

# **Agritourism: Surveying the Balance of Protecting Agricultural Economics & the Interests of Rural Communities**

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## **I. INTRODUCTION**

Sustainable development is a decision-making framework that integrates the achievements of economic growth, social justice, and environmental protection.<sup>1</sup> Local governments and other entities have started to entertain the concepts of sustainability to enhance the quality of life in their communities.<sup>2</sup> Engaging in sustainable practices is especially significant for rural areas to prosper while competing with vast areas of urbanization and globalization.

Recently, rural areas in the United States have become underdeveloped and suffered declining population due to job opportunities and the cultural enhancements of an urban lifestyle.<sup>3</sup> This scenario is problematic because many small economies are the providers and protectors of rural communities and proffer necessary natural resources while cities are struggling with becoming overpopulated.<sup>4</sup> “It is estimated that the U.S. loses approximately one million acres of farmland to urban sprawl each year.”<sup>5</sup> In Pennsylvania alone, between 1982 and 2007, over 728,700 acres of agricultural land were lost due to development to keep up with the

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<sup>1</sup> John C. Dernbach and Federico Cheever, *Sustainable Development and Its Discontents*, *Transnational Environmental Law*, 4, 247 (2015)

<sup>2</sup> John C. Dernbach, *Progress Toward Sustainability: A Report Card and Recommended Agenda*, 39 *ELR* 10276 (2009).

<sup>3</sup> Patrick J. Carr & Maria J. Kefalas, *Hollowing Out the Middle: The Rural Brain Drain and What it Means for America*, 1-5 (2009).

<sup>4</sup> Gary Paul Green, *Sustainability and Rural Communities*, *Kan. J.L. & Pub. Pol’y*, 421 (2014)

<sup>5</sup> Tom Daniels & Deborah Bowers, *Holding Our Ground: Protecting America's Farms and Farmland*, 1-2 (1997).

rates of urbanization.<sup>6</sup> Fortunately, if applied, there are an abundance of innovative sustainable practices that the rural areas of Pennsylvania can implement to create a cohesive and enjoyable community to live, including agritourism.

Agritourism is especially vital in Pennsylvania since agriculture is its number one industry.<sup>7</sup> Agriculture generates an over \$50 billion impact on the state economy and provides 1 in 7 jobs for its residents.<sup>8</sup> Additionally, rural farmers find that agritourism is a beneficial practice because it can double their profit while coinciding with their existing agricultural day-to-day operations.<sup>9</sup> Within Pennsylvania, agritourism combines the two primary components of the state: agriculture and tourism. According to the American Farm Bureau,

“Agritourism refers to an enterprise at a working farm, ranch or agricultural plant conducted for the enjoyment of visitors that generates income for the owner. Agricultural tourism refers to the act of visiting a working farm or any horticultural or agricultural operation for enjoyment, education, or active involvement in the activities of the farm or operation that also adds to the economic viability of the site.”<sup>10</sup>

The key factors to consider in this definition are (1) the places within the business of agriculture; (2) the people targeted to enjoy that place of business; (3) and the idea that agritourism can generate an economic benefit amongst the industry.<sup>11</sup>

Types of agritourism vary. The most common subsections of agritourism are agri-education, agri-entertainment, and agri-lodging.<sup>12</sup> Among these categories lie businesses such as

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<sup>6</sup> Centre Regional Planning Agency, *Agritourism*, 1 <https://www.crcog.net/vertical/sites/%7B6AD7E2DC-ECE4-41CD-B8E1-BAC6A6336348%7D/uploads/Agritourism.pdf> (last visited September 30, 2018).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Susan D. Ryan et al., *Your Agritourism Business in Pennsylvania: A Resource Handbook*, The Center for Rural Pennsylvania, 4 (2009) [http://www.rural.palegislature.us/Agritourism\\_handbook.pdf](http://www.rural.palegislature.us/Agritourism_handbook.pdf)

<sup>10</sup> American Farm Bureau Federation, *STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION TO THE SENATE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY REGARDING: ECONOMIC CHALLENGES AND OPPORTUNITIES FACING AMERICAN AGRICULTURAL PRODUCERS TODAY*, (2007), <https://www.agriculture.senate.gov/imo/media/doc/flory.pdf>

<sup>11</sup> Ryan et al., *supra* note 9, at 4

<sup>12</sup> Ryan et al., *supra* note 9, at 6

winery/brewery tours, farmer's markets, wedding/event venues, corn mazes, hayrides, and outdoor festivals. Agritourism-in one form or another-can be found in every county of Pennsylvania.<sup>13</sup> In 2006, Lancaster County was one of the leading agritourism providers with over 49 vendors.<sup>14</sup> Although agritourism provides for a successful economic benefit, its operators face the risk of minimal community support and legal liability.<sup>15</sup>

One farmer's success could be another resident's nightmare. With a massive influx of patrons, agritourism operators face the risk of impeding on the rural lifestyle that their community may expect. Community issues in regards to agritourism include, but are not limited to, traffic, trespassers, and excessive noise.<sup>16</sup> With these community-based issues also come health and safety concerns that include, but are not limited to water quality, food safety, and proper disposal of waste.<sup>17</sup> These challenges are problematic for the operators because agritourism is heavily driven by supply and demand.<sup>18</sup> Without the demand, the farm operators' efforts to tailor to agritourism go in vain because they will not turn a profit.<sup>19</sup>

In addition to community issues, landowner liability also provides a risk for agritourism operators. An agritourism operator who opens his/her property to the public can be held liable if an entrant is injured while on the land.<sup>20</sup> Therefore, patron safety is crucial while on an operator's property; however, legal regulations are equally as important to protect operators in the event of

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<sup>13</sup> *Id.*

<sup>14</sup> Ryan et al., *supra* note 9, at 5

<sup>15</sup> The National Agricultural Law Center, *Agritourism - An Overview*, <http://nationalaglawcenter.org/overview/agritourism/>, (last visited September 30, 2018).

<sup>16</sup> Diana Keith et al., *Obstacles in the Regulatory Process: Perspectives of Operators and Officials in Ten California Counties*, 3 (2003), <http://aic.ucdavis.edu/oa/brief22.pdf>

<sup>17</sup> *Id.*

<sup>18</sup> Carlos Carpio, et al., *The Demand for Agritourism in the United States*, 33 *Journal of Agricultural and Resource Economics*, 255 (2008)

<sup>19</sup> Polovitz-Nickerson, N., R. J. Black, and S. F. McCool, *Agritourism: Motivations Behind Farm/Ranch Business Diversification*, *J. Travel Res.* 40, 1 (2001)

<sup>20</sup> The National Agricultural Law Center, *supra* note 15

an accident. The proposed ordinance seeks to alleviate the community, health and safety, and liability concerns discussed below by providing an effective Agritourism Zone.

The model zoning ordinance that is supported by this narrative implements the goals of maintaining rural communities' quality of life while bolstering farmers' economic status. In-depth, this zoning ordinance will allow agritourism operators to start more easily their business by explicitly identifying what type of business they can engage in, relieve them of possible landowner liability, and shield the community from unwarranted noise, excessive traffic, and unsanitary conditions. Correspondingly, this narrative first discusses existing problems that a proper zoning ordinance can alleviate. Next, it will touch upon the scarcity of Pennsylvania laws relating to fixing these problems. Then, it will tackle how other jurisdictions have used zoning ordinances to allow for agritourism adequately. Finally, the narrative will address both policy and funding concerns lawmakers will have to address in creating the proper zoning ordinance, including, but not limited to, economic, environmental, and social impacts.

## **II. CURRENT PROBLEMS**

While agritourism creates many positives for local farmers and facilities, issues arise with residents of the community who expect to live in a quiet and uninhabited area. Officials have reported complaints from local residents about noise, traffic, trespassers, along with many events associated with agritourism activities altering the character of the community.<sup>21</sup> These very real inconveniences and concerns can be addressed and regulated to meet the needs of both business owners and community members. Addressing local businesses' economic needs, safely improving social environments for residents, and avoiding waste of large amounts of natural resources, a healthy balance can be reached for a rural area to thrive in agritourism. An ordinance

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<sup>21</sup> Keith et al., *supra* note 16, at 3

to govern agritourism practices would assist many municipalities in creating productive venues, planning successful events, and all while maintaining peace in the community.

### *A. Unwarranted Noise*

Noise coming from sites constructed for agritourism can be an issue for those who reside in the surrounding areas. People who move to the rural, country-like towns are likely to enjoy a nature-filled, quiet, lifestyle.<sup>22</sup> Neighbors are concerned explicitly with hearing copious amounts of noise into late hours of the evening.<sup>23</sup> Countryside venues have become a widespread trend when it comes to weddings, wineries, concerts, and hosting other seasonal events. Excessive noise naturally accompanies the entertainment that is essentially hired/provided.

For example, storage barns located on farmland that are rented out as wedding venues have become exceptionally popular.<sup>24</sup> Hosting weddings contributes to the noise of bands, dj's, and numerous people present at the venue several times a week.<sup>25</sup> Residents feel these events are comparable to a next-door neighbor hosting a late-night college party.<sup>26</sup>

To keep a cohesive relationship between the owners of agritourism businesses and residents, finding a happy medium solution is essential. Setting time restrictions, a noise decibel limit,<sup>27</sup> and giving the community a schedule of events are just a few ways that limit those unwarranted noise concerns.

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<sup>22</sup>Julie Bosman, *Neighbors Say Barn Weddings Raise a Rumpus*, The New York Times, (2014), <https://www.nytimes.com/2014/08/04/us/neighbors-say-barn-weddings-raise-a-rumpus.html>

<sup>23</sup>*Id.*

<sup>24</sup>*Id.*

<sup>25</sup>*Id.*

<sup>26</sup>*Id.*

<sup>27</sup> National Children's Center for Rural and Agricultural Health and Safety, *Integrating Safety into Agritourism*, <https://safeagritourism.org/wp-content/uploads/NoiseChart.pdf> (last visited October 1, 2018)

## ***B. Automobile Inconveniences***

With the development of agritourism, more people travel through a typically small area ill equipped for an ample amount of vehicles at once. With more cars, parking, traffic, and road condition issues become prevalent.

