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Purpose Statement
The purpose of this section is to:
1) Encourage agricultural commerce in rural Kitsap County;
2) Provide clear legislative authority for rural land owners to engage in agricultural uses, accessory agricultural and agritourism uses and agricultural activities;
3) Protect and promote agriculture as an important component of the Kitsap County economy;
4) Educate visitors about Kitsap County agricultural heritage;
5) Empower farmers and other rural land owners to continue or start new businesses that support and highlight the importance of local agriculture;
6) Provide a platform for agritourism in Kitsap County that permits visitors to experience the value of local agricultural lands to our culture, economy, landscape and local food supply; and
7) Encourage the conservation of lands which have the growing capacity, productivity, soil composition, and surrounding land use to have long-term commercial significance for agriculture and associated resource production.

Applicability
Agricultural uses, agricultural activities, and accessory agricultural uses are allowed in the following zones and protected in the Right to Farm provision (section: Right to Farm): Rural Residential (RR), Rural Protection (RP), Rural Wooded (RW), and Forest Resource Lands (FRL).

Definitions
For the purposes of this section, the following definitions shall apply.

Animal Feeding Operation (AFO): means an agricultural enterprise where animals are kept and raised in confined situations. An animal feeding operation (AFO) congregates animals, feed, manure and urine, dead animals, and production operations on a small area of land. Feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures, fields, or on rangeland.

Concentrated Animal Feeding Operation (CAFO): means an animal feeding operation (AFO) with more than 1000 animal units (an animal unit is defined as an animal equivalent of 1000 pounds live weight and equates to 1000 head of beef cattle, 700 dairy cows, 2500 swine weighing more than 55 pounds, 125 thousand broiler chickens, or 82 thousand laying hens or pullets) confined on site for more than 45 days during the year. Any size animal feeding operation (AFO) that discharges manure or wastewater into a natural or man-made ditch, stream or other waterway is defined as a CAFO, regardless of size. CAFO’s are regulated by the U.S. Environmental Protection Agency under the Clean Water Act.

Agricultural Activity: means a condition or activity that occurs on a farm in connection with the production of farm products and includes, but is not limited to, marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation.
pumps; movement, including, but not limited to, use of current county road ditches, streams, rivers, canals, and drains, and use of water for agricultural activities; ground and aerial application of seed, fertilizers, conditioners, and plant protection products; keeping of bees for production of agricultural or apicultural products; employment and use of labor; roadway movement of equipment and livestock; protection from damage by wildlife; prevention of trespass; construction and maintenance of buildings, fences, roads, bridges, ponds, drains, ditches, waterways, and similar features and maintenance of stream banks and watercourses; and conversion from one agricultural activity to another, including a change in the type of farm product being produced. The term includes use of new practices and equipment consistent with technological development within the agricultural industry.

**Agricultural use, accessory or agritourism:** means a use that directly supports, promotes and is incidental and secondary to a permitted primary agricultural use or agricultural activity on a farm. Such accessory and agritourism uses shall include, but are not limited to, temporary mobile slaughtering units or other activities which add value to a farm product such as processing or a commercial kitchen, farm stands, community supported agriculture (CSA), u-pick self harvest activities and sales, educational how-to-farm workshops, farm tours for individual farms or a multiple farm tour program, hayrides, corn mazes, equine riding lessons and training clinics, seasonal harvest activities and other similar uses and activities. A permanent facility used for slaughtering or meat packing, commercial feedlot, or activities identified as assembly events shall not be considered an accessory agricultural use.

**Agricultural use, primary:** means using land for the production of food and fiber, dairying, pasturage, equine boarding or training, horticulture, floriculture, viticulture, apiaries, animal husbandry, and wholesale nurseries.

**Agriculture, existing and ongoing:** means a) uses that were legally established prior to the effective date of this program in accordance with the applicable regulations at the time established; or b) structures that were legally constructed prior to the effective date of this program in accordance with the applicable regulations or requirements in effect at the time of construction.

**Agriculture, new:** Agricultural uses proposed or first conducted after the effective date of this section.

**Agriculture structure:** means a structure designed and constructed for agricultural use and activities or to store, repair, service or maintain farm implements, hay, grain, poultry, livestock or other horticultural products, and for stabling or training equines, or riding lessons and training clinics.

**Assembly event:** means a use or activity where a group of persons gather to participate in a commercial or marketed event or activity including, but not limited to, entertainment, recreational or celebratory events or activities, conventions, retreats, or weddings.

