



STATE OF KANSAS

## Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

**Curt T. Schneider**  
Attorney General

February 5, 1976

ATTORNEY GENERAL OPINION NO. 76- 38

Mr. Lawrence E. Christenson  
Office of the City Attorney  
Post Office Box 731  
Winfield, Kansas 67156

Re: Cities--Zoning

Synopsis: When zoning land within the three-mile limit pursuant to K.S.A. 12-715b, the city may not impose requirements such as building permits and setback regulations upon residences and other accessory buildings on tracts of land in excess of three acres which are used exclusively for agricultural purposes.

\* \* \*

Dear Mr. Christenson:

You advise that the City of Winfield is presently considering a zoning ordinance covering land extending substantially to the three-mile limit as provided in K.S.A. 12-715(b). The city has adopted a comprehensive plan and otherwise meets the statutory requirements for three-mile zoning.

However, the question has arisen whether in the exercise of its three-mile zoning power, the city may make requirements for residences or accessory buildings where the unit is strictly agricultural, such requirements including building permits as well as setback regulations.

K.S.A. 12-715 commences thus:

"Any city shall be authorized to adopt zoning regulations affecting land located outside the city but within three (3) miles

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thereof under the following conditions,  
*except that nothing in this act shall be construed as authorizing any city to adopt regulations applying to or affecting any land in excess of three (3) acres under one ownership which is used only for agricultural purposes. . . .* " [Emphasis supplied.]

I agree with you that this statute does not authorize the city to prescribe requirements, including setback regulations and building permits, for residences and accessory buildings on any land in excess of three acres which is used only for agricultural purposes in the three-mile zoning area. Such requirements would necessarily be adopted in the exercise of its zoning power over land which was outside its territorial limits but within its zoning jurisdiction, and the underscored language expressly precludes any exercise of the zoning power so as to affect tracts in excess of three acres which are used exclusively for agricultural purposes is of three acres or less, it may be subject to building requirements such as described above.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj