



PLANNING, DEVELOPMENT AND SUSTAINABILITY

Agricultural Exemption Packet

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What is the “agricultural exemption” and what qualifies for the exemption?

The State of Iowa has given counties the authority to develop zoning regulations and to adopt building codes for their unincorporated areas. However, the State has declared that land and structures which are primarily adapted and used for agricultural purposes should be able to operate relatively free from local restrictions. This “right to farm” is contained in the following sections from the Code of Iowa:

335.2 Farms exempt. Except to the extent required to implement section 335.27, no ordinance adopted under this chapter applies to land, farm houses, farm barns, farm outbuildings or other buildings or structures which are primarily adapted, by reason of nature and area, for use for agricultural purposes, while so used. However, the ordinances may apply to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream.

A county shall not require an application, an approval, or the payment of a fee in order for an ordinance to be deemed inapplicable to land, farm barns, farm outbuildings, or other buildings or structures that are primarily adapted for use for agricultural purposes under this section. (Note: the county may still require an application and approval for exemption to apply to farm houses).

Land, farm houses, farm barns, farm outbuildings, or other buildings or structures may qualify under this section independently or in combination with other agricultural uses. Land enrolled in a soil or water conservation program shall be considered land primarily adapted for use for agricultural purposes under this section.

331.304.3.b Farms exempt. A county building code shall not apply to farm houses or other farm buildings which are primarily adapted for use for agricultural purposes, while so used or under construction for that use.

Even though the State exempts operations which are primarily adapted for agricultural uses from zoning and building regulations, it has provided few guidelines as to what should be considered exempt. In order to qualify under the agricultural exemption, it must be clearly demonstrated by the applicant that the principal use of the land and the proposed building(s) is agriculturally-related. This includes proposed dwellings, and that the occupants of the dwelling are primarily engaged in agriculture on the property where the dwelling is (or will be) located.

Anyone wishing to claim the exemption for a new house should contact our department prior to the start of construction to determine if the exemption is appropriate and/or applicable to their situation. The agricultural exemption applies only to Johnson County zoning and building regulations. Other permits (such as a floodplain development, well, septic, E911 address or driveway access) will still be required as applicable. Please contact the appropriate county department for information.

NOTE: Some financial institutions and/or insurance providers may require a “Certificate of Occupancy” as a requirement of underwriting the mortgage, insurance policy, or both. The County will only issue a Certificate of Occupancy for a structure if our department has issued a building permit and inspected the project during construction. If your proposed dwelling is granted an agricultural exemption and therefore no permits are issued and no inspections are performed, the County WILL NOT issue a Certificate of Occupancy. If your dwelling is determined to be exempt, you may still apply for building permits, submit to inspections, and ultimately receive a Certificate of Occupancy for the dwelling. All applicable fees will apply.

The following definitions are from the Johnson County Unified Development Ordinance.

Agricultural Domicile. A dwelling that is occupied by one who is actively engaged in agricultural activities conducted on the agricultural unit on which the dwelling is located, or one who is retired from being actively engaged in agricultural activities on the agricultural unit on which the dwelling is located.

Agricultural Outbuilding. A structure used for the storage of agricultural products, storage and repair of equipment and machinery, the production, care, feeding, or housing of livestock and other agricultural purposes as defined by this ordinance.

Agricultural Unit. A combination of undivided $\frac{1}{4}$ of a $\frac{1}{4}$ of a section managed as a part of a single agricultural operation, or an individual recorded parcel which is primarily adapted for agricultural purposes, while so used.

Agricultural Use. The employment of land for the primary purpose of obtaining a profit through agriculture.

Agriculture. Planting, raising, and harvesting crops; feeding, grazing, breeding, managing, or producing livestock, poultry, fish, honeybees, or insects; or dairying. Agriculture includes any combination of horticulture, floriculture, viticulture, aquaculture, animal husbandry, pasturage, and the necessary accessory uses for packing, treating, sorting, and the noncommercial storage of the agricultural product or products in their raw, unprocessed form. Agriculture includes field days, as defined by this ordinance. Agriculture does not include the commercial feeding of garbage or waste from animal processing to animals.