**Farm:** means a parcel or parcels primarily engaged in agricultural uses or activities in the same ownership that are used by the farm operator to produce and/or manage food, fiber, livestock boarding, or any combination thereof. Multiple contiguous parcels in the same ownership may
be considered one parcel for the purposes of livestock management calculations. Multiple non-contiguous parcels under the same ownership may be considered a single farm.

**Farm, Commercial:** means a) a farm is designated as “farm and agricultural land” by the Kitsap County Assessor b) is classified as a traditional farm by Kitsap County Department of Community Development or c) exceeds a three year average of $10,000 in gross sales of agricultural products produced on the farm or investment into agricultural activities on the farm, or any combination thereof. IRS farm income schedules shall be used to determine the three year average.

**Farm Equipment:** Includes, but is not limited to, tractors, trailers, combines, tillage implements, balers, and other equipment, including attachments and accessories that are used in agricultural activities such as planting, cultivating, irrigation, harvesting, butchering, slaughtering, and marketing of agricultural, horticultural, or livestock products.

**Farm Personnel:** means an individual involved in the operational aspects of a farm including the farm owner and family, employees, interns, and volunteers.

**Farm product:** means part or all of a plant or animal, or byproduct thereof useful to humans and includes, but is not limited to, forages and sod, fruits, vegetables, flowers, seeds, grasses, trees, livestock, dairy, poultry, freshwater fish, apiaries, equine, or any other product which incorporates the use of food, feed, fiber, or fur.

**Farm Stand:** A structure located on a farm which is used for the sale of farm products grown, produced or processed primarily in Kitsap County or counties immediately adjacent to Kitsap County (see agricultural use standards 2a.).

**Farm Stay:** means any type of paid accommodation on a working farm where guests partake in operating the farm.

**Livestock:** means horses, bovine, sheep, goats, swine, reindeer, donkeys, mules, llamas and any other hoofed animal, large and small (small being one hundred fifty pounds or less).

**Nursery, Retail:** means an establishment where trees, shrubs and other plant materials are purchased for the purpose of immediate resale to the general public.

**Nursery, Wholesale:** means an establishment where trees, shrubs or other plants are propagated on the property and not sold to the general public on a regular basis. No bark, mulch, fertilizer or other similar landscape supply may be sold.

**Tasting Room:** means a facility or portion of a facility supporting a winery, brewery, or distillery where the public may sample products produced by the winery and which has ancillary wine-related retail sales.

**Temporary Farm Worker/Intern:** An individual who works intermittently at one or more agricultural worksites, stays on site rather than a primary residence, and doesn’t reside at the same worksite year-round.
Temporary structure: means a structure that does not have a permanent foundation, that involves no grading or site improvements, and that, when removed, results in no physical alteration of the site.

Winery, Brewery, Distillery: means a licensed facility designed for the crushing, fermentation, and/or barrel aging of wine, beer, or liquor, and which may include barrel rooms, bottling rooms, tank rooms, laboratories, case goods storage, and offices. “Licensed” for the purposes of this title means a facility that has met the requirements of RCW 66.24. and 27 CFR Chapter I, Subchapter A, Part 1.

Agricultural Use Standards
Uses permitted by this section shall be in accordance with the following regulatory elements:
1) Kitsap County fire codes and building codes unless specifically exempted in this chapter see section “Agriculture Structures”;
2) KCC Title 12 Stormwater Management;
3) KCC Title 17.465 Marijuana Regulations;
4) KCC Title 18.16 Timber Harvest;
5) KCC Title 19 Critical Areas Ordinance;
6) KCC Title 22 Shoreline Master Program;
7) Kitsap Public Health District (e.g., Sewage, Solid Waste, Food Handling or other applicable regulations);
8) Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG) shall be used to create a farm plan if referred to this section;
9) Other applicable regulations from a County, State, or Federal Jurisdiction including, but not limited to, the Washington State Department of Ecology and United States Department of Fish and Wildlife.

Regulations and review processes associated with specific agricultural uses are as follows:
1) Agricultural Use, Primary:
A primary agricultural use, activity, and/or structure is a permitted use in the zones RR, RW, RP, and FRL as identified in the “Applicability” section provided that the uses comply with this section. Agricultural uses, activities, and structures are allowed on vacant land where such uses, activities and structures are allowed in the applicable zone.

