

# EUREKA TOWNSHIP

*Dakota County, State of Minnesota*

## PLANNING COMMISSION PUBLIC HEARING

**June 18, 2024-7:00 PM**

### **Call to Order**

The Planning Commission Public Hearing was called to order at 7:00pm by Chair Melanie Storlie and the Pledge of Allegiance was given.

Commissioners Present:   Melanie Storlie (Chair)  
                                  Beth Eilers (Vice Chair)  
                                  Donovan Palmquist (Commissioner)  
                                  Brian Storlie (Commissioner)  
                                  Dan Heyda (Commissioner)

Others Present: Amy Liberty (Deputy Clerk), William Rueter, Brian & Tami Johnson, Andre Stouvenel, Valerie Britton, Paul Ulmen, Nancy Sauber, Bill Clancy, Linda Ripley, Jeff Otto, Mark Ceminsky, Timothy Pope, Paul & Deb Burkhardt, Randy Wood, Ken Olstad, Mike Patterson, Ray Hall, Julie Larson, Bob & Mary Dawson, Glenn Benson, Colleen Riley, Don Pflaum

Zoom Attendees: Carol Cooper, Ralph Fredlund, Christen Fuller, Shelley's iPad-Air-2, Jeff's iPad, "Guy Fawkes"

### **Opening Statement**

Chair Melanie Storlie opened the meeting at 7:00pm, shared the procedures and the expected conduct of this public hearing and stated the following:

The purpose of this meeting is to consider amendments to the Township Code, Chapter 240 Zoning, pertaining to Agricultural District: Conditional Uses and Structures and Definition of Agritourism. The text amendment was brought forward by a citizen for the Township to consider.

Before the applicant could make a short statement regarding their text amendment request, a Point of Order was called to Madam Chair. It was stated that an error in procedure occurred, and the Public Hearing should no longer continue. Chair Melanie Storlie allowed Jeff Otto, the citizen who raised the question of order, to share his concern.

Mr. Otto voiced that this hearing was improper and invalid as it directly violated Eureka Township Ordinance 57-2, making it illegal. He referenced the Ordinance and pointed out the wording, "Notification shall be given by first-class mail to all owners of record with the Dakota County Department of Property Taxation of land located in the Township at the time the application was filed with the Town Clerk" He verified with the Town Clerk earlier that a first-class mailing was not initiated. He advised the Planning Commission to pass a motion explaining this circumstance to the Town Board and have the Public Hearing rescheduled after proper notice has been provided.

Deputy Clerk Liberty listed a timeline of notices that were conducted, mentioned the Town Clerk did seek legal counsel prior to setting this Hearing date and shared practices of past Eureka Township Public Hearings where no post cards or mailings were sent. Further investigation

conducted by the Clerks found mention in past meeting minutes that the Board had determined to follow only the statutory requirements. Deputy Clerk Liberty suggested that this matter be addressed at the next regular Town Board meeting. Vice Chair Eilers pointed out, "although this is up for interpretation, the ordinance does say, 'the failure of such notice to reach any resident, so long as the notice was attempted by the Town, shall not invalidate the proceeding'." The Commissioners decided to move forward.

Bill Rueter of Endurance Farm Partners, representative of the applicant Kathy Parranto, was present at the Town Hall to address the Planning Commission and answer any questions they may have.

## **Public Comment**

Chair Melanie Storlie opened the public comment period, directing the Deputy Clerk to read the submitted written comments from citizens not in attendance and then call on citizens who have signed up on the Speakers List in the order listed until everyone has spoken.

## **Submitted Comments read by the Deputy Clerk**

Atina Diffley, 25498 Highview Ave.

Dear Members of the Eureka Town Board,

I am writing to express my enthusiastic support for the proposed ordinance change adding agri-tourism to the list of conditional uses in Eureka Township currently under consideration. As a resident of Eureka Township, I believe that the implementation of this ordinance will bring significant economic, social, and cultural benefits to our community.

Agri-tourism, the intersection of agriculture and tourism, offers a unique opportunity to diversify our local economy and support our farming community. By opening up our farms to visitors, we can showcase the rich agricultural heritage of Eureka, provide educational experiences about farming practices, and create new revenue streams for our farmers. This, in turn, helps to sustain family farms, promote local products, and enhance our rural way of life.

The benefits of agri-tourism are numerous:

**Economic Development:** Agri-tourism can stimulate the local economy by attracting tourists who spend money on local accommodations, dining, and other services. This influx of visitors supports not only the farms but also other local businesses. It also provides new employment opportunities, giving our youth the chance to access jobs in the summer that will enrich their lives. It also provides opportunities to diversity income streams making Eureka township farms more resilient to weather and market impacts.

1. **Preservation of Agricultural Lands:** By generating additional income, agri-tourism can help keep farmland in active production and prevent it from being sold for non-agricultural uses. This helps maintain the rural character and scenic beauty of our community.
2. **Education and Community Engagement:** Agri-tourism provides educational opportunities for both residents and visitors, fostering a greater understanding and appreciation of agriculture. Activities such as farm tours, u-pick operations, and workshops can engage the community and create meaningful connections between farmers and consumers.
3. **Cultural Enrichment:** By celebrating our agricultural heritage, we can preserve and promote the traditions and skills that have shaped our community.