### **1. Parking**

Too few or inconvenient parking spaces can be an issue. This problem is evident in Downtown Lancaster, a small area with a vast amount of people. Even with parking garages, there are few spaces to park a vehicle for the day. Tour guide Karl Graybill reasoned that just as it is downtown, parking can become an issue even in more rural areas when events take place, due to lack of planning and preparation.<sup>28</sup>

Unlike the city, parking garages usually are non-existent in such farmland areas, so when agritourism venues are hosting events with hundreds of people, it is likely that parking becomes a frustration not only to those attending the event but also to those who live in the community. Typically country-like areas possess smaller, two-lane roadways, absent of shoulders or guardrails. Having people park adjacent to the venue is inconvenient and makes the road even narrower for those traveling on it.<sup>29</sup> Additionally, this situation could create a safety hazard for people trying to exit their vehicles and cross the road. Therefore, accessible parking is essential for participants when planning for agritourism.

To counter these issues, Lancaster County, PA has created guidelines for addressing parking issues of some agritourism practices.<sup>30</sup> To keep parking from becoming a nuisance at

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<sup>28</sup> Interview with Karl Graybill, Department of Public Works Stormwater Management, City of Lancaster (Sept. 28, 2018)

<sup>29</sup> Lancaster County Planning Commission, et al., *Agritourism Guidelines: For the Promotion and Regulation of Farm-Based Tourism*, 12 (2009), <https://lancastercountyplanning.org/DocumentCenter/View/139/Agritourism-Guidelines>

<sup>30</sup> Lancaster County Planning Commission et al., *supra* note 29, at 3

agritourism events, ordinances must ensure that venues have adequate parking space, that the lot is adequately maintained, and that the property is screened away from other properties.<sup>31</sup> Setting restrictions on the roadways will be proficient in making sure vehicles are not lining the streets creating unwarranted traffic.<sup>32</sup>

## 2. Overflow of Traffic

Traffic can be a concern when agritourism takes place because the local roads of some areas may not be equipped to handle this type of congestion. For example, in Red Ridge Farm in Massachusetts was the subject of heavy litigation. This particular farm contains a narrow road that was used solely for hauling hay and cattle. In 2016, the farm opened as a wedding venue. Once the farm began hosting weddings, it received multiple complaints from nearby residents due to heavy road traffic.<sup>33</sup>

After visiting Lancaster County, PA, it became easy to understand how traffic can become a significant issue for city council members to address. Traffic is not only a turn-off for those working and living in the area, but also a safety concern.<sup>34</sup> For example, Lancaster, PA is a small city with both farmland and an urban-feel downtown. Lancaster is unique and housed with a very dense population of about 59,000 people.<sup>35</sup> Karl Graybill emphasized how the overflow of traffic in a busy area needs addressing.<sup>36</sup> Mr. Graybill explained that Lancaster has many traffic issues with speeding, fender benders, and even pedestrians involved in accidents due to lack of signal restrictions.<sup>37</sup> He suggested that putting limitations on traffic lights, such as the right turn

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<sup>31</sup> *Id.* at 5

<sup>32</sup> *Id.*

<sup>33</sup> Maryland Risk Management Education Blog, *Does Hosting Weddings Constitute Agritourism? A Followup*, (2016), <http://agrisk.umd.edu/blog/does-hosting-weddings-constitute-agritourism-a-followup>

<sup>34</sup> Graybill, *supra* note 28

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

on red, may lessen the incidents in the area.<sup>38</sup> Graybill affirmed that while there may be a difference in the busyness of downtown Lancaster compared to the countryside, agritourism could increase traffic issues. Without many traffic signals, proper road markings, or upkeep, a more substantial flow of traffic can be more than the constructed roads were meant to handle.

While issues with traffic may never be one-hundred-percent preventable, there are solutions to make roadways as convenient and safe as possible. Keeping traffic under control is also within the interest of residents because overwhelming commotion around dwellings can cause irritableness towards agritourism venue owners. An ordinance addressing agritourism can input roadway regulations to make sure proper signals and signs are along the roads of the venue.

### 3. Unsafe Driving Conditions

As previously mentioned, when more copious amounts of traffic begin to flourish on rural roads, it is essential that proper precautions are being taken to keep roads safe. Again, as more traffic impedes an area, there is more chance of incidents occurring. For example, as wineries and wedding sites become more popular agritourism venues, residents of communities are concerned with people drinking and driving after a visit.<sup>39</sup> In addressing traffic concerns, organizers need to make sure they are taking precautions and utilizing items that make roads safer. Improvements such as constructing drop off and pick up for busses, installing lights, and having an educated staff assist with directing traffic can keep help with the transition of traffic on rural roads.

#### *C. Safety Concerns within the Venue*

Safety of any small or large-scale event is the polestar interest for any venue. Anyone who attends an event for leisure does not expect, nor intend to be injured. Communities

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<sup>38</sup> *Id.*

<sup>39</sup> Keith et al., *supra* note 16, at 4

especially have safety concerns when it comes to a venue that serves alcohol, is a late night event, or hosts significant amounts of people at once. While they are valid worries, operators can set citizens at ease with regulating their venue's safety checks and security education.

### 1. Security

When hosting an agritourism event, operators should make sure that those attending will not act in a way that will affect the safety of both the people inside or outside of the venue. Guests at a venue such as a farm may not understand the hazards that exist at that venue.<sup>40</sup> One way to address safety at an agritourism event is to make sure there are enough staff/volunteers available for assistance.<sup>41</sup> While influx of staff may be difficult to regulate, this influx would assure that each venue can control mass amounts of people they are hosting. Another strategy owners can implement is to develop and enforce a safety plan. By doing so, the operators may look at the venue from a guest's perspective and make changes or block off inherent risks.<sup>42</sup>

### 2. Health and Sanitation

When operating a facility for commercial or public use, it is essential that the operator ensures the venue itself is qualified to hold the number of people promised, and that the venue is furnished with necessary safety elements. For example, original barns on farmland used as wedding venues have to be equipped to handle the copious amounts of wedding guests hosted there. It is known that these barns are not usually inspected to make sure they are up to safety code.<sup>43</sup> Many of these facilities tend to lack "proper sanitation, fire doors, and sprinklers, accommodations for people with disabilities and licenses to serve liquor."

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<sup>40</sup> Brian Schilling, *Managing the Safety Risks of Agritourism Farms*, Rutgers, The State University of New Jersey, <http://agritourism.rutgers.edu/pdfs/Module%204%20-%20Farm%20Safety.pdf>

<sup>41</sup> Denise Mainville and Karen Mundy, *Preparing for an Agritourism Event: A Checklist*, Virginia State University, 4 (2009), <https://vtechworks.lib.vt.edu/bitstream/handle/10919/50402/448-501.pdf?sequence=1&isAllowed=y>

<sup>42</sup>Brian Schilling, *supra* note 39

<sup>43</sup>Bosman, *supra* note 22

#### ***D. Legal Liability***

With the vast amount of Americans who file tort lawsuits, there have been multiple legislative proposals to alter common law negligence.<sup>44</sup> Organizations, such as agritourism venues that provide activities for people, have reasonable concerns about incurring liability for accidents.<sup>45</sup> Logically, those who engage in the practice of agritourism are those who assumedly are trying to better the economic status of their businesses. Therefore, operators may not have the funds necessary to pay for a liability claim. Even with the required funds, paying for litigation counteracts the idea of hosting events for profitable purposes.

Legislation that will further reduce the obligations of persons owning property and sponsoring these activities could be a partial solution to keeping agritourism venues economically sound.<sup>46</sup> Similar to Good Samaritan Laws, in some states, the duty of care in negligence claims is reduced in situations in which business owners provide good deeds or beneficial actions.<sup>47</sup> Creating an agritourism ordinance delineates a defense for those offering the agritourism activities.<sup>48</sup> Limiting the liability of activity operators reduces the costs and encourages participation in these local events.<sup>49</sup>

### **III. WHY AGRITOURISM ZONING ORDINANCES ARE NECESSARY**

Municipalities should consider implementing agritourism zoning ordinances because there are no existing state laws that directly address the specific problems identified in the issues section of this narrative.

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<sup>44</sup> Terence J. Centner, *America's Blame Culture: Pointing Fingers and Shunning Restitution*, Carolina Academic Press, (2009), <https://cap-press.com/pdf/1820.pdf>

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

Pennsylvania currently does not have any statutes that directly address agritourism zoning.<sup>50</sup> Other states, however, have enacted statutes directly related to agritourism.<sup>51</sup> Lancaster County's Strategic Tourism Plan indicates that agricultural tourism must relate to the supporting use of the farm; however, it only gives examples of a few specific, defined uses.<sup>52</sup> Additionally, the Task Force gives recommendations for categories such as farm size, liability, safety, and visitor management for an effective agritourism regulation, however, this concept is not mandatory, they are mere suggestions.<sup>53</sup> Overall, the absence of existing law is not exclusively applicable to the state itself. As demonstrated through Lancaster County, an absence of existing law also affects local municipalities.

On the opposite side of the spectrum, too many existing laws pose potential issues due to inconsistencies. Following Section IV of this narrative, multiple permits are available for agritourism. With numerous permits comes inconsistency unless there is one set of guidelines to follow for each municipality within Pennsylvania. It may be difficult for operators to apply for an agritourism permit because they simply may not know what permit they should apply for since an agritourism enterprise may have multiple applicable uses to it. There needs to be a better balance between no options for agritourism enterprises and too many options for agritourism enterprises. The proposed ordinance supported by this narrative will ensure that agritourism is defined the same way through all of the municipalities and regulated in the same manner to provide consistency, ultimately making it easier for operators to jump start their businesses.