2) Accessory Agricultural Use or Agritourism:
An accessory agricultural use or agritourism use is allowed where a primary agricultural use exists and is allowed. The accessory agricultural use shall be operated so as to not interfere with the primary agricultural use and shall not significantly interfere with the rural character of an area.
a. Farm Stands are an allowed accessory agricultural use provided that:
i. At least 25% of the agricultural products available for sale must be produced or processed on the farm where the farm stand is located; and
ii. At least 50% of the agricultural products available for sale must be produced or processed within Kitsap County or counties immediately adjacent to Kitsap County; and

iii. At least 75% of all products available for sale must be produced or processed within the state of Washington; and

iv. Farm support items or other incidental items available for sale must directly relate to the farm products sold at the farm stand such as seeds, garden and farm implements and supplies, feed and forage, agricultural education and training or show materials, compost, and other similar items. Sales of farm support items or incidental items shall not exceed 25% of the products available at the farm stand; and

v. A farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops, livestock, and incidental items identified in “Agriculture Use Standards (2)(a)(iii)” and does not include structures for banquets, public gatherings or public entertainment.

b. Mobile processing or production facilities. One mobile or temporary agricultural processing or production facility, including slaughtering, is allowed provided that:

i. The facility and operations are shielded to minimize visibility from immediately adjacent parcels.

ii. Two or more facilities may be allowed on a farm at one time subject to an administrative conditional use permit (ACUP).

c. A use meeting the state or federal definition for a permanent custom slaughtering establishment, custom meat facility, or animal feeding operation (AFO) may be allowed subject to a conditional use permit (CUP).

d. A use meeting the state or federal definition for a concentrated animal feeding operation (CAFO), certified feed lot, public livestock market, stockyard, warehouse, or grain elevator, may be allowed in industrial zones subject to a conditional use permit (CUP).

e. Farm Stay: A farm stay is allowed as an accessory use subject to an administrative conditional use permit (ACUP).

f. Agriculture School: An agricultural schooling program is allowed as an accessory use. If accommodations are used by students the operation is subject to an administrative conditional use permit (ACUP).

g. A permanent structure built to house a seasonal farm worker or intern may be allowed in addition to an accessory dwelling unit subject to a conditional use permit (CUP), provided that:

i. The agricultural operation is a commercial farm as defined in this section;

ii. A primary residence is on the farm;
iii. The structure is exclusively used to house farm personnel and their family members. At least one member of each household, including the primary residence, must be actively working on the farm;

iv. The structure is allowed for storage of items consistent with an individual or family living in the structure;

v. The structure is not leased or rented to the general public;

vi. Building permits are acquired for each structure; and

vii. A covenant is recorded on the title of the parcel where the structure is located specifying that the structure shall only be used to house farm laborers and their families.

h. Veterinary clinics or animal hospitals with the capacity to examine and treat large domestic animals necessitating holding pens, paddocks, etc., provided:

i. The parcel on which it is located has direct access to Kitsap County right-of-way and the director finds that the proposed use will not interfere with the surrounding residential uses because of close proximity;

ii. Any structure must be constructed with a visual character consistent with the surrounding parcels;

iii. The activities are conducted inside an enclosed building to the greatest extent feasible;

iv. The structure shall not be located within 50 feet of a lot line in the rural protection (RP) or rural residential (RR) zones. In addition, the applicant may be required to provide additional measures to prevent or mitigate offensive noise, odor, light and other impacts;

v. Boarding and grooming of animals, other than that incidental to medical and surgical care, meets the provisions for commercial animal kennels, catteries and shelters in KCC 17.381 subject to an administrative conditional use permit (ACUP).

i. A facility used to breed and maintain working dogs to manage or protect livestock or a facility used to breed and raise dogs primarily for show or sale shall be considered an accessory agricultural use. The facility must meet all of the performance standards for animal kennels and shelters in KCC 17.381 Allowed Uses.
Livestock and Dairy Management

The purpose of the livestock and dairy management section is to allow farmers with smaller parcels the opportunity to participate in animal based agriculture while minimizing the proliferation of nuisances to neighboring properties.

### Table 1a. Animal Density Thresholds

Livestock management is allowed as an agricultural use. The following table only applies to a parcel less than five acres in size.

The number of animals allowed per parcel or contiguous parcel farm:

a. Animals less than 6 months old or those still nursing are not counted against the permitted animal densities.

| Parcel Size | Less than 1 acre  
|             | Or  
|             | Less than 5 acres if within 200 feet of a water body including seasonal and year round streams.  
|             | 1 acre or greater, but less than 5 acres  
| Animal Density Allowance | Per 40,000 square feet: one large livestock, three small livestock, five ratites, 22 small animals, or 25 poultry.  
|             | Per 20,000 square feet: one large livestock, three small livestock, five ratites, 22 small animals, or 25 poultry.  
| Density Bonus: | Multiply the number of animals allowed by a factor of 2 if:  
|               | No dwelling unit or occupied structure exists within 300 feet of the parcel on which the animals are housed or maintained. |

1) The density requirements in Table 1a. may be increased with the implementation of a farm plan in consultation with the Kitsap Conservation District.

