

**PENINSULA TOWNSHIP
GRAND TRAVERSE COUNTY, MICHIGAN
ZONING ORDINANCE AMENDMENT NO. 201**

At a regular meeting of the Township Board of Peninsula Township, Grand Traverse County, Michigan, held at the Peninsula Township Hall on December 13, 2022, at 7:00 p.m., Township Board Member Rudolph moved to adopt the following Ordinance, which motion was seconded by Township Board Member Achorn:

An Ordinance to amend the Peninsula Township Zoning Ordinance to provide for the amendment of definitions, the amended authorization and regulation of Wholesale and Retail Farm Processing Facilities, the amended authorization and regulation of Remote Tasting Rooms, and the deletion and repeal of Winery-Chateaus as authorized uses; to impose conditions and requirements for the operation of such facilities and operations; and to repeal any ordinances or parts of ordinances or resolutions in conflict with this Ordinance; in order to maintain the public health, safety, and welfare of the residents of and visitors to Peninsula Township.

THE TOWNSHIP OF PENINSULA ORDAINS:

Section 1. Amendment of Section 3.2, Definitions: The Peninsula Township Zoning Ordinance, Section 3.2, shall be amended to add, amend and delete the following definitions as specified below:

Active Production: Active Production means the production of agricultural crops on a continuing basis in accordance with generally-accepted agricultural management practices, including periodic crop rotation and scheduled fallow farming practices. **(ADDED BY AMENDMENT 201)**

Alcoholic Liquor: Alcoholic Liquor means any spirituous, vinous, malt, or fermented liquor, powder, liquids, and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing ½ of 1% or more of alcohol by volume that are fit for use for food purposes or beverage purposes as defined and classified by the Michigan Liquor Control Commission according to alcoholic content as belonging to 1 of the varieties defined in Chapter 1 of the Michigan Liquor Control Code of 1998. **(ADDED BY AMENDMENT 201)**

Contiguous: Contiguous describes two or more parcels of land with a common boundary or point that may be separated solely by a private roadway or public right-of-way. **(ADDED BY AMENDMENT 201)**

Entertainment: Entertainment as it pertains to a Retail Farm Processing Facility with a state-approved liquor license may allow monologues, dialogues, motion pictures, still slides, closed circuit television, contests, or other performances for public viewing by issuance of an entertainment permit by the Michigan Liquor Control Commission, provided that such entertainment shall be conducted entirely indoors on the licensed premises and only during Township-approved hours of operation. **(ADDED BY AMENDMENT 201)**

Farm Operation: A Farm Operation is a person, corporation, partnership, or other legal entity

engaged in the commercial production of Farm Products on land that it controls and operates. **(ADDED BY AMENDMENT 201)**

Farm Products: Farm Products include those plants and animals useful to human beings 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 Department of Agriculture and Rural Development. **(ADDED BY AMENDMENT 201)**

[Delete definition of Farm Processing Facility]

Processing: The alteration or change in form of Raw Produce through crushing, cooking, chemical reaction, fermentation, distillation, or other methods, but not including the picking, sorting, or handling of Raw Produce in preparation for wholesale sale in its natural state. **(ADDED BY AMENDMENT 201)**

Raw Produce: Raw Produce includes Farm Products in their natural state as harvested, prior to Processing. **(ADDED BY AMENDMENT 201)**

Retail Farm Processing Facility – With Indoor Sales: A Retail Farm Processing Facility is an accessory use to a Farm Operation. The building or buildings used as part of the Retail Farm Processing Facility may contain an area for processing equipment where Raw Produce is processed or packaged and prepared for wholesale and/or retail sales. In addition to processing, the building(s) may also include a limited area indoors for retail sales to customers. Processing and retail sales shall be conducted within an entirely enclosed building(s). An indoor retail sales area may include a Tasting Room for the consumption of fresh or processed Raw Produce, including Alcoholic Liquor. The facility shall also include direct access from a public road as well as parking, lighting and landscaping. **(ADDED BY AMENDMENT 201)**

Retail Farm Processing Facility – With Indoor Sales and Outdoor Seating Area: A Retail Farm Processing Facility is an accessory use to a Farm Operation. The building or buildings used as part of the Retail Farm Processing Facility may contain an area for processing equipment where Raw Produce is processed or packaged and prepared for wholesale and/or retail sales. In addition to processing, the building(s) may also include a limited area indoors for retail sales to customers. Processing and retail sales shall be conducted within an entirely enclosed building(s). An indoor retail sales area may include a Tasting Room for the consumption of fresh or processed Raw Produce, including Alcoholic Liquor. In addition to a limited indoor retail sales area with a Tasting Room, a clearly defined outdoor seating area with limited seating capacity may be approved. The facility shall also include direct access from a public road as well as parking, lighting and landscaping. **(ADDED BY AMENDMENT 201)**

