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June 21, 2016

**Via EMAIL**

Zoning Board of Appeals  
Peninsula Township  
13235 Center Road  
Traverse City, Michigan 49686

**SUBJECT:** Supplement to staff report ZBA interpretation regarding guest activity use section 8.7.3(10)(u)1.(d) and 8.7.3(10)(u)2.

Dear ZBA Members:

The Peninsula Township Zoning Ordinance has rather confusing language related to what constitutes and does not constitute a guest activity use. Subsection 8.7.3(10)(u) allows the township to approve guest activity uses as an additional support use for a winery-chateau. Under (10)(u)2, the ordinance goes on to state, "Uses Allowed Notwithstanding Section 8.7.3 (10) (m); The following Guest Activity Uses may be approved with a Special Use Permit by the Township Board." The list under this subsection clearly shows activities that are allowed with a guest activity permit. What is interesting is that section 8.7.3(10)(u)2, "Uses Allowed," also lists areas that are not considered to be guest activity uses. Specifically, (10)(u)2.(d) states "Guest Activities Uses do not include entertainment, weddings, wedding receptions, family reunions or sale of wine by the glass."

Section 8.7.3(10)(u)1.(d) of the ordinance states that:

Guest Activity Uses do not include wine tasting and such related promotional activities as political rallies, winery tours and free entertainment (Example - "Jazz at Sunset") which are limited to the tasting room and for which no fee or donation of any kind is received.

Given this disclaimer, it is clear that a winery without a guest activity permit would appear to be allowed to provide wine tasting and to have events such as political activities, winery tours and free entertainment so long as it is limited to the tasting room and no money is received for these events. The first issue is received by whom? Is it no money received by the winery? Is it no money received by the person or group putting together the political rally or bringing in a winery tour? Or is it no money to be received either by the winery or any of these groups?

Section 8.7.3(10)(u)1.(e) notes that guest activity uses are "...in addition to accessory uses for registered guests that are otherwise allowed." This gets back to what appears

to be the issue of what is allowed without a guest activity permit under 8.7.3(10) for a winery-chateau. Section (10)(d)2 clearly allows without a guest activity permit,

Sales of wine by the glass in the tasting room is allowed pursuant to the minimum requirements of Michigan Liquor Control Commission rules and related Michigan Department of Agriculture permits regarding the sales of food for on-premises consumption. The Liquor Control Commission and the Michigan Department of Agriculture shall control licenses and compliance.

Therefore, it would appear given those requirements, that sales of wine by the glass in the tasting room is allowed along with sales of food for on-premises consumption. In this case it does not matter whether there is a registered guest consuming this or not. When it comes to registered guests, 8.7.3(10)(m) states that,

Accessory uses such as facilities, meeting rooms, and food and beverages services shall be for registered guests only. These uses shall be located on the same site as the principal use to which they are accessory and are included on the approved Site Plan. Facilities for accessory uses shall not be greater in size or number than those reasonably required for the use of registered guests.

Given that language it is quite apparent that, without a guest activity permit, registered guests are entitled to use the facilities, including facilities outside of the tasting room, for meetings, food and beverage services. Further, registered guests under 8.7.3(10)(r) can engage in outdoor activities without the necessity of having a guest activity use.

Attached are the Michigan Liquor Control Commission minimum requirement rules for the tasting room and Michigan Department of Agriculture permits for the sale of wine by the glass and food for on-premises consumption.

The issues that zoning enforcement have had involve promotions for non-registered guests to pay a fee to come to an event at a winery-chateau that does not have a guest activity permit. It would appear under the language of the ordinance that if no fee is charged, promoted activities which are not limited but are provided by example under section 8.7.3(10)(u)1.(d) are allowed. In addition, in conjunction with the language in the ordinance and the Michigan Liquor Control Commission rules, is there a dividing line regarding charging for providing wine by the glass as well as food required to be served, as opposed to operating a restaurant.

As the board can see, the issue is relatively complex. The best way to handle this would be to list in separate columns what constitutes a guest activity use and what

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constitutes an accessory use otherwise allowed by a winery-chateau. In your analysis you should have language pulled from the zoning ordinance which supports the ZBA's determination. Support can also be provided by the documents from the Michigan Liquor Control Commission and any related Michigan Department of Agriculture permits regarding the sale of wine by the glass and the sale of food for on-premises consumption with the wine.

Sincerely,

*Peter R. Wendling*

Peter R. Wendling

PRW/lab



Michigan Department of Licensing & Regulatory Affairs  
**MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)**  
525 W. Allegan Lansing, MI 48933  
P.O. Box 30005 Lansing, MI 48909

## **Michigan Wine Maker & Small Wine Maker Requirements and General Information**

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A **“Wine Maker”** license is issued by the Michigan Liquor Control Commission to a person located in Michigan to manufacture wine and to sell, at wholesale or retail, wine manufactured by that person.

- MCL 436.1113(9)

A **“Small Wine Maker”** means a Wine Maker that manufactures or bottles not more than 50,000 gallons of wine in 1 calendar year.

- MCL 436.1111(10)

### **A Wine Maker/Small Wine Maker License:**

- May sell wine they manufacture to licensed Michigan wholesalers and to licensed Michigan retailers.
- May offer free or may include a charge for samples to consumers from the winery premises.
- May sell wine they manufacture directly to consumers for off-premises consumption (take-out) from the winery premises.
- May sell wine they manufacture to consumers for on-premises consumption at the winery in conjunction with a restaurant at the winery premises.
- Must obtain a “Wine Producer’s” Basic Permit from Alcohol, Tobacco Tax and Trade Bureau (“TTB”).
- \$100.00 annual license fee for Wine Maker; \$25.00 annual license fee for Small Wine Maker. License renews annually on May 1. License fee may not be prorated for part year licensure and is payable at the time of initial application.

### **How To Apply For A License:**

Please refer to the “Manufacturers & Wholesale License Application Process” information sheet for applicable forms and required documents

All forms are available on our website at: [www.michigan.gov/lcc](http://www.michigan.gov/lcc) → Commission Forms → Manufacturers & Wholesalers.

### **Licensing Requirements:**

#### **Federal Basic Permit**

Receipt of a Federal “Wine Producer and Blenders” Basic Permit issued by the Alcohol and Tobacco Tax and Trade Bureau (“TTB”) is required prior to the issuance of a winery license.