Utilizing the Conditional Use Permit (CUP) process will allow farmers to plan and invest in infrastructure with clear guidelines that will help minimize impact on neighbors. Including agri-tourism as a CUP activity also provides protections for neighbors and other community members who may be impacted by the operation. Neighbors will have a process to influence impacts during the CUP process.

In conclusion, I strongly urge the town board to adopt the agri-tourism ordinance as a permitted CUP activity. This forward-thinking initiative will not only bolster our local economy but also strengthen our community's ties to its agricultural roots. Thank you for considering my perspective and for your dedication to the prosperity of Eureka Township.

Sincerely,

Atina Diffley

Ken and Jill Olstad, 8000 257th West

To the Eureka Planning Commission, and whom it may concern,

I hereby submit, for the record, input for the 2024-06-18 public hearing on the proposed ordinance text amendment regarding agri-tourism, on behalf of myself, Ken Olstad, and my spouse, Jill Olstad, Eureka township residents since 1998.

We are in favor of agri-tourism insofar as it is truly an accessory use to the primary land use of agriculture (as defined in Minnesota statute and Eureka's ordinances), but we are not in favor of uses that are not directly related to the actual primary agricultural use of the property. In this case, that's growing apples. The activities that this orchard has done for the last few decades, those of which we are aware, are already permissible under current code. The proposed text amendment is not needed. It is overly broad, to a ridiculous degree, giving no meaningful boundaries to what would be considered "agri-tourism". We should not have language like "including but not limited to..." followed by a vague and broad list that could include anything including the kitchen sink. The definitions would need to be tightened up considerably, for this change to be anything but a Trojan horse for virtually any activity or use whatsoever to be considered "agri-tourism". As regards Conditional Use, the language should include extensive examples of the kinds of Conditions that would be appropriate, so it's clear to the reader and especially to future boards and planning commissions what sorts of activities are intended to be included and excluded, to help in defining reasonable conditions protecting health and welfare of the residents.

A new conditional use is a big decision, and needs much more care and discussion than this slapdash proposal is getting. Please do not adopt it, but rather, take the required effort to do it right, if it's even needed at all.

We agree fully with Jeff Otto's excellent work on this subject.

Sincerely,

Ken and Jill Olstad

## Speakers List

Kathleen Kauffman, 25506 Ipava Ave.

Kathleen shared her concerns and submitted the following:

Comments of Kathleen Clubb Kauffman on proposed amendment to Eureka Ordinance 240.7(C) adding to section 2 definitions of the terms Agritourism and Agritourism Infrastructure.

I welcome the inclusion in our ordinances of provisions related to Agritourism.

I have three points

1. The definitions of Agritourism must be tweaked to precisely (with the possible exception of "ranch") track Stat §604A.40. (Link attached)
  2. We need to define the term "Ranch" if we continue to use it.
  3. We need to add an ordinance provision for applying for an Agritourism Interim Use Permit.
- I. The proposed definition of Agritourism activity needs to be tweaked so that it precisely tracks Minnesota law.

Minnesota has enacted a law that shields those who run agritourism business from liability to the members of the public who comes to participate. The definition of the covered activity is contained in Minnesota Stat. §604A.40

"Agritourism activity" means activity carried out on a farm or ranch that allows organizations or members of the general public, for recreational, entertainment, charitable, or educational purposes, to view, enjoy, or participate in rural activities, including, but not limited to: farming; viticulture; winemaking; ranching; and historical, cultural, farm stay, gleaning, harvest-your-own, or natural activities and attractions. An activity is an agritourism activity whether or not the participant pays to participate in the activity.

I have highlighted below the words added in the proposed language before the Planning Commission.

### PROPOSED LANGUAGE WITH DIFFERENCES NOTED

An activity carried out on a farm or ranch that allows organizations or members of the general public, for recreational, entertainment, charitable, or educational purposes, to view, enjoy, or participate in rural activities, including, but not limited to: farming; viticulture; winemaking; ranching; farm markets; freshly made and packaged food and beverage; and historical, cultural, recreational, farm stay, gleaning, harvest-your-own, or natural activities and attractions including but not limited to: site related and agritourism related retail; educational programs; fire pits; hay pyramids; corn mazes; games and sports; mechanical and non-mechanical rides; camping; arts and crafts; music; and markets. An activity is an agritourism activity whether or not the participant pays to participate in the activity.

If Eureka deviates from the state definition, the liability protection at a minimum is called into question and may be lost. As a lawyer, the differences read to me like a member of my profession trying to include a "kitchen sink" list for a future that may never happen and is likely covered by the general statute language in any case. This new language puts in peril protection from liability and gains nothing I can see. The property that prompted the proposed amendment has a long history of selling food and hosting site related attractions that were consistent with Eureka ordinances without amendment. There is no added benefit to including "camping" in addition to "farm stay" unless the owners were planning on opening a

KOA campground (which would not be Agritourism for many reasons). Whether music and rides are appropriate is a site specific question appropriate for a detailed IUP, not a general definition. The right to include these activities for Board consideration and regulation in an IUP application is sufficiently covered by the very broad terms already in the state statutory definition.