Tasting Room: A room in conjunction with a Retail Farm Processing Facility, including a Remote Tasting Room, where the following takes place; a) tasting of fresh and/or processed Raw Produce such as Alcoholic Liquor and non-alcoholic beverages; b) retail sales of Alcoholic Liquor and non-alcoholic beverages by the bottle for off-premises consumption; and c) sales of Alcoholic Liquor

and non-alcoholic beverages by the glass for on- premises consumption.(**ADDED BY AMENDMENT 139A**)(**REVISED BY AMENDMENT 181**)(**REVISED BY AMENDMENT 201**)

Vested Right: A Vested Right is a right protected by law that cannot be impaired or taken away without the owner's consent. (**ADDED BY AMENDMENT 201**)

Viewshed: An area designated as a Viewshed on the Prime Scenic Views Map adopted by the Township Board as Appendix 1 to the Purchase of Development Rights Ordinance, Ordinance #23, as amended. (**ADDED BY AMENDMENT 201**)

Wholesale Farm Processing Facility: A Wholesale Farm Processing Facility is an accessory use to a Farm Operation. The building or buildings may contain an area for processing equipment where Raw Produce is processed or packaged and prepared for wholesale sales. Processing shall be conducted within an entirely enclosed building(s). The facility shall also include direct access from a public road as well as parking, lighting and landscaping. (**ADDED BY AMENDMENT 139A**) (**REVISED BY AMENDMENT 201**)

[Delete definitions of Winery and Winery-Chateau]

Section 2. Amendment of Subsection 6.7.2(19), Wholesale Farm Processing Facility: The Peninsula Township Zoning Ordinance, Subsection 6.7.2(19), shall be amended to read as follows:

(19) Wholesale Farm Processing Facility: (REVISED BY AMENDMENT 201**)**

- (a) Statement of Intent: It is the intent of this Subsection to promote a thriving local agricultural production industry and preserve the rural character within the Township by allowing the construction and use of a Wholesale Farm Processing Facility only where and when accessory to a minimum dedicated acreage of a Farm Operation's land in Active Production within the Township, and that accessory use does not predominate over the Farm Operation's Active Production within the Township. The Wholesale Farm Processing Facility accessory use includes wholesale sales of fresh and processed Raw Produce only. At least sixty-five percent (65%) of the Raw Produce sold fresh or processed shall be grown on land that is exclusively operated and controlled by the specific Farm Operation that operates and controls the accessory Wholesale Farm Processing Facility. Since a Wholesale Farm Processing Facility is considered to be an industrial use that is inconsistent with the A-1 Agricultural District when not accessory and subordinate to a Farm Operation, the approval and operation of a Wholesale Farm Processing Facility shall not create any Vested Right in the continued non-agricultural use of any structures built or used for an accessory Wholesale Farm Processing Facility or the land dedicated to the Facility. Such structures shall only be used for uses permitted by right in Section 6.7.2 in the event that the accessory Wholesale Farm Processing Facility use is discontinued or curtailed. This Subsection shall not supersede or amend the terms of any conservation easement.
- (b) A Wholesale Farm Processing Facility is permitted only as an accessory use

subordinate to a Farm Operation in the A-1 Agricultural District and shall not predominate over the Farm Operation's Active Production within the Township. An accessory Wholesale Farm Processing Facility shall be subject to the following requirements:

1. Wholesale Sales: Wholesale Sales of fresh or processed Raw Produce are allowed subject to the requirements of Subsection (19)(b) 2 of this Section and further provided:

- i. All processing shall be conducted indoors.
- ii. At least 50% of the ingredients as measured by weight of any processed products sold at the Wholesale Farm Processing Facility shall be derived from Raw Produce grown on land that is exclusively operated and controlled by the specific Farm Operation that operates and controls the Wholesale Farm Processing Facility.
- iii. No retail sales or consumption of Raw Produce or processed products on the premises is permitted.
- iv. If Alcoholic Liquor is proposed to be produced or sold at wholesale on the premises, the Michigan Liquor Control Commission shall grant applicable wholesale liquor licenses and regulate compliance with those licenses, subject to the requirements of this Zoning Ordinance and permits granted hereunder.
- v. The Michigan Department of Agriculture and Rural Development shall grant applicable wholesale food licenses and regulate compliance with those licenses, subject to the requirements of this Zoning Ordinance and permits granted hereunder.