- Administrative rule R 436.1708 (1)

For Federal Basic Permit info contact: Alcohol and Tobacco Tax and Trade Bureau (TTB)  
550 Main St. Room 8002  
Cincinnati, OH 45202  
513-684-3337  
[www.ttb.gov](http://www.ttb.gov)

#### **Bond Application**

Receipt of a Surety Bond (Form MW-816) executed by an insurance company authorized to do business in Michigan in the amount of \$1,000.00 for the first year licensed is required prior to issuance of the license. Each subsequent year of licensure bond amount is based upon an average of excise taxes paid in the last calendar year, with a minimum amount of \$1,000.00. Bond form (MW-816) & instructions can be found on our website. Bond does not need to be submitted until applicant has received notification from our office of approval for their license application by our Commission.

- MCL 436.1801 (1)(a)

### **Proof of Financial Responsibility**

A statutory requirement to provide security for liability of not less than \$50,000 prior to the issuance of the license. May be in the form of cash, unencumbered securities, liquor liability insurance, constant value bond, or membership in a group self-insurance pool authorized by law that provides security for liability under Section 436.803 of the Liquor Control Code. Proof of Financial Responsibility Form LC-95 & instructions can be found on our website. Does not need to be submitted until applicant has received notification from our office of approval for their license application by our Commission.

- MCL 436.1803

### **Server Training Requirement**

A licensee authorized to sell or sample alcoholic beverages for on-premises consumption is required to have present on the licensed premises, at a minimum, supervisory personnel on each shift and during all hours in which alcoholic liquor is served who have successfully completed a server training program approved by the Commission. Server Training forms will be mailed upon Commission approval of the license application.

- MCL 436.1501(1), Administrative rule R 436.1060

### **Food Establishment License**

The Michigan Food Law (Act 92, P.A. of 2000) requires all food establishments, including processing operations such as wineries, breweries and distilleries to obtain a food establishment of one type or another. Contact the Michigan Department of Agriculture & Rural Development ("MDARD") for details on the specific food establishment license required for your operation. The MDARD may be contacted as follows:

MDARD Central Licensing  
P.O. Box 30746  
Lansing, MI 48909  
800-292-3939  
[www.michigan.gov/mdard](http://www.michigan.gov/mdard)

### **General Information:**

#### **Church and School:**

A new application to sell alcoholic beverages at retail (including manufacturers), or a request to transfer location of an existing license, may be denied if the contemplated location is within 500' of a church or school. The Commission may waive the church/school provision if the church or school does not file an objection to the proposed license. If the church or school files an objection, the Commission will hold a hearing before making a decision on the issuance of the license.

- MCL 436.1503

#### **Manufacturing & Labeling**

Wine must be manufactured and labeled in accordance with federal wine regulations published in the Code of Federal Regulations (CFR), Title 27, Part 4 and (CFR), Title 27, Part 24. Contact the TTB for details.

- Administrative rules R 436.1707, R 436.1708

#### **Label Registration**

Wine products must have all labels approved by the Commission prior to the wine being sold in Michigan. The Commission uses an on-line label registration process which requires prior registration with the TTB. Upon licensure, you will be provided with a password and instructions to access the on-line registration site. There is no fee for Michigan label registration.

- Administrative rule R 436.1719

#### **Mandatory Label Information (Pursuant to TTB Regulations):**

- Brand name listed.
- Class, type or, in lieu of, a truthful and adequate statement of composition shall appear on the brand label of the product.
- Name and address of bottler or packer and place (city/state) where bottled. Name must be preceded by "Bottled by" or "Packed by".

- Alcohol content must be listed. By definition, wine may contain ½ of 1% or more alcohol by volume but not more than 21% alcohol by volume. Table wine with alcoholic content of 11%-14% does not have to list the actual alcohol content. Listing "table wine" is adequate.
- Net contents.

For Federal Labeling information contact:

Alcohol and Tobacco Tax and Trade Bureau  
 Alcohol Labeling & Formulation  
 650 Massachusetts Ave., N.W.  
 Washington, DC 20226  
 866-927-2533  
[www.ftb.gov](http://www.ftb.gov)

### **Wine Excise Taxes & Monthly Reports**

Wine excise taxes apply to both wine and mixed wine drink. The Wine Maker or Small Wine Maker shall pay the Michigan wine excise tax or may designate a wholesaler to pay the tax on their behalf for all wine or mixed wine drink manufactured by that Wine Maker and sold in this state. A Wine Maker or Small Wine Maker is required to submit a Michigan Wine Tax Report and Michigan Winery Monthly Report of Sales no later than the 15<sup>th</sup> of each month regardless if a wholesaler has been designated to pay the taxes. If a wholesaler has been designated to pay tax on wholesale shipments to retailers, the Wine Maker or Small Wine Maker must still submit any tax payments for on-site tasting room wine sales.

Sacramental wine sold to churches is exempt from taxes. Sales made by a Wine Maker/Small Wine Maker out-of-state are nontaxable.

- Tax Rates:** 16% or less alcohol by volume = \$.135 (13 ½ cents) per liter.  
 Over 16% - 21% alcohol by volume = \$.20 (20 cents) per liter
- MCL 436.1301, Administrative rule R 436.1725

For further questions relating to wine tax, please contact our Financial Management Division at: (517) 284-6352.

### **Samples To Consumers**

A Wine Maker or Small Wine Maker may offer free or may include a charge for samples to consumers for on-premise tastings at the winery premises. The samples must be of products manufactured and sold under the Wine Maker or Small Wine Maker license.

- MCL 436.1537 (3), MCL 436.2025

### **Sales To Consumers From Winery**

A Wine Maker or Small Wine Maker is authorized to sell wine manufactured by the Wine Maker or Small Wine Maker from the winery premises to consumers for off-premises consumption (take-out sales) with no additional license.

A Wine Maker or Small Wine Maker may also sell wine they manufacture by the glass for consumption on the premises in a restaurant at their winery premises that is owned by the Wine Maker or Small Wine Maker or is leased to another person. Only wine manufactured by the Wine Maker or Small Wine Maker may be sold by the glass in a winery restaurant.

- MCL 436.1111(10), MCL 436.1113(9), MCL 436.1537(2)

### **Direct Shipping/Deliveries to Consumers**

A Direct Shipper license is required for in-state and out-of-state wineries to ship **domestic** wine directly to Michigan consumers. This license does not allow direct shipment of imported wines. License fee is \$100.00 annually (renewable May 1) and allows total annual shipment to Michigan consumers of 13,500 liters (1,500 9-liter cases). Direct Shippers must pay Michigan excise taxes (quarterly) and Michigan sales tax. The age of the person placing the order must be verified by obtaining a copy of a photo identification issued by a state or

the federal government of the person placing the order, or by utilizing an identification service approved by the Commission. You must record and maintain records of the name, address, date of birth and telephone number of the person placing the order on the order form. The Direct Shipper must stamp, print, or label on the outside of the shipping container that the package "Contains Alcohol. Must be delivered to a person 21 years of age or older." A label must be placed on the top panel of the shipping container listing the Direct Shipper license number, order number, the name and address of the individual placing the order, and the name of the designated recipient if different from the name of the individual placing the order. The person delivering the alcohol shall verify the person accepting delivery is of legal age.