Animal Husbandry. The use of land for feeding, grazing, breeding, dairying, and managing livestock, poultry, and fish.

Engaged in Agriculture – For purposes of applying this ordinance, “engaged in agriculture” shall include but not be limited to any of the following:

- a. Inspect agricultural operations periodically and furnish at least half the direct cost of the operations.
- b. Regularly and frequently make or take an important part in making management decisions substantially contributing to or affecting the success of the agricultural operation.
- c. Perform physical work which significantly contributes to the agricultural operation.

Farm Barn – See Agricultural Outbuilding.

Farm House – See Agricultural Domicile.

Farm Outbuilding – See Agricultural Outbuilding.

Tier 2 Tests. For Agricultural Units less than 40 acres in size, the applicant shall demonstrate the following:

- a. History/Experience Test. The applicant has a significant combination of history, education, and/or experience being engaged in agricultural operations similar to those that are being requested for exemption.
- b. Intent/Plans Test. The applicant has the intent and plans to engage in significant, continued, and ongoing agricultural operations on the property in question.
- c. Primarily Adapted Test. The nature (inherent and essential characteristics) of the property and/or structure(s) is agricultural. If a dwelling is being requested, it shall be demonstrated that the dwelling is or will be occupied by one who is actively engaged in the onsite agricultural operations.

Please complete and submit the attached application form. You may submit any supporting information they feel necessary to justify your request for agricultural exemption. There are no *required* submittals, but you should provide any information necessary for PDS staff to determine that the proposed structure or improvement is primarily adapted for agricultural use as required by state code and the Unified Development Ordinance. Examples of documentation may include, but are not limited to:

- Schedule F
- FSA number
- Letter from an Ag lender certifying that the applicant qualifies for an Ag loan
- Proof of agricultural insurance
- Business plan (projected costs, projected revenues, information on commercial market, balance sheet, asset inventory, etc.)

Note – the Zoning Administrator may request that the applicant provide *proof* of certain tax or other documents as part of the exemption determination review, however the Planning,

Development, and Sustainability Department will not retain any tax or other financially or personally sensitive information on file.

The Zoning Administrator may request additional information from you within fourteen (14) days of receipt of the application as necessary to make the determination. The Zoning Administrator will make a determination granting or denying exemption status within thirty (30) days of receipt of the application and inform you of the decision in writing. Any appeal of the Administrator's decision must be made to the Zoning Board of Adjustment within 30 days of the date of the determination letter.

If your proposal qualifies for an agricultural exemption, you will be notified in writing. **Exemptions are applicable to a particular structure or improvement only. You must reapply for any structure or improvement as outlined in section 8:1.3 of the Unified Development Ordinance.** If your proposal does not qualify for an agricultural exemption, county zoning and building regulations will apply.

If you have any further questions, please contact the Planning, Development, and Sustainability Department at 319-356-6083 or you may submit an information request to planning@johnsoncountyiowa.gov. You may also visit our web site at johnsoncountyiowa.gov/pds for more information.

Office Use Only		NO FEE	AGEX - -
	<i>Date Filed</i>	<i>Fee</i>	<i>Application Number</i>



JOHNSON COUNTY, IOWA

APPLICATION FOR: AGRICULTURAL EXEMPTION

Agricultural Units over 40 acres in size (Tier 1) only need to apply prior to construction of a new (or replacement) dwelling. Please complete the application, including Addendum A – Engaged in Agriculture.

Agricultural Units under 40 acres in size (Tier 2) only need to apply prior to construction of a new (or replacement) dwelling. Please complete this application, including both Addendum A – Engaged in Agriculture and Addendum B – Tier 2 Properties.

