



Zoning Text Amendment Brunswick Hills Township

Meeting: May 1, 2019
Applicant: Brunswick Hills Township Zoning Commission (ZC)
Hearing: April 4, 2019 (ZC)
Amendments: Edit one and add five definitions pertaining to “Agritourism”
Add new Section (§) 303-14 Agritourism
Reviewer: Rob Henwood
Recommendation: **APPROVAL WITH MODIFICATIONS**

Proposal: In a letter dated March 8, 2019 Mary Jean Milanko, Zoning Secretary for the ZC, requested a review of several changes to the Definition section and to a proposed addition of a new § pertaining to “Agritourism” in the Brunswick Hills Township Zoning Resolution (ZR).

The complete text amendment proposal includes the following:

- A. Edit the definitions for “Agriculture.”
- B. Add the following new definitions to Article II Definitions:
 - a. Agritourism
 - b. Agritourism Provider
 - c. Agricultural Production
 - d. Conservation Practices
 - e. Farm
- C. Add new § 303-14 Agritourism

New text is underlined, text to be deleted is shown as ~~strikethrough~~. Staff comments are shown as ***bold and italics***.

SECTION 3.2 DEFINITIONS

Agriculture: ~~Shall be as defined in Chapter 519 of the Ohio Revised Code.~~ As used in sections 519.02 to 519.25 of the Revised Code, "agriculture" includes farming; ranching; algaculture meaning the farming of algae; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; and the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production. ***This is consistent with the definition contained in Ohio Revised Code (ORC) Section (§) 519.01.***

Agritourism: An agriculturally related educational, entertainment, historical, cultural, or recreational activity, including you-pick operations or farm markets, conducted on a farm that allows or invites members of the general public to observe, participate in, or enjoy that activity. ***This is consistent with the definition contained in ORC § 901.80(A)(2).***

Agritourism Provider: A person who owns, operates, provides, or sponsors an agritourism activity or an employee of such a person who engages in or provides agritourism activities whether or not for a fee. ***This is consistent with the definition contained in ORC § 901.80(A)(3).***

Agricultural Production: Commercial aquaculture, algaculture meaning the farming of algae, apiculture, animal husbandry, or poultry husbandry; the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, or sod; the growth of timber for a noncommercial purpose if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use; or any combination of such husbandry, production, or growth; and includes the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with such husbandry, production, or growth; land devoted to biodiesel production, biomass energy production, electric or heat energy production, or biologically derived methane gas production if the land on which the production facility is located is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use, provided that at least fifty per cent (50%) of the feedstock used in the production was derived from parcels of land under common ownership or leasehold. Agricultural production includes conservation practices, provided that the tracts, lots, or parcels of land or portions thereof that are used for conservation practices comprise not more than twenty-five per cent (25%) of tracts, lots, or parcels of land that are otherwise devoted exclusively to agricultural use and for which an application is filed under Section 929.02 of the Revised Code.

- *This definition is consistent with the definition contained in ORC § 929.01(A) with the addition of language relating to the definition of land devoted exclusively to agricultural use which includes biodiesel, biomass energy, electric or heat energy, or biologically derived methane gas production as contained in ORC 5713.30(A)(1)b.*
- *Replace “per cent” with “percent.”*

Conservation Practices: Practices used to abate soil erosion as required in the management of the farming operation, and include, but are not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops for that purpose. *This definition is consistent with the definition contained in ORC 5713.30(E).*

Farm: Land that is composed of tracts, lots, or parcels totaling not less than ten (10) acres devoted to agricultural production or totaling less than ten (10) acres devoted to agricultural production if the land produces an average yearly gross income of at least twenty-five hundred dollars (\$2,500) from agricultural production. *This definition is consistent with the definition contained in ORC § 929.01(A).*

Sec. 303 REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS

SEC 303-14 Agritourism

A. Purpose

Agritourism operations shall only be permitted when the use is compatible with the area in form and function; and is designed in such a way that will not endanger public health or safety and when the following requirements have been satisfied.

