Dogs – Hogs & Bullfrogs
Diversified Agriculture

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Agriculture – The Classic Definition

“The science, art, or occupation of cultivating the soil, producing crops, or raising livestock”

Webster’s Dictionary, 1896 ed.
Tall Corn – The Art in Agriculture
The Issue

- All 50 U.S. States either exempt some form of agriculture from land use regulations, or give substantial leeway in regulating agriculture.
- The central question is “why” do they give special exemptions to agriculturally related activities?
Why Exempt?

- Agricultural is a “must have” good and should not be related except for purity.
- When zoning enabling legislation was first enacted most legislators were rural based.
- Land and use regulation is seen as an “urban problem”.
- Land regulation cannot be sold to rural people unless there is a guarantee of agricultural freedom.
Several Problems

- The problem is defining what is “agriculture” in terms of an exempt activity – and
- Deciding what agricultural activities will not be granted exemptions
Typical Activities That Are Not Exempt

- C.A.F.Os – concentrated animal feeding operations
- Animal slaughtering & rendering
- Many hobby and boutique applications
Conflicting or Compatible Wordage in Zoning

- **Exclusive Agricultural Use** – Idaho
- **Production Agriculture** – New York
- **Agricultural Purpose** – Kansas
- **Agricultural Enterprise or Farming** – Connecticut
- **Devoted to Agricultural Use** – Wisconsin
- **Secondary Agricultural Uses** – Ohio
Good, Bad and Awful State Guidance on Ag. Exemption

- Connecticut and Hawaii – Thorough, exhaustive
- Wisconsin and Indiana – Helpful and informative but raises some questions
- Kansas and Ohio – Overbroad, not informative and raises questions every time you talk about it
Some of the Problem

The Reviser of Statutes for the State of Kansas
And a Farm – Or To Qualify for an Agricultural Exemption

- **Wisconsin** - 35 contiguous acres and $6,000 annually in gross farm profits
- **Wyoming** “land” used for two continuous years to obtain a monetary profit from crops or livestock
- **North Dakota** – Any unplatted land used for raising crops or for grazing
Canada – Strathona County

**Permitted Uses**
- Agriculture, general
- Horticultural
- Agricultural garden stand
- Minor intensive livestock
- Care Centre
- Primary dwelling
- Secondary dwelling
- Equestrian centre
- Home business - minor

**Discretionary Uses**
- Agriculture, intensive
- Aggregate extraction
- Agriculture major livestock
- Agricultural support service
- Bed and Breakfast facility
- Cemetery
- Dwelling – non agricultural
- Government service
- Library
- Private camps
- Parks
A farm

- A farm is currently defined, for statistical purposes, as any place from which $1,000 or more of agricultural products (crops and livestock) were sold or normally would have been sold during the year under consideration.
And In Kansas – What is A Farm?

Hell! Everybody knows what a farm is!
The Kansas Scene – Enabling Clause

- An obscure provision – the enabling clause in 12-741 giving clear indication of home rule intent
  - “This act is enabling legislation for the enactment of planning and zoning. … and is not intended to prevent the enactment or enforcement of additional laws and regulations on the same subject which are not in conflict with the provisions of this act.”
The Key Articles

- KSA 12-715b The Extraterritorial Powers
  - … nothing is this act shall be construed as authorizing a city to adopt regulations for land in excess of three acres which is used only for an agricultural purpose. …
Agricultural Neutrality Clause

- KSA 12-758: ...regulations adopted pursuant to this act shall not apply to the use of land for agricultural purposes nor the erection or maintenance of buildings thereon.
- Counties given power to plan and zone in 1939
The Question – What is an Agriculture Purpose?

- KSA 2-3201 “Farmland Protection”
  - Agricultural activity means the growing and raising of agricultural crops, hay, poultry and livestock, dairy products for commercial purposes
Did We Mention Poultry?

- KSA 2-909 “Poultry may include”
  - Chickens, turkeys, waterfowl and game birds but does not include doves or pigeons
Most Complete Definition

- KSA 50-624 – “Agricultural Purpose Means
  - a purpose related to the production, harvest, exhibition, marketing, transportation, processing. … of agricultural products. "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, … products, and any and all products raised or produced on farms. …

EVEN BULLFROGS?
Farming is Agricultural
Agri-Corporations

17-5903 – Definition of Farming

- Farming means the cultivation of the land for crops, raising poultry, egg production, milk, fruit and horticultural crops, grazing, production of livestock but does not include timber, forest products, nursery or sod, contracting to spray, harvesting or other farm services
Feedlots

- **KSA 47-1501 and 47-1502**
  - Can be for cattle, sheep, swine or horses
  - Must be 1,000 head or more
  - Declared to be an “agriculture pursuit” and not a commercial or industrial use
  - Subject to any city zoning regulations but not county regulations
What the KS Statutes Specify as “Agri-Purpose”

- Bees KSA 2-428
- Rabbit KSA-5903
- Sale, production, storage of fertilizers KSA2-1201
- Sale of agricultural seed KSA 2-1415
- All Ratites KSA 47-2201
- Deer and Elk 47-2101
- Winery KSA 41-102
Bees -

- U.S. honey production stands at $225 million per year
- Total value of all honey markets in U.S., including imports = $400 million/year
- World production is stable at 100 million metric tons per year
- Largest producers are China, U.S., Argentina and the Ukraine
Rabbit Stew

Flemish Giants – 12 lbs of meat
Yes, We Did Say Ratites
Emu – The Other Red Meat

- Emu chicks at 3 and 4 months old can be purchased for approximately $3,500 to $4,500 per chick or $7,000 to $9,000 per pair.
- Current prices for yearling emu pairs are $12,000 to $18,000 per pair.
- Current price for 2-year-old emus are $25,000 to $28,000 per pair.
What Else Is An Agricultural Purpose & Thus Exempt?

Hobby Farms
Worm Farms
Mule Farms
Butterfly House
Orchards
Mink Raising
Rock Quarry

- *VanGurndy v Lyon County Zoning Board, 1984*
- *Very limited finding*
- *Rock quarrying is an agriculture purpose when used exclusively to construct an on-site pond for irrigation purposes*
Wildlife Hunting Preserve

- **Corbert v Shawnee Bd. of County Commissioners, 1989**

- **Land located near Topeka but outside three mile limit**

- **Commissioners denied special permit for “private hunting” wildlife management area, sporting clays – dog training**

- **Ct. of Appeals overturned decision granting agricultural use status to wildlife/hunting preserves – excellent case!**
Bormann v McGuire

#192/96-2276, 1998 Sp. Ct Iowa

- If the county declares farmland within an “agricultural designation area” then activities are exempt from nuisance suit

- Held that immunity from nuisance is a taking of property within the meaning of the 5th Amendment
15126 SIC for Processing of Frog Legs
The Bullfrog

- Native to eastern U.S. – imported to the West
- Jaws of the pond
- Have devastated western populations of smaller frogs, snakes, and just about anything else they can get their mouth around
- Damn good to eat
Bullfrogs farms were formed in the early 1900s to respond to the market demand for frog legs.

And yes, Frog-A-Culture is a stated agricultural use in Oregon, Louisiana, Mississippi, and Georgia.

An finally, 2001 marked the year of the first world conference on trade in frog legs - India.
Maybe We Should Go In For the Three Pounds Frog Legs
And Finally

- Just to top things off voters in Oklahoma became the 48th state to ban COCK FIGHTING on 11/11/02
- Which two states still allow Cock Fighting