

## **DRAFT ORDINANCE**

### **Definitions to add to Chapter 1: General Provisions**

#### **Agritourism**

Activities offered on a seasonal, occasional, regular or year-round basis to the general public, invited groups, or visitors on a working farm for the purpose of economic enhancement, education, enjoyment or active involvement in an agricultural use. Activities must be related to agriculture and accessory to the agricultural use, and may include, but are not limited to farm stays, harvest festivals, barn dances, museums, weddings, other events or celebrations, art and craft fairs, corn mazes, pizza farms, farm dinners, sleigh rides, farm tours or similar uses. Agritourism may not include activities that include the discharge of firearms, competitions among motorized vehicles, or other events that the Township determines to be incompatible with the community's character or intent of this chapter.

#### **Non-Agricultural Events Associated With An Agritourism Use**

This means activities that are part of an agritourism operation's total offerings but are not tied to farming or the farm's buildings, equipment, fields, etc. Such non-agriculturally related uses include but are not limited to:

- a. Art or cultural related festivals
- b. Wedding ceremonies or receptions
- c. Barn dances
- d. Wine and catered food events

*(We haven't come to a conclusion on how to deal with non-agricultural activities that are part of an Agritourism operation's total offerings such as a kiddie train, or a pumpkin catapult. Sometimes they are ongoing "activities" rather than "events" sometimes they are offered as an occasional event. We didn't want to leave room for a full-blown carnival—the performance standards may take care of preventing that. Some committee member suggest including them here with a title of "Non-Agricultural Events and/or Activities Associated With An Agritourism Use)*

#### **Agricultural Direct-Market Business**

A seasonal or year-round agricultural business operated on a working farm, selling farm-raised products, including animal products such as meat, fish, and eggs, produce, bedding plants, plant or wood materials, or any derivative there of, such as jams, jellies, wool products, maple syrup, and similar products. Products are sold directly to consumers without an intermediate wholesaler or distributor. This use may include but is not limited to, pick-your-own operations, roadside stands, farm fishing, and similar businesses.

### **Proposed Additions to Chapter 2: Zoning Districts**

#### **Section 1 –Agriculture District**

**B. Permitted Uses and Structures**

1. Agritourism (activities below the thresholds identified in Section 3)
2. Agricultural Direct-Market Business (activities below the thresholds identified in Section 4)

**C. Agricultural Interim Use Permit**

1. Agritourism (activities above the thresholds identified in Section 3)
2. Agricultural Direct-Market Business (activities above the thresholds identified in Section 4)

**Proposed Chapter 4: General Provisions**

**Chapter 4: Building Permits, Building Regulations, and Performance Standards**

**Section 3 — Performance Standards for Agritourism**

Agritourism is a permitted use. If an Agritourism Use, as defined herein, does not comply with any of the standards listed below, an IUP must be obtained.

The following performance standards shall apply:

- A. The minimum parcel on which the Agritourism Use is located shall be at least ten (10) acres in size. The use shall be accessory to the agriculture use of the parcel.
- B. Any Agritourism use must maintain its demonstrated agricultural relationship and at no point shall the use of the property be converted to, or operated as a stand-alone business or industrial use.
- C. All Agritourism Use shall comply with the regulations contained in Ordinance 3, Chapter 4, Section 1, and with all Township Ordinances applicable to commercial uses and nuisances, specifically, Ordinance 5, Chapter 4, sections 1 — noise and nuisances, 2 - odors, 3 - toxic matter, 4 -exhaust emissions, 5 - lighting, 6 - miscellaneous nuisances. (Resolution 59, 8-13-2007), and the Township's Noise Ordinance #2011-5.
- D. All structures, including temporary structures, shall meet the minimum setback requirements of the zoning district. All buildings used in conjunction with the use shall meet the requirements of the State Building Code.
- E. Activities may not begin before 7 a.m. and must be completed by 10 p.m.
- F. A structure may include a kitchen for proper assembly, service and storage of food catered from another location. Any on-site preparation and handling of food or beverages must comply with all applicable federal, state or local standards. The full-scale preparation of food, a restaurant, bar, or other defined commercial food preparation activities are not allowed. Limited food preparation may be completed on site. A kitchen for the purpose of

producing value-added food products from farm products such as jams, jellies, pickles, pizza, fermented foods, milk products, pies, jerky or similar products is allowed. Food preparation on site is limited to items, which are directly connected to the Agritourism Use, such as pies, sandwiches, salads, snacks, pizza, and other items needed to accommodate typical events as permitted on the property.

G. All other parts of the township ordinances apply to this use.

H. The Agritourism Use shall provide adequate on-site or portable sewage treatment facilities for the proposed activities that meets all applicable codes and standards.

I. All Agritourism Uses shall provide adequate off-street parking for all employees and customers so that there is no parking on public roads and adequate setbacks from adjacent properties are maintained. Parking areas must be at least 10 feet out of the road right-of way, and thirty feet from a neighboring property.