2. Sources of Raw Produce:

- i. Processing is limited to Raw Produce of the same species of Farm Products as are raised by the Farm Operation on the parcel on which the Wholesale Farm Processing Facility is located. For example, an apple may be processed into apple juice or applesauce.
- ii. Not less than ~~sixty-five~~ percent (65%) of the Raw Produce sold fresh or processed by the Wholesale Farm Processing Facility shall be grown on land that is controlled and operated by the specific Farm Operation that operates the accessory Wholesale Farm Processing Facility.
- iii. If crop conditions or natural disaster result in a shortage of locally-grown fruit for a particular year; the Township Board may for that

year approve a larger proportion of Raw Produce grown off the land within the Township that is controlled and operated by the specific Farm Operation that operates the accessory Wholesale Farm Processing Facility, provided that the verification of such conditions by the United States Department of Agriculture Farm Service Agency. Processed products produced by the Wholesale Farm Processing Facility in such a year shall not exceed the highest volume of processed products produced by the Wholesale Farm Processing Facility in any of the preceding five (5) years.

3. Parcel requirements:

- i. At least forty (40) acres of land shall be dedicated to the operation of a Wholesale Farm Processing Facility.
- ii. The dedicated acreage shall be located within Peninsula Township and shall be exclusively controlled and operated by the same Farm Operation that exclusively controls and operates the accessory Wholesale Farm Processing Facility. Control of the dedicated acreage must be evidenced by a deed, lease, or memorandum of lease in the name of the Farm Operation recorded with the Grand Traverse County Register of Deeds. At least sixty-five (65%) percent of the acreage dedicated to the Wholesale Farm Processing Facility shall be in Active Production.
- iii. At least twenty (20) acres of the dedicated land must be in a single parcel with a minimum parcel width of 330 feet and shall contain the Wholesale Farm Processing Facility. There shall be at least ten (10) acres in Active Production on the same parcel as the Wholesale Farm Processing Facility. The parcel shall not be divided for as long as the Wholesale Farm Processing Facility continues in operation.
- iv. The remaining acreage necessary to meet the 40-acre minimum dedication shall consist of a single parcel or two contiguous parcels.
- v. Not more than one (1) single-family dwelling may be located on the parcel containing the Wholesale Farm Processing Facility. Not more than one (1) additional single-family dwelling may be located on the remaining dedicated acreage.
- vi. None of the dedicated land shall be used to satisfy acreage density or open space requirements of any other use in the Township while the Wholesale Farm Processing Facility continues in operation.

4. Setbacks: The minimum setbacks for the Wholesale Farm Processing Facility including required parking shall be:

- i. Front yard 50 feet.
- ii. Side and rear yards 200 feet.
- iii. No Wholesale Farm Processing Facility shall be located within a Viewshed, except as permitted by recommendation of the Planning Commission and approval of the Township Board. For those parcels where a Farm Processing Facility is proposed that is entirely within a Viewshed, a location will be considered that minimizes the negative impacts to the Viewshed.

5. Wholesale Farm Processing Facility Size:

- i. A Wholesale Farm Processing Facility shall not include retail space.
- ii. The total floor area of a Wholesale Farm Processing Facility above finished grade shall not exceed 250 square feet per acre of land comprising the dedicated parcel that contains the Wholesale Farm Processing Facility and shall not exceed a maximum of 30,000 square feet of total floor area above finished grade.
- iii. The Wholesale Farm Processing Facility may consist of more than one building; however, all buildings used by the Wholesale Farm Processing Facility shall be located on the 20-acre minimum parcel that contains the accessory Wholesale Farm Processing Facility and shall not collectively exceed the floor area allowed by Subsection (19)(b) 5 ii above.
- iv. Underground floor area may be allowed in addition to the permitted square footage of floor area above finished grade, provided it is entirely below the pre-existing ground level and has no more than one loading dock exposed. **(REVISED BY AMENDMENT 197)**

6. Pre-existing Buildings: (built prior to December 13, 2022) may be used for Wholesale Farm Processing Facilities provided they are not greater in size than the maximum allowable square footage per acre as referenced above. The Zoning Board of Appeals may consider variances from setbacks for such pre-existing buildings in accordance with Section 5.7.3, giving special attention to avoiding adverse impacts on surrounding property owners.

7. Vested Right: Approval of a special use permit for an accessory Wholesale Farm Processing Facility shall not create any Vested Right in the continued non-agricultural use of any structures built or used for a Wholesale Farm Processing Facility. Such structures shall only be used for uses permitted by right in Section 6.7.2 in the event that the accessory Wholesale Farm Processing Facility use is discontinued or curtailed.

