



Kent County Agricultural Advisory Commission
Department of Planning, Housing, and Zoning
400 High Street, Suite 130
Chestertown, MD 21620
410-778-7423 (voice/relay)

AGENDA

County Commissioners' Hearing Room

Tuesday
January 25, 2022
5:00 p.m.

Members of the public are welcome to attend meetings in person or listen to the meeting via the audio-only phone number and conference identification number listed below.

1. Dial **1-872-239-8359**
2. Enter Conference ID: **865 874 531#**

Members of the public are asked to mute their phones/devices, until the Commission Chair opens the floor for comment.

Minutes

September 14, 2021

Applications

Resolution 2021-18, Resolution to Introduce a Text Amendment to Revise Chapter 222, Zoning, To Remove the Requirement Related to the Maximum Percentage of Property in Lots (10% rule) from the Agricultural Zoning District (AZD).

Resolution 2021-19, Resolution to Introduce a Text Amendment to Revise Chapter 222, to Amend Setbacks for Certain Animal-Related Uses from 600 Feet and 400 Feet to 200 Feet in AZD

General Discussion

Update on Comprehensive Rezoning Update process

Adjourn

Kent County Agricultural Advisory Commission Meeting Summary

The Kent County Agricultural Advisory Commission met on Tuesday, September 14, 2021, virtually with a live stream from the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland, with the following members in attendance: Jennifer Debnam, Chair; John "Buddy" Cahall; Sean Jones; and Valerie Mason. Also present were William Mackey, Director; Carla Gerber, Deputy Director; and Michael Pelletier, Clerk.

The meeting was called to order at 6:40 p.m.

APPLICATIONS

Paul R. Rickert, MS, MCJ, EdD, Area Extension Director - Upper Shore Cluster, University of Maryland Extension, College of Agriculture & Natural Resources. Request to discuss suggested skillsets and areas of expertise the Commission would deem necessary for a Kent County Agriculture Agent

Mr. Rickert gave a brief introduction of himself and his organization. He also discussed the purpose for requesting feedback from the Commission to better enable the University to train and/or hire an Agricultural Agent that meets the needs of the County.

Darren Jarboe, Ph.D., M.B.A., Assistant Director and Program Leader, Agriculture and Food Systems Program, University of Maryland Extension, introduced himself and discussed his role in agricultural education.

Examples of general responsibilities and qualifications for Agent positions in six Maryland Counties were discussed between the members, Mr. Rickert and Dr. Jarboe.

After discussing several needs within the County's agricultural community, Mr. Rickert and Dr. Jarboe opined that it appears the County would like to see the Agent position include an Agronomist and have some Agricultural Engineering background and that it was important that the Maryland Extension's network be better utilized to get information disseminated to County farmers.

Kent County Comprehensive Rezoning Process

Mr. Mackey discussed the current Comprehensive Rezoning process, in particular, relating to the Agricultural Zoning District, and the desire of the County Commissioner's to receive feedback from the Agricultural Advisory Commission on several matters currently before the Comprehensive Rezoning Task Force. The anticipated timeline for the Comprehensive Rezoning process was also discussed. Staff suggested that the Commission meet in November or December to discuss the Task Force recommendations and again in February or March to review the draft document.

ADJOURN

There being no further business for the good of the organization, the meeting adjourned at 7:40 p.m.

Jennifer Debnam, Chairman

Michael Pelletier, Clerk



Kent County Department of Planning, Housing, and Zoning

To: Agriculture Advisory Commission

From: Carla Gerber, AICP, Deputy Director

Meeting: January 25, 2022

Subject: Resolution 2021-18, Resolution to Introduce a Text Amendment to Revise Chapter 222, Zoning, To Remove the Requirement Related to the Maximum Percentage of Property in Lots (10% rule) from the Agricultural Zoning District (AZD).

STAFF REPORT

Background

The current Land Use Ordinance contains a requirement related to the maximum percentage of a property that can be subdivided into lots, also known as the “10% Rule.” Subdivisions in the AZD require that 90% of the farm be left intact. There is a provision that subdivisions where all parcels remain over 100 acres are exempt from the 10% Rule, and those parcels do not count toward the maximum developed percentage of the property. There are no other exceptions.

Establishing a maximum percentage of a property in lots has resulted in subdivisions in AZD with smaller average lot sizes which has left large, contiguous tracts of land undeveloped. However, the 10% Rule has also limited the ability of some landowners to sell portions of their farms.

