRS Chapter 230, involving more than seventy (70)
 18 participants shall be subject to local applicable zoning regulations.

19 This paragraph shall only apply to acreage that was being used for these
 20 activities before July 13, 2004; or

21 **(e) A tract of at least five (5) contiguous acres used for agritourism activities as**
 22 **defined in Section 2 of this Act;**

- 23 (3) "Board" means the board of adjustment unless the context indicates otherwise;
- 24 (4) "Citizen member" means any member of the planning commission or board of
 25 adjustment who is not an elected or appointed official or employee of the city,
 26 county, or consolidated local government;
- 27 (5) "Commission" means planning commission;

- 1 (6) "Conditional use" means a use which is essential to or would promote the public
2 health, safety, or welfare in one (1) or more zones, but which would impair the
3 integrity and character of the zone in which it is located, or in adjoining zones,
4 unless restrictions on location, size, extent, and character of performance are
5 imposed in addition to those imposed in the zoning regulation;
- 6 (7) "Conditional use permit" means legal authorization to undertake a conditional use,
7 issued by the administrative official pursuant to authorization by the board of
8 adjustment, consisting of two (2) parts:
- 9 (a) A statement of the factual determination by the board of adjustment which
10 justifies the issuance of the permit; and
- 11 (b) A statement of the specific conditions which must be met in order for the use
12 to be permitted;
- 13 (8) "Development plan" means written and graphic material for the provision of a
14 development, including any or all of the following: location and bulk of buildings
15 and other structures, intensity of use, density of development, streets, ways, parking
16 facilities, signs, drainage of surface water, access points, a plan for screening or
17 buffering, utilities, existing manmade and natural conditions, and all other
18 conditions agreed to by the applicant;
- 19 (9) "Fiscal court" means the chief body of the county with legislative power, whether it
20 is the fiscal court, county commissioners, or otherwise;
- 21 (10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky
22 Plumbing Code, and any other building or structural code promulgated by the
23 Commonwealth or by its political subdivisions;
- 24 (11) "Legislative body" means the chief body of the city, consolidated local government,
25 urban-county government, charter county government, or unified local government
26 with legislative power, whether it is the board of aldermen, the general council, the
27 common council, the city council, the board of commissioners, or otherwise; at

- 1 times it also implies the county's fiscal court;
- 2 (12) "Mayor" means the chief elected official of the city, consolidated local government,
3 urban-county government, charter county government, or unified local government,
4 whether the official designation of his office is mayor or otherwise;
- 5 (13) "Nonconforming use or structure" means an activity or a building, sign, structure, or
6 a portion thereof which lawfully existed before the adoption or amendment of the
7 zoning regulation, but which does not conform to all of the regulations contained in
8 the zoning regulation which pertain to the zone in which it is located;
- 9 (14) "Planning operations" means the formulating of plans for the physical development
10 and social and economic well-being of a planning unit, and the formulating of
11 proposals for means of implementing the plans;
- 12 (15) "Planning unit" means any city, county, consolidated local government, urban-
13 county government, charter county government, or unified local government, or any
14 combination of cities, counties, or parts of counties, or parts of consolidated local
15 governments engaged in planning operations;
- 16 (16) "Plat" means the map of a subdivision;
- 17 (17) "Political subdivision" means any city, county, consolidated local government,
18 urban-county government, charter county government, or unified local government;
- 19 (18) "Several" means two (2) or more;
- 20 (19) "Public facility" means any use of land whether publicly or privately owned for
21 transportation, utilities, or communications, or for the benefit of the general public,
22 including but not limited to libraries, streets, schools, fire or police stations, county
23 buildings, municipal buildings, recreational centers including parks, and cemeteries;
- 24 (20) "Street" means any vehicular way;
- 25 (21) "Structure" means anything constructed or made, the use of which requires
26 permanent location in or on the ground or attachment to something having a
27 permanent location in or on the ground, including buildings and signs;

1 (22) "Subdivision" means the division of a parcel of land into three (3) or more lots or
 2 parcels except in a county containing a city with a population equal to or greater
 3 than eight thousand (8,000) based upon the most recent federal decennial census or
 4 in an urban-county government or consolidated local government where a
 5 subdivision means the division of a parcel of land into two (2) or more lots or
 6 parcels; for the purpose, whether immediate or future, of sale, lease, or building
 7 development, or if a new street is involved, any division of a parcel of land;
 8 provided that a division of land for agricultural use and not involving a new street
 9 shall not be deemed a subdivision. The term includes resubdivision and when
 10 appropriate to the context, shall relate to the process of subdivision or to the land
 11 subdivided; any division or redivision of land into parcels of less than one (1) acre
 12 occurring within twelve (12) months following a division of the same land shall be
 13 deemed a subdivision within the meaning of this section;

14 (23) "Unit" means planning unit; and

15 (24) "Variance" means a departure from dimensional terms of the zoning regulation
 16 pertaining to the height, width, length, or location of structures, and the size of
 17 yards and open spaces where such departure meets the requirements of KRS
 18 100.241 to 100.247.