8. Parking: Parking shall conform to the requirements of Section 7.6.
9. Signs: All signs shall conform to the requirements of Section 7.11.
(REVISED BY AMENDMENT 174)
10. Lighting: All lighting shall conform to the requirements of Section 7.14.
(REVISED BY AMENDMENT 175B)
11. Access: Access to the Wholesale Farm Processing Facility shall be from a public road. An access permit from the County Road Commission or Michigan Department of Transportation shall be required before a land use permit can be issued.
12. Water: Demonstration of adequate water for the Wholesale Farm Processing Facility shall be provided by the appropriate agencies. Conformance to agency requirements shall be required.
13. Sewage and Wastewater Disposal: Demonstration of adequate sewage and wastewater disposal for the Wholesale Farm Processing Facility shall be provided by the appropriate agencies. Conformance to agency requirements shall be required.
14. Fencing or Planting Buffer: In the event that the Township Board determines that noise generation may be disturbing to neighbors, or that the location of the establishment is in an area where trespass onto adjacent properties is likely to occur, then the Township Board may require that fencing and/or a planting buffer be constructed and maintained.
15. Data and Records:
 - i. The Farm Operation operating the Wholesale Farm Processing Facility shall annually by April 15 of each year provide data and records from the previous calendar year to the Director of Planning demonstrating that (a) a minimum of sixty-five percent (65%) of the Raw Produce processed as measured by weight is grown on land that is exclusively controlled and operated by that Farm Operation, (b) a minimum of fifty percent (50%) of the ingredients as measured by weight of any processed products sold was derived from Raw Produce grown on land that is exclusively operated and controlled by that Farm Operation and (c) all land within the Township controlled and operated by the Farm Operation meets the dedicated acreage requirements.
 - ii. The above data shall be supplied to the Township in a format or form approved by the Director of Planning.

- iii. Any change in the above shall be submitted in writing to the Director of Planning within 60 days of said change. Failure to submit such changes shall be considered a violation of this Ordinance and may be a basis for revocation of the Land Use Permit.

16. Approval Process:

- i. Site plan review shall be required for all Wholesale Farm Processing Facilities. A site plan drawn to scale (one or more sheets as appropriate) shall be submitted to the Director of Planning along with the appropriate site plan review fee as established by the Township Board.
- ii. The site plan shall include at least:
 - a. the parcel or parcels with parcel numbers dedicated to the Wholesale Farm Processing Facility with calls and dimensions on all property lines;
 - b. legal descriptions of all parcels;
 - c. all existing and proposed structures including setbacks from property lines;
 - d. proposed parking, landscaping and lighting;
 - e. floor plan showing all processing areas; and
 - f. the name, email address, mailing address, and phone number of the Farm Operation.
- iii. Site plan approval for a Wholesale Farm Processing Facility shall be issued by the Director of Planning upon showing that the minimum requirements of this Ordinance, including parcel(s), building size, building height, minimum acreage in crop production, setbacks, and parking are met as well as any requirements of a conservation easement.
- iv. Once the site plan is approved by the Planning Director, a Land Use Permit application may be submitted to the Zoning Administrator.
- v. A permit from the Grand Traverse County Health Department is required before a Land Use Permit for a Wholesale Farm Processing Facility can be issued.
- vi. No processing or wholesale sales of products shall take place until a final site plan approval is issued by the Director of Planning and a Land Use Permit is issued by the Zoning Administrator. The Land Use Permit shall not be issued until copies of all permits required by state, federal, and other local licenses and permits have been submitted to the Zoning Administrator, and the Zoning

Administrator has made an on-site inspection to verify compliance with all the requirements of the Zoning Ordinance.

- vii. Any violation of the Site Plan Approval issued by the Director of Planning or Land Use Permit issued by the Zoning Administrator for this use shall, in addition to the provisions of Section 4.2.1 Violations and Penalties, serve as grounds for revocation of the Site Plan Approval and the Land Use Permit.
17. Residence within a Wholesale Farm Processing Facility. **(ADDED BY AMENDMENT NO 146)** A single-family dwelling may be allowed as part of a structure containing a Wholesale Farm Processing Facility provided the following requirements are met:
- i. The dwelling and Wholesale Farm Processing Facility combined shall not exceed any of the Setback or Facility Size requirements established above;
 - ii. The dwelling shall be the only dwelling on the 20-acre parcel containing the Wholesale Farm Processing Facility.
 - iii. The dwelling shall meet all dimensional requirements of Section 6.8 for the A-1 Agricultural District. **(UPDATED BY AMENDMENT 201)**

Section 3. Amendment of Subsection 6.7.3(22), Retail Farm Processing Facilities: The Peninsula Township Zoning Ordinance, Subsection 6.7.3(22), is amended to read as follows:

- (22)** Retail Farm Processing Facilities: Subject to all requirements of Article VIII, Section 8.7.3(10) and (11). **(UPDATED BY AMENDMENT 201)**

Section 4. Amendments of Subsection 7.6.3 (9) and (10), Table of Parking Space Requirements: The Peninsula Township Zoning Ordinance, Subsections 7.6.3 (9) and (10), in the Table of Parking Space Requirements, are amended to read as follows:

(9) <u>Retail Farm Processing Facilities</u>	One (1) for each one hundred (100) square feet of retail floor space plus one (1) for each employee of maximum working shift, plus three (3) spaces for tour buses or cars with trailers. In addition, truck loading and unloading areas shall be designated.
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(10) <u>Wholesale Farm Processing Facilities</u>	Five (5) plus one (1) for each one (1) employee for the largest working shift. In addition, truck loading and unloading areas shall be designated.
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Section 5. Amendment of Subsection 8.7.2(11), Retail Farm Processing Facilities: The Peninsula Township Zoning Ordinance, Subsection 8.7.2(11), is amended to read as follows:

(11) Retail Farm Processing Facilities in the A-1 Agricultural District.

Section 6. Amendment of Subsection 8.7.3(10), Retail Farm Processing Facility (Indoors Only): The Peninsula Township Zoning Ordinance, Subsection 6.7.3(22), is amended to read as follows:

(10) Retail Farm Processing Facility (Indoors Only): (ADDED BY AMENDMENT 201)

(a) Statement of Intent: It is the intent of this Subsection to promote a thriving local agricultural production industry and preserve the rural character within the Township by allowing the construction and use of a Retail Farm Processing Facility only where and when accessory to a minimum dedicated acreage of a Farm Operation's land in Active Production within the Township, and that accessory use does not predominate over the Farm Operation's Active Production within the Township. The Retail Farm Processing Facility accessory use includes wholesale sales and indoor retail sales of fresh and processed Raw Produce only. At least sixty-five percent (65%) of the Raw Produce sold fresh or processed shall be grown on land that is exclusively operated and controlled by the specific Farm Operation that operates and controls the accessory Retail Farm Processing Facility. Since a Retail Farm Processing Facility is considered to be an industrial and commercial use that is inconsistent with the A-1 Agricultural District when not accessory and subordinate to a Farm Operation, approval of a special use permit for a Retail Farm Processing Facility shall not create any Vested Right in the continued non-agricultural use of any structures built or used for an accessory Retail Farm Processing Facility or the land dedicated to the Facility. Such structures shall only be used for uses permitted by right in Section 6.7.2 in the event that the accessory Retail Farm Processing Facility use is discontinued or curtailed. This Subsection shall not supersede or amend the terms of any conservation easement.

(b) A Retail Farm Processing Facility is permitted by special use permit only as an accessory use subordinate to a Farm Operation in the A-1 Agricultural District and shall not predominate over the Farm Operation's Active Production within the Township. An accessory Retail Farm Processing Facility shall be subject to the following requirements:

1. Retail Sales: Retail sales of fresh or processed Raw Produce are allowed

subject to the requirements of Subsection (10)(b) 2 of this Section and the following additional requirements:

- i. All processing and retail sales shall be conducted indoors.
- ii. At least 50% of the ingredients as measured by weight of any processed products sold at the Retail Farm Processing Facility shall be derived from Raw Produce grown on land that is exclusively operated and controlled by the specific Farm Operation that operates and controls the Retail Farm Processing Facility.
- iii. The consumption of processed products on premises is permitted indoors only.
- iv. A Tasting Room may be included in the allowable square footage for retail sales to provide for the tasting of fresh or processed Raw Produce, including Alcoholic Liquor.
- v. Free entertainment may be provided within a retail sales/Tasting Room indoors only.
- vi. The hours of operation for retail sales, including a Tasting Room, shall be limited to an opening time no earlier than 9:00 a.m. and a closing time no later than 9:30 p.m.
- vii. If Alcoholic Liquor is proposed to be produced, consumed, or sold on the premises, the Michigan Liquor Control Commission shall grant applicable retail liquor licenses and regulate compliance with those licenses, subject to the requirements of this Zoning Ordinance and special use permits granted hereunder.
- viii. The Michigan Department of Agriculture and Rural Development shall grant applicable retail food licenses and regulate compliance with those licenses, subject to the requirements of this Zoning Ordinance and special use permits granted hereunder.
- ix. Those Retail Farm Processing Facilities that hold a liquor license may serve limited food items indoors in the retail sales area to offset the effects of consuming alcohol. Food items not processed within the Retail Farm Processing Facility are limited to snacks that require minimal preparation such as cheese and crackers, dried fruit and nuts, and chocolates. No restaurants, cafes or off-site catering shall be permitted as part of a Retail Farm Processing Facility.

2. Sources of Raw Produce:

- i. Processing is limited to Raw Produce of the same species of Farm Products as are raised by the Farm Operation on the parcel on which the

Retail Farm Processing Facility is located. For example, an apple may be processed into apple juice or applesauce.

