

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

www.peninsulatownship.com

Citizens' Agricultural Advisory Committee

Study Session

March 24, 2022, 10:00 a.m.

Township Hall

No Minutes Will Be Taken

This meeting will not be streamed on YouTube

1. **Call to Order**
2. **Correspondence**
 1. None
3. **Business:**
 1. (10:00 to 11:00 a.m.) Winery Lawsuit Update and Request for Information (Greg Meihn)
 2. (11:00 a.m. to 12:30 p.m.) Right to Farm GAAMPS Presentation and Discussion (Ryan Coffey Hoag)
4. **Brief Citizen Comments (for agenda items only)**
5. **Adjournment**

The next meeting is scheduled for Thursday, April 14, 2022 at 10:00 a.m.

**Jenn Cram,
Director of Planning**

Posted: March 22, 2022, 11:30 a.m.

Business

Winery Lawsuit Update & Request for Information

Jenn Cram

From: Rebecca Chown <clerk@peninsulatownship.com>
Sent: Monday, March 21, 2022 2:42 PM
To: Brit Eaton; Dave Edmondson; Elise Holman; Erin Gartland; Grant Parsons; Isaiah Wunsch; Jennifer Venegoni; John Jacobs; John Wunsch; Julie Alexander; Lew Seibold; planner@peninsulatownship.com; Rebecca Chown
Cc: Gregory M. Meihn
Subject: FW: WOMP v Peninsula Township

Good afternoon,

Please see the email below from Greg Meihn. He plans to attend the citizens' ag advisory committee Thursday morning and looks forward to your input. Jenn, can we put this matter on the agenda, please? I know we will need to be extremely efficient.

Thank you all,

Becky

Rebecca Chown

Peninsula Township Clerk

13235 Center Road

Traverse City MI 49686

phone: 231-223-7321

fax: 231-223-7117

clerk@peninsulatownship.com

Office Hours: Mondays 7:30 a.m. to 6:30 p.m., Tuesdays–Thursdays 7:30 a.m. to 5:00 p.m., and closed Fridays–Sundays and holidays

From: Gregory Meihn [mailto:gmeihn@grsm.com]
Sent: Monday, March 21, 2022 12:42 PM
To: clerk@peninsulatownship.com; supervisor@peninsulatownship.com
Cc: Rebecca Dedene
Subject: WOMP v Peninsula Township

Becky, note that this email is **NOT protected** by the attorney-client relationship intentionally. Therefore, you can share with anyone you feel appropriate.

As we discussed, I just finished the call today with Magistrate Kent. On the call were Matt, Me, Joe Infante, Faith (court secretary), magistrate kent, and T.J. Andrews.

In summary, the Magistrate apologized for the delay in moving this forward, but has adopted our view that we should take bites on this rather than trying to eat the entire mean at one sitting. Accordingly, we are going to have "attorney only" meetings (LOL) on sets of issues. The meetings are to last approximately 90 minutes with the design that the parties come to the meeting with their client's position on the issue. The first set of issues are as follows:

1. Hours of Operation.
2. Kinds of events and groups. In other words, what will be allowed in terms of events.
3. Limitation on numbers of people and events.

Our first scheduled meeting is March 31, 2022 at 10 a.m. Accordingly, I will need to meet with you, the team, and citizens committee before then to get solid positions (opening offer, best offer, walk away).

I look forward to speaking with you today at 2.

Greg.

