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By Darlene Brady at 1:38 pm, May 25, 2023



Kent Conservation Commission
Special Meeting - Wednesday, May 31, 2023 @4:00pm
Zoom Meeting

<https://us02web.zoom.us/j/87379885703?pwd=a3E5RTJqUEk5aHpRdEhuZWVhSm5zUT09>

Meeting ID: 873 7988 5703 Passcode: 222705

Agenda

1. Call to order
2. Accept Agenda
3. Public comment
4. Old Business Discussion Item
 - A. Right to Farm Ordinance Revision
5. Adjourn

Chapter 6: Conservation Commission

Section 5.2: ~~Right To Farm~~Protection of Farms and Farmers from Nuisance Claims

1. **Purpose and Intent.** Agriculture is a significant part of the Town of Kent's heritage, its rural character, and may constitute a vital part of the Town's future. It is therefore the declared policy of the Town of Kent and legislative determination of the Kent Board of Selectmen to conserve and protect agricultural land and to

encourage agricultural operations and the sale of local farm products within the Town. It is the purpose and intent of this ordinance to promote and advance the Town's policy and reduce the loss of local agricultural resources by limiting circumstances under which any such operation may be considered a nuisance. It is hereby further legislatively determined that whatever impact may be caused to others through normal agricultural practices, such impact is offset and ameliorated by the benefits of farming to the neighborhood, community, and society in general. Methods of farming that comport with generally accepted farming practices are also deemed to comport with community standards at large. ~~This ordinance is not to be construed as modifying or abridging state law relative to the abatement of nuisances, but is to be used in the interpretation and characterization of activities and in considering and implementing enforcement of the provisions of the Ordinances of the Town of Kent and other applicable Town regulations, consistent with the provisions of Connecticut General Statutes § 19a-341. Additionally, the terms of this ordinance may be used in determining whether the methods and practices that may come under review conform to community standards.~~

This ordinance is enacted for the protection of farms and farmers. It is not the purpose of this ordinance to create an avenue for complaints to be made against farmers which could not be made against non-farmers. It is protective, not punitive, in its application. It does not provide a process for, and may not be used as an affirmative right to bring, nuisance claims or grievances including but not limited to those related to noise, odors, dust or fumes, the storage or use of buildings and equipment.

This ordinance aligns with statewide policy codified in Connecticut General Statutes Section 19a-341, as may be from time to time amended. This ordinance is not to be construed as modifying or abridging state law relative to the abatement of nuisances, nor shall it supersede applicable health, safety, fire, life safety or building codes and regulations operable statewide or within the municipality of Kent.

2. **Declaration.** No present or future ~~a~~Agricultural ~~e~~Operations conducted or maintained in a manner consistent with accepted customs and standards of the agricultural industry, on a recognized farm which is engaged in the act of farming as defined in this ordinance, shall become or be considered a nuisance solely because such activity resulted or results in any changed condition of the use of adjacent land. Agricultural ~~e~~Operations may occur on holidays, weekends and weekdays by night or day, provided such activities do not violate applicable health, safety, fire, life safety or building codes and regulations.

In the event a properly-raised nuisance complaint is submitted pursuant to a valid and adopted Kent ordinance, by a resident of the Town of Kent, the Conservation Commission shall determine whether the activities claimed to be a nuisance are agricultural operations as defined below. Should the activities be determined to be agricultural activities, the nuisance claim shall be dismissed. These provisions shall not apply whenever a nuisance complaint results from the negligent operation of any such agricultural operation.

It is herein understood that such ~~Agricultural Operations~~practices may result in, for example but include without limitation:

- a) The incidental noise from livestock or farm equipment;
- b) Odors from livestock, manure, fertilizer, compost, agricultural end-products, or feed;
- c) Dust and fumes created during plowing or cultivation operations
- d) The use of agricultural chemicals, pesticides and fertilizers including manure, provided such chemicals and the method of their application conform to practices approved by the Commissioner of the Department of Energy and Environmental Protection, or, where applicable, Commissioner of Health Services; and
- e) Irrigation and water management associated with normally accepted farming practices.

~~These provisions shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural operation.~~

3. **Definitions.** “Agriculture” means cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale.

“Agricultural Operations” means activities relating to agricultural use including, but not limited to, the cultivation and tillage of soil, the burning, processing, or composting of agricultural waste products or other agricultural burning, processing or composting, provided that such composting activity shall not be the sole or primary agricultural operation, protection of crops and livestock from insects, diseases, birds, predators or other pests from damaging or potentially damaging crops, the proper and lawful use of agricultural chemicals including but not limited to the application of pesticides and fertilizers, or the raising, production, irrigation, pruning, harvesting, or processing of an agricultural commodity, including any type of crop or livestock, and any forestry improvements and timber harvesting and processing. Such operations also include the operation and transportation of farm equipment over roads within the Town and conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided the activities are related to marketing the agricultural output or services of the farm and local produce and livestock products and provided same do not conflict with any provisions of the zoning regulations. For purposes of this ordinance, such operations do not include the slaughtering of animals not raised on the premises where they are to be slaughtered.

“Farm” means land used primarily for agricultural activities including: agriculture, nurseries, orchards, ranges, forestry, nursery or truck gardening, or for raising or keeping of livestock and fowl but excluding the raising of animals for laboratory use or for their fur, farm buildings and accessory buildings thereto including barns, silos, greenhouses, hoop houses and other temporary structures or other structures, and as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities.

“Locally” for the purposes of this ordinance shall mean all Connecticut counties as well as Dutchess, Columbia and Putnam Counties in New York; and Berkshire County in Massachusetts.

~~4. **Dispute Resolution and Advisory Opinions.** An interested person may submit a written request to the First Selectman’s office for an opinion as to whether a particular agricultural operation constitutes a nuisance or is an activity that is incidental to normal and customary farming activity and comports with community standards. In the event a dispute arises between an agricultural operator and a resident in the Town of Kent as to whether a particular agricultural operation constitutes a nuisance, either interested party may submit a~~

~~written request to the Selectmen for an advisory opinion or to mediate the dispute. The Selectmen may promulgate such regulations and procedures as it deems necessary for the implementation of this section. Nothing herein shall preclude any party from either appealing said advisory determination to the Superior Court for the Judicial District of Litchfield and/or commencing a direct action in said court to abate the claimed nuisance.~~

History: Adopted May 1, 2015, effective June 3, 2015.