J. Agritourism Uses may use up to 100 square feet of retail space of the business to sell non-agricultural products.

K. No more than 500 square feet of building is used by the public for Agritourism.

L. No external lighting is to be used for the Agritourism Use, except as required by building code.

N. Farm stays do not have more than two sleeping rooms.

O. The Agritourism Use does not have more than 30 cars per day on a dirt road or 75 cars on a paved road.

P. The Agritourim Use does not include more than 100 people daily on a regular basis.

Q Non-agricultural events do not occur more than 3 times per year.

#### **Section 4 — Performance Standards for Agricultural Direct-Market Business**

An Agricultural Direct Market Business is a permitted use. If an Agricultural Direct Market Business, as defined herein, does not comply with any of the standards listed below, an IUP must be obtained.

The following performance standards shall apply:

A. The majority of the product sold on the property shall be grown or raised on the property.

B. An Agricultural Direct-Market Business may use up to 100 square feet of retail space of the business to sell non-agricultural products. Non-agricultural products may only be sold during periods that agricultural products are also sold.

C. No sale of product shall take place on any County/Township Road or right-of-way.

D. All Agricultural Direct-Market Business Use shall comply with the regulations contained in Ordinance 3, Chapter 4, Section 1, and with all Township Ordinances applicable to commercial uses and nuisances, specifically, Ordinance 5, Chapter 4, sections 1 — noise and nuisances, 2 - odors, 3 - toxic matter, 4 -exhaust emissions, 5 - lighting, 6 - miscellaneous nuisances. (Resolution 59, 8-13-2007), and the Township's Noise Ordinance #2011-5.

E. All structures, including temporary structures, shall meet the minimum setback requirements of the zoning district. All buildings used in conjunction with the use shall meet the requirements of the State Building Code.

F. A structure may include a kitchen for proper assembly, service and storage of food catered from another location. Any on-site preparation and handling of food or beverages must comply with all applicable federal, state or local standards. The full-scale preparation of food, a restaurant, bar, or other defined commercial food preparation activities are not allowed. Limited food preparation may be completed on site. A kitchen for the purpose of producing value-added food products from farm products such as jams, jellies, pickles, pizza, fermented foods, milk products, pies, jerky or similar products is allowed. Food preparation on site is limited to items, which are directly connected to the Agricultural Direct-Market Business, such as pies, sandwiches, salads, snacks, pizza, and other items needed to accommodate typical events as permitted on the property.

G. All other parts of the township ordinances apply to this use.

H. No more than 2400 square feet of building used by the public for the Agricultural Direct-Market Business.

I. No external lighting is to be used for the Agricultural Direct-Market Business, except as required by building code.

J. The Agricultural Direct-Market Business does not have more than 30 cars per day on a dirt road or 75 cars on a paved road.

## **Section 14 - Registration Procedure**

### **1. Preliminary review of proposed Agritourism Use**

- a. Anyone proposing to add an Agritourism Use in the Township shall complete the Registration Form provided by the Township, and submit the completed

Form to the Town Clerk.

b. The Township Planning Commission shall review the form, and may request that the applicant appear at a Planning Commission meeting to provide additional information and discuss the proposed use with the Commission.

c. The Planning Commission shall request that the applicant apply for an Interim Use Permit (IUP) for the proposed use if the use exceeds the thresholds identified in this chapter.

*(The following language was in the draft for one meeting, then removed at the next meeting (4 in favor of removal and 2 opposed) ~~or has the potential to create significant unreasonable impacts on surrounding properties or Township infrastructure~~)*

~~e.d.~~ The Town Board shall review the registration and Planning Commission recommendation and make a final determination regarding the application for an IUP.

~~e.e.~~ The registration process shall be completed before the activity begins.

*(Unresolved Registration Process Questions*

*1. Since Agritourism and Agricultural Direct-Market Businesses are permitted uses, is it possible to require a registration process?*

*How does the registration process fit with a mixed implementation of allowed use and at a certain scale becoming an Interim Use Permit.)*

## 2. Interim Use Permit (IUP)

- a. The owner of the parcel(s) where the Agritourism Use is proposed shall sign all permit applications.
- b. The person applying for an IUP shall fill out and submit to the Zoning Administrator an interim use permit application form and filing fee.
- c. Once the application is deemed complete, the Zoning Administrator shall provide landowners within 1,000 feet of the applicant's property with notification of the application for an IUP via first class mail. (Ord. 2010-1, 6-14-2010)
- d. The Zoning Administrator shall refer the application to the Planning Commission for review.
- e. The Planning Commission shall hold a public hearing on the application. Notice of the public hearing shall be as provided by Minnesota Statute 462.3595.
- f. The petitioner or a legally authorized representative shall appear before the Planning Commission in order to present evidence concerning the proposed Agritourism use. (Resolution 59, 8-13-2007)
- g. If the Planning Commission recommends granting the IUP, it may recommend conditions it considers necessary to protect the public health,

safety and welfare.