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<sup>50</sup> Shannon Mirus, *States' Agritourism Statutes*, National Agricultural Law Center, University of Arkansas School of Law (2008), <http://nationalaglawcenter.org/assets/agritourism/index.html>.

<sup>51</sup> *Id.*

<sup>52</sup> Lancaster County Planning Commission, et al., *supra* note 29, at 2

<sup>53</sup> *Id.* at 4

#### **IV. JURISDICTIONS THAT HAVE ADDRESSED EXISTING ISSUES BY IMPLEMENTING AGRITOURISM ZONING ORDINANCES & PERMITS**

Zoning is “a system that regulates land development within a community.”<sup>54</sup> County or municipal governments generally handle zoning ordinances.<sup>55</sup> Many local zoning codes prohibit all undefined uses and/or activities, so it is important for communities to address agritourism in plans and zoning ordinances specifically.<sup>56</sup> The policy behind this proposal is that specifying agritourism in local zoning codes will allow farmers to integrate agritourism activities in their everyday operations while controlling the negative impacts to rural character and agricultural practices.<sup>57</sup>

Many counties and municipalities have adopted zoning regulations that encourage agritourism and its accompanying economic benefits by allowing rural farmers to conduct activities without imposing undue burdens and costs onto these farmers.<sup>58</sup> Such regulations include (1) agritourism zoning overlays; (2) special exception or conditional permits; or (3) outright agritourism permits.

##### ***A. Types of Regulations that Encourage Agritourism***

###### **1. Agritourism Overlay Zones**

Overlay zoning is a tool that is used to create a specific zoning district that is placed over a pre-existing zone.<sup>59</sup> For example, Culpeper County, Virginia, utilizes overlay zones and

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<sup>54</sup> D. Krufft, *Agricultural Zoning*, (2001), <http://www.dsl.psu.edu/centers/aglawpubs/zoning.cfm>

<sup>55</sup> Agricultural Marketing Resource Center, *Zoning and Health Considerations in Agritourism*, <https://www.agmrc.org/commodities-products/agritourism/agritourism-checklists/zoning-and-health-considerations-in-agritourism>, (last visited October 1, 2018)

<sup>56</sup> American Planning Association, *Agritourism*, <https://www.planning.org/knowledgebase/agritourism/>, (last visited September 30, 2018).

<sup>57</sup> *Id.*

<sup>58</sup> Pennsylvania Municipalities Planning Code Act of 1968, P.L. 805, No. 247 as Reenacted and Amended. Public Law U.S.C. (1968).

<sup>59</sup> University of Wisconsin Stevens Point, *Planning Implementation Tools: Overlay Zoning*, (2005), [https://www.uwsp.edu/cnr-ap/clue/Documents/PlanImplementation/Overlay\\_Zoning.pdf](https://www.uwsp.edu/cnr-ap/clue/Documents/PlanImplementation/Overlay_Zoning.pdf)

regulates them in a way that the overlay zone must conform to the requirements of both the underlying zoning district and the overlaying district, or in the alternative, the more restrictive of the two.<sup>60</sup> So hypothetically, if there is an underlying agricultural zone but a farmer would like to start hosting weddings on his farm, he may not be allowed to do so since a wedding is not directly related to agriculture. An overlay zone could be implemented to allow a farmer to both continue his agricultural business while hosting weddings as long as he still adhered to the underlying agricultural zone and the conditions the municipality places on the proposed use.

These overlay zones are typically created either to protect a resource or to encourage development in a specific area.<sup>61</sup> Traditionally, overlay zones are permitted when they contribute to the health, safety, and welfare of the public.<sup>62</sup> These types of zones have the potential to provide a significant benefit because they are created to meet tailored needs; however, on the opposite end of the spectrum, these zones results in impacts by applying restrictions on some properties while leaving some untouched.<sup>63</sup> Additionally, these zones may create an increase in time and expense for both the public and developers through the approval process.<sup>64</sup> These zones, however, have been successfully applied in Washington state.

Washington has enacted agricultural overlay zoning districts in Thurston County and Puyallup City.<sup>65</sup> Agricultural overlay zones are meant to preserve working lands while supporting the agricultural industry.<sup>66</sup> Specifically, these overlays are enacted to provide actual authority for farm owners to jump start agritourism activities on their property to supplement

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<sup>60</sup> Culpeper County, Virginia Code of Ordinances Sec. 2-1

<sup>61</sup> Elizabeth A. Garvin, *Making Use of Overlay Zones*, 43 Planning Commissioners Journal, 1 (2001), <http://plannersweb.com/wp-content/uploads/2001/07/318.pdf>

<sup>62</sup> Dorothy Ariail, *Property Topics and Concepts*, American Planning Association, (2008), <https://www.planning.org/divisions/planningandlaw/propertytopics.htm>

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> City of Puyallup Washington, *Zoning Overlays*, <https://www.cityofpuyallup.org/1420/Zoning-Overlays>, (last visited October 1, 2018)

<sup>66</sup> Thurston County, Washington, Municipal Code §20.08G.010(1)

their income while providing an opportunity for patrons to learn about the agricultural heritage of the area.<sup>67</sup>

## 2. Special Exception and Conditional Use Permits

Special exception and conditional use permits serve similar purposes; however, they are achieved through different administrative processes.

### a. **Special exception permits**

Special exception use permits are those that allow a municipality to consider a use that may be beneficial; however, they are not permitted outright in a specific zoning district.<sup>68</sup> Through this permit, a municipality can tailor uses to be more compatible with the public since specific requirements in regards to operations must be met for the use to be permitted.<sup>69</sup> This kind of permit is generally reserved for the uses that have a higher likelihood for negatively affecting the character of a specific zone.<sup>70</sup> In Pennsylvania, special exception use permits are submitted to a zoning hearing board of a municipality for review in accordance with the Pennsylvania Municipalities Planning Code.<sup>71</sup> Unlike a conditional use permit, the specifications of a special exception use permit must be specific and not overly broad or else there is a high likelihood that the use will not be permitted.

### b. **Conditional use permits**

Conditional uses are generally limited to those uses or a combination of uses which, because of their uniqueness, are not specifically identified as permitted uses, or special exception

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<sup>67</sup> *Id.*

<sup>68</sup> City of Pendleton, Oregon, *What is a Conditional Use Permit*, [http://pendleton.or.us/sites/pendleton.or.us/files/File/community\\_development/apps-forms-fees/WhatisaConditionalUse.PDF](http://pendleton.or.us/sites/pendleton.or.us/files/File/community_development/apps-forms-fees/WhatisaConditionalUse.PDF), (last visited October 1, 2018)

<sup>69</sup> *Id.*

<sup>70</sup> American Planning Association, *supra* note 55

<sup>71</sup> 1987 Pa. SB 535

uses within a zoning district.<sup>72</sup> These permits are subject to approval by the governing body of the municipality after some recommendations from the planning commission. The governing body in charge of approving or denying conditional use permits are elected and supposed to look at the wellbeing of the entire community.

Rostraver Township, PA, just recently unanimously approved an ordinance “establishing agritourism as a conditional use in agriculture-zoned areas.”<sup>73</sup> Within Rostraver’s ordinance, agritourism is added as a conditional use within its agricultural district.<sup>74</sup> This conditional use provision provides, among other conditions, a minimum lot area, area allocation, parking, and sign requirements to be met in order for an agritourism enterprise to facilitate its business.<sup>75</sup> The conditional use provisions allow requests for modification and the Township reserves the right to add specific conditions according to the Pennsylvania Municipalities Planning Code.<sup>76</sup>

### 3. Outright Agritourism Permitted Use

Outright permitted uses are those authorized by zoning ordinances that do not require consideration of discretionary approval criteria, from planning authority.<sup>77</sup> In other words, where a special exception use requires some kind of permit or approval, a use permitted of right is permitted if the criteria of the underlying zone is met, and no approval process is involved. In 2017, PA, Senate Bill 819 was introduced by Senator Ryan P. Aument to ensure that agritourism activities “are considered and treated as part of agriculturally authorized and preserved under the

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<sup>72</sup> Daytona Beach Shores, Florida Code of Ordinances Sec. 14-58

<sup>73</sup> Pat Cloonan, *Rostraver commissioners approve agritourism conditional use on farms*, Herald Standard, (2017), [https://www.heraldstandard.com/news/mon\\_valley/rostraver-commissioners-approve-agritourism-conditional-use-on-farms/article\\_70c3004b-804e-5718-bed2-6dd25c60bd35.html](https://www.heraldstandard.com/news/mon_valley/rostraver-commissioners-approve-agritourism-conditional-use-on-farms/article_70c3004b-804e-5718-bed2-6dd25c60bd35.html)

<sup>74</sup> Rostraver, Pennsylvania, Municipal Code §195-13(E)

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> Oregon Agritourism Network, *Agritourism Handbook*, 43 (2017), [http://industry.traveloregon.com/content/uploads/2017/03/OAN\\_Agritourism-Handbook\\_3-6\\_web-original.pdf](http://industry.traveloregon.com/content/uploads/2017/03/OAN_Agritourism-Handbook_3-6_web-original.pdf)

state farmland preservation program.”<sup>78</sup> Within this program, the primary goal is to emphasize and preserve viable agricultural land while making a significant contribution to the agricultural economy.<sup>79</sup> Including agritourism as a use permitted by right within this program would be beneficial to an operator’s future business because it would mean less stringent regulations for them to endure in the process of jump starting their proposed enterprise. This bill would especially promote the outright agritourism permits that Lancaster County, PA already utilizes.