- MCL 436.1203, MCL 436.1537(d)

### **Tasting Room Location**

Licensed Wine Makers/Small Wine Makers may apply for a Tasting Room location approval located off the winery licensed premises. The Wine Maker/ Small Wine Maker may offer free or may include a charge for tastings to the consumer and may sell for off premise consumption only, wine made by the Wine Maker/Small Wine Maker. As with other tastings & sales, only wine made by the Wine Maker/Small Wine Maker may be sampled or sold at the Tasting Room location. Under no circumstances may any other alcoholic beverage products other than those produced by the Wine Maker/Small Wine Maker be sampled in the Tasting Room. Wine can not be sold by the glass for consumption at the tasting room premises. Only samples may be provided. An annual license fee of \$100.00 per location shall be paid for the Tasting Room location.

- MCL 436.1537(4)

### **Other Manufacturing licenses**

A Wine Maker/Small Wine Maker may obtain other manufacturing licenses including a Brandy Manufacturer, Micro Brewer/Brewer, Manufacturer of Spirits, Manufacturer of Mixed Spirit Drink or a Small Distiller which allows the manufacture and sale of wine, brandy, mixed spirit drinks or distilled spirits.

- MCL 436.1111(9), MCL 436.1109 (3)(6), MCL 436.1113(9)

### **Permits**

There are additional permits that a Wine Maker or Small Wine Maker may apply for to be held in conjunction with their primary license.

- **Beer and Wine Tasting Permit** - A Wine Maker/Small Wine Maker may obtain a Beer and Wine Tasting Permit which allows beer and wine tastings to be conducted on licensed off-premises accounts that hold a Specially Designated Merchant (SDM) license. There is a one time \$70.00 fee for this permit. Upon issuance of this permit notification of sampling events must be received at least 10 days prior to the event and all employees or licensed agents conducting the sampling event must have successfully completed a server training program approved by the MLCC.
- **Farmer's Market Permit** – permit for a qualified Small Wine Maker who manufactures or bottles not more than 5,000 gallons of wine in one calendar year combining all licensed locations, to conduct free wine tastings and sell, for consumption off the licensed premises, wine produced by that Small Wine Maker at a Farmer's Market.
- **Outdoor Service Permit** - Permit allows the sale and consumption of alcoholic beverage in outdoor patio areas. The area must be under the control of the licensee.
- **Specific Purpose Permit** - Permit required to remain open for business after the legal closing hour of 2:00am, or to be open for business before 7:00am Monday through Saturday, or to open before 12:00 noon on Sunday, for the sale of food.
- **Direct Connection** - Technically this is not a Permit but rather permission from the Commission to maintain a direct connection between licensed premises and nonlicensed premises. This permission will be required if your operations include multiple license holders who maintain inside connections to either nonlicensed premises or licensed premises under the control of another licensee.
- **Living Quarters Permit** - Permit required when living quarters are directly connected to the licensed premises.
- **Dance Permit** - Permit required for dancing by customers on the licensed premises. Dance floor must be clearly marked, void of tables and chairs when in use and a minimum of 100 square feet in dimension. Permit allows for dancing during the legal hours for the sale of alcoholic liquor only.

- **Entertainment Permit** - Permit required for monologues, dialogues, motion pictures, still slides, closed circuit television, contests, or other performances for public viewing on the licensed premises. An Entertainment Permit does not allow topless entertainment. Permit allows for entertainment only during the legal hours for the sale of alcoholic liquor. You do not need an Entertainment Permit for live bands, the playing of an orchestra, piano, or other types of musical instruments, singing or the viewing of any publicly broadcast television of a federally licensed station.
- **Sunday Sales AM** – Permit required for the sale of wine from 7:00 a.m.-12:00 noon, unless prohibited in the county and local governmental unit where the licensed establishment is located. \$160.00 fee.

#### **Sales To Wholesalers and Territory Agreements**

A Wine Maker or Small Wine Maker may sell their products to licensed Michigan wholesalers who in turn may resell the wine to licensed Michigan retailers. A Wine Maker or Small Wine Maker must grant each of their wholesalers a written agreement specifying the brand or brands to be distributed and the territory where sales are granted. Wholesalers are prohibited from selling alcoholic beverages outside of their assigned sales territories. Beginning June 1, 2010, Michigan statute prohibits a manufacturer from assigning the right to sell a specific brand or brands of wine to more than one wine wholesaler in the same sales territory. However, a manufacturer may continue an agreement that was in effect on June 1, 2010, which assigned the distribution rights to more than one wine wholesaler for a specified brand of wine in the same sales territory. All sales to wholesalers must be for cash only. Quantity discounts to wholesalers are legal as long as the discount is nondiscriminatory.

- MCL 436.1305, MCL 436.1307

#### **Sales To Retailers**

A Wine Maker or Small Wine Maker is authorized to sell their wines to licensed retailers. A Wine Maker or Small Wine Maker selling their wines to retailers must file with the Commission in Lansing, before January 1, April 1, July 1, and October 1 of each year, a schedule of the net cash prices to retail licensees. The net cash price shall not be changed during the quarter without first notifying the Commission in writing of the price changes. "Post offs" (price reductions) shall **not** be granted for periods of less than 14 consecutive calendar days in duration. Quantity discounts to retailers are prohibited. All sales to retailers must be for cash only.

- MCL 436.1111(10), MCL 436.1113(9), Administrative rule R 436.1726

#### **Interest In Another License**

Michigan statute strictly prohibits a Wine Maker/Small Wine Maker from holding any interest, directly or indirectly, in a **wholesale or retail license**. Examples of prohibited interests include: stock ownership, leasing real estate to/from a wholesale or retail licensee; interlocking officers or directors between licensees; financial interest such as a moneylender with a wholesale or retail licensee. A Michigan manufacturer **may** hold interest in another licensed supplier under MCL 436.1603. The Commission may also approve a Wine Maker or Small Wine Maker participating with 1 or more Wine Makers or Small Wine Makers in an alternating proprietor operation subject to the written approval of the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau, in accordance with 27 CFR part 25, subpart F, section 25.52.