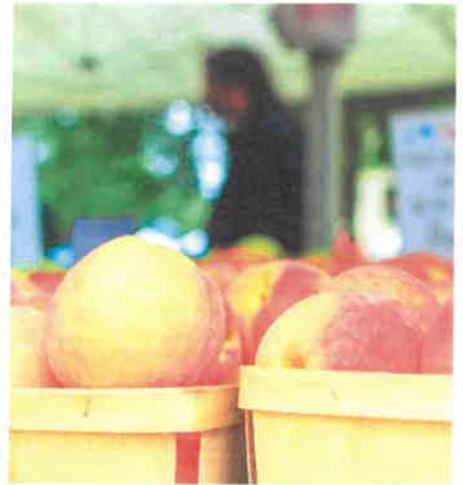
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Right to Farm GAAMPS Presentation and Discussion



Generally Accepted Agricultural and Management Practices for Farm Markets

January 2021

Michigan Commission of Agriculture & Rural
Development
PO BO 30017
Lansing, MI 48909



In the event of an agricultural pollution emergency such as a chemical/fertilizer spill, manure lagoon breach, etc., the Michigan Department of Agriculture & Rural Development and/or Michigan Department of Environment, Great Lakes, and Energy should be contacted at the following emergency telephone numbers:

Michigan Department of Agriculture & Rural Development: 800-405-0101
Michigan Department of Environment, Great Lakes, and Energy's Pollution
Emergency Alert System: 800-292-4706

If there is not an emergency, but you have questions on the Michigan Right to Farm Act, or items concerning a farm operation, please contact the:

Michigan Department of Agriculture & Rural Development
Right to Farm Program
P.O. Box 30017
Lansing, Michigan 48909
517-284-5619
877-632-1783
517-335-3329 FAX

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PREFACE

The Michigan legislature passed into law the Michigan Right to Farm Act (Act 93 of 1981, as amended) which requires the establishment of Generally Accepted Agricultural and Management Practices (GAAMPs). These practices are written to provide uniform, statewide standards and acceptable management practices based on sound science. These practices can serve producers in the various sectors of the industry to compare or improve their own managerial routines. New scientific discoveries and changing economic conditions may require necessary revision of the practices. The GAAMPs are reviewed annually and revised as considered necessary.

The GAAMPs that have been developed are as follows:

- 1) 1988 Manure Management and Utilization
- 2) 1991 Pesticide Utilization and Pest Control
- 3) 1993 Nutrient Utilization
- 4) 1995 Care of Farm Animals
- 5) 1996 Cranberry Production
- 6) 2000 Site Selection and Odor Control for New and Expanding Livestock Facilities
- 7) 2003 Irrigation Water Use
- 8) 2010 Farm Markets

These practices were developed with industry, university, and multi-governmental agency input. As agricultural operations continue to change, new practices may be developed to address the concerns of the neighboring community. Agricultural producers who voluntarily follow these practices are provided protection from public or private nuisance litigation under the Right to Farm Act.

The website for the GAAMPs is <http://www.michigan.gov/righttofarm>.

INTRODUCTION

As farmers look for ways to keep their businesses economically viable, many have chosen to shift their operations from a farmer-to-processor to a direct market business model. This includes selling raw and value-added products directly to the consumer through on-farm establishments, farmers markets, and other agricultural outlets. This allows farms to take advantage of consumer interest in agritourism, the “buy local” movement, and a desire for a connection with farmers and food production. These activities have far-reaching economic impacts. Many regions have capitalized on the growth of farm markets by developing regional farm market and culinary trails, and tourism promotion based on authentic culinary experiences offered by local farm markets. Farm markets provide the opportunity for visitors to meet a farmer, learn about modern agricultural practices, and gain access to fresh, local, nutritious food. Finally, farm markets and the associated farm, help maintain green space adding to the quality of life. Thriving farmland enhances the beauty of communities, retains residents, and attracts visitors. As farm operations engage in direct sales and on-farm activities, conflicts have arisen regarding oversight of these businesses.

Michigan is a Right to Farm (RTF) state and the RTF Act defines a “farm operation” as meaning the operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products. This definition includes, but is not limited to marketing produce at roadside stands or farm markets. Farm markets offer farm related experiences and farm products through a variety of agritourism activities. The experience in turn promotes sale of more farm products and provides an added income stream to support the farm business, the farm family, and surrounding communities; and keeps farmland in production.