Lancaster County, PA, allows "authentic" agritourism businesses and activities that support primary farming uses that are ordinarily permitted within local agricultural districts.<sup>80</sup> As long as a direct nexus is found between the agritourism enterprise and the traditional farming heritage of Lancaster, the use is permitted by right.<sup>81</sup> If a nexus is not found, agritourism operators face the risk of commercial development taking over and recreational facilities undermining the rural character of their agricultural operations.<sup>82</sup>

### ***B. The Effectiveness of Current Regulations***

Being that agritourism is up and coming within Pennsylvania, there are no real impact studies regarding which jurisdictional approach discussed is better than another regarding agritourism zones. Additionally, it could be hard to measure a consistent impact since conditional use or special exception uses are required for some specific events that are at risk of higher negative impacts while some agritourism enterprises are permitted by right. However, studies have shown that Pennsylvania has profound demand for agritourism.<sup>83</sup> As of 2005,

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<sup>78</sup> H.R. 819, 2017 Leg., Reg. Sess. (Pa. 2017)

<sup>79</sup> Pennsylvania Department of Agriculture, *A Guide to Farmland Preservation*, 5 (2008), [https://www.agriculture.pa.gov/Plants\\_Land\\_Water/farmland/Documents/A%20Guide%20to%20Farmland%20Preservation.pdf](https://www.agriculture.pa.gov/Plants_Land_Water/farmland/Documents/A%20Guide%20to%20Farmland%20Preservation.pdf)

<sup>80</sup> Lancaster County Planning Commission et al, *supra* note 29, at 5

<sup>81</sup> *Id.* at 2

<sup>82</sup> Keith et al., *supra* note 16

<sup>83</sup> Ryan et al., *Agritourism in Pennsylvania: An Industry Assessment*, 16 (2006), <http://www.rural.palegislature.us/agritourism2006.pdf>

Pennsylvania offered at least 30 different agritourism activities, and the preferred activities involved those in rural, non-commercial areas.<sup>84</sup> A study was conducted and approximately 90% of respondents surveyed, including agritourism operators, said that agritourism was a profitable economic enterprise, but one that may produce negative socio-cultural consequences.<sup>85</sup> At least 30% of the respondents were concerned with a loss of a rural lifestyle with the growth of agritourism.<sup>86</sup> Following this study, there were many suggested solutions " regarding public policy, programming, and funding."<sup>87</sup> The recommendations below are a reflection of the posted concerns and proposed solution suggestions from both patrons and agritourism operators.

## V. RECOMMENDATIONS

### A. *Recommendations for addressing the issue of agritourism based on the experiences of other municipalities.*

Based on the experiences and concerns from other municipalities, this section provides additional way in which the ordinance will address the organization and regulation of agritourism enterprises. Additionally, through the experiences of the municipalities in Section IV of this narrative, the overall recommendation is that some uses of agritourism are permitted by right under an agricultural ordinance while other uses are subject to special exception permits according to categorization. In order to regulate special exceptions provided by agritourism enterprises, it is recommended that the operator submit a permit by way of an application process.

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<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

1. The importance of categorizing agritourism enterprises in relation to their impact.

It is recognizable that some agritourism enterprises will exceed the size of others. In regulating permits for these events, it is productive to categorize agritourism enterprises by the amount of people planned to participate. By doing so, the ordinance will be well suited for agritourism not only in rural areas, but urban municipalities as well. The categories in which an enterprise will be situated in the ordinance are as follows: minimum impact, small scale event, or large scale event.

A minimum scale event includes smaller activities such as, roadside stands that feature goods like crafts and produce. A small scale event consists of historical farm museums, garden and nursery uses, and school or education tours. Finally, large scale events are those normally found in more urban municipalities such as a wedding or concert venue, rodeos, and wineries. Clearly, a large scale event incorporates more traffic, noise, and a need for operational requirements within the venue itself. Categorizing these agritourism activities and requiring a special exception permit for large scale events will create a conducive co-existing relationship between the operator of the agritourism enterprise and the surrounding community members.

2. The effectiveness of including a thorough application process for the operation of an agritourism enterprise.

- a. **Applying for a special exception permit.**

Having an application process for a special exception permit concerning large scale events will be useful to both the community and the operator. This proposed ordinance requires a permitting process that will give the operator a chance to plan accordingly for an event by specifying exactly what the operator needs to do to acquire their permit. A special exception

permit will require an operator to submit typical information including their name, address, phone number, etc. An operator will also be required to submit a master plan outlining a variety of specifications that their agritourism enterprise will adhere to during an event or cumulative events, including an illustration of this plan. Putting a good amount of forethought into the operations of an agritourism enterprise will ensure that the traffic, parking, and facilities will be equipped for the type of event the operator is aiming for.

#### **b. Submission of a special exception permit**

The operator must submit their permit application within a set number of days depending on the amount of people the event is planning on hosting. For an anticipated 250 people, or greater, the operator submits the permit 90 days in advance. If less than 250 people are expected, a 60 day submission will suffice. The policy behind these regulations is that a larger event takes more time to review, as well as plan. Additionally, it is likely that the more time spent on arranging an event results in a greater chance of success, while being less burdensome to neighbors.

Once the operator submits their special exception permit to the zoning hearing board of their respected municipality, the permit will be reviewed and a decision will be rendered within 45 days of the permit's submission. In order to uphold objective standards, the proposed ordinance states generally that as long as the operator submits their application in compliance with all substantive and timing requirements, the permit should be granted. The proposed ordinance is structured this way to avoid any ambiguities or subjectivity as to why one agritourism enterprise may be permitted while another is not.

#### ***B. An Agritourism Zoning Ordinance Solves Existing Problems***

1. An agritourism zoning ordinance would alleviate community concerns.

### **a. Noise Pollution**

Keeping the noise to a tolerable limit should keep neighboring members of the community less irritated and more supportive of agritourism enterprises. First, the proposed ordinance will set a noise restriction of no amplified noise from 12:00 a.m. to 7:00 a.m. By setting this restriction, agritourism operators can ensure that events end by a reasonable time each night, providing the community a peace of mind through consistency. Second, providing a noise decibel limit chart will help organizers understand what is considered “noise” within the danger zone, ultimately preventing a nuisance to surrounding residents.<sup>88</sup> This type of educational tool needs to be implemented or else the venue runs a greater risk of noise complaints.

### **b. Traffic and Parking**

Addressing traffic concerns is pivotal for a successful agritourism enterprise. Simple alterations to a venue can lessen significant traffic issues such as parking, automobile overflow, and the tarnishing of rural roads. The proposed ordinance will address parking and traffic by the the master plan, along with the sketch the operator will be required to submit in the permitting process.

First, making sure the entrance to the facility is easily visible from the street can alleviate fender benders by people who are unfamiliar with the area.<sup>89</sup> If people are unfamiliar with the area, they often observe their surroundings instead of paying attention to the road, leading to more accidents. To address this concern the proposed ordinance allows signage to be placed 30 days before an event to clearly lead patrons to that designated event.

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<sup>88</sup> National Children’s Center for Rural and Agricultural Health and Safety, *supra* note 27

<sup>89</sup> Brian Schilling, *supra* note 39

Next, ensuring adequate parking spaces prevents guests from parking on the road, and having wide enough internal traffic lanes creates a smooth flow of traffic, ultimately avoiding roadway backups.<sup>90</sup> In the proposed ordinance, the municipality can see the sketch included in the master plan to understand how much parking will be available, and if it is convenient for the specific agritourism enterprise. If the sketch provides an inadequate venue, the permit will be denied.

#### **c. Safety within the Agritourism Enterprise**

Developing a farm safety plan is the most effective approach in making sure the facility is operating as safely and sanitary as possible. The proposed ordinance allows the municipality to hold agritourism enterprises to specific standards regarding safety. Operators are required to maintain a operable path readily accessible for emergency personal. Also, agritourism enterprises are responsible for making sure any event is free from risk of dangerous explosives, pollution, or structural mishaps. By keeping a low-risk site, community members are more likely to have a positive outlook on agritourism and what it has to offer since they can concentrate on the overall experience.

#### **d. Notice**

The proposed ordinance will arrange to give the community notice by requiring a schedule of events to be submitted 30 days in advance to the municipality. Having this schedule increases the communication of the operators and residents. Requiring notice be given to the community through the proposed ordinance will allow residents to plan their schedule accordingly and will reduce nuisance complaints.

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<sup>90</sup> *Id.*

2. An Agritourism Zoning Ordinance would Protect Operators from Unnecessary Litigation

Promoting facility safety is key to security and limiting liability. Businesses should identify and manage their potential safety hazards and comprehensively assess potential risks to take steps to minimize them.<sup>91</sup> Mandatory education and training sessions are also vital.<sup>92</sup> If these protections are not enough, agritourism operators should have protection from frivolous lawsuits as a result of an accident.

A provision within the proposed agritourism ordinance that would preclude liability in situations in which participants fail to maintain their safety could ease the burden of the facility and municipality.<sup>93</sup> Representative Mark Keller proposed House Bill 397 in the 2013-14 Regular Session to provide protections for agritourism operators.<sup>94</sup> The proposal provides immunity from litigation absent gross negligence.<sup>95</sup> The proposed ordinance contains an indemnity provision indemnifying the municipality from liability of any injuries stemming from the agritourism enterprise. Additionally, the proposed ordinance requires a certificate of insurance of a minimum of \$1,000,000 per occurrence to aid the operator in any incidents that may occur at their enterprise.

While it is essential that citizens remain safe and protected when visiting a venue, reasonable minded people should be able to participate in an activity without serious injury. It is only logical that participating patrons voluntarily assume part of the risk the agritourism activity may have. For example, if there is a sign in a corn maze that states "no running," the venue

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<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> H.R. 397, 2013 Leg., Reg. Sess. (Pa. 2013)

<sup>95</sup> *Id.*

should not be penalized for an injury when someone falls from being careless and rushing through the activity. Signs such as these should be posted around the entire operator's facility.