- MCL 436.1603(8)(13)

#### **Rebates, Special Purchase Allowances, & Quantity Discounts**

A Wine Maker or Small Wine Maker is prohibited from rebating any money to wholesalers. A special purchase allowance may be offered to wholesalers as long as the allowance is offered to all wholesalers and is based on the wholesaler purchases at the time of the allowance and not based on past sales. A Wine Maker or Small Wine Maker may offer quantity discounts to their wholesalers but may not offer free merchandise to their wholesalers.

- MCL 436.1609

#### **Bulk Wine Used For Blending**

A Wine Maker or Small Wine Maker may purchase bulk wine to be used for blending purposes from a licensed Outstate Seller of Wine. A shipment of bulk wine to a Wine Maker or Small Wine Maker must be accompanied by a "Release of Alcohol or Alcoholic Beverages for Commercial Use" (LC/MW-350) approved by the Commission.

- Administrative rule R 436.1721

### **Salesperson License**

Any person employed by a Wine Maker or Small Wine Maker to sell, deliver, promote, or otherwise assist in the sale of alcoholic liquor in this state is required to hold a Salesperson license issued by the Commission. Office staff and winery personnel who work exclusively at the winery premises and have no personal contact with retailers or consumers off the winery premises do not need a Salesperson license. Salesperson's must be 18 years of age or older. Salesperson licenses are \$35.00 for three-year licensing period. Licensed salespersons are prohibited from being employed by a retail licensee on a paid or any other basis. Licensed truck drivers or delivery persons are prohibited from consuming alcoholic beverages while on duty.

- Administrative rule R 436.1853

### **Aid and Assistance**

MCL 436.1609, and Rule 436.1035 prohibit alcoholic beverage manufacturers, suppliers, wholesalers or warehousemen from aiding or assisting any other licensee by giving them anything of value. Further, a licensee is prohibited from accepting aid and assistance from another industry member. Alcoholic beverage suppliers are prohibited from giving anything of value to their wholesalers or retailers. Likewise, alcoholic beverage wholesalers are prohibited from giving anything of value to their retailers. This principle is the cornerstone of Michigan's trade practices regulatory structure. It is designed to provide a level playing field for all industry members. Suppliers, wholesalers and warehousemen are prohibited from giving anything of value to retail licensees, including but not limited to: alcoholic beverages, merchandise, furniture, fixtures, equipment, uniforms, cash or loans, labor, etc.

This same principle prohibits suppliers and wholesalers from providing free advertising, incentive programs, free or discounted product, draft system installation and maintenance, etc. Violations in the aid and assistance statute will result in all participants (retailer, wholesaler and supplier) being cited before the Commission.

Section 609 (3) of the Code, includes exceptions to the prohibition of items and services that a licensed supplier, wholesaler, or warehouseman may provide to any other vendor. Some of these exceptions include allowing suppliers, wholesalers, and warehousemen to provide advertising items that have no use or value beyond actual brand and price advertising, including, but not limited to: mirrors, napkin holders, and table tents to licensees. Further, Section 609 (5) allows retailers to possess and use beer and wine brand logoed barware, including, but not limited to: glassware, coasters, and napkins if they have been purchased from a third party barware retailer and also allows retailers to possess and use spirit brand logoed barware, such as: glassware, coasters, and napkins if purchased from a manufacturer of spirits, vendor of spirits, a licensed salesperson, or broker, or a third party barware retailer.

- MCL 436.1609, Administrative rule R 436.1035

### **Record Retention**

All licensees are required to maintain all sales, purchase and salesperson expense records for a minimum of four (4) years. Records may be maintained electronically or otherwise as long as a hard copy of the record can be created upon demand.

- Administrative rules R 436.1007, R 436.1641, R 436.1865

### **Sales For Cash Only**

The Liquor Control Code requires the sale and purchase of all alcoholic beverages to be for cash only, at the time of delivery to wholesalers or retailers. Consumers may use bona-fide credit cards to pay for purchases from the winery.

- MCL 436.2013

### **Inspection of Premises and Books & Records**

A licensee must make the licensed premises available for inspection and search by a Commission Investigator or any law enforcement officer empowered to enforce the Commission's rules and code during regular business hours or when the premises is occupied. The Commission or its duly authorized agent may examine the books, records or papers of a licensee.

- MCL 436.1217, Administrative rule R 436.1645 & R 436.1728

### **Samples**

Wine Makers and Small Wine Makers are allowed to sample their products with on-premises or off-premises retail licensees and the retailer's employees. Sample tastings may not be offered to consumers by the wine maker at a licensed on-premises or off-premises account. All containers used to sample products with retailers must be marked with the word "Sample" in lettering at least ½-inch high. While Wine Makers and Small Wine Makers may offer tasting samples to retailers from multiple beverages, only one (1) sample container of 750 ml size or smaller may be left with a retail licensee for sampling by the retailer and their staff. A sample container must be removed from the premises within 24 hours and again may not be sampled by consumers.

- Administrative rules R 436.1001, R 436.1421, R 436.1511, R 436.1513, R 436.1863

### **Purchasing Drinks For Consumers**

A licensed Salesperson of a manufacturer of wine, for promotional purposes, may purchase one (1) drink for each customer of an on-premises retail licensee only. The drink shall be purchased from the on-premises licensee and shall be of a brand represented by the salesperson.

- Administrative rule R 436.1865

### **Advertising and Promotions**

Inside advertising signs must be unilluminated and no more than 3,500 square inches in dimension. Alcoholic beverage advertising provided by suppliers and wholesalers to retailers shall not have any use or value beyond the actual advertising of brands and prices of the alcoholic liquor, other than the exceptions provided in MCL 436.1609(2)(30(4)).

- Administrative rules R 436.1305 – R 436.1331 MCL 436.1609

### **Compliance with Laws, Zoning & Ordinances**

A Wine Maker or Small Wine Maker must comply with all state and local building, plumbing, zoning, sanitation, and health laws, rules and ordinances.

- Administrative rules R 436.1003, R 436.1105(3), R 436.1702

### **How to Contact the Michigan Liquor Control Commission**

Questions relating to Wine Maker/Small Wine Maker licenses and other non-retail licenses may be directed to:

Michigan Liquor Control Commission  
Manufacturers & Wholesalers Section  
P.O. Box 30005  
Lansing, MI 48909  
Toll free 866-813-0011 Fax 517-763-0060  
E-mail: [MLCCMWapplications@michigan.gov](mailto:MLCCMWapplications@michigan.gov) Website: [www.michigan.gov/lcc](http://www.michigan.gov/lcc)



MDARD / LICENSING, CERTIFICATION & REGISTRATION / FOOD INDUSTRIES  
/ FOOD ESTABLISHMENT LICENSING GENERAL INFORMATION

## Food Establishment Licensing Details & FAQ

**Expires:** All licenses, except temporary, expire on April 30, and must be renewed at least 30 days prior to that date.