In at least one of the exempted 100-acre subdivisions, the landowner had to sell more land than desired in order to be exempt. In other instances, farms could not be divided among heirs because the desired parcels were more than 10% and less than 100 acres. The 10% rule has also prevented at least one partial sale of a farm that was split by a road. The tract on one side of the road was more than 10% of the property but less than 100 acres, and subdivision was not permitted.

Allowing greater flexibility in lot sizes will make it easier for farms to diversify and try new approaches or for new farmers to establish new enterprises. Limiting farm size is not the only approach to preserving agriculture and can be detrimental to encouraging diversity within the industry.

RESOLUTION 2021-18

COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

A RESOLUTION TO INTRODUCE A TEXT AMENDMENT TO REVISE CHAPTER 222, ZONING, OF THE COUNTY CODE OF KENT COUNTY, MARYLAND, ALSO KNOWN AS THE KENT COUNTY LAND USE ORDINANCE BY REMOVING THE REQUIREMENT RELATED TO THE “MAXIMUM PERCENTAGE OF PROPERTY IN LOTS” (10% RULE) FROM THE AGRICULTURE ZONING DISTRICT.

WHEREAS, the Board of County Commissioners of Kent County, Maryland (the Board) may exercise its right to amend the County Code of Kent County, Maryland (the Code), by legislative action in the form of a Code Home Rule Bill to create an Act and thus propose text amendments to the Code; and

WHEREAS, in Article XII, *Administrative Procedures*, Section 6, *Amendments*, §1, the Land Use Ordinance states regarding the Board and the Code that “The County Commissioners may amend, supplement, or change the boundaries of the districts or the regulations of this Ordinance. Any amendment may be initiated by resolution of the County Commissioners...”; and

WHEREAS, the Board finds that removing the requirement limiting the “Maximum percentage of property in lots” (10% rule) in the Agriculture Zoning District is desirable to allow for flexibility in farm sizes; and

WHEREAS, the 2018 Comp Plan in the Countryside chapter, following a description of the 10% rule and subdivision limitations as the County’s historic approaches to protecting agriculture, makes it clear that diversification and new approaches are important elements in the Comp Plan; and

WHEREAS, since the goal is for agriculture, itself is to be preserved, not one particular type of agriculture, and limiting farm size is the current approach, it is therefore desirable that other approaches be entertained, if they promote the ability of existing and future farmers to diversify; and

WHEREAS, the 2018 Comp Plan goes on to state that “the County will review existing fees and regulations to evaluate whether or not they interfere with existing agricultural operations or the ability of farmers to diversify. The County is committed to taking a pro-active approach to investigating new opportunities to promote and maintain its strong agricultural industry (p. 42)”; and

WHEREAS, the Board determines that revising the Land Use Ordinance by removing said limiting provision serves to further the health, safety, and welfare of Kent County.

NOW, THEREFORE, BE IT RESOLVED that the Board on December 21, 2021, does hereby introduce the proposed text amendment, attached hereto as Exhibit A.

BE IT FURTHER RESOLVED that the Board refers the draft amendment for advisory review and recommendation to the Kent County Planning Commission and the Agriculture Advisory Commission.

ATTEST:

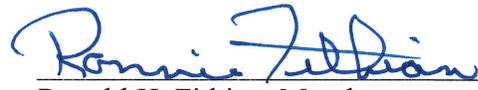
THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND



Sondra M. Blackiston, Clerk



P. Thomas Mason, President



Ronald H. Fithian, Member



Robert N. Jacob, Jr., Member

ADOPTED: December 21, 2021

THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

_____, 2022
Legislative Session Day

Legislative Session Day
_____, 2022

**CODE HOME RULE
BILL NO. X-2022**

INTRODUCED BY: P. Thomas Mason, President of the Board of County Commissioners for Kent County, Maryland.

AN ACT to amend Article V, *District Regulations*, Section 1, *Agricultural Zoning District*, Section 1.5 *Density, Area, Height, Width, and Yard Requirements*, A. *Standard Development*, by removing the “Maximum percentage of property in lots” and “10%” and removing footnote #2.

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND

P. Thomas Mason, President

INTRODUCED, read first time, _____, 2022, ordered posted and public hearing scheduled _____, 2022, at X:00 a.m./p.m. in the County Commissioners Hearing Room, R. Clayton Mitchell, Jr., Kent County Government Center, 400 High Street, Chestertown, Maryland.