### ***C. Social, Environmental, and Economic Benefits***

The recommendations made in this section reflect the intent to maintain and enhance the environmental quality of agritourism enterprises while promoting public health, safety, and general welfare. By utilizing these recommendations, agritourism operators will be able to economically prosper and aid their community's overall economic status.

#### **1. Social Benefits**

Socially, the goal of the proposed ordinance is to allow an operator to run their agritourism enterprise but not at the expense of their reputation within the community. Operator's should be seen in a light most favorable to their community since this is where they are going to generate most of their business. From a practical sense, operators will benefit by taking responsibility for improving the agritourism regulatory process and by better strategizing their business planning to make sure their enterprises are up to codes.<sup>96</sup> Ensuring that the sites are up to code under the proposed ordinance will ensure that patrons have a better overall experience within the operator's facility. If the facility is not up to code, harsh fines will be imposed. A better reputation among the community for having a clean and safe facility means a higher likelihood for the business to last longer.

From the community's point of view, it is important that members of the municipality stay in constant contact with agritourism enterprise operators so ensure that there is harmony amongst a new agritourism enterprise and the municipality it is located in. Through research, the largest complaint seen was that the community was impeded by people coming into town to participate in an agritourism enterprise. The proposed ordinance will help alleviate the stress and

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<sup>96</sup> Keith et al., *supra* note 16, at 6

congestion of an agritourism enterprise because the community will be on constant notice of upcoming events. Finally, the proposed ordinance places operational requirements on noise, signs, and traffic to help preserve the community that the enterprise resides in. Being that the proposed ordinance takes into consideration the large concerns the community may have with an agritourism enterprise and places regulations on the topics of concern, any indication that the community does not have a voice regarding what business are permitted is negated.

## 2. Environmental Benefits

With the support of the community and the regulation of agritourism enterprises, municipalities can work together to preserve the environment they appreciate. This ordinance is necessary environmentally for the community and the agritourism operator because it forces the operator to responsibly cultivate their crop or practice to turn a profit, but without destroying preserved land.

The proposed ordinance allows the municipality to set restrictions on how an agritourism enterprise is to be operated. However, the permitting process is objective in a way to stray from ambiguous granting of permits. Consequently, an operator must stay within the guidelines issued in the proposed ordinance, but may practice the trade of their choosing. The purpose of this ordinance is to promote economic activity but not at the expense of the environment.

Agritourism allows communities to maintain the environmental features valued in both rural and urban communities. Municipalities will benefit from an ordinance such as the one proposed because it strikes a balance between environmental protection while still allowing extra economic gain.

## 3. Economic Benefits

Likely, without farms constructing business opportunities, they can fall behind on finances. If the farms can no longer keep up economically, it may not be long before a country/scenic filled area turns into a particular commercialized zone. While the proposed ordinance will preserve the rural area the country has demanded more of, it will still allow for agritourism operators to keep up with the growing economy. Economically, any additional income that agritourism operators make will ultimately be recycled back through the community through taxes and permit application and renewal fees. This concept will provide higher opportunities for the community as a whole because they will have a higher budget to work with. Additionally, smaller farmers' markets and similar agritourism activities promote local shops, products, and events when people come into the community for these agritourism enterprises.

#### ***D. Funding***

Agritourism enterprises generally fund themselves since farmers use their day-to-day operations as their selling point. Additional funding would not be necessary unless operators intend to expand their enterprises, and that is not the purpose of this ordinance. In the event that an operator requires a special exception use permit for their enterprise, application and renewal fees established by the zoning board would negate financial burdens put on the municipality itself. This proposed ordinance ensures that applying for permits is simple and affordable for the average small farmer. Additionally, the zoning board would establish the fee requirements to match the financial needs of the municipality.

## ***VI. CONCLUSION***

As approached in this narrative, agritourism has been rapidly growing in many rural municipalities. Though there are valid concerns, mainly of noise, traffic, safety, and liability,

there are ways an agritourism ordinance will help guide owners to create a more prosperous and enjoyable venue, regardless of the event. Addressing the fundamental problems while keeping open communication with the community gives agritourism its best shot at being successful. A community supporting agritourism will more than likely find it beneficial to its other local businesses, as people travel into the area. Consequently, as these agritourism facilities flourish, more money is circulated through the community as a whole. Finding the appropriate balance to protect agricultural efforts and protects the surrounding community's interests, can be the key to preserving a rural community's triple bottom line.

**Proposed Model Ordinance for Agritourism**

Paige Parker and Kayla Kormanik

\_\_\_\_\_ MUNICIPALITY

\_\_\_\_\_ COUNTY, PENNSYLVANIA

**ORDINANCE No.** \_\_\_\_\_ - \_\_\_\_\_

**WHEREAS**, The (governing body) of (name of municipality) of (name of county), Pennsylvania hereby finds that agritourism events and uses provide opportunities for agritourism that are beneficial to the municipality and its agricultural industry which are compatible with the long-term viability of agriculture.<sup>97</sup>

**WHEREAS**, Regulating a permitting process allows agritourism events and uses while maintaining the rural character and preserving farmland of the area and protecting the health, safety, and welfare of citizens.<sup>98</sup>

**WHEREAS**, This ordinance assures proper control of traffic and parking during the conduct of events and uses within the municipality.<sup>99</sup>

**WHEREAS**, Subjecting agritourism events and uses to regulations prevent such activities from creating nuisance conditions.<sup>100</sup>

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<sup>97</sup> Madera County, California, Code of Ordinances § 18.94.190 (2017)

<sup>98</sup> Troup County, Georgia, Code of Ordinances § 5.7 (2018)

<sup>99</sup> Lancaster County Planning Commission, et al. *Agritourism Guidelines: For the Promotion and Regulation of Farm-Based Tourism*, 11 (2009), <https://lancastercountyplanning.org/DocumentCenter/View/139/Agritourism-Guidelines>

**AND NOW, THEREFORE,** BE IT ENACTED AND ORDAINED by the \_\_\_\_\_  
Municipality Board of Commissioners/Council, \_\_\_\_\_ County, Pennsylvania. The  
\_\_\_\_\_ code is amended by adding the following chapter to read:

## **Chapter 1**

### **Preliminary Provisions**

#### **Section 101. Short title.**

This ordinance shall be known as the Municipality Agritourism Ordinance.

#### **Section 102. Legal authority.**

The (name of municipality) may regulate land uses under the provisions of the act of July 31, 1968 (P.L. 805, No. 2471), known as the Pennsylvania Municipalities Planning Code, which authorizes municipalities to enact, amend or repeal zoning ordinances.<sup>101</sup>

## **Chapter 2**

### **Definitions**

The following words and phrases when used in this ordinance shall have the meanings given to them in this section unless the context clearly indicates otherwise:<sup>102</sup>

“Agricultural marketing enterprise.” An accessory use to an agricultural operation for the purpose of marketing agricultural products produced by the operation in their natural or manufactured state. The term includes:

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<sup>100</sup> *Id.*

<sup>101</sup> The Pennsylvania Municipal Planning Code (MPC; Act of 1968, P.L.805, No.247) empowers counties and municipalities, individually or jointly, to plan their development and to govern the same by zoning, subdivision and land development ordinances and additional tools.

<sup>102</sup> COMMUNITY GARDEN MODEL ORDINANCE, Heather Shoemaker and Daniel Schramm, (accessible at <https://widenerenvironment.files.wordpress.com/2015/12/commuity-gardens.pdf>.)

- (1) On-farm processing, packaging or other activity performed in the course of direct marketing of an operator's agricultural products.
- (2) A farm stand.
- (3) Creamery.
- (4) Pick-Your-Own Operation.
- (5) Community supported agriculture.
- (6) Christmas tree farm. <sup>103</sup>

“Agricultural operation.” An operation for the processing of agricultural crops or on-farm production, harvesting, or marketing of any agricultural, horticultural, silvicultural, aquacultural, or apicultural product that has been grown, raised, or cultivated by an operator. <sup>104</sup> The term includes an enterprise that implements changes in production practices or types of crops, livestock, livestock products or commodities which are consistent with practices normally engaged in by farmers or are consistent with technological development within the agricultural industry. <sup>105</sup>

“Agritourism.” An enterprise at a working farm, ranch or agricultural plant conducted for the enjoyment of visitors that generates income for an operator. These enterprises are categorized by the following:

- (1) minimum impact events;
- (2) small scale events; or
- (3) large scale events. <sup>106</sup>

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<sup>103</sup> Cumberland County Planning Department, *Agricultural Series: Accessory Agriculturally Related Enterprises Model Guidelines*, 2 (2012) ( accessible at <https://www.ccpa.net/DocumentCenter/View/16516/Ag-Enterprise-Model-Ord-FINAL-12-06-12?bidId=> )

<sup>104</sup> Md. Code Ann. Cts. & Jud. Proc. § 5-403(a) (2013).

<sup>105</sup> Cumberland County Planning Department, *supra* note 9

<sup>106</sup> American Farm Bureau Federation, *STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION TO THE SENATE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY REGARDING: ECONOMIC*

“Agritourism enterprise.” An accessory use to an agricultural operation at which activities:

- (1) Are offered to specifically invited groups or to the public for the purpose of recreation, entertainment, education, or active involvement in the agricultural operation.
- (2) Are related to agriculture or the resources incidental to the primary operation of the venue.
- (3) May include a fee to participants.

The term includes, but is not limited to: A hayride, corn maze, farm tour, rodeo, educational exhibit and recreation related activity. <sup>107</sup>

“Applicant.” A person, group of persons, business, or organization seeking an action or approval under the provisions of this ordinance. The term includes the operator of an agritourism enterprise <sup>108</sup>

“Department.” The department of environmental protection of the commonwealth.

“Event.”

- (1) Held within within a municipality resulting in:
  - (i) the assemblage of 200 or more persons; or
  - (ii) the arrival of 80 or more vehicles at the location of the event, whether held on private property, public property, or public roads.
- (2) That does not occur over a continuous period of greater than 72 hours, excluding preparation and clean up times.