The laundry list included in the definition is also detrimental to petitioners because the industry will continue to evolve. The proposed language lists every activity that petitioners might currently ever want to include, but there will surely be more activities created in the future that are not on the list. The principle of *expressio unius est exclusio alterius* means that activities not on the laundry list are not permitted. The petitioners are better off with a general definition into which new activities will fit.

II. We need to define the term "Ranch" if we use it in the definition of Agritourism.

The term "Ranch" is not currently defined in the ordinances. I think we can safely drop the term even though it is used in the state statute. Counsel should be consulted.

III. We need to add an ordinance provision for applying for an Agritourism Interim Use Permit.

Special uses in the Township can be permitted under either a Conditional Use Permit (CUP) or an Interim Use Permit (IUP). Counsel should be consulted, but I believe currently the best practice for buildings outside of general rules is to use a CUP and for activities outside of general rules the best practice is to use an IUP. For instance, all of our new mine permits are IUPs. Our attorney can explain it better than I can, but I believe the thinking is buildings, being permanent, need rights the run with the land; while activities, which may change, stop, or require more oversight are better handled by an Interim Use Permit. Activities are also more likely to have changing impacts on the community. If the activity is covered by an IUP the Board can be responsive to all citizens. The Board has more limited ability to be responsive with a CUP. Whatever the path, the ordinance should be amended to reflect the process. Currently IUP's are covered in Ordinance 165 and in Ordinance 240. Your attorney can advise on whether a standalone section similar to Ordinance 165 should be added or something should be added to Zoning near §240-19. Whatever is added today will be short and can reference the standards §240-32. If I were on the Board (which I am not) the IUP would renew at the end of two years when it would be updated to be consistent with the Township's current ordinance. The Township is moving very fast and I know from first-hand experience that is when mistakes get made. The Township should meet the needs of this citizens with the changes suggested above and then give itself some room to do some deeper thinking.

<https://www.revisor.mn.gov/statutes/cite/604A.40>

Julie read the following:

My name is Julie Larson 24510 Highway 100 near Lakeville. My husband Dylan and I are engaged in Production Agriculture in Eureka Township. We do this without needing this proposed Amendment.

Larson Farms have had some Agri tourism over the years. Friends, neighbors, relatives strangers and even a Charter Bus from a Dairy Convention at the University of Minnesota have toured our farm.

Our Concern is this proposed Amendment allow a lot of commercial development in the Township.

Is the Township planning to ammend the current 2040 Comprehensive Plan?

Will the Metropolitan Council allow increased density and Commercial Development?

Is the current Emergency Reponse in Eureka ready for these types of Venues?  
So, then I asked myself

Is a building with Utility Service, Kitchen, sleeping areas, seating areas and Storage a residence? How does this affect current building rights?

Is a Farm Market with freshly made, packaged food and beverages in a building with storage and bathrooms a Grocery Store? (as retail would be allowed)

Will there be music Venues with signage, tents, bathrooms, seating areas, Canopies and landscaping such as "wee fest" be allowed? Would carrying alcohol and food trucks be allowed. (again re: 4dL.)

Is a building with parking, Kitchens, bathrooms and seating areas a restaurant?

In closing lets all imagine a Severs Farm / Valley Fair in Eureka.

We are content being 10<sup>th</sup> generation Agricultural Producers in Eureka.

Also note to developers - may want to check on FAA regulations concerning property in close proximity to Airlake Airport.

Nancy Sauber, 9445 225<sup>th</sup> St. W.

Nancy wanted to start her time by stating that she agreed with Mr. Otto. The fact another Town Board in the past didn't properly provide notice of a public hearing is no excuse to not follow the written ordinance.

1. As a horticultural use, Applewood Orchard can do what it has always done without a Conditional Use Permit or CUP.
2. The presentation submitted to the Township gives the Minnesota State definition of Agritourism. It is fairly broad as it is.
3. Eureka could adopt all, some, or none of this definition into its zoning as we have that authority.
4. The proposed definition language adds terms like "mechanized rides," "rural activities," "site-related retail," "music," and all of these are wide open, if not unclear. "Music" could mean someone

quietly strumming a guitar by a campfire, or it could mean a rock concert. No limitations are given at all. Why add these terms if one doesn't intend to use them at some point in the future? Why not be upfront about your expanded definition in the pre-submitted presentation and point out those added terms and your reasons for including them?

5. Once the language would be enacted, Eureka MUST allow CUPs to any applicant whose application fits this very loose, broad-based definition. Any conditions placed are limited. Some Eureka Boards have placed NO CONDITIONS on some CUPs in the past! Denial of a CUP or trying to attach conditions that go beyond "reasonable, related and proportional" is not possible without likely repercussions. Many court cases that Eureka has and could be involved in would stem from CUPs and IUPs. Denial would most likely end in the Township losing a lawsuit as we have said in our Ordinance that we DO allow such uses.
6. CUPs "run with the land" and do not go away unless grossly violated and not brought into compliance. CUPs transfer with the land from owner to owner.
7. This use is probably better addressed in a stand-alone Ordinance with performance standards and specific limits.
8. It is inappropriate for the Board to indicate support for an application in a public meeting before the process has been completed as was just done at the last Town Board meeting. Supervisors are supposed to remain neutral until AFTER the public hearing and the Commission recommendations.
9. By scheduling their special meeting to address the text amendment for this coming Thursday, the Board is hamstringing the Commission in doing its job properly. Your work can be life-altering for our citizens. Please consider this carefully and do your job responsibly.