- ii. Not less than sixty-five percent (65%) of the Raw Produce sold fresh or processed by the accessory Retail Farm Processing Facility shall be grown on land that is controlled and operated by the specific Farm Operation that operates the accessory Retail Farm Processing Facility.
- iii. If crop conditions or natural disaster result in a shortage of locally-grown fruit for a particular year; the Township Board may for that year approve a larger proportion of Raw Produce grown off the land within the Township that is controlled and operated by the specific Farm Operation that operates the accessory Retail Farm Processing Facility, provided that the verification of such conditions by the United States Department of Agriculture Farm Service Agency. Processed products produced by the Retail Farm Processing Facility in such a year shall not exceed the highest volume of processed products produced by the Retail Farm Processing Facility in any of the preceding five (5) years.

3. Parcel Requirements:

- i. At least fifty (50) acres of contiguous land shall be dedicated to the operation of a Retail Farm Processing Facility with indoor retail sales.
- ii. The dedicated acreage shall be located within Peninsula Township and shall be exclusively controlled and operated by the same Farm Operation that exclusively controls and operates the Retail Farm Processing Facility. Control of the dedicated acreage must be evidenced by a deed, lease, or memorandum of lease in the name of the Farm Operation recorded with the Grand Traverse County Register of Deeds. At least sixty-five percent (65%) of the acreage dedicated to the Retail Farm Processing Facility shall be in Active Production.
- iii. At least thirty (30) of the dedicated acres must be in a single parcel with a minimum parcel width of 330 feet and shall contain the Retail Farm Processing Facility. There shall be at least fifteen (15) acres in Active Production on the same parcel as the Retail Farm Processing Facility. The parcel shall not be divided for as long as the Retail Farm Processing Facility continues in operation.
- iv. The remaining acreage necessary to meet the 50-acre minimum dedication shall consist of a single parcel or two contiguous parcels.
- v. Not more than one (1) single-family dwelling may be located on the parcel containing the Retail Farm Processing Facility. Not more than one (1) additional single-family dwelling may be located on the remaining dedicated acreage.
- vi. None of the dedicated land shall be used to satisfy acreage density or

open space requirements of any other use in the Township while the Retail Farm Processing Facility continues in operation.

4. Setbacks: The minimum setbacks for the Retail Farm Processing Facility including required parking shall be:
 - i. Front Yard Setback: 50 feet.
 - ii. Side and Rear Yard Setback: 200 feet.
 - iii. No Retail Farm Processing Facility shall be located within a Viewshed, except as permitted by recommendation of the Planning Commission and approval of the Township Board. For those parcels where a Farm Processing Facility is proposed that is entirely within a Viewshed, a location will be considered that minimizes the negative impacts to the Viewshed.
5. Retail Farm Processing Facility Size:
 - i. The total floor area of the Retail Farm Processing Facility above finished grade shall not exceed 250 square feet per acre of land comprising the dedicated parcel that contains the Retail Farm Processing Facility and shall not exceed 30,000 square feet of total floor area above finished grade.
 - ii. The Retail Farm Processing Facility may consist of more than one building; however, all buildings used by the Retail Farm Processing Facility shall be located on the 30-acre minimum parcel that contains the Retail Farm Processing Facility and shall not collectively exceed the floor area allowed by Subsection (10)(b) 5 i above.
 - iii. Underground floor area may be allowed in addition to the maximum permitted square footage of floor area above finished grade provided it is entirely below pre-existing ground level and has no more than one loading dock exposed.
 - iv. Retail sales space may be a separate room within a Retail Farm Processing Facility and shall not exceed 1,500 square feet in area.
 - v. The area of any Tasting Room shall be included in the total allowed square footage for retail sales.
6. Pre-existing Buildings: (built prior to December 13, 2022) may be used for a Retail Farm Processing Facility provided they are not greater in size than the maximum allowable square footage per acre as referenced above. The Zoning Board of Appeals may consider variances from setbacks for such pre-existing buildings in accordance with Section 5.7.3, giving special attention to avoiding adverse impacts on surrounding property owners.