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*CHALLENGES AND OPPORTUNITIES FACING AMERICAN AGRICULTURAL PRODUCERS TODAY*, (2007), <https://www.agriculture.senate.gov/imo/media/doc/flory.pdf>

<sup>107</sup> Cumberland County Planning Department, *supra* note 9, at 3

<sup>108</sup> PARKLETS: PROVIDING SUSTAINABLE COMMUNITY DEVELOPMENT, Athanasia Georgakopoulos and Jo-Anne Thompson, 23 (accessible at <https://widenerenvironment.files.wordpress.com/2018/01/parklets2017.pdf>)

The term includes: A community fair, carnival, parade, show, sporting event, music or art festival, holiday celebration and similar special event, where the number of persons in attendance and/or the number of vehicles arriving for the event exceed the minimum limits set forth above.

The term does not include an activity that is a part of the regular operations of a principal use, such as a wedding at a church, annual fundraising or social event at a grange or typical accessory event at an educational, scientific or institutional facility or any event sponsored by the Armed Forces of the United States or the State of Pennsylvania, the forces of state or local police or fire departments, and event sponsored by an agency of the state, county or municipality. <sup>109</sup>

“Large scale event.” A use or facility that may impact surrounding farms or property owners including: winery tasting or tour, rodeo or horse show, and farm vacation. <sup>110</sup>

“Master plan.” A document which is prepared under the guidance of this ordinance and consists of graphic and written materials which indicate compliance with a multitude of safety and operational requirements of the ordinance. <sup>111</sup>

“Minimum impact event.” Uses or venues that pose minimal impact to surrounding properties and farms including: pick your own, roadside stand, agricultural craft and gift sales from a primary residence only, buggy or wagon ride, and school tour. <sup>112</sup>

“Municipality.” The (name of municipality) adopting this ordinance.

“Operator.” The person, group or entity responsible for conducting or managing a particular special event of an agricultural enterprise. The term includes:

- (1) the owner of the property;
- (2) a tenant of the property owner;

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<sup>109</sup> Lancaster County Planning Commission et al., *supra* note 3, at 12

<sup>110</sup> Troup County, Georgia, Code of Ordinances § 5.7-1

<sup>111</sup> Prince George’s County, Maryland, Code of Ordinances § 27-441

<sup>112</sup> Troup County, Georgia, Code of Ordinances § 5.7-8

- (3) a licensee of the property owner;
- (4) the sponsor of the agricultural enterprise; or
- (5) an agent of the property owner.<sup>113</sup>

“Owner.” The owner that has possession to the title of property upon which an event will be held.<sup>114</sup>

“Parking lot.” An area, not within a building or structure, where motor vehicles may be stored for the purpose of temporary, daily or overnight off-street parking. The term includes a motor vehicle display lot, and a commercial parking lot.<sup>115</sup>

“Parking space.” A designated off-street area which is available and usable for the parking of one motor vehicle.<sup>116</sup>

“Performance standard for air quality.” The Environmental Protection Agency’s standards for regulating ambient air quality for particulate matter.<sup>117</sup>

“Permit.” A license by the municipality to engage in some conduct or activity that is allowed according to the conditions of the license.<sup>118</sup>

“Permittee.” The operator whom a permit is issued under this ordinance.

“Permit by right.” A use permitted by a zoning ordinance for an agricultural zone that does not require consideration of discretionary approval criteria from a planning authority.<sup>119</sup>

“Small scale event.” A use or facility that:

- (1) Do not adversely impact surrounding farm uses, but may involve an accessory building for storage or demonstration purposes.

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<sup>113</sup> Lancaster County Planning Commission, et al., *supra* note 3, at 11

<sup>114</sup> *Id.*

<sup>115</sup> Thurston County, Washington, Code of Ordinances § 20.03.040 (99) (Aug. 7, 2018)

<sup>116</sup> *Id.*

<sup>117</sup> 78 FR 3086

<sup>118</sup> Asheville, North Carolina, Code of Ordinances § 7-2-5

<sup>119</sup> Oregon Agritourism Network, *Agritourism Handbook*, 43 (2017),

[http://industry.traveloregon.com/content/uploads/2017/03/OAN\\_Agritourism-Handbook\\_3-6\\_web-original.pdf](http://industry.traveloregon.com/content/uploads/2017/03/OAN_Agritourism-Handbook_3-6_web-original.pdf)

(2) Is allowed in any zoning district as long as the parcel meets the criteria of a working farm.

The term includes: A garden and nursery tour and historical farm museum or exhibit.<sup>120</sup>

“Special exception.” A use permitted in a particular zoning district pursuant to the provisions of Articles VI and IX of the Pennsylvania Municipalities Planning Code.<sup>121</sup>

“Sponsor.” The person, group or entity responsible for funding a particular special event or inviting either by individual invitation or publicity the individuals in attendance at the special event.<sup>122</sup>

“Venue.” The specific property at which a special event or Event takes place. The term includes a barn, facility or field located on agritourism property.

“Winery.” A working farm where grapes are grown and wine is produced for commercial sales on site or other venues.<sup>123</sup>

“Zoning board” or “board.” The municipality’s decision making body concerning special exception use practices.

## Chapter 3

### Agritourism Development Standards and Procedures

#### Section 301. Procedures.

Agritourism enterprises shall be separated into the following categories:

- (1) minimum impact event;

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<sup>120</sup> Troup County, Georgia, Code of Ordinances § 5.7-1

<sup>121</sup> 1987 Pa. SB 535

<sup>122</sup> *Id.*

<sup>123</sup> Troup County, Georgia, Code of Ordinances § 5.7-1

- (2) small scale event; or
- (3) large scale event.

Minimum and small scale agritourism enterprises may be permitted by right. Large scale agritourism enterprises must be approved by the zoning board for a special exception permit. All agritourism enterprises shall be in compliance with all State regulations as required for a particular use. Tax certificates shall be applied for, when necessary, prior to submission of a business license.<sup>124</sup> Permit applications shall be reviewed by the board to determine whether the proposed agritourism enterprise is a minimal impact event, small scale event, or large scale event.<sup>125</sup>

## **Chapter 4**

### **Permitting Process**

**Section 401. Permitted use; permit by right.** Minimum impact events and small scale events shall be permitted by right and may proceed without zoning board review.

**Section 402. Permitted use; special exception.** Large-scale events may not proceed without first obtaining a special exception use permit.

**Section 403. Application; special exception permit.**

**(a) Application.**

- (1) The proposed operator must complete and submit a special exception use permit application provided by the zoning board and pay the application fee.

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<sup>124</sup> Troup County, Georgia, Code of Ordinances § 5.7-2

<sup>125</sup> Troup County, Georgia, Code of Ordinances § 5.7-3

(2) A special exception use permit application shall include all of the following:<sup>126</sup>

- (i) the name, address and telephone number of the person completing the application;<sup>127</sup>
- (ii) the name, address and telephone number of the operator, and, if the operator is a partnership or corporation, the names, addresses and telephone numbers of all parties;<sup>128</sup>
- (iii) the name, address and telephone number of the venue;<sup>129</sup>
- (iv) a master plan pursuant to Section 404 that includes the rules and restrictions of the venue along with planned event days, dates, type of activity, and special attendance; and,<sup>130</sup>
- (v) a non-refundable fee in an amount determined by the board.<sup>131</sup>

**(b) Submission.**

(1) An application for a special exception use permit shall be submitted within the time periods specified in this section.

(2) The application must be submitted by the following deadlines:

- (i) Events and uses with more than 250 people expected to be in attendance: at least 90 calendar days prior to the event or use.<sup>132</sup>
- (ii) Events and/or uses with fewer than 250 people expected to be in attendance: at least 60 calendar days prior to the event or use.<sup>133</sup>

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<sup>126</sup> Horry County, South Carolina, Code of Ordinances § 1304.1(D)

<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> *Id.*

<sup>132</sup> Hampton, Virginia, Code of Ordinances § 2-314(c)(1)(a)

<sup>133</sup> Hampton, Virginia, Code of Ordinances § 2-314(c)(1)(b)

(3) Submission of a special exception use permit application to the zoning board after the submittal deadline constitutes grounds for denial of the special exception use permit, and the board may return the application without further review.<sup>134</sup>

(c) **Review process.** The zoning board shall review a special exception use permit application in the following manner:

(1) **Hearing provisions.** All special exception use permit applications shall be reviewed by the zoning board in accordance with Section 908 of the Pennsylvania Municipalities Planning Code.<sup>135</sup>

(2) **Decision Protocol**

(i) Upon the board's review and recommendation, the board shall review each application and determine whether a special exception use permit shall be administered to the applicant.<sup>136</sup>

(ii) Each decision shall be accompanied by findings of fact or conclusions, together with reasoning, from which the decision was based.<sup>137</sup>

(iii) Approval shall only be granted to an applicant that complies with this ordinance.<sup>138</sup>

(iv) Permits shall be valid for one year from date of issuance.<sup>139</sup>

(v) Permitted events shall be subject to a review every 30 days by the zoning administrator to ensure compliance with the permit.<sup>140</sup>

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<sup>134</sup> Hampton, Virginia, Code of Ordinances § 2-314(c)(1)

<sup>135</sup> 1987 Pa. SB 535

<sup>136</sup> Horry County, South Carolina, Code of Ordinances § 1304.1(E)

<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

- (vi) In granting special exception approval, the Board may attach to it such conditions and safeguards regarding the location, character, or other features of the proposed use as the board may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety or general welfare.<sup>141</sup>

**Section 404. Application; master plan.**

- (a) **Master plan.** A master plan must accompany a special exception use permit application.

