

**CITY OF LAKE ELMO
WASHINGTON COUNTY, MINNESOTA**

RESOLUTION NO. 2021-129

*A RESOLUTION APPROVING AN INTERIM USE PERMIT FOR AN AGRICULTURAL
ENTERTAINMENT BUSINESS AT 4452 LAKE ELMO AVENUE NORTH TO ALLOW
PROFESSIONAL PHOTOGRAPHY SESSIONS*

WHEREAS, Krueger's Christmas Tree Farm, 4452 Lake Elmo Avenue North (Applicant), has submitted an application to the City of Lake Elmo (City) for Interim Use Permit to allow professional photography sessions as an Agricultural Entertainment Business; and

WHEREAS, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.019; and

WHEREAS, the Lake Elmo Planning Commission held a Public Hearing on October 25, 2021 and reviewed and recommended approval of the IUP to allow an agricultural entertainment business consisting of professional photography sessions on the site; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated November 16, 2021; and

WHEREAS, Section 154.019, Subd. (B, 5) of the City Code requires the applicant to enter into a consent agreement with the City that specifies the terms and conditions of the interim use; and

WHEREAS, the Lake Elmo City Council reviewed the interim use permit request and consent agreement at its November 16, 2021 meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the City Council makes the following findings:

- 1) That the procedures for obtaining said Interim Use Permit are found in the Lake Elmo Zoning Ordinance, Section 154.019.
- 2) That all the submission requirements of said Section 154.019 have been met by the Applicant.

- 3) That the proposed amendment Interim Use Permit is to allow an agricultural entertainment business consisting of professional photography sessions on the site in an A – Agriculture Zoning District.
- 4) That the photography session occur July 1st and through November 15th of each year.
- 5) That the proposed use will be located on property legally described as: Part of the east half (1/2) of the southeast quarter (1/4) lying northerly of the current existing east-west right-of-way known as 43rd Street North, in Section 11, Township 029 West, Range 21 North in Washington County and State of Minnesota. Commonly known as 4452 Lake Elmo Avenue North.
- 6) That the use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations.
- 7) That the use will not adversely impact nearby properties through nuisance, noise, traffic, dust, or unsightliness and will not otherwise adversely impact the health, safety, and welfare of the community. The Krueger's Christmas Tree Farm has been in operation for nearly 40 years.
- 8) That the use will not adversely impact implementation of the Comprehensive Plan. The Applicants are asking to allow professional photography sessions on their existing tree farm. The purpose of an IUP is specifically to allow a use for a limited period of time that reasonably utilizes the property, but as a result of anticipated development or redevelopment or other significant change, will not be acceptable in the future or will be replaced by a permitted or conditional use allowed within the respective district. This site is designated for Rural Area Development in the 2040 Comprehensive Plan, which includes working farms and agricultural uses. The Agricultural Entertainment Business would not adversely impact implementation of the Comprehensive Plan when regulated through an Interim Use Permit.
- 9) The user agrees to all conditions that the City Council deems appropriate for permission of the use. This may include the requirement of appropriate financial surety such as a letter of credit or other security acceptable to the City to cover the cost of removing the interim use and any interim structures not currently existing on the site, upon the expiration of the interim use permit.
- 10) There are no delinquent property taxes, special assessments, interest, or city utility fees due upon the subject parcel.
- 11) That the date or event that will terminate the use is identified with certainty. The interim use agreement establishes a termination date for the permit that is set at January 1, 2042, or if the property is sold to an outside party, whichever is

greater, or at such time that the total property utilized for the Krueger Christmas tree farm is less than 40 acres; whichever occurs first.


- 12) An agricultural entertainment business shall adhere to all performance standards as outlined in § 154.913 for an agricultural sales business; The proposed photography use is consistent with these performance standards. Additional conditions pertaining to hours and months of operation, number of customers, and use of buildings will be applied to ensure the use is consistent.
- 13) The property proposed to be used for agricultural entertainment must be located with direct access to a collector or arterial street as identified in the Comprehensive Plan; The site has access to Lake Elmo Avenue, which is a minor collector, and to 43rd Street, which is a planned minor collector.
- 14) Discharge of firearms, including blanks, shall not be allowed on the property; No firearms are proposed for this use.
- 15) The property owner must take reasonable steps to prevent trespassing on adjacent properties by employees, contractors or patrons. A condition of approval requiring users of the photography services will require the applicant provide specific direction about the allowed locations.

NOW, THEREFORE, BE IT RESOLVED that the Lake Elmo City Council hereby approves the Interim Use Permit at 4452 Lake Elmo Avenue North for an Agricultural Entertainment Business to allow professional photography sessions on the Applicant's farm and authorizes the execution of the consent agreement for this interim use subject to the following conditions:

- 1) That the Applicants sign the approved consent agreement with the City in accordance with Section 154.019, Subd. (B,5) of the City Code.
- 2) This interim use permit only allows the use of the site as a setting for family and individual photographs by a professional photographer.
- 3) Hours of operation for the photography use are limited to 9:00 AM to 8:00 PM, or sunset, whichever is sooner, from July through November 15th.
- 4) The photography sessions must not utilize the interior of the sales building, or any other building on the site for this purpose. This includes set up, changing rooms, or review of photos.
- 5) The applicant shall provide specific direction to photographers about the allowable locations for photo sessions.
- 6) Parking for this use must be accommodated within the existing parking lot.
- 7) The operator must be able to demonstrate at all times to the city that there is sufficient access, parking, and maneuvering space, that the location and adequacy of approaches are sufficient, that there is suitable and safe access for pedestrians, and that customer parking is away from the travel way and in close proximity to the agricultural sales business.

- 8) All waste materials shall be enclosed in containers provided on the site, and shall not generate any nuisance impacts on adjacent properties.
- 9) All sidewalks, roadways, and parking areas shall be treated as necessary to eliminate dust nuisance impacts on adjacent properties.
- 10) Trip generation shall be limited to the yearly average daily trips calculated for the underlying zoning, with no daily trip generation to exceed twice the daily calculation rate for the underlying zoning. The base daily trip generation is established at 180 vehicle trips per day for every 40 acres.
- 11) There shall be no exterior storage of equipment and materials associated with the agricultural entertainment use.
- 12) Trash containers must be located inside or screened in an acceptable manner.
- 13) The interim use permit shall expire on January 1, 2042; upon the sale of the property or a transfer of the business ownership to an outside party (non-family member); or at such time that the total property utilized for the Krueger Christmas tree farm is less than 40 acres; whichever occurs first. At such time as this IUP expires, an applicant may request an extension.

This resolution was adopted by the City Council of the City of Lake Elmo on the 16th day of November 2021, by a vote of 5 Ayes and 0 Nays.



Mayor Charles Cadenhead

ATTEST:



Julie Johnson, City Clerk
(SEAL)