- h. The Planning Commission shall forward its recommendation to either deny or approve the IUP to the Town Board. The Planning Commission shall make findings of fact and recommend to the Town Board such actions or conditions relating to the request. Such findings shall be entered in and made part of the written record of the Town Board's meeting.
- i. The Town Board will take final action on the request. Approval of an IUP shall require passage by a minimum of three (3) members of the Town Board.
- j. An amended IUP application shall be administered in a manner similar to that required for a new Interim Use Permit. The fee shall be as set by separate action of the Town Board. Amended IUP's shall include requests for changes in conditions and as otherwise described in this Ordinance.
- k. No application for an IUP shall be resubmitted for a period of six (6) months from the date of said order of denial.
- l. Granted IUP's shall become void if applicant does not proceed substantially on the work within six (6) months. To proceed substantially means to make visible improvement to the property. Up to two (2) extensions for not more than six (6) months each may be granted by the Town Board for good cause. (Resolution 59, 8-13-2007)
- m. If the land use does not conform to the conditions of the permit, the IUP may be revoked after notice to the applicant of a public hearing for the intended revocation and passage of a resolution by the Town Board to that effect.

## **Section 15 – Agricultural Interim Use Permits (IUP)**

### **A. Criteria For Granting Agricultural Interim Use Permits**

In granting an Agricultural Interim Use Permit, the Planning Commission and Town Board shall consider the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding lands and water bodies. Among other things, the Planning Commission and Town Board shall make the following findings where applicable:

- 1. The IUP Use is identified as a permitted Agricultural Use in the zoning district where the property is located.
- 2. The Agricultural Use will meet or exceed the performance standards set forth in the Zoning Ordinances and other applicable Township Ordinances.
- 3. The Agricultural Use complies with the specific standards for the use identified in the ordinance allowing agricultural use.
- 4. The applicant agrees to any conditions that the Town Board deems appropriate for permission of the use. (Ord 2010-1, 6-14-2010)

5. The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities, which serve or are proposed to serve the area.
6. The use will be sufficiently compatible with or separated by adequate distance or screening from adjacent agriculturally or residentially zoned or used land so that existing property will not be depreciated in value and there will be no deterrence to development of vacant land. (Resolution 59, 8-13-2007)
7. The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties.
8. The use is accessory to the primary agricultural use. (Resolution 59, 8-13-2007)
- ~~8.9.~~ The use is consistent with the purpose of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
- ~~9.10.~~ The use is not in conflict with the Comprehensive Plan of the township.
- ~~10.11.~~ The use will not cause traffic hazards or congestion.
- ~~11.12.~~ If a transfer of ownership occurs and there is not a change in impact to surrounding properties the IUP can be transferred to the new owner. If there is a change in impacts the IUP shall be subject to a review by the town board.
- ~~12.13.~~ The township has the right to vary hours of activities from the noise ordinance.

## **B. Conditions Of Approval**

In permitting a new agricultural use or the alteration of an existing agricultural use, the Planning Commission and Town Board may impose, in addition to these standards and requirements expressly specified by this Ordinance, additional conditions which the Planning Commission and Town Board consider necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

1. Limiting the height, size or location of buildings. Buildings and gathering spaces must be located and designed in such a way as to minimize the impacts on surrounding properties. If the Agricultural Use terminates, the associated buildings must be returned, or converted to a permitted or accessory use, or removed entirely.
2. Controlling the location and number of vehicle access points, location and number of parking spaces. Screening may be required to mitigate identifiable impacts to adjacent residences.
3. Temporary parking areas may be approved at the sole discretion of the Town Board.
- ~~3.4.~~ The board may require screening to mitigate identifiable impacts to adjacent

residences (Ord 2010-1, 6-14,2010)

~~4.5.~~ Increasing the street width: If the capabilities of the roads are limited, and cannot or will not be improved, the IUP may be denied or limited in scope. The Planning Commission/Town Board may require the applicant to complete a traffic study prior to the issuance of any IUP. The Town Board may require dust control, turn lanes, or other road improvements based on the traffic that may be created by the use.

~~5.6.~~ A Subsurface Sewage Treatment System (SSTS) may be required for the use that complies with the Eureka Township Ordinance 2010-3. The Town Board may require portable sanitation facilities, as it deems necessary.

~~6.7.~~ The Town Board may require a representative or employee of the applicant to be on site at all times during events and activities, and may also require the presence of a person responsible for traffic control, security, and parking.

~~7.8.~~ The Town Board may limit the size and frequency of Agricultural Use events or activities.

~~8.9.~~ Additional conditions may be imposed by the Town Board to ensure that the proposed use is compatible with the surrounding land uses.

~~9.10.~~ Limiting the number, size, location or lighting of signs.

~~10.11.~~ Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.

~~11.12.~~ Annual review. (Resolution 59, 8-13-2007)

~~12.13.~~ If the primary agricultural use terminates, the IUP shall terminate.

Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the Agricultural Interim Use Permits issued, shall require an amended Agricultural Interim Use Permits and all procedures shall apply as if a new permit were being issued. The Zoning Administrator shall maintain a record of all Agricultural Interim Use Permits issued including information on the use, location, and conditions imposed by the Planning Commission and Town Board, time limits, review dates, and such other information as may be appropriate.