By order of:

Sondra M. Blackiston, Clerk

PUBLIC HEARING

HAVING been posted and notice of time and place of hearing and copies having been made available to the public and the press, a public hearing was held on _____, 2022. Reported favorably [with] [without] amendments; read a second time and ordered to be considered on _____, 2022, a legislative session day.

**A BILL ENTITLED CHR X-2022
REMOVAL OF THE 10% RULE FROM AGRICULTURAL ZONING DISTRICT**

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND that the Kent County Land Use Ordinance is hereby amended as follows:

ARTICLE V.

DISTRICT REGULATIONS

...

SECTION 1. AGRICULTURAL ZONING DISTRICT

...

1.5 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS

A. Standard Development

Gross <i>density</i> (dwelling units/acre)	0.033 (1/30) ^{1,6}
Minimum <i>lot size</i>	
- <i>On-site</i> individual septic system	¾ acre
- Community system	½ acres
Minimum <i>lot width</i>	75 feet
Maximum percentage of property in lots	10% ²
Maximum lots fronting on existing public road	2 ³

...

1 Accessory *dwelling units* do not count toward the *density* calculation.

2 ~~Parcels 100 acres or larger do not count toward the maximum developed percentage of the property~~

RESERVED

3 Parcels created before the date of adoption of this Ordinance do not count toward the two permitted road front parcels. The Planning Commission may waive this requirement if the proposal meets the waiver requirements in Article IX, Section 3 of this Ordinance.

...

6 Agricultural Easement Program – Nothing in this regulation shall limit the ability of a participant in the Agricultural Easement Program to convey real property impressed with an easement to his or her child provided the easement was recorded with the Kent County Clerk of Circuit Court prior to October 1, 2003.

DRAFT

BE IT FURTHER ENACTED by the County Commissioners of Kent County that this Act shall take effect on the ___ day of _____.

Read Third Time _____

PASSED this ___ day of _____

Failed of Passage _____

By order of:

Sondra M. Blackiston, Clerk

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND

P. Thomas Mason, President

Ronald H. Fithian, Member

Robert N. Jacob, Jr., Member

ORDERED a fair summary thereof of the entire bill shall be published in at least one newspaper of general circulation in the County, not less than three times at weekly intervals within a four-week period.



Kent County Department of Planning, Housing, and Zoning

To: Agriculture Advisory Commission
From: Carla Gerber, AICP, Deputy Director
Meeting: January 25, 2022
Subject: Resolution 2021-19, Resolution to Introduce a Text Amendment to Revise Chapter 222, to Amend Setbacks for Certain Animal-Related Uses from 600 Feet and 400 Feet to 200 Feet in AZD

STAFF REPORT

Background

The Land Use Ordinance has multiple provisions for setbacks from property lines related to agricultural structures and uses. These setbacks range from 100 to 600 feet. Many are related to animal housing or feeding or waste management structures.

More intense uses, such as poultry houses or confinement dairies, have the strictest requirements. The 600-foot setback for poultry houses, feedlots, and confinement dairies has been in place since at least 1989. Commercial stables have a 400-foot setback for structures for housing and feeding horses and waste management. Many other uses have a 200-foot setback, while private stables (up to four horses or mules) have a 100-foot setback. Except backyard chickens, the minimum setback for structures related to housing animals is 100 feet.

The County Commissioners would like to simplify and standardize the regulations in the Agricultural Zoning District, where animal husbandry uses should be expected. The proposed text amendment would amend the setbacks for most animal-related uses in AZD to no more than 200 feet. However, for farms adjacent to residentially zoned properties, enclaves and existing housing developments, and town boundaries the setback would remain unchanged, 600 or 400 feet as applicable. Residentially zoned properties are those properties zoned Rural Character (RC), Rural Residential (RR), Critical Area Residential (CAR), Community Residential (CR), Village (V), Intense Village (IV), and Intense Village Critical Area (IVCA). The specific animal-related uses being amended are poultry houses, commercial stables, waste management structures, feedlot or confinement dairies, and structures for the buying, processing, and sale of animal products. The proposed changes only affect farms within the Agricultural Zoning District (AZD).

The following table lists all of the animal-related uses in AZD and the current setbacks.