Thank you.

Bill Clancy, 25511 Ipava Ave.

Public Hearing 6-18-24-Executive Summary: We need a compromise to allow Applewood Orchards to continue to operate with reasonable limited expansion of activities to generate sufficient revenue for new owners while remaining Low Impact to the community,

1-Applewood Orchard as operated by the Parranto family for a long time is a valued asset to both our and the broader metro community. Agritourism as elegantly and expertly described by Mrs. Diffley in her letter is valuable. Unfortunately operating the Orchard exactly as done by the Parranto family is NOT the issue nor request; it is about "creating new farm-based traditions for guests" per the proposed buyers.

The term Agritourism has now become so broadly defined it means ANY activity where tourists can enjoy recreation or entertainment, or consumption or any ATTRACTION or education related to farming AND OR a rural setting. Now anything you do in an open field in a rural setting is Agritourism. Like at Rock Ranch, now Legacy Ranch with 35 different rides including towers for ZIP Lines and train rides like at Disney World.

What started as selling apple pies and jellies, with corn maze or small tractors for the kids or cutouts for photo opportunities all as supplemental farm income is not good enough for private equity firms to invest in a family farm ..... they need a higher return on investment via more activities to attract more tourists. More customers to generate more revenue.

Yes, the Parranto parcel is in a perfect location for the existing operation as pointed out with "no adjacent residences, .... north is airport ... east is airport, south is farmland, west open farmland."



2- Other locations across the Township are not so insulated- The zoning change opens up ALL of Eureka Township to Agritourism. A Zip Line and any other rides or commercial attractions bringing customers to spend money affects other citizens quality of life and property when it appears down the road or across the street at a new location. Text amendment as written far too broad.

3- Other unintended commercial operations - Just using the word "historical" in the State of Minnesota definition would allow me to convert my Pole Barn into a display of my large collection of antique farm equipment and charge admission. I could also partner with one or more of the large collectors of Farm Tractors which we all enjoy seeing in the various local parades ..... ! can even build unlimited amount of Ag Building with no size limit and turn it into a year-round tourist destination. And for any of you who attended the entertainment under the large black and white Circus tents in north parking lot of Mall of America ..... can set up the Circus on my front five acres Spring, Summer and Fall, not having to take down and setup Circus tents and operating in a Rural setting will be very attractive to the commercial operators.

4- Beware new Euphemisms .... such as the expanded definitions of Agritourism. Euphemisms are defined as a mild or indirect word substituted for one considered too harsh or too blunt. Corporate America used to do job cuts but then did downsizing and most recently rightsizing. You still had no job.

Citizens want Applewood Orchards NOT a local Valley Fair or Wisconsin Dells with an Old McDonald's Farm theme located anywhere across the Township.

Thank you. Bill Clancy

Jeff Otto, 25580 Dodd Blvd.

Jeff began by saying the efforts the Parranto family have carried out for a quarter of a century are wonderful and the orchard is a nice enterprise. The concern is not with this specific application, but rather with the very open and broad language submitted.

To Planning Commission Members:

Some of you may be aware that I made a public comment at the Tuesday 6/11/2024 Board Meeting expressing the unfairness and inappropriate push by the Board to rush the Agritourism Text Amendment through without allowing a realistic opportunity for the Commission to evaluate public input and recommend any text adjustments. The Board has a Special Meeting scheduled only a day and one-half after the 6/18/2024 hearing at 1pm 6/20/2024.

I have been active in Eureka Township for 17 years in various volunteer roles and served as Board Chair 2 years of my three-year term. I led a 2009 team that described the proper recognition of Grandfathered housing rights for the first time in spite of the rules existing at the State level that should have been properly described in Eureka ordinance since April 12, 1982. I chaired the Housing Rights Transfer Task Force and was the primary architect of the ordinance. I have provided free training for Eureka staff over the years on Eureka's unique zoning. I also spearheaded a major update and clarification of the Zoning ordinance 2021-2023 based on our experience since its 2013 implementation. I also designed and programmed a database of all Eureka properties and populated the database with analyses of every property as to housing right status, possible grandfathered rights, and permits of various types approved over the years.

The Agritourism amendment text is the most poorly written and potentially damaging to residents' property values and quality of life ever proposed. The text is extremely open ended as to what could qualify. As I stated to the Board, first in line is a new owner planning to continue the 25-year legacy of the

Parranto apple orchard operation. That appears to be a worthy continuation of a wonderful community asset. The problem is the amendment text that could potentially allow far more impactful activities anywhere in the Township to the detriment of property owners. More of this will be presented at the hearing. Given the extremely short time allowance for Planning Commission consideration of public input and your own thoughts, I have attached two documents for consideration. \*

The "Agritourism Activity Edited" document is offered as a time-saving draft suggesting better language to try to resolve some of the most egregious loopholes in the proposed amendment.