**Fee:** Fees vary. See fee schedule, below, for more information.

**Contact:** Rick Dethlefsen 517-284-5771

### 1. What categories of food establishments are licensed by the Michigan Department of Agriculture & Rural Development (MDARD)?

- Retail grocery store, convenience store, party store
- Bakery, fish market, butcher shop, candy store, produce market
- Food warehouse, distribution center, transfer station, public cold storage facility
- Large or small food processing plant including:
  - Ice, water, juice or soft drink plant
  - Winery, brewery, or distillery
  - Egg grading & packing plant
  - Fruit & vegetable repacking operation, or brining station
  - Flour mill or cereal plant
  - Cider mill, maple syrup or honey house
  - Food salvage or reclamation center
- State or county fair concession

### 2. What laws and regulations should I be familiar with prior to requesting a license?

- Michigan Food Law of 2000
- Michigan Modified Federal Food Code
- Consumer Pricing and Advertising Regulation
- Weights and Measures Act
- Weights, Measures, Packaging and Labeling Regulation

In addition, one or more of the following regulations may be applicable to your specific establishment plan:

- Manufacturing, Packing or Holding Human Food
- Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers

- Acidified Foods
- Fish and Fishery Products
- Processing and Bottling of Bottled Drinking Water
- Michigan Smoked Fish Regulation

### 3. Do I need a plan review?

New establishments should contact the Michigan Department of Agriculture & Rural Development Lansing office at 800-292-3939 to speak with a plan review specialist. The plan review specialist can provide a Plan Review Worksheet and Plan Review Application. Review the plan submission instructions and manual. When plans have been reviewed and approved, and construction is complete, contact the MDARD Lansing office to set up a final inspection. A Food Establishment Licensing Application should be submitted at least 30 days prior to opening.

### 4. Are there any exemptions in terms of needing a food establishment license in order to conduct business?

The following firms do not require a food establishment license but are still subject to inspection by MDARD agencies. It's a good idea to call MDARD and verify if you think you are exempt from a food establishment license.

- Produce stands selling only whole, uncut, fresh fruits and vegetables
- Bake sales or potlucks run by a charitable, religious, fraternal or other non-profit organization and serving only home-prepared foods
- Non-profit cooperatives
- Retail honey and maple syrup outlets (for honey and maple syrup sold by a licensed producer)
- Vending machines dispensing only packaged soft drinks or candy
- Fishing guide service serving lunch to 12 clients or less
- Temporary establishments with no food preparation using single-service articles and serving only non-potentially hazardous food or beverage Examples include beer tents, soft drink stands, or snack bars at school sporting events
- A temporary, satellite, serving location of a licensed food service establishment where no food is prepared, and food is served by the employees
- Retail businesses selling only pre-packaged, non-potentially hazardous foods in incidental amounts
- Some firms licensed under other, specific dairy or agricultural acts
- Certain bed and breakfast operations

### 5. When do Licenses expire?

- All licenses (except temporaries) expire on April 30 each year and must be renewed 30 calendar days before they expire.
- New license applications must be submitted 30 days in advance. This includes a change of ownership.
- Late fees will be assessed if a license renewal is postmarked May 1 or later. New firms must also pay late fees if its operations begin prior to submitting an application. Late fees are \$150.
- Temporary food establishments are only allowed to operate for a period up to 14 consecutive days and are issued a temporary license for a specified, limited time period.

## 6. What are the costs for the various licenses?

### A.1 Retail Food Establishment License Fee: \$109

An operation that sells or offers to sell food directly to a consumer. Examples include a grocery store, convenience store, party store, retail bakery, fish market, butcher shop, candy store, and produce market. Note: If the business has both food service and seating for the food service, go to B.1.

### A.2 Limited Wholesale Food Processor License Fee \$109

A wholesale food processor (see B.2) that has \$25,000 or less in annual gross wholesale sales made or business done in wholesale sales in the preceding licensing year, or \$25,000 or less of the food is reasonably anticipated to be sold for the current licensing year. Only the food sales from the wholesale food processor operation are used in computing the annual gross sales. Examples may include a small maple syrup operation, a small apple cider mill, a small honey processor, and a small poultry or rabbit slaughterer.

### A.3 Food Warehouse License Fee \$109

A food establishment that stores or distributes prepackaged food. This may include a small or large food warehouse, distribution center, transfer station, public cold storage facility, or reclamation center.

### B.1 Extended Retail Food Establishment License Fee \$274

A retail food store that does both of the following:

- Serves or provides an unpackaged food for immediate consumption.
- Provides customer seating in the food service area.

### B.2 Wholesale Food Processor License Fee \$274

An operation that processes, manufactures, packages, or labels food for wholesaling. Examples include an ice manufacturer; wholesale bakery or bread plant; winery; brewery; water, juice, soft drink, or beverage plant; canning plant; flour mill, cereal plant; specialty foods processor; wholesale fish or seafood processor, wholesale fish smoking operation, fruit & vegetable packer, egg grading plant.

### B.3 Mobile Food Establishment License Fee \$186

Operating (grocery sales) from a vehicle or watercraft and returning to a commissary for servicing at least every 24 hours. An example may include door to door frozen food sales from a truck. Note: the commissary must obtain a Mobile Food Establishment Commissary License.

**B.4 Mobile Food Establishment License Fee \$186  
Commissary**

An operation that services a mobile food establishment.

**C.1 Temporary Food Establishment License Fee \$43**

A food establishment which operates at a fixed location for a temporary period not to exceed 14 consecutive days.

Example: concession stands at state or county fairs.

**D.1 Special Transitory Food Unit License Fee \$153**

"Special Transitory Food Unit" means a temporary food establishment that is licensed to operate throughout the state without the 14-day limits, or a mobile food establishment that is not required to return to a commissary. If the first operating location is a state or county fair, contact MDARD; otherwise, contact the local health department for that location. Additional fees associated with Special Transitory Food Units includes a \$197 initial plan review fee as well as a \$90 a year inspection fee.

Find locally offered Food Service Licenses here.