APPLICANT INFORMATION

Applicant

Daytime Phone

Applicant Mailing Address (including City, State, Zip)

Applicant Email

PROPERTY INFORMATION

Property Address (if any): _____

Property Location: $\frac{1}{4}$ $\frac{1}{4}$ _____ Section _____ Township _____ Range _____

List all contiguous parcels that are part of this agricultural unit (PDS staff can assist in looking up the PPN):

Parcel ID (PPN): _____ Acres: _____

PPN: _____ Acres: _____

PPN: _____ Acres: _____

PPN: _____ Acres: _____

PPN: _____ Acres: _____

PPN: _____ Acres: _____

For this Agricultural unit, how many acres do you:

Own & farm yourself: _____

Rent from another & farm yourself: _____

Own & rent to another (do not farm yourself): _____

AGRICULTURAL INFORMATION

Please list all crops and livestock produced, on average, on the agricultural unit annually (attach additional sheets if necessary).

Crop Type(s)	Total No. Acres (average)	% of crops that is for commercial production (average)
Livestock Type(s)	Total No. Head (average)	% of animals raised for commercial production (average)
Soil and Water Conservation	Total No. Acres	What official program is the land enrolled in?

The proposed dwelling is a: New dwelling Replacement of an existing dwelling

Will this be the Primary or Secondary dwelling *on this property*? Primary Secondary

- For a dwelling to be exempt, the residents of the dwelling must be actively engaged in – or be retired from being actively engaged in – an exempt agricultural operation, within the agricultural unit on which the dwelling(s) are located.
- All applicants please complete Addendum A. Applicants on Tier 2 properties also complete Addendum B.
- Only 2 Agricultural domiciles are allowed per agricultural unit. If 2 dwellings currently exist on the property, one must be replaced for a new exempt dwelling to be authorized.

ACKNOWLEDGEMENT (please print or type)

The undersigned hereby acknowledges that should the use of the land or buildings change, or are discovered to not qualify under the exemption, such use shall be subject to the zoning and building regulations of Johnson County, Iowa.

To the best of my knowledge, all information contained herein (including any addendums, as applicable) is true and correct. I hereby give my consent for the Director (or designee) of Johnson County Planning, Development, and Sustainability to have reasonable access to conduct a site inspection of the property for the purpose of reviewing the request for exemption as described in this application.

Applicant Signature

ADDENDUM A – ENGAGED IN AGRICULTURE

COMPLETE THE FOLLOWING INFORMATION REGARDLESS OF THE SIZE OF YOUR AGRICULTURAL UNIT.

The exemption only applies to structures *primarily adapted* for agricultural purposes, and only while so used for agricultural purposes. Additionally, in order to qualify for the exemption as an agricultural domicile the occupants must be “engaged in agriculture” as defined below. Please provide a detailed answer for at least one of the following items. You may choose to provide an answer for all items as appropriate. (Attach additional sheet if necessary.)

“Engaged in agriculture” For purposes of applying this exemption, “engaged in agriculture” shall include but not be limited to any of the following:

- a. Inspect agricultural operations periodically and furnish at least half the direct cost of the operations. (Please provide information about the input costs that you furnish to the operation and your inspection thereof.)

- b. Regularly and frequently make or take an important part in making management decisions substantially contributing to or affecting the success of the agricultural operation. (Please provide information about your role in making management decisions regarding the operation.)

- c. Perform physical work, which significantly contributes to the agricultural operation. (Please provide information about the nature of physical work, including average hours worked per day or per week, as part of the operation.)

ADDENDUM B – TIER 2 PROPERTIES

ONLY COMPLETE THE FOLLOWING INFORMATION IF YOUR PROPERTY QUALIFIES AS A TIER 2 AGRICULTURAL UNIT (UNDER 40 TOTAL CONTIGUOUS ACRES).

As outlined in the Unified Development Ordinance, properties that fall into Tier 2 (those agricultural units less than 40 acres in size) are presumed to not be primarily adapted for agricultural purposes. In addition to the information provided in addendum A, the application for exemption shall be reviewed by the Zoning Administrator in accordance with three (3) tests. *Please provide a detailed answer for all items.* (Attach additional sheet if necessary):

- a. History/Experience. *Please provide information about your history, education, and/or experience in agricultural operations similar to those being requested for exemption.*

- b. Intent/Plans. *Please provide information about your intent and plans to engage in significant, continued, and ongoing agricultural operations on the property in question.*

- c. Primarily Adapted Test. *Please describe how the nature (inherent and essential characteristics) of the property and/or proposed dwelling is agricultural.*