P = permitted

AF = accessory farm

SE = special exception

A = accessory

Setback	Type	Use
600	P	Poultry houses
600	AF	Waste management structures

600	SE	Feedlot or confinement dairy
600	SE	Poultry houses where can't handle own waste
600	SE	Structures for buying, processing, sale of animal products, commercial,
400	P	Stable, commercial or public – minimum property size is 20 acres (structures for housing, feeding, and waste management)
200	P	Veterinary hospital (open kennels)
200	AF	List of non-animal uses (commercial assembly, petroleum, grain blending and packaging)
200	A	Dog kennels, commercial (Also keeping of 5 or more dogs, six months or older)
100	P	Stable, private (up to 4 horses) – minimum property size is 2 acres (structures for housing and feeding)
100	AF	Accessory farm buildings – structures for keeping of animals

RESOLUTION 2021-19

COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

A RESOLUTION TO INTRODUCE A TEXT AMENDMENT TO REVISE CHAPTER 222, ZONING, OF THE COUNTY CODE OF KENT COUNTY, MARYLAND, ALSO KNOWN AS THE KENT COUNTY LAND USE ORDINANCE TO AMEND SETBACKS FOR CERTAIN ANIMAL-RELATED USES FROM 600 FEET AND 400 FEET TO 200 FEET IN AGRICULTURAL ZONING DISTRICT.

WHEREAS, the Board of County Commissioners of Kent County, Maryland (the Board) may exercise its right to amend the County Code of Kent County, Maryland (the Code), by legislative action in the form of a Code Home Rule Bill to create an Act and thus propose text amendments to the Code; and

WHEREAS, in Article XII, *Administrative Procedures*, Section 6, *Amendments*, §1, the Land Use Ordinance states regarding the Board and the Code that “The County Commissioners may amend, supplement, or change the boundaries of the districts or the regulations of this Ordinance. Any amendment may be initiated by resolution of the County Commissioners...”; and

WHEREAS, the Board finds that the current setbacks for waste management structures, poultry houses, feedlots, and various animal-related structures are 600 feet in the Agricultural Zoning District; and

WHEREAS, the Board finds that the current setbacks for commercial stables are 400 feet in the Agricultural Zoning District; and

WHEREAS, the Board finds the current setbacks of 600 feet and 400 feet are too restrictive in the Agricultural Zoning District, where such agricultural uses should be expected; and

WHEREAS, the Board determines that including standardized setbacks of no greater than 200 feet for most animal-related uses in the Agricultural Zoning District serves to further the health, safety, and welfare of Kent County.

NOW, THEREFORE, BE IT RESOLVED that the Board on December 21, 2021, does hereby introduce the proposed text amendment, attached hereto as Exhibit A.

BE IT FURTHER RESOLVED that the Board refers the draft amendment for advisory review and recommendation to the Kent County Planning Commission and Agriculture Advisory Commission.

ATTEST:

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND



Sondra M. Blackiston, Clerk



P. Thomas Mason, President



Ronald H. Fithian, Member



Robert N. Jacob, Jr., Member

ADOPTED: December 21, 2021

THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

_____, 2022
Legislative Session Day

Legislative Session Day
_____, 2022

CODE HOME RULE
BILL NO. X-2022

INTRODUCED BY: P. Thomas Mason, President of the Board of County Commissioners for Kent County, Maryland.

AN ACT to amend Article V, *District Regulations*, Section 1, *Agricultural Zoning District*, Section 1.2 *Permitted Principal Uses and Structures*, §12 related to poultry houses, waste management facilities, composters, and areas for the disposal of animals and §18 related to commercial stables; Section 1.4 *Accessory Uses and Structures*, A. §10.5 related to waste management structures; and Article VII, *Special Exceptions*, Section 7 *Special Exceptions*, §25 related to feedlots, §36 related to poultry houses under certain conditions, and §58 related to structures for animal products, by revising the required setbacks to 200 feet from the current setbacks of 600 feet and 400 feet.

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND

P. Thomas Mason, President

INTRODUCED, read first time, _____, 2022, ordered posted and public hearing scheduled _____, 2022, at X:00 a.m./p.m. in the County Commissioners Hearing Room, R. Clayton Mitchell, Jr., Kent County Government Center, 400 High Street, Chestertown, Maryland.

By order of:

Sondra M. Blackiston, Clerk

PUBLIC HEARING

HAVING been posted and notice of time and place of hearing and copies having been made available to the public and the press, a public hearing was held on _____, 2022. Reported favorably [without] amendments; read a second time and ordered to be considered on _____, 2022, a legislative session day.

