

ORDINANCE #56, 2022-06-14
PENINSULA TOWNSHIP
COUNTY OF GRAND TRAVERSE, MICHIGAN

At a special meeting of the township board of Peninsula Township, held at Peninsula Township Hall, 13235 Center Rd., Traverse City, Michigan, on June 14, 2022, at 7:00 p.m.

ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM ON THE CONSIDERATION, APPROVAL, LOCATION, ERECTION, CONSTRUCTION, INSTALLATION, OR COMMENCEMENT OF ANY NEW OR EXPANDED FARM PROCESSING FACILITY OR ANY NEW OR EXPANDED USE PERMITTED BY SPECIAL USE PERMIT WITHIN THE A-1 AGRICULTURAL DISTRICT

This **Ordinance #56, 2022-06-14**, is hereby enacted to protect the public peace, health, safety, and welfare of the residents of Peninsula Township by establishing a moratorium on the consideration, approval, location, erection, construction, installation, or commencement of any new or expanded farm processing facility under Sec. 6.7.2 (19) or any new or expanded use permitted by special use permit in the A-1 Agricultural District under Sec. 6.7.3 of the Peninsula Township Zoning Ordinance through January 1, 2023, and during the time necessary for Peninsula Township to review and amend the zoning regulations within the A-1 Agricultural District.

PENINSULA TOWNSHIP ORDAINS:

Section 1. Findings.

1. Peninsula Township has previously commenced the review and update of the Peninsula Township Master Plan in accordance with the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801 et. seq., as amended, and the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101 et. seq., as amended.
2. The Peninsula Township Board of Trustees approved sending the tentative draft-amended master plan to the required entities and governmental units in conformity with MCL 125.3841 et. seq.; Michigan Planning and Enabling Act. Comments were received and minor revisions are being considered to allow the master plan amendments to be adopted through the appropriate public process.
3. Peninsula Township has been for the past few years and is presently continuing to review its current zoning ordinance, including the regulations within the A-1 Agricultural District, to consider whether any revisions are appropriate. This process is appropriate given (a) the significant passage of time since the current zoning ordinance was adopted in 1972 and subsequent amendments thereto; (b) the need to address changes in municipal laws that have arisen since the current zoning ordinance was adopted; and (c) the need to align the zoning ordinance with the master plan that is in the amendment process.
4. The Peninsula Township Planning Commission has diligently pursued reviewing parts of the zoning ordinance but has not reviewed all parts and sections relating to the A-1

Agricultural District. Several public meetings and hearings have been held over the past year with numerous comments having been received. Peninsula Township continues to receive additional comments on proposed reforms, corrections, and modifications from interested and affected residents.

5. The pattern of development and uses in the A-1 Agricultural District in Peninsula Township have significantly changed since the original enactment of the zoning ordinance.
6. The process to review and update the zoning ordinance regarding the A-1 Agricultural District requires the township to consider several significant and complex policy issues concerning the appropriate uses in the A-1 Agricultural District, including appropriate uses permitted by right, with conditions, and by special use permit in the A-1 Agricultural District; the appropriate regulation of land uses that did not exist or have changed since the original zoning ordinance was adopted; how to handle new laws and new issues that have arisen since the current zoning ordinance was adopted; ensuring the permitted land uses in the A-1 Agricultural District are consistent with and further the purposes of the A-1 Agricultural District and the master plan; and ensuring that the new regulations in any updated zoning ordinance are compliant with all legal and constitutional requirements.
7. The community, through citizens and the citizens' agricultural advisory committee, has requested that the zoning ordinance regulations for the A-1 Agricultural District be fair and equitable to all residents, citizens, and permitted uses.
8. Given the detailed nature of its zoning ordinance update and review and efforts of the township, the citizens' agricultural advisory committee, and residents to analyze proposed amendments to its current zoning ordinance, including those in the A-1 Agricultural District, the township board finds it would be contrary to sound public policy to allow the consideration, approval, location, erection, construction, installation, or commencement of any new or expanded farm processing facility or any new or expanded use permitted by special use permit in the A-1 Agricultural District prior to January 1, 2023, and during the time necessary for Peninsula Township to review and amend the zoning regulations within the A-1 Agricultural District, in order to prevent the establishment of nonconforming uses during that time.
9. The township board finds that imposing a moratorium upon the consideration, approval, location, erection, construction, installation, or commencement of any new or expanded farm processing facility or any new or expanded use permitted by special use permit in the A-1 Agricultural District, on a temporary basis, is reasonable and necessary for, among other reasons:
 - A. Michigan courts have recognized that a moratorium is a common and legitimate planning tool to preserve the status quo while formulating a more permanent development strategy.

- B. The contemplated moratorium would allow the current zoning ordinance update and master plan revision process to fully address the A-1 Agricultural District and enable the township's strategy of creating a unique and vibrant place to live, farm, and engage in compatible forms of commerce.
- C. The contemplated moratorium would avoid confusion about which master plan or zoning ordinance provisions govern any land use applications submitted to the township during the zoning ordinance update and master plan revision that are in progress and the applicable legal standards to apply to any future development requests.
- D. It would be counterproductive to sound planning and consistent zoning regulation for the township to allow the consideration, approval, location, erection, construction, installation, or commencement of any new or expanded farm processing facility or any new or expanded use permitted by special use permit in the A-1 Agricultural District in the middle of its zoning ordinance and master plan review and update process.
- E. The contemplated moratorium would avoid disruption of land use plans and the potential frustration of the township's objectives in its zoning ordinance and master plan update process.

Section 2. Moratorium. The township board hereby ordains and establishes a moratorium on the consideration, approval, location, erection, construction, installation, or commencement of any new or expanded farm processing facility or any new or expanded use permitted by special use permit in the A-1 Agricultural District under Sec. 6.7.3 of the Peninsula Township Zoning Ordinance.

Section 3. Term of Moratorium. The moratorium established by this ordinance shall remain in effect through January 1, 2023, and for the time necessary for Peninsula Township to review and amend the zoning regulations within the A-1 Agricultural District: Before this moratorium expires, the township board may by ordinance extend the moratorium as appropriate to allow sufficient time to complete the review and amendment of the township zoning ordinance.

The planning commission is respectfully requested to complete its review of the zoning ordinance and specifically that part of the zoning ordinance that involves the A-1 Agricultural District by September 30, 2022, to the extent practicable.


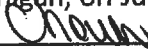
Section 4. Publication. The township clerk must publish a notice of adoption of this ordinance in the manner prescribed by law.

Section 5. Validity and Severability. If any part of this ordinance is found invalid for any reason, that holding does not invalidate the remaining parts of this ordinance.

Section 6. Waiver. In the event that a landowner in the A-1 Agricultural District will suffer immediate and irreparable harm for the short duration of this ordinance, or this ordinance otherwise violates applicable provisions of the state or federal constitution or other applicable law, a landowner may apply in writing for a waiver of the moratorium from the township board.

At a public hearing held on such an application, the landowner must bear the burden of demonstrating immediate and irreparable harm as a result of the moratorium. The township board, upon a sufficient showing, may grant a waiver of the moratorium to the degree necessary to avoid the demonstrated immediate and irreparable harm.


Section 7. Effective Date. This ordinance shall become effective upon publication as required by law.

At a special meeting of the township board of Peninsula Township, held at Peninsula Township Hall, 13235 Center Rd., Traverse City, Michigan, on June 14, 2022, at 7:00 p.m., it was moved by  and supported by  that this ordinance be adopted:

YEAS:
NAYS:

Ordinance declared adopted.


Rebecca Chown, Clerk


, Supervisor
ISAIAH WUNSCH