B. General Requirements

- a. The Proposed use is physically suitable for the parcel on which it is proposed. *It is not clear what physically suitable means. This seems very subjective. There is*

no measurable or clear way to interpret how an applicant should comply with this requirement. Requirements should be specified or the section should be deleted.

- b. Access by public emergency equipment such as fire, ambulance, and police vehicles shall be provided. *It appears that the intent of this section is to require the provision of adequate emergency access, however no criteria for compliance is established. Requirements should be specified or the section should be deleted.*
- c. Off-street parking lots and all points of ingress and/or egress shall be built and maintained in a manner necessary to protect public safety and shall comply with Section 601, except as required by the Ohio Revised Code.
- *It is not clear which if any of the uses listed in ZR § 601-1 are to be used for determining the number of parking spaces and the size of the parking area to be utilized with an agritourism use. Specify which of the listed uses should be utilized or add a new requirement for an agritourism use.*
 - *ORC § 519.21(C)(4) expressly prohibits townships from requiring “any parking area to be improved in any manner, including requirements governing drainage, parking area base, parking area paving, or any other improvement.” While this § does include the statement “except as required by the ORC,” Staff recommends that the ZC state specifically which parts of § 601 are applicable to agritourism uses. § 601 C. Parking Area Design, specifies requirements for surfacing, grading, stormwater management, lighting, and the provision of wheel and/or bumper guards and landscape screening which are expressly prohibited under ORC § 519.21(C)(4); utilizing the provision “except as required by the ORC” is unnecessarily misleading.*
- d. The agritourism provider shall provide evidence the farm on which the agritourism operation has ten (10) or more acres devoted exclusively to agricultural production; or if less than ten (10) acres are devoted to agricultural production, evidence shall be provided that such farm produces an average yearly gross income of at least twenty-five hundred dollars (\$2,500) from agricultural production.
- e. The agritourism provider shall identify the educational, entertainment, historical, cultural and/or recreational relationship of the agritourism operation to the existing agricultural use of the property and the surrounding agricultural community in general.
- f. All structures used primarily for agritourism shall comply with the height requirements defined in Section 303-6-B.

C. Application for Agritourism Use

Agritourism use is approved through the submission of application, General Development Plans and Final Development Plans in accordance with the provisions of Section 902 hereof and should include the following:

- a. The acreage of the farm;
- b. proposed buildings and structures;
- c. building/structure spacing;
- d. setbacks;

- e. off-street parking lots and parking areas;
- f. drives, common drives and all points of ingress and/or egress;
- g. walkways;
- h. any existing or proposed well and/or on-site wastewater disposal system area(s);
- i. Use of existing and proposed buildings and structures, other than proposed units on fee simple lots; *The reference to fee simple lots is confusing and implies the subdivision of property; delete the statement “other than proposed units on fee simple lots.”*
- j. Location of all public rights-of-way and private streets; *It is unlikely that an agritourism use would require the creation of public rights-of-way and private streets. This would require the creation of a major subdivision and would require the approval of the Medina County Planning Commission. Delete this §.*
- k. Narrative identifying the educational, entertainment, historical, cultural and/or recreational relationship of the agritourism operation to the existing agricultural use of the property and the surrounding agricultural community in general.
- l. If the farm has less than ten (10) acres devoted to agricultural production, evidence shall be provided that such farm produces an average yearly gross income of at least twenty-five hundred dollars (\$2,500) from agricultural production.

Comment: This text amendment is intended to establish zoning regulations that are consistent with changes that were made to Ohio Revised Code Section (ORC) (§) 519.21 by the 131st General Assembly in September of 2016. These changes were enacted in order to provide protections to entities engaged in agritourism and associated businesses. One of the ways these changes addressed agritourism was to specifically identify what and how agritourism uses and structures may be regulated by township zoning. The proposed text primarily regulates agritourism consistently with the parameters established by the ORC with some noted exceptions.

Recommendation: Planning Services staff recommends the Planning Commission **APPROVE WITH MODIFICATIONS** the proposed amendments to the Hinckley Township Zoning Resolution.