7. Vested Right: Approval of a special use permit for an accessory Retail Farm Processing Facility shall not create any Vested Right in the continued non-agricultural use of any structures built or used for a Retail Farm Processing Facility. Such structures shall only be used for uses permitted by right in Section 6.7.2 in the event that the accessory Retail Farm Processing Facility use is discontinued or curtailed.
8. Parking: Parking shall conform to the requirements of Section 7.6.
9. Signs: All signage shall conform to the requirements of Section 7.11.
10. Lighting: All exterior lighting shall conform to the requirements of Section 7.14.
11. Access: Access shall be from a paved public road. An access permit from the Grand Traverse County Road Commission or Michigan Department of Transportation shall be required before a Land Use Permit may be issued.
12. Water: Demonstration of adequate water for the Retail Farm Processing Facility shall be provided by the appropriate agencies. Conformance to agency requirements shall be required.
13. Sewage and Wastewater Disposal: Demonstration of adequate sewage and wastewater disposal for the Retail Farm Processing Facility shall be provided by the appropriate agencies. Conformance to agency requirements shall be required.
14. Fencing or Planting Buffer: In the event that the Township Board determines that noise generation may be disturbing to neighbors, or that the location of the establishment is in an area where trespass onto adjacent properties is likely to occur, then the Township Board may require that fencing and/or a planting buffer be constructed and maintained.
15. Landscaping: The front yard area and/or any side yard adjacent to public right-of-way not used for access and parking shall be planted and maintained in accord with an appropriate landscape design to integrate the Retail Farm Processing facility into the site, as approved by the Township Board.
16. Data and Records:
 - i. The Farm Operation operating the Retail Farm Processing Facility shall annually by April 15 of each year provide data and records from the previous calendaryear to the Director of Planning demonstrating that (a) a minimum of sixty-five (65%) percent of the Raw Produce processed as measured by weight is grown on land exclusively controlled and operated by that Farm Operation, (b) a minimum of fifty percent (50%) of the ingredients as measured by weight of any processed products sold was derived from Raw Produce grown on land that is exclusively operated and controlled by that Farm Operation and (c) all land within the Township controlled and operated by the Farm Operation meets the dedicated acreage requirements.

- ii. The above data shall be supplied to the Township in a format or form approved by the Director of Planning.
- iii. Any change in the above shall be submitted in writing to the Director of Planning within 60 days of said change. Failure to submit such changes shall be considered a violation of this Ordinance and may be a basis for revocation of the special use permit.

17. Approval Process:

- i. Approval of a Special Use Permit is required subject to all requirements of Article VIII, Section 8.1. followed by the administrative approval of a Site Plan.
- ii. A Site Plan application with all required submittal materials shall be submitted to the Director of Planning.
- viii. The site plan shall include at least:
 - a. the parcel or parcels with parcel numbers dedicated to the Retail Farm Processing Facility with calls and dimensions on all property lines;
 - b. legal descriptions for all parcels;
 - c. all existing and proposed structures including setbacks from property lines;
 - d. proposed parking, landscaping and lighting;
 - e. floor plan showing all processing areas; and
 - f. the name, email address, mailing address, and phone number of the Farm Operation.
- iii. Site Plan approval for a Retail Farm Processing Facility shall be issued by the Director of Planning upon showing that it is compliant with this Ordinance, all conservation easements, and the Special Use Permit approval, including minimum parcel requirements, building size, building height, acreage in crop production, setbacks, landscaping and parking.
- iv. Once the Site Plan is approved and signed by the Director of Planning, a Land Use Permit application may be submitted to the Zoning Administrator.
- v. A permit from the Grand Traverse County Health Department is required before a Land Use Permit for a Retail Farm Processing Facility can be issued.
- vi. No processing or wholesale or retail sales of products shall take place until a Land Use Permit has been issued by the Zoning Administrator.

- vii. Such Land Use Permit shall not be issued until copies of all permits required by state, federal, and other local licenses and permits have been submitted to the Zoning Administrator and the Zoning Administrator has made an on-site inspection to verify compliance with all requirements of the zoning ordinance.
- viii. Any violation of the Special Use Permit issued by the Township Board, the Site Plan Approval issued by the Director of Planning, or the Land Use Permit issued by the Zoning Administrator for this use shall, in addition to the provisions of Section 4.2.1 Violations and Penalties, serve as grounds for revocation of the Special Use Permit, the Site Plan Approval and the Land Use Permit.

Section 7. Amendment of Subsection 8.7.3(11), Retail Farm Processing Facility (with Outdoor Seating): The Peninsula Township Zoning Ordinance, Subsection 8.7.3(11), is amended to read as follows:

(11) Retail Farm Processing Facility (with Outdoor Seating): (ADDED BY AMENDMENT 201)