The master plan shall include a venue sketch, floor plan, and plans for parking, signs, restrooms, safety, trash and recycling, and traffic control.<sup>142</sup>

- (1) **Venue sketch.** All venue sketches shall be drawn to scale. An aerial photograph with requirements drawn in may be used if that is the best way for applicant to show the requirements of the venue. The following shall be included in the sketch:<sup>143</sup>

- (i) north arrow;<sup>144</sup>
- (ii) placement on parcel of all parking spaces to adequately serve the venue;<sup>145</sup>
- (iii) placement and type of planting for landscaping planned for the venue;<sup>146</sup>
- (iv) distance from property line to structures and parking areas including handicapped accessible parking space of spaces; and<sup>147</sup>

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<sup>141</sup> *Id.*

<sup>142</sup> Horry County, South Carolina, Code of Ordinances § 1304.1(D)

<sup>143</sup> Troup County, Georgia, Code of Ordinances § 5.7-7(1)

<sup>144</sup> *Id.*

<sup>145</sup> *Id.*

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*

(v) the nearest county or state highway.<sup>148</sup>

(b) **Interior floor plan.** If the venue includes an interior, the floor plan of the venue must identify the rooms in the venue. The floor plan shall include:<sup>149</sup>

- (1) size of each room;<sup>150</sup>
- (2) location of handicapped accessible restrooms;<sup>151</sup>
- (3) location of handicapped access to venue;<sup>152</sup>
- (4) layout of rooms in the venue; and<sup>153</sup>
- (5) location of kitchen facilities in the structure.<sup>154</sup>

(c) **Operational requirements.** The proposed operator must demonstrate in their master plan that the operational requirements of Chapter 5 of this ordinance will be complied with.

## Chapter 5

### Operation and Maintenance

#### Section 501. Venue criteria; operation.

(a) **Generally.** The proposed operator shall operate and maintain a venue pursuant to federal, state, and municipal laws, including the requirements specified in this ordinance.<sup>155156</sup>

(b) **Operation; notice.**

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<sup>148</sup> *Id.*

<sup>149</sup> Troup County, Georgia, Code of Ordinances § 5.7-7(2)

<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> *Id.*

<sup>154</sup> *Id.*

<sup>155</sup> Georgakopoulos and Thompson, *supra* note 14, at 31

<sup>156</sup> CITY OF RICHMOND, VA., CODE, Ch. 24, art. II, div.9 §§ 24-251 – 24-258 (Feb. 22, 2016) (accessible at <https://richmondva.legistar.com/LegislationDetail.aspx?ID=2566482&GUID=EDD97376-962A-4A45-B09B6B5A16B03791>).

(1) Prior to an event, the operator shall notify the municipality, on a form prescribed by the municipality for such purpose, at least 30 calendar days prior to the occurrence of an event. The notification shall be made to the zoning board, and shall clearly state: <sup>157</sup>

- (i) The name of the operator. <sup>158</sup>
- (ii) The location of the venue upon which the event will be held. <sup>159</sup>
- (iii) The date and time, including the starting and closing times and number of days, of the event. <sup>160</sup>
- (iv) The provisions to be made for trash collection and disposal. <sup>161</sup>
- (v) The provisions to be made for parking of vehicles, including a best estimate of the number of vehicles anticipated to arrive at the event. <sup>162</sup>  
The parking provisions in the master plan may be used to satisfy this requirement.
- (vi) The provisions to be made for traffic control and direction in accordance with section 501(b)(c) of this ordinance. <sup>163</sup> The traffic control provisions of the master plan may be used to satisfy this requirement.
- (vii) Provisions, if any, for emergency vehicles at venue. <sup>164</sup> The safety provisions of the master plan may be used to satisfy this requirement.
- (viii) The provision, if any, for medical services at the venue. <sup>165</sup>

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<sup>157</sup> Lancaster County Planning Commission et al., *supra* note 3, at 13

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> *Id.*

<sup>161</sup> *Id.*

<sup>162</sup> *Id.*

<sup>163</sup> *Id.*

<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

- (ix) The provision, if any, of security in addition to traffic control, at the venue.<sup>166</sup> The safety provisions of the master plan may be used to satisfy this requirement.
- (x) If alcoholic beverages are to be served, the provision for the control of the consumption of alcohol to prevent public intoxication and nuisance conditions.<sup>167</sup>
- (xi) An indemnity agreement, indemnifying the municipality against any liability, together with a certificate of insurance with a minimum of \$1,000,000 per occurrence in general liability, including liquor liability, if applicable, naming the municipality as additional co-insured.
- (xii) Provision for handicapped parking.<sup>168</sup> The parking provision of the master plan may be used to satisfy this requirement.
- (xiii) Provision for adequate sanitary facilities (including handicapped facilities).<sup>169</sup> The restroom provision of the master plan may be used to satisfy this requirement.

**(c) Operation; traffic control.**

- (1) The operator shall, prior to the submission of notification, contract with a qualified entity for traffic control on the State or municipality roads in close enough proximity to the site of the event or venue to be affected by the traffic to be generated by the event. The following entities are approved for provision of traffic control services:

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<sup>166</sup> *Id.*

<sup>167</sup> *Id.*

<sup>168</sup> *Id.*

<sup>169</sup> Lancaster County Planning Commission et al., *supra* note 3, at 7

- (i) Pennsylvania State Police;
- (ii) Law enforcement of or approved by the municipality;
- (iii) Fire company or fire police within the municipality.<sup>170</sup>
- (iv) The operator shall undertake advance planning for the handling of ingress and egress of vehicles to and from the property and interior circulation of vehicles within the property.<sup>171</sup>

(d) **Operation; nuisance control.** Operators shall ensure the prevention of all nuisance conditions. The conditions in conjunction with, or as a result of the event or venue include:<sup>172</sup>

- (1) A violation of the performance standards for air quality, fire and explosive hazards, glare and heat, liquid and solid waste, noise, odors, vibrations, radio or electrical disturbances, or public health and safety provisions, if applicable, of the municipality.<sup>173</sup>
- (2) The failure to provide sufficient trash receptacles for the deposit of trash, resulting in the littering of trash either across the property or on adjacent roadways or properties.<sup>174</sup>
- (3) The failure to provide sufficient parking areas on the property for all vehicles arriving at the event or venue, resulting in the parking of vehicles on adjacent or nearby public roads.<sup>175</sup>
- (4) The failure to provide for traffic control on nearby State or municipal public roads, by the use of qualified traffic control personnel, including personnel of the

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<sup>170</sup> *Id.*

<sup>171</sup> Lancaster County Planning Commission et al., *supra* note 3, at 14

<sup>172</sup> *Id.* at 11

<sup>173</sup> *Id.*

<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

law enforcement, Fire Company or Fire Police of the municipality, or other entity approved for traffic control under section 501(c) of this ordinance.<sup>176</sup>

(5) The serving of food or beverages without obtaining necessary permits for licenses from the applicable governmental agencies having jurisdiction.<sup>177</sup>

(6) The failure to provide, where necessary, security personnel on or near the venue or site of the event, where the security personnel are necessary to:

- (i) prevent panic or other conditions threatening public safety; or
- (ii) prevent or immediately stop any physical violence, or threat of physical violence, among individuals;<sup>178</sup>

(7) The failure to adequately control the serving or consumption of alcoholic beverages so as to prevent a disturbance or other behavior that could threaten public safety or general welfare either on the premises or offsite.

(e) **Operation; food and non-alcoholic beverages.** Venues and events that provide vending of food and beverage shall adhere to the regulations of Title 61 of the Pennsylvania Administrative Code.<sup>179</sup>

(f) **Operation; alcoholic beverages.** Venues and events that include the consumption or vending of alcoholic beverages shall be licensed and comply with the act of April 12, 195, (P.L 70, No. 21), known as the Liquor Code.<sup>180</sup> Operators that fail to comply with appropriate licensing requirements shall be subject to the Pennsylvania Liquor Control Board and the failure to comply shall be grounds for suspension or revocation of a granted special exception use permit.

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<sup>176</sup> *Id.* at 12

<sup>177</sup> *Id.*

<sup>178</sup> *Id.*

<sup>179</sup> 61 Pa. Code § 60.7

<sup>180</sup> 2013 Bill Text PA H.B. 790

**(g) Operation; noise.**

- (1) Operators may not make, continue, or cause to be made or continued any raucous noise or noise which is plainly audible and disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity.<sup>181</sup>
- (2) Amplified or live music from any source shall be permitted at a maximum of ten decibels above background sound level in the area.<sup>182</sup>
- (3) The using, operating, or permitting to be played, used, or operated, of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the production or reproduction of sound between the hours of 12:00 midnight and 7:00 a.m. is prohibited.<sup>183</sup>

**(h) Operation; parking.**

- (1) All vehicles must be parked on the venue's property; no vehicles shall be parked on public roads.<sup>184</sup>
- (2) In the event that the operator anticipates the necessity of additional parking facilities, other than those available on the venue's property, the operator may contract with a nearby property owner for overflow parking, so long as either:<sup>185</sup>
  - (i) shuttle service from the overflow site is provided; or<sup>186</sup>
  - (ii) safe pedestrian pathways are available from the overflow parking to the property where the event is being held.<sup>187</sup>

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<sup>181</sup> North Lauderdale, Florida, Code of Ordinances § 38-75(d)(1)

<sup>182</sup> Albany, Georgia, Code of Ordinances § 47-12(1)

<sup>183</sup> *Id.*

<sup>184</sup> Lancaster County Planning Commission et al., *supra* note 3, at 14