Although the RTF Act includes farm markets in the definition of a farm operation, this definition does not define a farm market or describe specific marketing activities. These GAAMPs for Farm Markets were developed to provide guidance as to what constitutes an on-farm market and farm market activities.

DEFINITIONS

Affiliated – “Affiliated” means a farm under the same ownership or control (e.g., leased) as the farm and does not need to be on the same parcel of land.

Expanding Farm Market – An addition to an existing farm market that increases the square footage of the farm market.

Farm – A “farm” means the land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.

Farm Market – A farm market is a year-round or seasonal location where transactions and marketing activities between farm market operators and customers take place. While the location must take place on property controlled by the affiliated farm, it does not have to be a physical structure such as a building. Fresh products as well as processed products may be sold at the farm market. At least 50 percent of the products offered must be produced on and by the affiliated farm measured by retail floor space during peak production season, or 50 percent of the average gross sales for up to the previous five years or as outlined in a business plan. Processed products will be considered as produced on and by the farm if at least 50 percent of the product’s primary or namesake ingredient was produced on and by the farm, such as apples used in apple pie, maple sap in maple syrup, strawberries in strawberry jam, etc.

Farm Product – A “farm product” means those plants and animals useful to humans produced by agriculture and includes, but is not limited to forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock (including breeding and grazing), equine, fish and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur as determined by the Michigan Commission of Agriculture & Rural Development.

Marketing – Promotional and educational activities at the farm market incidental to farm products with the intention of selling more farm products. These activities include, but are not limited to, farm tours (walking or motorized), demonstrations, cooking and other classes utilizing farm products, and farm-to-table dinners.

Processed – A farm product or commodity that has been converted into a product for direct sales. Processing may include, but is not limited to, packing, washing, cleaning, grading, sorting, pitting, pressing, fermenting, distilling, packaging, cutting, cooling, storage, canning, drying, freezing, or otherwise preparing the product for sale.

PHYSICAL CHARACTERISTICS OF A FARM MARKET

Use of space

A farm market may be a physical structure such as a building or tent, or simply an area where a transaction between a customer and a farmer is made. The farm market must be located on property owned or controlled (e.g., leased) by the producer of the products offered for sale at the market. All retail space, farm market structures, and locations where transactions occur, at a new or expanding farm market, that are greater than 120 square feet must meet a minimum setback of 165 feet from all non-farm residences and all new or expanding farm markets are not authorized under this GAAMP on platted lots within a subdivision created under the Michigan Land Division Act (Act 288 of 1967, MCL 560.101, *et seq.*) or preceding statutes and on condominium units within a condominium (sometimes referred to as "site-condos") created under the Michigan Condominium Act (Act 59 of 1978, MCL 559.101, *et seq.*); however, farm markets are permitted in such areas if authorized by association rules or pursuant to a local ordinance designed for that purpose, unless prohibited by association rules. A farm market should have a written site plan for potential MDARD review that preempts local government regulations.

Buildings

If the farm market is housed in a physical structure as defined and regulated by the Stille-Derossett-Hale Single State Construction Code Act (Act 230 of 1972), the structure must comply with the Stille-Derossett-Hale Single State Construction Code Act (Act 230 of 1972), including road right-of-way areas and ingress and egress points.

Parking and Driveways

Parking and driveway surfaces may be vegetative, ground, pavement, or other suitable material. However, other parking and driveway requirements must comply with all applicable regulations.

Vehicle Ingress and Egress

Any farm market and affiliated parking operating along a public road must obtain all appropriate ingress and egress permits.

Signage

The operator of the farm market must comply with all applicable state and federal regulations for signs. A minimum of one roadside sign is allowed pursuant to local sign ordinance setbacks, lighting, height and size requirements.

For further information concerning this GAAMP you may contact the Michigan Department of Agriculture and Rural Development or Michigan State University Extension.

