

TOWN OF EUREKA, DAKOTA COUNTY, MINNESOTA

ORDINANCE NO. 2010-4

AN ORDINANCE AMENDING TOWN ORDINANCE 5, CHAPTER 3, RELATING TO OUTDOOR ASSEMBLIES.

THE BOARD OF SUPERVISORS OF THE TOWN OF EUREKA ORDAINS:

SECTION 1. AMENDMENT. Chapter 3 of Ordinance 5 is hereby amended by altering the following definitions, as follows (deleted portions ~~struck through~~, added portions underlined):

Chapter 3: Outdoor Assemblies

Section 1 – PURPOSE AND INTENT

- A. It is the purpose of the Town Board of the Township of Eureka to regulate the assemblage of a large number of people, in excess of those normally needing the health, sanitary, fire, police, transportation and utility services regularly provided in the County of Dakota or in excess of those normally requiring supervision or control, in order that the health, safety, and welfare of all persons in the Township of Eureka residents and visitors alike, may be protected.
- B. It is the intent of the Town Board that all sections and provisions of this Ordinance have an independent existence; and, should any section or provision be declared invalid or unconstitutional by a Court of competent jurisdiction, it is the intent of the Town Board that any section or provision so declared shall be severable from and shall not affect the validity of the remainder of the Ordinance.

Section 2 - LICENSE REQUIRED

- A. No person shall permit, maintain, attend, promote, conduct, advertise, act as an entrepreneur, undertake, organize, manage, or sell or give tickets to an assembly, where a substantial portion of the entertainers or persons attending will be or are reasonably expected to be out of doors, whether on public or private property, and at which more than ~~five~~ three hundred (~~5~~300) persons are in attendance or are reasonably expected to be in attendance, or at which between one hundred (100) and ~~five~~ three hundred (~~5~~300) persons are in attendance or are reasonably expected to be in attendance for a period which continues or can reasonably be expected to continue for eight or more consecutive hours, unless a license to hold the assembly has first been issued by the Town Board, application for which must be made at least thirty (30) days in advance of the assembly. A license to hold an assembly issued to one person shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly.
- B. A separate license shall be required for each day and each location at which ~~five~~ three hundred (~~5~~300) people assemble or can reasonably be anticipated to assemble or at which between one hundred (100) and ~~five~~ three hundred (~~5~~300) people assemble or can reasonably be expected to assemble for a period which continues or which can reasonably be expected to continue for eight (8) or more consecutive hours. The fee for each license is set forth in Ordinance 7.

- C. A license shall permit the assembly of only the maximum number of people stated in the license. The licensee shall not sell tickets to nor permit to assemble at the license location more than the maximum permissible number of people.
- D. The license shall ~~not permit the~~ require that the holder take all reasonable measures to prevent the sound of the assembly to carry unreasonably beyond the enclosed boundary of the location of the assembly from being audible over conversational levels on neighboring properties.
- E. This Ordinance shall not apply to any regularly established, permanent place of worship, stadium, athletic field, arena, auditorium, coliseum, or other similar permanently established place of assembly for assemblies which do not exceed by more than ~~five~~ three hundred (~~5~~300) people the maximum capacity of the structure where the assembly is held.
- F. No performance, exhibition, show, or meeting in connection with the licensed activity shall commence prior to 9:00 A.M. on all days of the week, or continue after 9:00 P.M. on Sundays through Thursdays, or after 10:30 P.M. on Fridays and Saturdays.
- G. This Ordinance shall not apply to government-sponsored fairs held on regularly established fairgrounds, nor to assemblies required to be licensed by other laws and/or regulations of the Township of Eureka, the County of Dakota, or the State of Minnesota.

Section 3 - CONDITIONS FOR ISSUING LICENSE

Before a license is issued, the applicant shall first:

- A. Determine the maximum number of people which will be assembled or admitted to the location of the assembly, provided that the maximum number shall not exceed the maximum number which can reasonably assemble at the location of the assembly in consideration of the nature of the assembly and applicable fire and safety regulations, and provided that where the assembly is to continue overnight, the maximum number shall not be more than is allowed to sleep within the boundaries of the location of the assembly by the zoning or health ordinances of the Township of Eureka or the County of Dakota, or regulation of the Minnesota State Department of Health.
- B. At the time the application is submitted, the sponsor will provide a plan, including the provisions herein, for operation of the assembly. Ten (10) days prior to the start of the assembly, local authorities will inspect to determine whether the requirements of the following provisions have been met:
 1. A fence or barrier completely enclosing the proposed location of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the assembly grounds, which shall have sufficient entrances and exits to allow easy movement into and out of the assembly grounds and provide traffic control onto established public road systems; this requirement may be waived if the Town Board finds that a fence will not be necessary for crowd control.
 2. Potable water, meeting all federal and state requirements for sanitary quality, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one gallon per person per day, and where the assembly is to continue for more than twelve (12) hours, water for bathing at the rate of at least ten (10) gallons per person per day, or portion of a day.

3. Separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled, in accordance with the Minnesota State Board of Health regulations and standards.
4. A sanitary method of disposing of solid wastes, in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least 2.5 pounds of solid waste per person per day, together with a plan for holding and collecting all such waste at least once each day of the assembly, and sufficient trash containers and personnel to perform the abovementioned tasks.
5. Food and beverage stands, if any, will be operated in compliance with the Minnesota Food Code, as evidenced by a current license issued by the Minnesota Department of Health.
6. ~~Physicians and nurses licensed to practice in~~ At least two Emergency Medical Technicians certified by the State of Minnesota sufficient to provide medical care for the maximum number of people to be assembled at the rate of at least one physician and nurse for each one thousand (1,000) people planned to attend, together with an emergency ambulance on the site, and an enclosed covered structure where treatment may be rendered, containing at least one Automatic External Defibrillator ~~separately enclosed treatment rooms for each physician,~~ and at least two ~~emergency ambulances, with attendants,~~ beds for each one thousand (1,000) people planned to attend.
7. If the assembly is to continue during the hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least five (5) foot candles, but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly.
8. A parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one parking space for every four persons. Adequate handicapped parking spaces shall be provided in accordance with applicable Minnesota Rules.
9. Telephones connected to outside lines sufficient to provide service to the maximum number of people to be assembled at the rate of one separate line and receiver for each five ~~hundred~~ thousand (5,000) persons, and a separate outside line or mobile telephone unit available for emergency use at all times.
10. If the assembly is to continue overnight, camping facilities in compliance with all state and local requirements as set forth in Minnesota Statutes, and the regulations and ordinances of the Township of Eureka or the County of Dakota sufficient to provide camping accommodations for the maximum number of people to be assembled. All persons sleeping during night hours shall so sleep only in a tent, camper, trailer, mobile home, building, or similarly enclosed structure.
11. Security, traffic, and narcotics control plan which will meet the requirements of local authorities and the Minnesota Department of Public Safety; regularly employed off duty Minnesota law enforcement officers or protective agents licensed in Minnesota sufficient to provide adequate security for the maximum number of people to be assembled; and at least one security guard for the first two hundred (200) people, and an additional security guard for every one

hundred (100) people over two hundred (200). The Dakota County Sheriff may recommend that security staffing requirements be adjusted based upon the applicant's assemblage license history.

11. Fire protection shall be provided by the sponsor which may include but not be limited to the following: fire alarms, extinguishing devices, fire lanes, and shall be sufficient to meet all applicable state laws and local regulations which are in effect, or may be set forth by the Town Board as it determines is necessary; and sufficient emergency personnel to efficiently operate the required equipment that will be provided by the sponsor.
12. All reasonably necessary precautions to ensure that the sound of the assembly will not ~~carry unreasonably beyond the enclosed boundaries of the location of the assembly~~ be audible over conversational levels on neighboring properties.
13. Administrative control center with telephones where the local authorities can contact the sponsors and law enforcement personnel inside the assembly area.
14. The licensee shall obtain commercial general liability insurance covering all injuries or damage caused by or as a result of the conduct of the assembly at a minimum of \$1,000,000.00 per occurrence for bodily injury, death, or property damage. The policy shall name the Town of Eureka as an additional insured.

Section 4 - APPLICATION

- A. Application for a license to hold an actual or anticipated outdoor assembly as required by this Ordinance shall be made in writing to the Town Board at least ~~thirty~~ sixty (60) days in advance of such assembly.
- B. The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in the case of a corporation, by all partners in the case of a partnership, or by all officers of an unincorporated association, society or group, or, if there are no officers, by all members of such association, society or group.
- C. The application shall contain and disclose:
 1. The name, age, residence and mailing address of all persons required to sign the application by Section 4. A and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, dates, residence and mailing address of each person holding ten percent (10%) or more of the stock of said corporation.
 2. The address and legal description of all property upon which the assembly is to be held, together with the name, residence and mailing address of the record owners of all such property.
 3. Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owners of all such property that the applicant has permission to use such property for an assembly.
 4. The nature or purpose of the assembly.
 5. The total number of days and/or hours during which the assembly is to last.

6. All documents, plans and other materials detailing the assembly plan, as required by Section 3(B) of this Ordinance. ~~The maximum number of persons that the applicant shall permit to assemble at any time, not to exceed the maximum number that can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the zoning regulations of the Township of Eureka or County of Dakota if the assembly is to continue overnight.~~
7. The maximum number of tickets to be sold, if any.
8. ~~The plans of the applicant to limit the maximum number of people permitted to assemble.~~
9. ~~The plans for fencing the location of the assembly and the gates contained in such fence.~~
10. ~~The plans for supplying potable water including the source, amount available, and location of outlets.~~
11. ~~The plans for providing toilet and lavatory facilities including the source, number, and location type, and means of disposing of waste deposited.~~
12. ~~The plans for holding, collection and disposing of solid waste material.~~
13. ~~The plans to provide for medical facilities including the location and construction of a medical structure; the names, addresses, and hours of availability of physicians and nurses; and provisions for emergency ambulance service.~~
14. ~~The plans, if any, to illuminate the location of the assembly including the source and amount of power and location of lights.~~
15. ~~The plans for parking vehicles including the size and location of lots, points of highway access, and interior roads including routes between highway access and parking lots.~~
16. ~~The plans for telephone service including the source, number, and location of telephones.~~
17. ~~The plans for camping facilities, if any, including facilities available and their location.~~
18. ~~The plans for security, including the number of guards, their deployment, and their name, addresses, credentials, and hours of availability.~~
19. ~~The plans for fire protection as may be required by Section 3.B. 11 herein.~~
20. ~~The plans for sound control and sound amplification if any, including number, location, and power of amplifiers and speakers.~~
21. ~~The plans for food concessions and concessionaires who will be allowed to operate on the grounds including the names and addresses of all concession vendors and their license or permit numbers.~~
22. ~~The plans for area traffic control for access to, egress from, and exit onto public roads and highways.~~