**7. What is needed if there is a change of ownership?**

Food establishment licenses are not transferable to new owners or new locations. When the ownership of a food establishment will be changing hands, the new owner must apply for a new license. It is important to know that a new license will not be issued until an inspection takes place and a plan review has been conducted, if applicable. Applications must be made at least 30 days in advance of any change to allow time for inspection and processing. Often questions arise asking what constitutes an ownership change. Here are some examples to assist you in determining if an ownership change has occurred.

Corporation name change only	No
Same corporation but change in corporate officers	No
New partner in a partnership	Yes
New owner	Yes
Change in type of ownership (from one to another type; individual, partnership, joint tenant, or corporation)	Yes

Find more information on Food Establishment Licensing here.

[Michigan.gov Home](#) [MDARD Home](#) [State Web Sites](#) [Office of Regulatory Reinvention](#) [FOIA](#) [Transparency](#)  
[Policies](#) [Michigan News](#) [ADA](#)

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Sign-Yard/Garage Sale/Personal Event: A temporary sign which is placed on the premises of a yard sale, garage sale or events such as family reunions or weddings.

Site, Area: (includes the terms: Site, Site Area, Lot, Parcel Size and Parcel Area) - the total area within the property lines excluding road and street right-of-ways except as follows: Site Area, Parcel Area, and Parcel Size shall include road or street rights-of-way, provided both of the following are documented:

- a. The property legal description includes such right-of-way; and
- b. The property is being developed as a Planned Unit Development. **(REVISED BY AMENDMENT 158)**

Story, Height of: The vertical distance from the top surface of one floor to the top surface of the next above. The height of the top-most story is the distance from the top surface of the floor to the top surface of the ceiling joists.

Street: Provides direct access to individual abutting properties.

Street Line: The legal line of demarcation between a street and abutting land.

Structure: A structure is any production or piece of material artificially built up or composed of parts joined together in some definite manner; any construction, including dwellings, garages, building, mobile homes, signs and sign boards, towers, poles, antennae, landfill, sea walls, weirs, jetties, swimming pools, stand pipes; fences over four feet in height above final grade and earth sheltering for earth-sheltered structures or other like objects, but not including: (a) a temporary fence; (b) agricultural fences that are used for general farming and horticultural uses, field crop and fruit farming, raising and keeping of small animals, and raising and keeping of livestock; (c) access steps required to negotiate changes in site elevation; (d) landscape mounds; and (e) sidewalks, drives, and paved areas which do not protrude above the finished site grade. **(REVISED BY AMENDMENT 152)**

Tasting Room: A room in conjunction with a licensed winery premises, including a remote wine tasting room, where the following takes place; a) tasting of fresh and/or processed agricultural produce such as wine, fruit wines, and non-alcoholic fruit juices; b) retail sales of winery products by the bottle for off-premises consumption; and c) sales of wine by the glass for on-premises consumption. **(ADDED BY AMENDMENT NO 139A)(REVISED BY AMENDMENT NO 181)**

Township Board: Peninsula Township Board.

Trailer Coach: Mobile Home as defined herein.

Use: The purpose for which land or a building is arranged, designed, or intended, or for which land or a building may be occupied.

Wall: A structure, including gates when closed which has openings of fifty (50%) percent or less of each one square yard of surface area.

WECS: Shall be the approved form of abbreviation of "wind energy conversion system".

WECS shall mean a combination of:

- (1) A surface area, either variable or fixed, for utilizing the wind for electrical powers; and
- (2) A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and
- (3) The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
- (4) The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

Tower Height:

1. Horizontal Axis Wind Turbine Rotors: The distance between the ground and the highest point of the WECS, as measured from the ground, plus the length by which the rotor blade on a horizontally mounted WECS exceeds the structure which supports the rotor and blades;
2. Vertical Axis Wind Turbine: The distance between the ground and the highest point of the WECS.

Survival Wind Speed: The maximum wind speed, as designated by the WECS manufacturer, at which a WECS, in unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.

Interconnected WECS: A WECS which is electrically connected to the local electrical power utility system and could feed power back into the local electrical power utility system.

Wine: Means the product made by the normal alcoholic fermentation of the juice of sound, ripe grapes, or any other fruit with the usual cellar treatment, and containing not more than 21% of alcohol by volume, including fermented fruit juices other than grapes and mixed wine drinks.

Winery-Chateau: A state licensed facility whereat (1) commercial fruit production is maintained, juice is processed into wine, stored in bulk, packaged, and sold at retail or wholesale to the public with or without the use of a wine tasting facility and (2) a limited number of guest rooms with meals are offered to the public.

Winery: A state licensed facility where agricultural fruit production is maintained, juice is processed into wine, stored in bulk, packaged, and sold at retail or wholesale to the public with or without the use of a wine tasting facility. The site and buildings are used principally for the production of wine.**(ADDED BY AMENDMENT NO 139A)(REVISED BY AMENDMENT 181)**

- (k) **Interconnected WECS:** In the case of WECS to be interconnected with the power grid of the local electric utility, the applicant shall provide proof of written notice to the utility of the proposed interconnection and the utility's response thereto. The resident shall comply with all requirements of the servicing utility if the WECS is interfaced with the utility grid. The utility will install appropriate electric metering (for sellback or non-sellback) and the customer will be required to install a disconnecting device adjacent to the electric meter(s).
  - (l) **Vibration:** Under no circumstances shall a WECS produce vibrations humanly perceptible beyond the lot boundaries.
- (9) **Adult Foster Care Facilities within the Agricultural District**
- (a) Such uses shall be duly licensed by the State Department of Social Services.
  - (b) A maximum of ten (10) adults may receive foster care at any one time.
  - (c) The minimum lot size shall be five (5) acres.
  - (d) Such facilities shall be allowed only in areas which are and will remain free from concentrations of objectionable airborne chemical sprays and similar materials utilized by agricultural operations within close proximity.
  - (e) Such facilities shall be located where adult foster residents will be safe from traffic and other hazards.
- (10) **Winery-Chateau**
- (a) It is the intent of this section to permit construction and use of a winery, guest rooms, and single family residences as a part of a single site subject to the provisions of this ordinance. The developed site must maintain the agricultural environment, be harmonious with the character of the surrounding land and uses, and shall not create undue traffic congestion, noise, or other conflict with the surrounding properties.
  - (b) The use shall be subject to all requirements of Article VIII, Section 8.5, Food Processing Plants in A-1 Districts and the contents of this subsection. Data specified in Section 8.5.2, Required Information, shall be submitted as a basis for judging the suitability of the proposed plan. Each of the principal uses shall be subject to the terms and conditions of this ordinance except as specifically set forth herein.
  - (c) The minimum site shall be fifty (50) acres which shall be planned and developed as an integrated whole. All of the principal and accessory uses shall be set forth on the approved site plan.
  - (d) The principal use permitted upon the site shall be a winery. Guest rooms, manager's residence, and single family residences shall be allowed as support uses on the same property as the winery.