The second document, "2024-05-13 AgriTourism excerpt..." is a far more thoughtful and carefully constructed ordinance created by the AgriTourism Task Force in 2013-14 over several months of consideration. This document is the full 2014 proposed text for a "Chapter 10" and its page numbers simply reflect that this was part of a recent larger "packet" file for the 5/13/2024 joint Roundtable Meeting with the Board. Mr. Parranto himself was a key member of the 2013-14 Task Force. It had been through the amendment process, but the Board then dismissed it as unnecessary at the time. It is time to seriously reconsider it and it is ready to progress.

I encourage you to recommend the clearly more thoughtful and citizen-protecting language of the 2014 draft proposal.

You of course certainly may wish to also progress an edited version of the current amendment proposal for the Board to choose from. I hope you will indicate your preference for the clearly more thorough 2014 version.

This will put the Planning Commission on record as standing for fairness and property values for ALL the residents of Eureka Township.

Thank you for your consideration.  
Respectfully,  
Jeff Otto

*\*Please note: The documents mentioned are attached to the end of these meeting minutes.*

Randy Wood, 23775 Essex Ave.

Randy thanked the Commissioners for holding the meeting, however he did not want this to be a "fast-track" process. There was an agricultural task force formed years ago and perhaps this should be implemented again to have more citizen involvement. Allowing mechanical rides and the impact on the roads are of concern.

Don Pflaum, 5256 225<sup>th</sup> St. W.

Don offered the one thing he has learned from Eureka Township politics, "if it isn't painful, it isn't right." He is unsure if this is good or bad but feels that there needs to be more discussion. Test out some scenarios before a decision is made.

Kathy Parranto, 22702 Hamburg Ave.

The owner of the apple orchard spoke of the agritourism that already takes place on the property. Apple picking, school tours, etc., The property does not have a CUP. Kathy questioned if there is a need to add an agritourism ordinance since they have been doing things all along, since day one, without asking the Township. It never has been an issue. When they felt there was too much traffic on the roads, they created their own signs to have control, again no issues. If an agritourism ordinance is truly needed, do it simply.

Debbie Burkhardt, 24235 Highview Ave.

Deb shared that she lives next store to a wonderful family that has goats, sheep, ducks and chickens on their property. It is not believed that they are going to have school buses pull up, but there would be concerns about where they would park and if the roads could handle the traffic and other liability issues. She also noted that the IRS considers agritourism as a commercial activity, not a farm enterprise.

Paul Burkhardt, 24235 Highview Ave.

Paul feels the Applewood Orchard is a great business and an asset to the community. The Ordinance, however, is hasty and ill-advised as written. "Not limited to" opens a can of worms for everybody.

After Chair Melanie Storlie asked three times if there were any other comments, the public comment portion of the Public Hearing was closed at 8:07pm.

The Planning Commission began discussion, which resulted in the following:

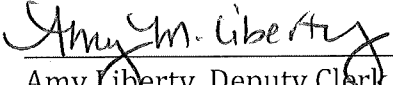
*Motion:* Planning Commissioner Palmquist moved to recommend to the Board that they issue an IUP to Applewood Orchard to continue to do everything that they have been doing there. To table, work on the text amendment until it can be vetted and presented to the community in a more clear and tangible way. Vice Chair Eilers seconded. *Motion carried 5-0.*

Findings of Fact will be composed and presented to the Town Board on June 20<sup>th</sup>, 2024.

*Motion:* Planning Commissioner Palmquist moved to adjourn the meeting. Chair Melanie Storlie seconded the motion. *Motion carried 5-0.*

Public Hearing ended at 8:40pm.

Respectfully submitted,

  
\_\_\_\_\_  
Amy Liberty, Deputy Clerk

Minutes Officially Approved by:  \_\_\_\_\_ on: 7/2/2024  
Planning Commission Chair Date

**EUREKA TOWNSHIP  
DAKOTA COUNTY, MINNESOTA  
Ordinance No. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 240 OF THE CODE  
OF THE TOWN OF EUREKA REGARDING AGRITOURISM**

The Board of Supervisors of the Town of Eureka ordains:

**Section 1. Agricultural District.** Section 240-7(C) of the Code of the Town of Eureka is hereby amended by adding a new use to the list of conditional uses as follows:

(13) Agritourism activities, including associated agritourism infrastructure.

**Section 2. Definitions.** Section 240-64 of the Code of the Town of Eureka is hereby amended by adding new definitions as follows:

**AGRITOURISM ACTIVITY**

An Accessory activity carried out on property whose primary use is active farming or ranch that allows organizations or members of the general public, for recreational, entertainment, charitable, or educational purposes, to view, enjoy, or participate in rural farming related activities, including, but not limited to: farming; viticulture; winemaking; ranching; farm markets; freshly made and packaged food and beverages; and historical, cultural, recreational, farm stay, gleaning, harvest-your-own, or natural activities and attractions including but not limited to: site related and agritourism related retail; educational programs; fire pits; hay pyramids; corn mazes; games and sports; mechanical and non-mechanical farm tour rides; single night camping; arts and crafts; music; and markets. An activity is an agritourism activity whether or not the participant pays to participate in the activity. All activity must be of low impact in terms of noise, dust, traffic congestion, lighting, and visual appearance compatible with the Eureka Township Comprehensive Plan.