2) No feeding area shall be located within 100 feet of an off-site residence. A pasture greater than 20,000 square feet shall not be considered a feed area.

3) Manure piles and animal enclosures, including active pastures, shall maintain minimum horizontal separations for new and existing public/private water supplies pursuant to Kitsap Public Health District drinking water regulations.
Agriculture Structure Requirements

All structures, including those exempted from a building permit, shall be constructed to the standards in KCC Title 14 Building Construction code. An agriculture structure where public access is allowed shall require a building permit and certificate of occupancy regardless of size or exemptions stated below.

1) **Setbacks:** Agricultural structures shall comply with all setback requirements explicitly stated or referenced in this section. When conflicting setbacks occur the more restrictive setback requirement shall apply (See Figure 1a: Example Agriculture Structure Buildable Area Site Plan):

   a. 25 feet from Kitsap County right-of-way line or access easement line;
   b. 50 feet from a non-right of way or an access easement parcel line.

   i. Contiguous Parcels: A setback reduction to 10 feet is allowed for internal parcel lines within a multiple contiguous parcel farm (see definition of “farm”); or
   ii. A setback reduction to 10 feet from a non-right of way or an access easement parcel line of any single parcel may be allowed provided that:

      1. A site plan is submitted for review which shows:
         a. All existing and proposed structures on the parcel; and
         b. All structures within setbacks established by this section; and
         c. All property lines.
      2. The parcel line where the setback reduction occurs is professionally surveyed and the corners marked;
      3. Written permission from the adjacent property owner is provided to explicitly allow Kitsap County inspection or enforcement personnel to access the adjacent parcel to confirm dimensions;
      4. A notice to title on the Farm and the adjacent property that an agriculture structure exists within the standard 50 foot setback from the property line. This notice will require disclosure during the sale of either parcel; and
      5. A review and inspection fee as established by county resolution.

   c. 100 feet from off-site residential structures;
   d. Animal enclosures, including active pastures, shall maintain minimum horizontal separations for new and existing public/private water supplies pursuant to Kitsap Public Health District drinking water regulations;
   e. Setbacks pursuant to KCC Title 19 Critical Areas Ordinance and KCC Title 22 Shoreline Master Program.

2) **Building Permit Exemptions:**

   a. An agricultural structure is conditionally exempt from acquiring a building permit provided that:
i. A temporary structure is used for agricultural purposes such as the commercial production of horticultural plants including ornamentals, flowers, vegetables, and fruits or an animal shelter;

ii. The structure is less than 720 square feet;

iii. Exempted structures larger than 200 square feet shall be registered with Kitsap County Department of Community Development and include:
   a. The review of a site plan showing all existing and proposed structures, critical areas, and all applicable setbacks and buffers.
   b. A filing fee in an amount established by county resolution.

iv. Electrical, plumbing, and mechanical permits are required if included in the construction of the structure; and

v. All exempt permanent agricultural structures are fully taxable as land improvements by the Kitsap County Assessor.

3) **Existing and Ongoing Structure**: A legally constructed non-conforming agricultural structure, see existing and ongoing agriculture, may allow access to the general public provided that a building permit and certificate of occupancy are acquired.

4) **Garage or Carport**: Agricultural structures used for the storage of private vehicles which are not licensed or are not used as farm equipment, are considered garages or carports and shall require compliance with KCC Title 17.

5) **Maintenance**: Maintenance or repair of an existing structure with materials comparable to the existing structure, or new materials, is allowed.
Figure 1a: Example Agriculture Structure Buildable Area Site Plan
(Note: Not all setback scenarios are shown in this example)

* See KCC 19.200.220 Wetland Buffer Requirements

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**Wineries, Breweries, and Distilleries**

A winery, brewery, or distillery as defined in this chapter is allowed on a commercial farm as defined in this section provided that:

1) Retail Sales are directly related to the winery, such as sales of wine, beer, or spirits and related merchandise;
2) Structures and equipment shall comply with all Kitsap County building codes and are not exempted from building permits;
3) A tasting room under this section is only allowed in conjunction with a winery, brewery, or distillery licensed by the Washington State Liquor Control Board. A licensed facility with a tasting room must obtain a tasting permit. Applications for a tasting permit shall include:
   a. A site plan review with a fee established by county resolution;
   b. A traffic management plan;
   c. A parcel(s) without direct access to a Kitsap County maintained right-of-way shall require the commercial farm owner to obtain written consent by a majority of the owners of an easement used to access the commercial farm. A notice to title for each owner of the easement shall be required and submittal of the associated fee established by county resolution;
4) The Sheriff’s Office will be notified by the winery, brewery, or distillery tasting permit holder at least ten days in advance of any event.

