

Town of Kinderhook Zoning Code

(Excerpted from Town of Kinderhook webpage: www.kinderhook-ny.gov on March 6, 2005)

ARTICLE I

Purpose and Definitions

~ 81-1. Purpose.

This chapter is enacted pursuant to the Municipal Home Rule Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, to protect and promote public health, safety, morals, comfort, convenience, economy, town aesthetics and the general welfare, and for the following additional purposes:

- A. To promote and effectuate the orderly physical development of the Town of Kinderhook.
- B. To encourage the most appropriate use of land in the community in order to conserve and enhance the value of property.
- C. To provide adequate and suitably located commercial facilities.
- D. To protect rural character.
- E. To regulate building densities in order to assure access of light and circulation of air, in order to facilitate the prevention and fighting of fires, in order to prevent undue concentration of population, in order to lessen congestion on streets and highways and in order to provide efficient municipal utility services.
- F. To improve transportation facilities and traffic circulation and to provide adequate off-street parking and loading facilities.
- G. To realize a development plan properly designed to conserve the use of land and the cost of municipal services.
- H. To assure privacy for residences and freedom from nuisances and things harmful to the senses, including air pollution.
- I. To protect the community against unsightly, obtrusive and noisome land uses and operations.
- J. To enhance the aesthetic aspects throughout the entire community and maintain its present natural beauty.
- K. To accommodate development appropriate to the economic well being of the Town.

- L. To create a land use pattern that strengthens the traditional patterns and that strengthen the communities of Valatie and Village of Kinderhook.
- M. To conserve soils of statewide and local significance and current agricultural lands.
- N. To protect open space, scenic vistas. Agriculture and historical locations.
- O. To continue light industrial accessibility and use of properties adjacent to rail lines.

~ 81-2. Definitions...

FARM-RELATED BUSINESS – A business operated on a farm parcel, related to or supporting agricultural activities, including, but not limited to U-Pick operations.

FARMING OPERATIONS or FARM -- A parcel of land used for agricultural activities including horticulture, animal husbandry, forestry, and production nurseries and greenhouses for profit

FARM MARKET -- A permanent structure that is owned and/or operated by a farmer which primarily sells agricultural products and related goods to the general public.

FARM PARCEL – See Farming Operations or Farm.

FARM STAND -- A nonpermanent structure, in excess of 30 square feet in size, such as a table, vehicle, wagon or tent, used for the sale of agricultural products grown, raised or produced on the same premises.

J. Agriculture.

(1) The processing and storage of agricultural products, including packing, warehousing and storing, is permitted, except that slaughterhouses, rendering, fertilizer plants and canneries are prohibited. The unenclosed storage of manure or areas for storage of dead fowl or other odor-or-dust producing substances or use shall not be permitted within 100 feet of a property line or public street right-of-way. The storage of manure shall be done in a prudent manner with periodic removal consistent with good agricultural practices. Facilities or structures for the storage of livestock, as defined by ~ 301 of Article 25AA, Agricultural Districts, of the New York State Agriculture and Markets Law, must be set back a minimum of 100 feet from the property line. The free range of livestock outside of the property line is not permitted.

(2) However, the temporary placement of facilities or structures for the storage of livestock, used for education purposes only, would only need to meet the setback requirements noted in the density control schedule for the zoning district in which the property is located. "Temporary" means the structure or facility for the housing of livestock will be removed within a period of one year or less. In addition, the Code Enforcement Officer must be notified in writing upon the start and end date of the proposed temporary facility or structure.

(3) Facilities or structures for the storage of livestock or manure which preexist the date of this subsection can remain in place as long as they do not become a public nuisance.

(4) Right to farm. Farmers, as well as those employed, retained or otherwise authorized to act on behalf of farmers, may lawfully engage in farming practices within the Town of Kinderhook at any and all such times and at such locations as are reasonably necessary to conduct the business of farming. For any farming activity or operation, in determining the reasonableness of the time, place and methodology of such operation, due weight and consideration shall be given to both traditional customs and procedures in the farming industry, as well as to advances resulting from increased knowledge and improved technology. For farms located within a designated NYS Agricultural District, the New York State Department of Agriculture and Markets shall determine what agricultural practices are to be considered reasonable.

(5) Presumption to exist. There shall exist a presumption that no agricultural use that conforms to all relevant federal, state or local statutes, rules and regulations or ordinances and which does not pose a direct threat to public health and safety shall constitute a public nuisance, nor shall any such use be deemed to otherwise invade or interfere with the use and enjoyment of any other land or property.