REFERENCES

State of Michigan. *Report of Recommendations*. Report of the Michigan Agricultural Tourism Advisory Commission. Commission report of Governor Granholm. January 2007.

State of Michigan. *Agricultural Tourism Local Zoning Guidebook and Model Zoning Ordinance Provisions*. Report of the Michigan Agricultural Tourism Advisory Commission. Commission report of Governor Granholm. January 2007.

Michigan Commission of Agriculture & Rural Development. *Final Report to the Michigan Commission of Agriculture & Rural Development*. Report of the Michigan Farm Market Task Force. Task Force report to the Michigan Commission of Agriculture & Rural Development. September 2008.

State of Michigan. Michigan Department of Transportation. Directory of Offices by Region.

http://www.michigan.gov/mdot/0,1607,7-151-9623_26662_26679_27267_48606-182161--00.html.

ADVISORY COMMITTEE

Listed below are the advisory committee members for the Generally Accepted Agricultural and Management Practices for Farm Markets.

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Questions pertaining to the Right To Farm Act and Generally Accepted Agricultural Methods

RTF specifies that a farm operation shall not be found to be a public nuisance if it conforms to generally accepted agricultural practices according to the MI commission of agriculture.

Currently GAAMP provides guidance for;

- 1 Manure management....
- 2 Pesticide Utilization....
- 3 Nutrient Utilization....
- 4 Care of Farm Animals....
- 5 Cranberry Production
- 6 Site selection and odor control.... Livestock....
- 7 Irrigation water use
- 8 Farm Markets

Q Will GAAMP provide guidance in the future for farm practices such as structures for the purpose of crop production, processing and storage? (specifically thinking in terms of trellises, support structures, hoop houses, greenhouses, crop washing facilities, crop storage facilities)

Q If there is a question about whether a structure or practice falls under GAAMP, and there are no predetermined, published guidelines, how can a local government determine if the structure or practice falls under GAAMP/RTF?

Q Can local government ordinances require land use permits for such structures even if they clearly fall under, or are subsequently determined to be GAAMP?

Q Can local governments require dismantling of such structures if they are no longer in use for the original purpose or have fallen into disrepair?

It appears that RTF and GAAMP recognizes three different levels of marketing of farm products;

- 1 Roadside stands
- 2 Farm Markets
- 3 Farmer's Markets

Q Can you briefly describe the differences between the three from the perspective of RTF?

Q Can local governments require Special Land Use permits for the establishment of Farm Markets and Farmer's Markets or does RTF consider these to be "By Right"?

GAAMP for a farm market states that 50% of the product sold must be product produced on the farm.

Q As an example, if a farm is producing tomatoes, but it brings in more tomatoes from outside the specific farm, than it can possibly produce, in order to fill demand, are these still considered to be "product produced on the farm" under the provisions of GAAMP? Or do 50% of the tomatoes being sold have to come from that specific farming operation?

Q Does the 50% of product being sold that is not from products produced by the farm have additional restrictions under GAAMP? (i.e. can this merchandise be tee shirts, hats, crafts, soft drinks, water, prepackaged food products, etc.) Or, should the other 50% of product sold be farm produced product only (i.e. products that is produced by some other farm operation.)?

Q Can local government, by ordinance, restrict the type of products being sold by GAAMP recognized Farm Markets that are not directly produced by farm operations?

Q Under Michigan's Cottage Food Law there are restrictions to the gross sales allowed (a maximum of \$25,000 dollars per year). Are there similar restrictions to gross sales allowed by marketing of produce in Roadside Stands and/or Farm Markets?