**AGRITOURISM INFRASTRUCTURE**

Includes, but is not limited to, utility services, parking, buildings, kitchens, fixtures, signage, bathrooms, storage, tents, seating areas, canopies, landscaping, workshops, fencing, hardscape, and offices in service to an agritourism activity. All infrastructure must be of low impact in terms of noise, pollution, dust, traffic congestion, lighting, and visual appearance compatible with the Eureka Township Comprehensive Plan.

**Section 3. Incorporation of Amendments.** The Town Attorney and Town Clerk-Treasurer are hereby authorized and directed to incorporate the amendments made by this ordinance, and any previous amendments that have not been incorporated, into the Code of the Town of Eureka, including updating the table of contents and making non-substantive corrections as may be needed. Such updated document shall constitute the Town's official Code of the Town of Eureka.

**Section 4.** Effective Date. This ordinance shall be effective upon the first tenth day of publication after adoption,

Adopted on the \_\_\_ day of \_\_\_\_\_ 2024.

**BY THE TOWN BOARD**

\_\_\_\_\_  
Pete Storlie, Chairperson

Attest: \_\_\_\_\_  
Liz Atwater, Clerk-Treasurer

New material is shown in double underlining and deleted material is shown in ~~strikeout~~.

Edits in this version are red ~~striketrough~~ for deletions and yellow highlight for additions.

## ORDINANCE 10: AGRITOURISM

### CHAPTER 1: TITLE

This Ordinance shall be known and cited as the Township of Eureka Agritourism Ordinance, except as referred to herein as “this Ordinance.”

### CHAPTER 2: PURPOSE

The purpose of this Ordinance is to protect the public health, safety and welfare through the following:

- A. Establish permitting requirements and performance standards to regulate Agritourism and agricultural direct-market business.
- B. Establish standards that allow operators of agricultural operations to conduct Agritourism activities and agricultural direct-market activities while preventing or minimizing environmental and aesthetic impacts on adjacent properties and the community as a whole.

### CHAPTER 3: DEFINITIONS

- A. **Agricultural Operation.**  
As defined in Ordinance 1, Chapter 4 of Eureka Township Ordinances.
- B. **Agricultural Direct-Market Business.**  
A seasonal or year-round agricultural business operated on a farm upon which commercial agricultural operations are currently being conducted, selling farm-raised products, including animal products such as meat, fish, and eggs, produce, bedding plants, plant or wood materials, or any derivative thereof, 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.
- C. **Agritourism.**  
Activities offered on a seasonal, occasional, regular or year-round basis to the general public, invited groups, or visitors on a farm upon which commercial agricultural operations are currently being conducted 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 on said property. Agritourism shall 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
- D. **Farm.**

As defined in Ordinance 1, Chapter 4 of Eureka Township Ordinances.

**E. Non-Agricultural Products.**

**F. Operator.**

Operator is any person or persons, partnerships, corporations or assignees engaging in commercial agricultural operations.

**G. Town Board.**

The Board of Supervisors of Eureka Township.

**H. Township.**

The Township of Eureka, Dakota County, Minnesota.

**I. Zoning Administrator.**

As defined in Ordinance 1, Chapter 4 of Eureka Township Ordinances.

**J. Zoning Ordinance.**

The Eureka Township Zoning Ordinance.

## **CHAPTER 4 - PERMITTED USES**

Subject to full and complete compliance with the standards set forth in this Chapter, the following uses are Permitted Uses and structures in the Agricultural District:

### **Section 1 - Agritourism**

Agritourism is permitted if the use and structures comply with all of the following standards listed below:

1. 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.
2. The primary use of any property shall be to conduct agricultural operations as defined in Ordinance 1, Chapter 4 of the Eureka Township Ordinances. Any use permitted or allowed under this ordinance should be secondary to the agricultural operation and should not become the primary use of the property.
3. 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.

4. 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.
5. Activities may not begin before 7 a.m. and must be completed by 10 p.m.
6. 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.
7. All other parts of the township ordinances apply to this use.
8. The Agritourism use shall provide adequate on-site or portable sewage treatment facilities for the proposed activities that meet all applicable codes and standards.
9. 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.
10. Agritourism uses may use up to 100 square feet of retail display floor space of the business to sell non-agricultural products.
11. No more than 500 square feet of building is used by the public for Agritourism.
12. No external lighting is to be used for the Agritourism use, except as required by building code.
13. The Agritourism use does not generate additional traffic of more than 30 cars per day on a dirt road or 75 cars on a paved road. (*Waiting for response from Attorney Lemmons*)
14. The Agritourim use does not result in visitors of more than 100 people daily on a weekly basis.

## **Section 2 - Agricultural Direct-Market Business**

Agricultural Direct-Market Business if said use and structures comply with all standards set forth below.