(6) Notice to existing and prospective residents. Any landowners who sell or transfer property located in a NYS agricultural district or within 500 feet of an existing agricultural operation are required to provide a disclosure notice to prospective buyers or transferees stating: "It is the policy of this state and this Town to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This notice is to inform prospective residents or new land users that the property they are about to acquire lies partially or wholly within an agricultural district, or adjacent to an existing agricultural operation and that farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust, odors, the operation of machinery, and the storage and disposal of manure. Owners, occupants, and users of this property should be prepared to accept such inconveniences and discomfort." Receipt of the disclosure statement must be recorded on a property transfer report prescribed

by the New York State Board of Equalization and Assessment.

(7) Subdivision in Agricultural Districts. New dwellings in any subdivision should be sited to ensure maximization of open land for agriculture. The building envelopes should be located so as to disturb the least amount of prime agricultural soils as possible.

(8) Compliance with NYS Agriculture and Markets Law 25AA. The Planning Board and Zoning Board of Appeals shall ensure that the Town follows required procedures from NYS Agriculture and Markets Law 25AA, Section 305 and 305-a prior to all zoning, subdivision and site plan approvals in and within 500 feet of a designated NYS Agricultural District. All requirements including the notice of intent, agricultural impact statement, and review of the application by the Columbia County Agriculture and Farmland Protection Board shall be followed. The Town shall ensure that local planning approvals recognize the policy and goals of the NYS agriculture districts law and avoid unreasonable restrictions on farm operations with such districts.

(9) Farm-related businesses. Farm-related businesses that are conducted outside the home, but on the farmed parcel, are subject to the following regulations:

(a) no more than three acres of land shall be devoted to such use, including areas used for structures, parking, storage, display, setbacks, and landscaping. Any lane serving the farm-related business and a home and/or farm contained on the same lot shall not be included as lot area devoted to a farm-related business. No additional lane or curb cut to access the farm-related business shall be allowed.

(b) No more than 50% of the area devoted to a farm-related business shall be covered by buildings, parking lots, or any other impervious surface.

(c) The owner or occupant of the farm must be engaged in the farm-related business.

(d) no more than two full-time and two part-time persons, other than individuals who reside on the farm may be employed in the farm-related business.

(e) the use must be conducted within a completely enclosed building typical of farm buildings.

(f) any outdoor storage of supplies, materials or products shall be located behind the building in which the farm-related business is conducted.

(10) For lands located in the Prime Farm Overlay District, see ~81-33.

(1) Farm Markets. The purpose of this section is to protect and regulate the establishment and operation of farm markets, as defined in ~ 81-2, so they may continue to be a resource for farmers and tourism for the Town of Kinderhook.

(a) The size of the retail portion of the farm markets must not exceed 1,600 square feet.

(b) At least 75% of the retail floor area must be utilized for the sale of agricultural, dairy or horticultural products.

(c) No more than 25% of the retail floor area can be utilized for the sale of complimentary goods.

(d) Farm markets can offer either preharvested or customer-picked products.

(e) Minimum parking requirements are one space for 100 square feet of retail floor space.

~81-33. Prime Farmland Overlay District.

A. Applicability and Purpose. The Town of Kinderhook desires to protect its agricultural resources, especially prime farmland soils and to prevent non-agricultural uses from negatively impacting continuation of farming as a preferred use. The following standards shall apply to all lands included and mapped as being in the Prime Farmland Overlay District.

B. Standards.

(1) Conservation Subdivisions shall be mandatory for any division of land within this district (See Subdivision Regulations, Section 63-19).

(2) Avoidance of Building on Prime Soils. In reviewing any subdivision, site plan or special use permit application, the Planning Board shall require that structures, except farm structures, and impermeable surfaces be located on those portions of a tract of land where they will have the least negative impact on agricultural soils and agricultural operations. Construction of buildings on areas of steep slopes, wetness, or locations posing difficult lot configuration or road access problems shall be avoided.

(3) Buffering Agricultural Uses. Each new residence must be placed at least 200 feet away from the boundary between it and the agricultural parcel. A similar setback shall be required for placement of a new farm structure when it is adjacent to existing residential units. A buffer will be required between farmland located within a NYS agricultural district and any new residential, commercial or industrial development. A major subdivision must have a 30 foot wide vegetated buffer placed 20 feet away from the boundary of any land used for agricultural purposes. The applicant for a new land use has the responsibility to provide for this buffer. The buffer should not be established in a way that impedes farm operations. Existing hedgerows or woods, if present, shall be maintained between the new use and the agricultural operation. In cases where there is no existing vegetation, berms and landscaping can be used as buffers.