W. Rudolph
16 March 2022

Date: March 16, 2022

To: Peninsula Township AG Ordinance Study Committee

From: Lew Seibold 3195 Cherry Hill Rd., Traverse City, MI; Peninsula Township

Re: **AG Zoning & Michigan RTF - Proposed Ordinance Study Group**

Following are questions for the AG Zoning study session on March 24, 2022:

1. **General Farming and Horticultural Use - 6.12**

Questions:

Are **auxiliary structures** such as a farm residence, barns; farm shops; storage buildings; workshops; controlled environment structures (non-retail greenhouses, hoop house, high tunnels, low tunnels, caterpillar tunnels, row covers); frost protection structures (wind fans); trellises; fences; and irrigation structures (center pivots, travelers), protected by right, within AG Zones?

If not all, then which ones?

If they are not covered by a specific GAAMP then are they covered by the general intent of the RTF Act and common agricultural practices?

To what degree can they be regulated by municipalities or townships?

2. **Roadside Stands - 6.25**

Questions:

Does the Farm Market GAAMP recognize activities and events such as U-pick operations, farm tourism/entertainment (corn mazes, farm dinners, farm tours, seasonal sales events) as protected uses under MI RTF?

If so, to what degree can they be regulated by the local ordinances?

Does the Farm Market GAAMP recognize accessory items to a farm stand such as tents, sales carts, umbrellas, straw bales, props, etc) as allowable **incidental uses**, within an AG Zone?

If not all, than which ones?

Revised question for RTFA representative 3_15_2022

Preemption: Does Right to Farm Act preempt all local Agricultural zoning?

Source of produce sold:

Does right to farm give a farmer the right to sell any amount of produce from any other farm anywhere at their farm stand?

Since the RTF requires "at least 50%" produce from the farm for selling directly to customers, can a township require more, since that is "at least 50%" ?

Given the RTF requires "at least 50%" produce comes from the farm for selling directly to customers, can the township regulate where the other 50% comes from, such as, limiting it to the township or the region, or the state?

Does RTF give an operator the right to bring in up to 50% of produce sold from absolutely anywhere in the country?

If so, and the produce is the same produce as the farm in question grows, it would be essentially impossible to know which produce came from where, so how would you recommend the situation be monitored?

Activities:

Does the RTF require the township to allow activities such as weddings and other social events for hire?

If GAMP states certain activities must be allowed, can the township regulate the parcel size where those activities take place?

Does the township have other ways to limit the intensity or density of those activities, such as frequency, number per given time period, or size (qty of persons in attendance) of events?

If a farm which is located in the midst of other farms that are in active tree fruit production holds events such as weddings, with people outside counting on holding an event at a certain time, and a neighboring farm is in a moment critical need to spray at that same time, how do you recommend this conflict between crop protection by a GAMP action and a social event for hire be avoided or regulated by the township?

Can the township regulate the building sizes and setbacks where those activities take place?

Can the township regulate hours of operation for activities and retail?

Restaurant function: Does RTF guarantee a farm can operate a full-scale restaurant?

Right to Farm Act / Zoning & Planning for Successful Agriculture in Your Community

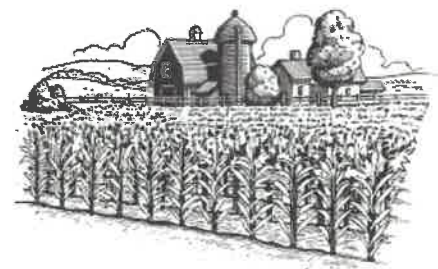
Date: Wednesday, April 27, 2022
Time: 6:30 pm – 8 pm
Location: Leelanau County Government Center,
8527 E. Government Center Dr.
Suttons Bay, MI 49682

Hosted by: Leelanau County Planning Commission
Speaker: *Ryan Coffey Hoag*
Government & Public Policy / Community & Economic Development
at Michigan State University

RSVP PLEASE: Call 231-256-9812 or email: planning@leelanau.gov

This session will be in-person, and will be available to watch live. When you RSVP, please tell us if you will attend, or would like information to watch live.

This session will cover **Michigan's Right to Farm Act**, and what communities can do to support agriculture and farmers. There will be time set aside for Questions / Answers.



Leelanau County Planning Commission
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