19 ➔Section 2. KRS 247.801 is amended to read as follows:

20 As used in KRS 247.800 to 247.810:

21 (1) "Agritourism" means the act of visiting:

22 (a) A farm or ranch; or

23 (b) Any agricultural, horticultural, or agribusiness operation;

24 for the purpose of enjoyment, education, or active involvement in the activities of
 25 the farm, ranch, or operation;

26 (2) "Agritourism activity" means any activity ~~that~~~~carried out on~~:

27 (a) *Is carried out on a farm, ranch, agricultural operation, horticultural*

1 operation, agribusiness operation, distillery, winery, or brewery; and ~~[A farm~~
 2 ~~or ranch; or]~~

3 (b) Allows or invites participants to view or participate in activities for
 4 recreational, entertainment, or educational purposes. Qualifying activities
 5 may include farming, ranching, historic, cultural, civic, or ceremonial
 6 activities, including but not limited to weddings and ancillary events;
 7 harvest-your-own operations; farmers' markets; or natural resource-based
 8 activities. The activities may qualify as agritourism activities whether or not
 9 a participant pays to view or to participate in the activity ~~[Any agricultural,~~
 10 ~~horticultural, or agribusiness operation;~~

11 ~~— that allows or invites participants to view or participate in activities for~~
 12 ~~recreational, entertainment, or educational purposes. The activities can include~~
 13 ~~farming, ranching, historic or cultural agricultural activities, harvest your own~~
 14 ~~operations, patronizing farmers' markets, or natural resource-based activities.~~
 15 ~~An activity is an agritourism activity whether or not a participant pays to view~~
 16 ~~or participate in the activity];~~

17 (3) "Agritourism professional" means any person, including employees or authorized
 18 agents acting on behalf of the agritourism professional, who is engaged in the
 19 business of providing one (1) or more agritourism activities; ~~[and]~~

20 (4) "Inherent risks of agritourism activity" means those dangers or conditions that
 21 are an integral part of an agritourism activity, including certain hazards, such as
 22 surface or subsurface conditions; natural conditions of land, vegetation, or
 23 water; the behavior of wild or domestic animals; and the ordinary dangers of
 24 structures or equipment used in farming and ranching operations; and

25 (5) "Participant" means any person, other than the agritourism professional, who
 26 engages in an agritourism activity.

27 ➔ Section 3. KRS 219.011 is amended to read as follows:

1 As used in KRS 219.011 to 219.081:

2 (1) "Secretary" means the secretary of the Cabinet for Health and Family Services;

3 (2) "Cabinet" means the Cabinet for Health and Family Services or its designee;

4 (3) "Hotel" means every building or structure kept, used, maintained, advertised, or
5 held out to the public as a place where sleeping accommodations are furnished to
6 the public, and includes motels, tourist homes, and similar establishments, but
7 excludes boarding houses and rooming houses;

8 (4) "Person" means an individual, or a firm, partnership, company, corporation, trustee,
9 association, or any public or private entity owning or operating a hotel;

10 (5) "Bed and breakfast establishment" means a one (1) family dwelling unit, but which
11 also has guest rooms or suites used, rented, or hired out for occupancy or which are
12 occupied for sleeping purposes by persons not members of the single-family unit.
13 The innkeeper shall reside on the premises or property adjacent to the premises
14 during periods of occupancy. The building shall be known as either a bed and
15 breakfast home or a bed and breakfast inn;

16 (6) "Bed and breakfast home" means a bed and breakfast establishment:

17 (a) Having five (5) or fewer guest rooms or suites for occupancy;

18 (b) In which breakfast and other meals may be served to guests; and

19 (c) Whose innkeeper resides on the premises or property adjacent to the premises
20 during periods of occupancy;

21 (7) "Bed and breakfast inn" means a private inn or other unique residential facility:

22 (a) Having six (6) or more guest rooms or suites for occupancy;

23 (b) In which breakfast and other meals may be served to the guests; and

24 (c) Whose innkeeper resides on the premises or property adjacent to the premises
25 during periods of occupancy; and

26 (8) "Farmstay" means a bed and breakfast establishment at a farm location whose focus
27 includes agritourism as defined in **Section 2 of this Act**~~[KRS 247.800]~~.