**A BILL ENTITLED CHR X-2022
SETBACKS FOR CERTAIN ANIMAL-RELATED USES IN AGRICULTURAL
ZONING DISTRICT**

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND that the Kent County Land Use Ordinance is hereby amended as follows:

ARTICLE V.

DISTRICT REGULATIONS

...

SECTION 1. AGRICULTURAL ZONING DISTRICT

...

1.2 PERMITTED PRINCIPAL USES AND STRUCTURES

...

12. Poultry houses provided:

- a. Poultry houses, waste management facilities, composters, and the area for the disposal of animals shall be a minimum of 600 feet **FROM RESIDENTIALLY ZONED PROPERTIES (RC, RR, CAR, CR, V, IV, IVCA), ENCLAVE AND EXISTING HOUSING DEVELOPMENTS, AND TOWN BOUNDARIES; AND A MINIMUM OF 200 FEET** from all **OTHER** property lines.
- b. . . .

...

18. Stable, commercial provided:

- a. The *lot* is 20 acres or more.
- b. Any *structure* for the keeping or feeding of animals and waste management *structures* shall be a minimum of 400 feet **FROM RESIDENTIALLY ZONED PROPERTIES (RC, RR, CAR, CR, V, IV, IVCA), ENCLAVE AND EXISTING HOUSING DEVELOPMENTS, AND TOWN BOUNDARIES; AND A MINIMUM OF 200 FEET** from any **OTHER** property line.

...

1.4 ACCESSORY USES AND STRUCTURES

BILL NO. X-2022

CAPITALS AND BOLD INDICATE MATTER ADDED TO EXISTING LAW.

~~Strike through~~ indicates matter deleted from existing law.

A. The following *accessory* uses are permitted on all *farms* in the agricultural zoning district.

...

10.5 Waste management *structures*, where not otherwise stipulated in this Ordinance, provided:

a. Waste management *structures* shall be a minimum of 600 feet **FROM RESIDENTIALLY ZONED PROPERTIES (RC, RR, CAR, CR, V, IV, IVCA), ENCLAVE AND EXISTING HOUSING DEVELOPMENTS, AND TOWN BOUNDARIES; AND A MINIMUM OF 200 FEET** from all **OTHER** property lines.

b. . . .

...

ARTICLE VII.

SPECIAL EXCEPTIONS

...

SECTION 7. SPECIAL EXCEPTIONS

...

25. *Feedlot* or confinement dairy in AZD provided:

a. All *buildings*, corals, and waste management *structures* are 600 feet **FROM RESIDENTIALLY ZONED PROPERTIES (RC, RR, CAR, CR, V, IV, IVCA), ENCLAVE AND EXISTING HOUSING DEVELOPMENTS, AND TOWN BOUNDARIES; AND A MINIMUM OF 200 FEET** from ~~the nearest~~ **ANY OTHER** property line.

b. . . .

...

36. Poultry houses on parcels where the owner cannot handle the waste generated by the poultry houses in AZD provided:

a. All *buildings* and waste management *structures* are 600 feet **FROM RESIDENTIALLY ZONED PROPERTIES (RC, RR, CAR, CR, V, IV, IVCA), ENCLAVE AND EXSITING HOUSING DEVELOPMENTS, AND TOWN BOUNDARIES; AND A MINIMUM OF 200 FEET** from ~~the nearest~~ **ANY OTHER** property line.

b. . . .

...

58. *Structures* for the buying, processing, and sale of animal products in AZD, commercial, provided:

a. *Structures*, retention, and disposal areas shall be 600 feet **FROM RESIDENTIALLY ZONED PROPERTIES (RC, RR, CAR, CR, V, IV, IVCA), ENCLAVE AND EXISTING HOUSING DEVELOPMENTS, AND TOWN BOUNDARIES; AND A MINIMUM OF 200 FEET** from ~~the nearest~~ **ANY OTHER** property line.

b. . . .

DRAFT

BE IT FURTHER ENACTED by the County Commissioners of Kent County that this Act shall take effect on the ___ day of _____.

Read Third Time _____

PASSED this ___ day of _____

Failed of Passage _____

By order of:

Sondra M. Blackiston, Clerk

THE COUNTY COMMISSIONERS
OF KENT COUNTY, MARYLAND

P. Thomas Mason, President

Ronald H. Fithian, Member

Robert N. Jacob, Jr., Member

ORDERED a fair summary thereof of the entire bill shall be published in at least one newspaper of general circulation in the County, not less than three times at weekly intervals within a four-week period.