1. In addition to the principal and support uses, accessory uses for each such use shall be permitted provided, that all such accessory uses shall be no greater in extent than those reasonably necessary to serve the principal use.
  2. Sales of wine by the glass in the tasting room is allowed pursuant to the minimum requirements of the Michigan Liquor Control Commission rules and related Michigan Department of Agriculture permits regarding the sales of food for on-premises consumption. The Liquor Control Commission and the Michigan Department of Agriculture shall control licenses and compliance. **(REVISED BY AMENDMENT 181)**
- (e) For purposes of computation, the principal and each support use identified in sub-section (d) above shall be assigned an "area equivalent" as set forth herein. The total "area equivalent" assigned to the principal uses shall not exceed the actual area of the site.
- (f) "Area equivalents" shall be calculated as follows:
- |                           |   |
|---------------------------|---|
| Winery:                   | five (5) acres or the actual area to be occupied by the winery including parking, whichever is greater; |
| Manager's Residence:      | five (5) acres;   |
| Single Family Residences: | five (5) acres;   |
| Guest Rooms:              | five (5) acres for each 3 rooms, not to exceed a total of twelve (12) guest rooms.                      |
- (g) The number of single family residences shall not exceed six (6). The manager's residence shall not contain or be used for rental guest rooms. The number of guest rooms shall not exceed twelve (12).
- (h) Not less than seventy-five (75%) percent of the site shall be used for the active production of crops that can be used for wine production, such as fruit growing on vines or trees.
- (i) The facility shall have at least two hundred (200) feet of frontage on a state or county road.
- (j) The winery-chateau shall be the principal building on the site and shall have an on-site resident manager.
- (k) All guest rooms shall have floor areas greater than two hundred fifty (250) square feet. Maximum occupancy shall be limited to five (5) persons per unit. No time sharing shall be permitted.
- (l) All lighting shall conform to the requirements of Section 7.14. **(REVISED BY AMENDMENT 175B)**

- (m) Accessory uses such as facilities, meeting rooms, and food and beverage services shall be for registered guests only. These uses shall be located on the same site as the principal use to which they are accessory and are included on the approved Site Plan. Facilities for accessory uses shall not be greater in size or number than those reasonably required for the use of registered guests.
- (n) Well and septic system: Proof of evaluation of the well and septic system by the Health Department and conformance to that agency's requirements shall be supplied by the owner.
- (o) Fire safety:
  1. All transient lodging facilities shall conform to the Michigan State Construction Code section regulating fire safety.
  2. An on-site water supply shall be available and meet the uniform published standards of the Peninsula Township Fire Department.
  3. A floor plan drawn to an architectural scale of not less than  $1/8" = 1$  foot shall be on file with the Fire Department.
  4. Each operator of a transient lodging facility shall keep a guest registry which shall be available for inspection by the Zoning Administrator and police and fire officials at any time.
  5. Master keys for all rooms shall be available at all times.
- (p) Fencing or Planting Buffer: In the event that the Township Board determines that noise generation may be disturbing to neighbors or that the establishment is in an area where trespass onto adjacent properties is likely to occur, then the Township Board may require that fencing or a planting buffer be constructed and maintained.
- (q) Rental of Recreation Equipment: Rental of snowmobiles, ATVs or similar vehicles, boats and other marine equipment in conjunction with the operation of the establishment shall be prohibited.
- (r) Activities and Outdoor Gatherings: Activities made available to registered guests shall be on the site used for the facility or on lands under the direct control of the operator either by ownership or lease. Outdoor activities shall be permitted if conducted at such hours and in such manner as to not be disruptive to neighboring properties.
- (s) Signs as allowed by Section 7.11.
- (t) A two hundred (200) foot setback shall be maintained between guest accommodations and facilities and agricultural crops, unless it is demonstrated that a lesser setback can be maintained which will provide for an equal level of protection from agricultural activities to residents, visitors and guests of the winery-chateau. Upon such demonstration, the Township Board may permit a lesser setback.
- (u) Guest Activity Uses. The Township Board may approve Guest Activity Uses (Activities by persons who may or may not be registered guests) as

an additional Support Use, subject to the following: **(ADDED BY AMENDMENT 141)**

1. Intent

- (a) The current Winery-Chateau section of the ordinance requires 75% of the site to be used for the active production of crops that can be used for wine production such as fruit growing on vines or trees, but does not require that any of the wine produced on the site be made from wine fruit grown on Old Mission Peninsula. To assure that, in addition to the minimum parcel size required for a Winery-Chateau, there is additional farm land in wine fruit production in Peninsula Township if Guest Activity Uses are allowed to take place at a Winery-Chateau facility.
- (b) Guest Activity Uses are intended to help in the promotion of Peninsula agriculture by: a) identifying "Peninsula Produced" food or beverage for consumption by the attendees; b) providing "Peninsula Agriculture" promotional brochures, maps and awards; and/or c) including tours through the winery and/or other Peninsula agriculture locations.
- (c) Guest Activity Uses are limited to (2) below.
- (d) Guest Activity Uses do not include wine tasting and such related promotional activities as political rallies, winery tours and free entertainment (Example - "Jazz at Sunset") which are limited to the tasting room and for which no fee or donation of any kind is received.
- (e) Guest Activity Uses are in addition to accessory uses for registered guests that are otherwise allowed.
- (f) Overnight stays at the Winery-Chateau are not required for these Guest Activity Uses.
- (g) Fees may be charged for these Guest Activity Uses.

2. Uses Allowed Notwithstanding Section 8.7.3 (10) (m); The following Guest Activity Uses may be approved with a Special Use Permit by the Township Board:

- (a) Wine and food seminars and cooking classes that are scheduled at least thirty days in advance with notice provided to the Zoning Administrator. Attendees may consume food prepared in the class.
- (b) Meetings of 501- (C)(3) non-profit groups within Grand Traverse County. These activities are not intended to be or

resemble a bar or restaurant use and therefore full course meals are not allowed, however light lunch or buffet may be served.