<sup>185</sup> *Id.*

<sup>186</sup> *Id.*

<sup>187</sup> *Id.*

- (3) The plans must be detailed within the master plan.<sup>188</sup>
  - (4) All parking areas shall be screened from neighboring properties.<sup>189</sup>
  - (5) Driving surfaces, including parking areas, interior drives, and ingress and egress must be stabilized with asphalt, concrete, gravel, or permeable surfaces.<sup>190</sup>
- (i) **Operation; signage.** Operators may post signs in accordance with this ordinance, subject to the following:
- (1) Signs may be interior lighted with non-glaring lights, or may be illuminated by flood lights or spotlights that are shielded so there is no direct light transmitted to other properties or public rights-of-way.<sup>191</sup>
  - (2) Flashing, blinking, strobe, twinkling, or moving signs shall be prohibited.<sup>192</sup>
  - (3) Signs shall not be located so as to interfere with visibility for motorists at street or driveway intersections or any required clear sight triangle.<sup>193</sup>
  - (4) Signs located within 300 feet of a traffic light may not be illuminated with red, green, or yellow lights.<sup>194</sup>
  - (5) All electrically illuminated signs shall be construed to the standards of the National Board of Fire Underwriters.<sup>195</sup>
  - (6) Signs shall not be erected or located as to prevent free ingress or egress from a window, door or fire escape.<sup>196</sup>

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<sup>188</sup> *Id.*

<sup>189</sup> Clayton County, Georgia, Code of Ordinances § 6.38(A)(4)

<sup>190</sup> Clayton County, Georgia, Code of Ordinances § 6.38(A)(3)

<sup>191</sup> Southhampton Township, Franklin County, Pennsylvania, Code of Ordinances §39-309(B)

<sup>192</sup> *Id.*

<sup>193</sup> *Id.*

<sup>194</sup> *Id.*

<sup>195</sup> *Id.*

<sup>196</sup> *Id.*

- (7) Only those signs referring directly to services, materials or products made, sold, or displayed on the premises shall be permitted. <sup>197</sup>
- (8) Signs may not emit smoke, visible vapors or particles, sound or odors. <sup>198</sup>
- (9) Signs may not be of such character form, shape or color that they imitate or resemble an official traffic sign, signal or device or that they have a characteristic which is likely to confuse or distract the operator of a motor vehicle on a public street. <sup>199</sup>
- (10) Signs may not display words or images that are obscene or pornographic. <sup>200</sup>
- (11) Signs may not by reason of size, location, content, coloring or manner of illumination, obstruct the vision of drivers, either when leaving or entering a roadway from another roadway or driveway, or obstruct or detract from the visibility or effectiveness of any traffic sign or control device on public streets and roads. <sup>201</sup>
- (12) Signs may not make use of words such as “stop,” “look,” “one-way,” “danger,” “yield” or any similar words, phrases, symbols, lights or characters in such a manner as to interfere with, mislead, or confuse traffic. <sup>202</sup>
- (13) Signs shall be construed of durable material, maintained in good condition, and subject to the following:
- (i) Signs may not be maintained within a venue in such a state of disrepair as to have the appearance of complete neglect, to be rotten or fallen down, to be unlawful or to have loose parts separated from original fastenings.

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<sup>197</sup> *Id.*

<sup>198</sup> *Id.*

<sup>199</sup> *Id.*

<sup>200</sup> *Id.*

<sup>201</sup> *Id.*

<sup>202</sup> *Id.*

- (ii) Whenever a sign becomes structurally unsafe or endangers the safety of the venue, or endangers the public safety, the zoning board shall give written notice to the operator of the agritourism enterprise on which the sign is located that the sign must be made safe or removed within five days.
- (iii) Signs may be posted to advertise an event no more than 30 days before the posted date of the event.
- (iv) A \$50 deposit shall be paid to the governing body for the postage of advertising signs. The deposit shall be returned to the operator once all signs have been removed after the cessation of use.
- (v) Signs advertising an event or use no longer in existence shall be removed within 30 days of the cessation of use. If the operator of the agritourism enterprise does not remove the sign within 30 days after receiving a written notice from the Board, the sign may be removed by the municipality at the expense of the operator.<sup>203</sup>

(j) **Operation; restrooms.** Sanitary facilities shall be provided in accordance with department requirements.<sup>204</sup>

(k) **Operation; safety provisions.** All proposed structures, equipment or material shall be readily accessible for fire, police or emergency personal.<sup>205</sup> The proposed use shall be constructed and used so as to not adversely affect the reasonable use of the surrounding area such as:

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<sup>203</sup> Southhampton Township, Franklin County, Pennsylvania, Code of Ordinances §39-309(I)

<sup>204</sup> 34 Pa. Code §13.146

<sup>205</sup> Southhampton Township, Franklin County, Pennsylvania, Code of Ordinances §39-1201(A)

- (1) create dangerous, injurious, noxious or otherwise objectionable fire, explosive, or other hazard;<sup>206</sup>
  - (2) sustain noise vibration, smoke, dust, odor or other form of pollution;<sup>207</sup>
  - (3) emit dirt, dust, fumes, vapors or gasses which can cause damage to human health, animals, vegetation or other forms of surrounding property; and<sup>208</sup>
  - (4) maintain dangerous levels of heat, cold, dampness, electromagnetic or other substance, condition or element.<sup>209</sup>
  - (5) Structures and improvements to a building hosting an event must conform to the standards of the National Board of Fire Underwriters.<sup>210</sup>
  - (6) The operator shall work with the municipality Fire Marshal and local fire company serving the area of the venue to ensure protection against possible fire and explosion.<sup>211</sup>
  - (7) All temporary structures must obtain a building permit and be inspected.
- (l) **Operation; parking lots and roadways.** Driving surfaces shall be treated as necessary to control dust.<sup>212</sup>
- (m) **Operation; sanitation.** A permittee must adhere to all regulations of Pennsylvania sanitation laws under Chapter 41.<sup>213</sup>

## Chapter 6

### Renewals, Revocation, Appeals

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<sup>206</sup> Southhampton Township, Franklin County, Pennsylvania, Code of Ordinances §39-1201(A)(4)

<sup>207</sup> *Id.*

<sup>208</sup> Southhampton Township, Franklin County, Pennsylvania, Code of Ordinances §39-1201(A)(4)(f)

<sup>209</sup> Southhampton Township, Franklin County, Pennsylvania, Code of Ordinances §39-1201(A)(4)

<sup>210</sup> Southhampton Township, Franklin County, Pennsylvania, Code of Ordinances §39-1201(A)(4)(n)

<sup>211</sup> *Id.*

<sup>212</sup> Clayton County, Georgia, Code of Ordinances § 6.38(A)(3)

<sup>213</sup> 34 Pa. Code § 41

### **Section 601. Renewal of permit.**

(a) **Renewal.** Permittees shall be subject to the following:

- (1) A special exception use permit shall be renewed on an annual application cycle.
- (2) A permittee shall submit a renewal application and pay the associated fees.<sup>214</sup>
- (3) The board shall determine the appropriate renewal fees.

### **Section 602. Complaints regarding violations and remedies.**

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any interested person may file a written complaint. The complaint shall state fully the cause and basis thereof and shall be filed with the zoning board. The board shall record properly the complaint, immediately investigate, and take action necessary to assure compliance with this ordinance.<sup>215</sup>

### **Section 603. Revocation and suspension; Notice.**

(a) **Revocation.** The zoning board may revoke a permit for cause, including:<sup>216</sup>

- (1) failure to adhere to the approved master plan;<sup>217</sup>
- (2) discontinuance of use of the agritourism enterprise for a period exceeding six months; or,<sup>218</sup>
- (3) failure to comply with applicable federal, State, or municipality laws.<sup>219</sup>

(b) **Suspension.** The board may suspend a permit if:

- (1) the operator failed to maintain the venue or use in accordance with this ordinance;

or

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<sup>214</sup> Georgakopoulos and Thompson, *supra* note 14, at 38

<sup>215</sup> Horry County, South Carolina, Code of Ordinances § 1304.1(F)

<sup>216</sup> Horry County, South Carolina, Code of Ordinances § 1304.1(G)

<sup>217</sup> *Id.*

<sup>218</sup> *Id.*

<sup>219</sup> *Id.*

(2) the use or venue is a nuisance.

(c) **Notice.** Upon revocation or suspension of a special exception use permit, the board shall give the permittee written notice the action that has been taken and the reasons for the action.<sup>220221</sup>

**Section 604. Appeals.** Appeals from the zoning board may be heard in accordance with Section 909 of the Pennsylvania Municipalities Planning Code.<sup>222</sup> This subsection shall not be construed to prejudice the right of any interested party to appeal the decision to a court of competent jurisdiction.<sup>223</sup>

## Chapter 7

### Repeals, Severability, Effective Date

#### Section 701. Repeals

All ordinances and parts of ordinances are repealed to the extent they are inconsistent with this ordinance.<sup>224</sup>

#### Section 702. Severability.

The provisions of this ordinance are severable. If any provision of this ordinance is declared, in a final decision by a court of competent jurisdiction, to be invalid, the decision shall not affect the validity of the remainder of this ordinance, nor of any other portion thereof.<sup>225</sup>

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<sup>220</sup> *Supra* note 14, at 39

<sup>221</sup> CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, Ch. 25, art. VII-A, § 25A-187 (accessible at [https://library.municode.com/FL/fort\\_lauderdale/codes/code\\_of\\_ordinances?nodeId=COOR\\_CH25STSI\\_ARTVIIA\\_PA\\_S25A-187PAOPCO](https://library.municode.com/FL/fort_lauderdale/codes/code_of_ordinances?nodeId=COOR_CH25STSI_ARTVIIA_PA_S25A-187PAOPCO).)

<sup>222</sup> 1987 Pa. SB 535

<sup>223</sup> Horry County, South Carolina, Code of Ordinances § 1304.1(E)

<sup>224</sup> Pittsburgh, Pennsylvania, Code of Ordinances § 258.08

<sup>225</sup> Lancaster County Planning Commission et al., *supra* note 3, at 15

**Section 703. Effective date.**

This ordinance shall become effective 30 days after enactment.

ORDAINED AND ENACTED as an Ordinance this \_\_\_\_ day of \_\_\_\_\_, 2018.