- D. ~~The application shall include the bond required in Section 3.B. 14 and the license fee in accord with Ordinance 7.~~

Section 5 - ISSUANCE

The application for a license shall be processed within ~~twenty~~ forty (40) days of receipt and shall be issued if all conditions are ~~met~~ complied with. The Town may impose any additional conditions or restrictions upon the license, including on maximum capacity, necessary to protect the health, safety and welfare of the community and those in attendance.

Section 6 - REVOCATION

~~The license may be revoked by the Town Board at any time if any of the conditions necessary for the issuing of or contained in the license are not complied with, if any condition previously met ceases to be complied with, or if any other provision of this Ordinance is violated.~~

- A. A license granted under this Ordinance may be revoked by the Town Board at any time prior to the assembly for:
1. Failure to comply with any conditions necessary for issuance of the license or contained in the license; or
 2. Violation of any other provision of this Ordinance; or
 3. Discovery that information supplied in the license application or accompanying documentation is false or misleading.
- B. If during the course of the assembly it appears in the judgment of the Dakota County Sheriff that there exists an imminent danger of the outbreak of violence, riot or other calamity threatening the physical health or safety of those in attendance at the assembly or residents of the surrounding community, the Sheriff is authorized to take appropriate action to protect said persons, including temporarily suspending the assembly. Any such suspension by the Sheriff shall be effective immediately, and a hearing thereon shall be held before the Town Board at the earliest opportunity. If the Town Board deems the suspension improper, the license shall be reinstated or the application fees returned, at the choice of the licensee.

Section 7 - OPERATION

- A. The licensee or his agents shall maintain the assembly premises and facilities in a clean, orderly and sanitary condition at all times.
- B. No animals, except household pets, shall be permitted in any of the grounds or facilities; and dogs, cats or other animals or pets shall not be permitted to run loose.
- C. No fires of any kind shall be permitted on the premises or in facilities, except in grills or at locations designated for that purpose.
- D. ~~No person shall create any disturbance; engage in brawling or fighting; disturb any meeting or persons using the premises; engage in offensive, obscene, or abusing language; or conduct himself in a boisterous or noisy manner tending reasonably to arouse alarm, anger, or resentment in others.~~
- E. ~~No person shall engage in conduct that does or reasonably may be expected to cause or result in injury or destruction to public or private property, whether real or personal.~~

- F.—No person shall engage in any conduct that violates a state, county, or local law or ordinance.
- E. A copy of the license shall be posted at all times in a conspicuous place in the area licensed for the assembly.c

Section 8 - VARIANCE

The Town Board may, by majority resolution, grant a variance from the requirements of this Ordinance in any particular case where the applicant can show that strict compliance with this Ordinance would cause exceptional and undue hardship by reason of the special nature of the proposed assembly or by reason of the fact that the circumstances make the requirement of this ordinance unnecessary; provided that such variance may be granted without detriment to the public health, safety, or welfare and without impairing the intent and purpose of these regulations.

SECTION 9 – ENFORCEMENT

- A. The provisions of this Ordinance may be enforced by injunction in any court of competent jurisdiction.
- B. The holding of an assembly in violation of any provision or condition contained in this Ordinance or a license issued under this Ordinance shall be deemed a public nuisance and may be abated as such.
- C. A violation of this Ordinance is a misdemeanor, and a person or entity found guilty of violating this Ordinance shall be subject to imprisonment of not more than ninety days and payment of a fine of not more than one thousand dollars. If a license is issued to an entity, the officers or members of said entity may be charged for violation of the Ordinance. Prosecution of violations as a misdemeanor does not preclude the Town from seeking other legal remedies relating to any violation.
- D. A person or entity violating a term of this Ordinance or a condition stated within a license issued pursuant to this Ordinance shall be liable in a civil action for any damages to private or public property arising out of or in connection with said violation.

SECTION 2. SEVERABILITY. Should any section, subdivision, clause or other provision of this Ordinance be held to be invalid in any court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or of any part hereof, other than the part held to be invalid.

SECTION 3. EFFECTIVE DATE. This Ordinance shall take effect and be in force upon its adoption by the Board of Supervisors.

Attest:

Nanett Sandstrom, Town Clerk

Brian Budenski, Town Board Chair

Passed by the Eureka Town Board this 8th day of November, 2010.

Published in the This Week Life and Times the 12th day of November, 2010.