

KEENE TOWNSHIP

ORDINANCE NO. 12-14-21

Adopted Date: December 14, 2021

Published Date: December 18, 2021

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF
KEENE TOWNSHIP ARTICLES II, V, VI, XII**

THE TOWNSHIP OF KEENE ORDAINS:

Section 1: Article II of the Zoning Ordinance is amended to add those definitions as set forth below.

Article II Definitions, section 2.02:

Anaerobic Digester. A facility in which microorganisms break down biodegradable material in the absence of oxygen, used for industrial or domestic purposes to manage waste and/or produce energy.

Anaerobic Digestion. The biochemical conversion of complex organic materials, such as manure, into methane and other byproducts in the absence of oxygen.

Digester Feedstocks. Organic materials that are acceptable for inclusion within an anaerobic digester include livestock manure, waste animal feed, dead animals, yard waste or grass clippings, organic food processing waste, waste grease/trap grease, food waste intended for human consumption, by-products from ethanol, biodiesel, and algal production and other digester feedstocks that may be approved by the Director of the Michigan Department of Natural Resources and Environment or its successor agency.

Ethanol. A substance that meets the ASTM international standard in effect on the effective date of this section as the D-4806 specification for denatured fuel grade ethanol for blending with gasoline.

Farm. Farm means a farm as defined in section 2 of the Michigan Right to Farm Act, 1981 PA 93, MCL 286.472, as may be amended and which definition is incorporated herein by reference.

Proof gallon. Proof gallon means a proof gallon as defined in 27 Code of Federal Regulations 19.907, as may be amended and which definition is incorporated herein by reference.

On-Farm Biofuel Production Facility. A facility, including both biofuel production facilities and anaerobic digesters that produce methane and other fuel products, along with related methane and biofuel production, refinement, and transportation facilities including natural gas pipelines and compressed natural gas trailer trucking (both loading and unloading).

Methane. A colorless odorless flammable gaseous hydrocarbon CH₄ that is a product of biological decomposition of organic matter and of the carbonization of coal, is used as a fuel and as a starting material in chemical synthesis and is the simplest of the alkanes and the main constituent of natural gas.

Biofuel. Any renewable fuel product, whether solid, liquid, or gas, that is derived from recently living organisms or their metabolic by-products and that meets applicable quality standards, including, but not limited to, ethanol and biodiesel; but not including methane or any other fuel product from an anaerobic digester. For purposes of this term “ethanol” means a substance that meets the ASTM international standard in effect on July 19, 2011 as the D-4806 specification for denatured fuel grade ethanol for blending with gasoline.

MMBtu. MMBtu means million British thermal unit and is a unit of heat; defined as the amount of heat required to raise the temperature of one pound of water by one degree Fahrenheit.

On-farm biofuel production facility (Type 1). A facility designed and intended to be used to produce methane or biofuel and having all of the following characteristics:

- a. The facility is located on land used in the commercial production of farm products.
- b. The facility has a designed annual production capacity of not more than 100,000 gallons of biofuel or no more than 250,000 MMBtu’s per year of methane.
- c. The facility is located at least 100 feet from the boundary of any contiguous property under different ownership from the host farm.
- d. The facility meets all otherwise applicable setback requirements.
- e. On an annual basis, at least 75% of the feedstock for the facility is produced on the farm where the facility is located, on an annual basis.
- f. On an annual basis, at least 75% of the biofuel or other product/byproduct of the facility is used on the farm where the facility is located, on an annual basis.

On-farm biofuel production facility (Type 2). A facility designed and intended to be used to produce methane or biofuel and having all of the following characteristics:

- a. The facility is located on land used in the commercial production of farm products.
- b. The facility has a designed annual production capacity of not more than 100,000 gallons of biofuel or no more than 250,000 MMBtu’s per year of methane.
- c. The facility is located at least 100 feet from the boundary of any contiguous property under different ownership from the host farm.
- d. The facility meets all otherwise applicable setback requirements.
- e. On an annual basis, less than 75% of the feedstock for the facility is produced on the farm where the facility is located, on an annual basis.
- f. On an annual basis, less than 75% of the biofuel or other product/byproduct of the facility is used on the farm where the facility is located, on an annual basis.

On-farm biofuel production facility (Type 3). A facility designed and intended to be used to produce methane or biofuel and having all of the following characteristics:

- a. The facility is located on land used in the commercial production of farm products.
- b. The facility has a designed annual production capacity of at least 100,000 gallons but not more than 500,000 gallons of biofuel. For methane production from anaerobic digestion,

the facility will have the capacity to produce no more than 500,000 MMBtu/year of methane.

- c. The facility is located at least 100 feet from the boundary of any contiguous property under different ownership from the host farm.
- d. The facility meets all otherwise applicable setback requirements.