1. The majority of the product sold on the property shall be grown or raised on the property.
2. An Agricultural Direct-Market Business may use up to 100 square feet of retail display floor space of the business to sell non-agricultural products. Non-agricultural products may only be sold during periods that agricultural products are also sold.
3. No sale of product shall take place on any County/Township Road or right-of-way.
4. 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.
5. 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.
6. 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.
7. All other parts of the township ordinances apply to this use.
8. A single structure no greater than 2,999 square feet in area may be open to the public for the Agricultural Direct-Market Business.
9. No external lighting is to be used for the Agricultural Direct-Market Business, except as required by building code.
10. The Agricultural Direct-Market Business does not generate more than 30 car trips per day on a dirt road or more than 75 car trips on a paved road. *(Waiting for response from Attorney Lemmons)*

If the Town Board finds that any of the standards set forth in Section 1 for Agritourism or Section 2 for Agricultural Direct-Market Business have been violated, the Operator shall immediately cease the use. The Operator shall then apply for Interim Use Permit pursuant to the provisions of this Ordinance. The use shall not recommence until such time as an Interim Use Permit is issued.

## **CHAPTER 5: PERMIT REQUIRED**

### **Section 1 – Permit Required**

In the event any person, firm, company or corporation is unable to satisfy all of the performance standards set forth in Chapter 4, Section 1, or Chapter 4, Section 2, it shall be unlawful for said person, firm, company or corporation to conduct said Agritourism activity or Agricultural Direct-Market Business activity without first obtaining an Interim Use Permit as required in this Ordinance. Operating without a Permit will result in imposition of penalties as set forth in this Ordinance, which penalties will be strictly applied.

### **Section 2 – Criteria for Granting Permits**

In granting a Permit, the Eureka Town Board shall consider the advice and recommendations of the Planning Commission and the effect of the Proposed Use upon the health, safety, morals and general welfare of the occupants and owners of surrounding lands. In determining whether or not to grant a Permit, the following standards shall be considered:

1. 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.
2. The use will be sufficiently compatible with or separated by adequate distance or screening from adjacent agriculturally or residentially 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)
3. The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties.
4. The use is accessory to the primary agricultural use. (Resolution 59, 8-13-2007)
5. 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.
6. The use is not in conflict with the Comprehensive Plan of the township.
7. The use will not cause traffic hazards or congestion.
8. The proposed use must meet or exceed the performance standards set forth in this

Ordinance, as well as the Zoning Ordinances and other applicable Township Ordinances.

9. If a transfer of ownership occurs and there is not a change in impact to surrounding properties, the Permit can be transferred to the new owner. If there is a change in impacts, the Permit shall be subject to a review by the Town Board.
10. The township has the right to vary hours of activities from the noise ordinance.

## **CHAPTER 6: PERMITTING PROCEDURE FOR INTERIM USE PERMIT**

### **Section 1 – Application**

An application for either an Agritourism Permit or an Agricultural Direct-Market Business Permit shall include, but not be limited to, the following information:

- A. Name, address, phone number, contact person for the operator and signature of a legally authorized representative.
- B. Name, address, phone number and signature of the landowner.
- C. The type of permit being applied for.
- D. Acreage and complete legal description of the property on which the proposed use will be located, including all contiguous property owned by the land owners.
- E. A detailed description on the proposed use.

### **Section 2 – Supporting Documentation**

The application shall also include all supporting documentation deemed necessary by the Zoning Administrator to consider the application. Said supporting documentation shall include, but not be limited to, the following:

- A. Survey showing the location of any improvements, either temporary or permanent, to be constructed.
- B. Plans and specifications for all temporary or permanent structures.
- C. Location and specifications of all on-site or portable sewage treatment facilities.
- D. Location and specifications of all off-street parking for all employees and visitors.
- E. Proposed external lighting plan if required.

- F. Noise abatement policy.
- G. Proposed hours of operation.
- H. Total estimated amount of all daily vehicle traffic from workers, visitors, and service vehicles. This estimate shall also include a description of the estimated average daily and peak daily number of visitor vehicles.
- I. Plans for emergency shelter for all visitors.

All plans, specifications for permanent structures, and on-site sewage treatment facilities will be supported by documentation provided by a registered engineer or architect licensed within the State of Minnesota.

**Section 3 – Application Procedure**

- A. Any applicant applying for either an Agritourism Permit or Agricultural Direct-Market Business Permit, shall complete the registration form provided by the Township and submit the completed form to the Zoning Administrator. The Zoning Administrator shall then review the application and if it is found to be incomplete, shall return the application with written instructions as to additional information required to complete the form. An application shall not be deemed to have been accepted by the Township until such time as the Zoning Administrator determines the application is complete. In addition, an application shall not be considered complete until all application fees have been paid, including any outstanding fees due to the Township.
- B. Upon receipt of a completed application, the Township Planning Commission shall review the application and set a date for a hearing, at which the applicant shall appear to answer any questions and provide any additional information requested by the Commission.
- C. After closing its hearing, the Planning Commission shall forward its recommendation to the Town Board.
- D. The Town Board shall then review the application and the Planning Commission’s recommendations and conduct a hearing before a final determination is made regarding the application.

**Section 4 – Conditions of Approval**

In granting either an Agritourism Interim Use Permit or an Agricultural Direct-Market Business Interim Use Permit, the Planning Commission may recommend, and the Town Board may impose, additional conditions for the purpose of protecting the health, safety, morals and general welfare of the occupants of surrounding lands and water bodies, as well as the community as a whole. These conditions may include, but are not limited to, the following:

- A. Limiting the height, size or location of structures, structures 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 structures must be returned, or converted to a permitted or accessory use, or removed entirely.