- (c) Meetings of Agricultural Related Groups that have a direct relationship to agricultural production, provided that:
  - i. The meetings are scheduled at least one month in advance with the Zoning Administrator given adequate advance notice of the scheduling so that the Zoning Administrator can give prior approval;
  - ii. The Zoning Administrator shall use the following types of Agricultural Related Groups as a guide for determining "direct relationship to agricultural production";
    - (a) Food/wine educational demonstrations;
    - (b) Cooking show showcasing Peninsula produce and wine;
    - (c) Farmer's conferences;
    - (d) Regional farm producers;
    - (e) Cherry Marketing Institute and Wine Industry Conference
    - (f) Farm Bureau Conference
    - (g) Future Farmers of America and 4-H;
    - (h) Michigan State University/agricultural industry seminars.
  - iii. These meetings may include full course meals to demonstrate connections between wine and other foods.
  - iv. An appeal of the Zoning Administrators determination can be made to the Township Board.
- (d) Guest Activity Uses do not include entertainment, weddings, wedding receptions, family reunions or sale of wine by the glass.
- (e) No food service other than as allowed above or as allowed for wine tasting may be provided by the Winery-Chateau. If wine is served, it shall only be served with food and shall be limited to Old Mission Peninsula appellation wine produced at the Winery, except as allowed by Section 6. below.

- 3. Relation to Agricultural Production in Peninsula Township. In order to offer Guest Activity Uses, the owner of the Winery-Chateau shall, in addition to the agricultural production on the minimum acreage required for the Winery-Chateau, grow in Peninsula Township or purchase grapes grown in Peninsula Township for the previous growing season equal to 1.25 tons of grapes for each

person allowed to participate in Guest Activity Uses up to the maximum number approved by the Township Board in a Special Use Permit. If the amount of grapes cannot be documented by the Zoning Administrator, the numbers of persons allowed to participate in Guest Activity Uses shall be reduced proportionally.

4. The number of persons allowed to participate in Guest Activity Uses shall be determined as follows:
  - (a) The Township Board as part of the Special Use Permit approval process shall determine the room(s) provided and a maximum number of attendees for Guest Activity Uses.
    - i. The maximum number of attendees shall not exceed one attendee for each fifteen (15) square feet of the room or rooms provided for Guest Activity Uses. These rooms shall exclude guest rooms, rest rooms, hallways, stairways, entries, spaces used in the normal operation of wine making and storage, out of doors areas and any other spaces not usual for guest assembly. In no case will the number exceed one hundred-eleven (111) or the Fire Marshall maximum occupancy, whichever is less.
    - ii. The maximum number of attendees may be less than, but not more than, the maximum number described in (i) above at the discretion of the Township Board based on possible adverse impacts on adjacent properties, lack of parking spaces or other site specific conditions.
    - iii. A building floor plan showing spaces for all approved uses including the maximum capacity of each shall be attached to the site plan.
5. Requirements for Guest Activity Uses
  - (a) All Guest Activity Uses shall include Agricultural Production Promotion as part of the activity as follows:
    - i. Identify "Peninsula Produced" food or beverage that is consumed by the attendees;
    - ii. Provide "Peninsula Agriculture" promotional materials;
    - iii. Include tours through the winery and/or other Peninsula agricultural locations.
  - (b) Hours of operation for Guest Activity Uses shall be as determined by the Town Board, but no later than 9:30 PM daily.
  - (c) No alcoholic beverages, except those produced on the site, are allowed with Guest Activity Uses.

- (d) Sales of wine by the glass or sales of bottles of wine for ON PREMISES consumption are NOT ALLOWED except as provided in Section 2 (e) above.
  - (e) No outdoor food, beverages or temporary structures are allowed except as allowed by 8 (c) below.
  - (f) No sounds related to the guest activity shall be discernable at the property lines.
  - (g) No amplified instrumental music is allowed, however amplified voice and recorded background music is allowed, provided the amplification level is no greater than normal conversation at the edge of the area designated within the building for guest purposes.
  - (h) No outdoor displays of merchandise, equipment or signs are allowed.
  - (i) Kitchen facilities may be used for on-site food service related to Guest Activity Uses but not for off site catering.
  - (j) No lighting, except the minimum required for safety and sign lighting as allowed by the ordinance.
  - (k) The Township Board may consider seasonal weighting of the frequency and/or a maximum number of Guest Activity Uses during the year.
6. If crop conditions or natural disaster result in a shortage of locally-grown fruit for a particular year; the Township Board may reduce the requirement for the amount of grapes for that particular year, provided that verification of such conditions are presented to the Township Board by a public organization representing the fruit growers of northwest Michigan that is duly recognized by the Township Board.
7. Documentation The owner of the Winery-Chateau shall provide data and records on an annual basis to the Zoning Administrator showing that:
- (a) In addition to the agricultural production on the minimum acreage required for the Winery-Chateau, the winery has grown grapes in Peninsula Township or purchased grapes grown in Peninsula Township equal to 1.25 tons of grapes for each person allowed to participate in Guest Activity Uses.

- (b) That all the grapes from (a) above plus the production on the minimum acreage required for the Winery-Chateau have been processed in the winery.

8. Additional Conditions

- (a) Special Use Permits approved under this section may list any number of restrictions or requirements approved by the Township Board such as additional set back requirements, days of the week restrictions, number of guest activity days per year or other requirements deemed beneficial to the township or its residents.
- (b) Nothing in this section shall prohibit the Township Board from approving a larger special community event such as Blessing of the Blossoms, harvest days or other community event for which no fee is charged the participants, except as specifically approved by the Township Board and is open to the public.
- (c) No temporary structures including tents or canopies are allowed except that the Township Board may approve the reasonable use of temporary structures tents or canopies in conjunction with community events approved in (b) above.
- (d) Any violation of the Special Use Permit issued for this use shall, in addition to the provisions of Section 4.2.1 Violations and Penalties, serve as grounds for closing the Guest Activity Uses use by the Township Board. In the event any such alleged violation is made in writing to the Township Board, the Township shall give written notice of such alleged violation to the Applicant at the last address furnished to the Township by the Applicant. The notice shall state that unless the violation is corrected or resolved to the satisfaction of the Township Board within 30 days from the date of the notice, the Township Board shall require the Owner to close all Guest Activity Uses on the premises, after hearing, until such time as the Township Board removes the restriction. In the event a hearing becomes necessary, the Township Board shall establish the notice requirements and such other conditions with respect to the hearing as the Township Board shall deem appropriate.

- (11) Wireless Telecommunication Antenna Towers over 40 feet in height shall be subject to the Provisions of Section 8.1 in addition to the following standards:
  - (a) All tower, structure locations and design approvals for towers in excess of forty (40) feet shall require a Special Use Permit subject to the provisions of Section 8.1 of this Ordinance and this section.