Section 2: Article V of the Zoning Ordinance is amended to allow certain biofuel uses as permitted and special uses in the AG district as set forth below:

Article V - AG Agricultural District

Section 5.02 - Permitted Principal Uses

- O. On-Farm Biofuel Production Facility (Type 1)

Section 5.04 – Permitted Accessory Uses

- L. On-Farm Biofuel Production Facility (Type 1)

Section 5.03 - Permitted Principal Special Uses with Conditions

- H. On-Farm Biofuel Production Facility (Type 2 or Type 3) as regulated by Article VII Section 12.29

Section 3: Article VI of the Zoning Ordinance is amended to allow certain biofuel uses as a permitted and special uses in the AR district as set forth below:

Article VI - AR Agricultural Residential District

Section 6.02 - Permitted Principal Uses

- Q. On-Farm Biofuel Production Facility (Type 1)

Section 6.03 - Permitted Principal Special Uses with Conditions

- H. On-Farm Biofuel Production Facility (Type 2 or Type 3) as regulated by Article VII Section 12.29

Section 6.04 Permitted Accessory Uses

- L. On-Farm Biofuel Production Facility (Type 1)

Section 4: Article XII of the Zoning Ordinance is amended to add certain standards for biofuel uses permitted as a Special Use as set forth below:

Article XII – Special Uses

Section 12.29 – On-Farm Biofuel Production Facility (Type 2 and Type 3)

- A. The facility has all of the characteristics for the term “On-Farm Biofuel Production Facility (Type 2 or Type 3)” as defined in Section 2.02 of this Ordinance.
- B. The application for special land use approval, in addition to the content required by any other provision of this Ordinance, must include all of the following:

1. A description of the process to be used to produce biofuel or methane and a site plan meeting the standards of Article XIX Site Plan Procedures.
 2. The number of gallons of biofuel or MMBtu's of methane anticipated to be produced annually, and the designed annual biofuel production capacity (in gallons) of the facility.
 3. An emergency access and fire protection plan that has been reviewed and approved by the appropriate responding Police and Fire Department.
 4. For an ethanol production facility that will produce more than 10,000 proof gallons (as defined in 27 Code of Federal Regulations 19.907) annually, completed United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau Forms 5000.29 (Environmental Information) and 5000.30 (Supplemental Information on Water Quality Considerations Under 33 USC 1341(a)), or successor forms, required to implement regulations under the National Environmental Policy Act of 1969, 42 USC 4321 to 4347, and the Federal Water Pollution Control Act, 33 USC 1251 to 1387.
 5. Information that demonstrates the biofuel production facility will comply with all of the special land use approval standards specified herein.
 6. If additional products result from the biofuel production or methane production, such as compressed natural gas, then a description of the process, equipment and buildings must be supplied. All licenses and permitting from other local, state and federal agencies shall be provided.
 7. Any additional information requested by the Planning Commission relevant to compliance with any provision of this ordinance pertaining to special land use application, review, or approval, including any lawful conditions imposed on approval.
- C. The Planning Commission shall hold a public hearing on an application for special land use approval of an On-Farm Biofuel Production Facility (Type 2 or Type 3) not more than 60 days after a completed application is filed with the Township, as determined by the Zoning Administrator.
- D. A special use approval for a Biofuel Production Facility (Type 2 or Type 3) shall require that, and shall be conditioned upon, the following:
1. Before the facility begins operation, all buildings, facilities, and equipment used in the production or storage of biofuel or methane shall comply with all applicable local, state and federal laws.
 2. Before the facility begins operation, the owner or operator of the biofuel production facility has provided the Township with proof that all necessary approvals have been obtained from the Michigan Department of Environment, Great Lakes, and Energy (or a successor agency) and other state and federal agencies that are involved in permitting any of the following aspects of biofuel production:
 - (a) Air pollution emissions.
 - (b) Transportation of biofuel or methane or additional products resulting from biofuel or methane production.
 - (c) Use or reuse of additional products resulting from biofuel or methane production.
 - (d) Storage of raw materials, fuel, or additional products used in, or resulting from, biofuel or methane production.
 3. Before the facility begins operation, the biofuel production facility includes sufficient storage for raw materials, fuel, and additional products resulting from biofuel or methane production or the capacity to dispose of additional products through land application, livestock consumption, sale, or other legal use.

Section 5: Validity and Severability. Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

Section 6: Repealer Clause. Any ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 7: Effective Date. This Ordinance shall be effective seven (7) days after publication.

The ordinance amendments to adopt were motioned by Kara Albert and seconded by Harvey Noon.

ADOPTED:

Yeas: 3

Nays: 0

Abstain: 2

STATE OF MICHIGAN)

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COUNTY OF IONIA)

I, the undersigned, the duly elected Clerk of Keene Township, Ionia County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and correct copy of the Keene Township Ordinance No. 12-14-21, passed on the 14th day of December 2021 conducted by the Board of Trustees of said Township. Further, I certify I caused the Ordinance or a summary of the Ordinance, to be published in the Shoppers Guide, a newspaper of general circulation in the Township on December 18, 2021.

Tami Hardy

Keene Township Clerk