**Assembly Events**

Assembly events as defined in this chapter are conditionally allowed on a commercial farm as defined in this section provided that:

1) The event(s) must be incidental and secondary to a primary agricultural use and is not considered an accessory agricultural use.
2) All operations comply with KCC Title 10 Peace, Safety and Morals;
3) A parcel(s) where the event occurs without direct access to a Kitsap County maintained right-of-way shall require the commercial farm owner to obtain written consent by a majority of the owners of an easement used to access the commercial farm. A notice to title for each owner of the easement shall be required and submittal of a fee established by county resolution;
4) Up to four assembly events per calendar year are allowed provided that:
   a. A permit is obtained after a site plan review and submittal of a fee established by county resolution;
   b. Access, egress, and parking facilities must be clearly identified on-site. Adjacent properties can be used for parking if:
      i. A written agreement between the assembly event location owner and the owner of the parcel used for parking is provided; and
      ii. The off-site parking is included in the site plan review.
c. Written notification shall be provided to the owner of any parcel immediately adjacent to the commercial farm either two weeks prior to each event or two weeks prior to the first event of the year with a calendar indicating the date of future events;

5) Five or more assembly events may be allowed subject to an administrative conditional use permit (ACUP). The administrative conditional use permit process may be elevated to a conditional use permit (CUP) according to Title 21 Land Use and Development Procedures. Kitsap County staff may restrict the number of events or timing of events during the conditional use permit process;

6) Each scheduled assembly event shall be considered a separate assembly event from any that preceded or came after. An event where the attendance will exceed 500 persons shall be considered a festival and subject to the same standards as KCC 6.20.

7) The duration of an assembly event or activity shall not exceed 48 consecutive hours including set-up and clean-up;

8) Sanitation and solid waste shall conform to Kitsap Public Health District requirements; and

9) Any approval for events or activities is transferrable with the land.

Legal Non-Conforming Agricultural Uses

Notwithstanding Section 17.460 Nonconforming Uses, Structures and Use of Structures, the continued existence of lawfully established non-conforming agricultural uses shall be subject to the following:

1) An agricultural use established or a structure erected in violation of any code provision, including without securing proper permit approval, shall not be considered legally non-conforming.

2) A legally established existing and ongoing agricultural use, activity, or structure shall be considered legally non-conforming and may be continued provided that the use, activity, or structure is not a detriment to public health or safety. A use, activity, or structure determined by Kitsap County, Washington State, or Federal agencies to be hazardous to public health or safety, regardless of legal non-conforming status, shall be required to change the agricultural use, activity or structure such that it complies with this chapter.

3) If no permit or applicable regulations were required at the time of establishing a use or building of a structure then the use or structure is legally nonconforming.

4) For purposes of this section, normal maintenance or repair of a legally nonconforming agricultural use or structure shall not trigger a requirement to come into conformance with current code.

5) A legal non-conforming agricultural use, activity, or structure which has been discontinued for a period of five consecutive years, without written notice given to the Kitsap County Department of Community Development of the intent to continue the agricultural use on a
specific parcel or parcels, shall be deemed abandoned. An abandoned agricultural use may only be re-established if brought into full compliance with this chapter.

6) Government actions, strikes, material shortages, natural disasters, acts of God, and all natural phenomena whose effects could not be prevented by the exercise of reasonable care and foresight, may be considered in calculating the length of discontinuance, damage, or destruction for purposes of this section.

7) Landowners are encouraged to document the existence of existing and ongoing agriculture uses and structures. Assembling historic photographs or documentation is needed to establish a legal non-conforming agricultural use or structure.

**Variance**

A variance may be granted subject to chapter 17.500 KCC ‘Variance’.

**Right to Farm and Notifications**

Legally established agricultural uses, activities, or structures as defined in chapter shall be protected by the Washington State Right to Farm Act. All landowners within Rural Residential (RR), Rural Protection (RP), Rural Wooded (RW), and Forest Resource Lands (FRL) shall be notified of their location within an area where an agriculture use is an allowed land use and protected under the Washington State Right to Farm Act provided that the agricultural use, activity, or structure complies with this chapter.

**Violations**

Uses in violation of this chapter shall be unlawful. Violation penalties and fees shall be enforced pursuant to Kitsap County Code.