- B. 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.
- C. Temporary parking areas may be approved at the sole discretion of the Town Board.
- D. The board may require screening to mitigate identifiable impacts to adjacent residences (Ord 2010-1, 6-14,2010).
- E. 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.
- F. 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.
- G. 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.
- H. The Town Board may limit the size and frequency of Agricultural use events or activities.
- I. Limiting the number, size, location or lighting of signs.
- J. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- K. Annual review. (Resolution 59, 8-13-2007).
- L. If the primary agricultural use terminates, the IUP shall terminate.
- M. Additional conditions may be imposed by the Town Board to ensure that the proposed use is compatible with the surrounding land uses.

#### **Section 5 – Review of Permit**

Each permit wrote shall be reviewed annually. The operator will, 30 days prior to the anniversary date of the Interim Use Permit, provide the following information to the Town Board and pay the review fee established in this Ordinance:

- A. History of applicant's compliance with the conditions of this Ordinance, as well as any conditions contained in the Interim Use Permit issued to the applicant and any other governmental regulations related to the applicant's use.
- B. History of any complaints received by the applicant regarding the use and what steps the applicant took to address said complaints.
- C. All information in the applicant's possession dealing with average daily vehicle count and peak daily vehicle count.
- D. Evidence that insurance is still in force and effect.
- E. Any change in ownership and/or operator. This shall include any change in ownership of the land, which is subject to the permit.
- F. Other items of information requested by the Town Board.

In its review, the Town Board shall examine the information provided by the operator, and the Town Board shall determine whether the use is in compliance with this Ordinance and the conditions imposed by the permit.

#### **Section 6 – Amendment to Interim Use Permit**

Any changes involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the Interim Use Permit issued, shall require an amended Interim Use Permit, and all procedures set forth in obtaining an original Interim Use Permit shall apply. The Zoning Administrator shall maintain a record of all Interim Use Permits issued pursuant to this Ordinance, including information on the use, location and conditions imposed by the Town Board, time limits, review dates, and such other information as the Zoning Administrator, in their sole discretion, deems necessary.

### **CHAPTER 7: PERFORMANCE STANDARDS**

#### **Section 1 – Agritourism Performance Standards**

The following performance standards apply to all Agritourism permits issued by the Township:

- 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 structures 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 meet 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 floor display space of the business to sell non-agricultural products.
- K. No external lighting is to be used for the Agritourism use, except as required by building code.
- L. Farm stays do not have more than two sleeping rooms. *Farm stays was removed in Chapter 4 – it was item 13, but was not removed in this section.*

## Section 2 – Performance Standards for Agricultural Direct-Market Business

The following performance standards apply to all Agricultural Direct-Market Business uses in the Township:

- 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 floor display 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 2,999 square feet of a structure may be open to 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.



## **CHAPTER 8: TERMINATION, VIOLATIONS AND PENALTIES**

### **Section 1 – Termination**

Any Interim Use Permit issued pursuant to the terms of this Ordinance shall be terminated on the happening of any of the following events:

- A. The date or event of termination specified in the Interim Use Permit.
- B. Upon a violation of condition under which the permit was issued, but only after the Town Board has first provided written notice to the operator and land owner (if different from the operator) describing the specific violation and steps necessary to be in compliance with the permit and after having been given a reasonable opportunity to remedy the violation, but in no case longer than five (5) business days. *(Waiting for response from Attorney Lemmons)*. The first violation of any condition will result in a written notice and appearance before the Town Board. A second violation of any condition will result in a written notice and a misdemeanor. A third violation of any condition will result in written notice and termination of permit.
- C. Each day that a violation continues beyond the allotted time to correct the violation constitutes a new violation.

### **Section 2 – Misdemeanor Penalty**

Any person who violates or fails to comply with any provision of this Ordinance shall be subject to the provisions of Ordinance 8, Township of Eureka.

### **Section 3 – Data Practices Act**

All complaints must be in writing and available for public viewing provided that the identity of complainant is confidential pursuant to Minnesota Data Practices Act.

### **Section 4 – Verification of Violations**

All violations must be verified by the Town Board before action is taken.

## **CHAPTER 9: ENFORCEMENT**

### **Section 1 – Inspection**

The operator grants the Township, its officers and representatives, access to the facility during normal operating hours to inspect the facility and enforce the provisions of this Ordinance.

## **CHAPTER 10: LIABILITY INSURANCE**

### **Section 1 – Indemnification**

The operator shall hold the Township harmless against all claims by third parties for injuries, damage or costs related to the activities allowed under the permit. The operator shall indemnify the Township for all costs, damages, or expenses incurred by the Township arising from such claims, including attorney's fees.

## **CHAPTER 11: VALIDITY**

### **Section 1 – Validity; Severability**

Should any provision of this Ordinance be declared by the courts to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any other part thereof, unless so specified in the judgment. If the courts declare the application of any other provisions of this Ordinance to any individual use, property or structure to be invalid, such judgment shall not affect the validity of said application of any provisions to any other individual, use, property or structure, unless so specified in the judgment.

## **CHAPTER 12: EFFECTIVE DATE**

The Effective Date of this Ordinance shall be upon passage and publication according to law.

DRAFT