- (a) Statement of Intent: It is the intent of this Subsection to promote a thriving local agricultural production industry and preserve the rural character within the Township by allowing the construction and use of a Retail Farm Processing Facility with outdoor seating only where and when accessory to a minimum dedicated acreage of land in Active Production within the Township, and that accessory use does not predominate over the Farm Operation's Active Production within the Township. The Retail Farm Processing Facility with outdoor seating accessory use includes wholesale sales, indoor retail sales of fresh and processed Raw Produce, and the consumption of fresh and processed Raw Produce within an indoor Tasting Room or outdoor seating area only. At least sixty-five percent (65%) of the Raw Produce sold fresh or processed shall be grown on land that is exclusively operated and controlled by the specific Farm Operation that operates and controls the accessory Retail Farm Processing Facility. Since a Retail Farm Processing Facility is considered to be an industrial and commercial use that is inconsistent with the A-1 Agricultural District when not accessory and subordinate to a Farm Operation, approval of a special use permit for a Retail Farm Processing Facility shall not create any Vested Right in the continued non-agricultural use of any structures built or used for an accessory Retail Farm Processing Facility or the land dedicated to the Facility. Such structures shall only be used for uses permitted by right in Section 6.7.2 in the event that the accessory Retail Farm Processing Facility use with outdoor seating is discontinued or curtailed. This Subsection shall not supersede or amend the terms of any conservation easement.
- (b) A Retail Farm Processing Facility with outdoor seating is permitted by special use permit only as an accessory use subordinate to a Farm Operation in the A-1 Agricultural District and shall not predominate over the Farm Operation's Active Production within the Township. An accessory Retail Farm Processing Facility shall be subject to the following requirements:

1. Retail Sales: Retail sales of fresh or processed Raw Produce are allowed subject to the requirements of Subsection (11)(b) 2 of this Section and the following additional requirements:

- i. All processing and retail sales shall be conducted indoors.
- ii. At least 50% of the ingredients as measured by weight of any processed products sold at the Retail Farm Processing Facility shall be derived from Raw Produce grown on land that is exclusively operated and controlled by the specific Farm Operation that operates and controls the Retail Farm Processing Facility.
- iii. The consumption of processed products on premises is permitted indoors and within an approved and clearly defined outdoor seating area.
- iv. A Tasting Room may be included in the allowable square footage for retail sales to provide for the tasting of fresh or processed Raw Produce, including Alcoholic Liquor.
- v. Free entertainment may be provided within a retail sales/Tasting Room indoors only.
- vi. The hours of operation for retail sales, including a Tasting Room and approved outdoor seating, shall be limited to an opening time no earlier than 9:00 a.m. and a closing time no later than 9:30 p.m.
- vii. If Alcoholic Liquor is proposed to be produced, consumed, or sold on the premises, the Michigan Liquor Control Commission shall grant applicable retail liquor licenses and regulate compliance with those licenses, subject to the requirements of this Zoning Ordinance and special use permits granted hereunder.
- viii. The Michigan Department of Agriculture and Rural Development shall grant applicable retail food licenses and regulate compliance with those licenses, subject to the requirements of this Zoning Ordinance and special use permits granted hereunder.
- ix. Those Retail Farm Processing Facilities with outdoor seating that hold a liquor license may serve limited food items indoors in the retail sales area to offset the effects of consuming alcohol. Food items not processed within the Retail Farm Processing Facility are limited to snacks that require minimal preparation such as cheese and crackers, dried fruit and nuts, and chocolates. Limited food items served indoors may be consumed within an approved outdoor seating area. No restaurants, cafes or off-site catering shall be permitted as part of a Retail Farm Processing Facility with outdoor seating

2. Sources of Raw Produce:

- i. Processing is limited to Raw Produce of the same species of Farm Products as are raised by the Farm Operation on the parcel on which the Retail Farm Processing Facility is located. For example, an apple may be processed into apple juice or applesauce.
- ii. Not less than sixty-five percent (65%) of the Raw Produce sold fresh or processed by the accessory Retail Farm Processing Facility shall be grown on land that is controlled and operated by the specific Farm Operation that operates the accessory Retail Farm Processing Facility.
- iii. If crop conditions or natural disaster result in a shortage of locally-grown fruit for a particular year; the Township Board may for that year approve a larger proportion of Raw Produce grown off the land within the Township that is controlled and operated by the specific Farm Operation that operates the accessory Retail Farm Processing Facility, provided that the verification of such conditions by the United States Department of Agriculture Farm Service Agency. Processed products produced by the Retail Farm Processing Facility with outdoor seating in such a year shall not exceed the highest volume of processed products produced by the Retail Farm Processing Facility in any of the preceding five (5) years.

3. Parcel Requirements:

- i. At least sixty (60) acres of contiguous land shall be dedicated to the operation of a Retail Farm Processing Facility with indoor retail sales and an outdoor seating area for consumption only.
- ii. The dedicated acreage shall be located within Peninsula Township and shall be exclusively controlled and operated by the same Farm Operation that exclusively controls and operates the Retail Farm Processing Facility with outdoor seating. Control of the dedicated acreage must be evidenced by a deed, lease, or memorandum of lease in the name of the Farm Operation recorded with the Grand Traverse County Register of Deeds. At least sixty-five percent (65%) of the acreage dedicated to the Retail Farm Processing Facility shall be in Active Production.
- iii. At least forty (40) acres of the dedicated land must be in a single parcel with a minimum parcel width of 330 feet and shall contain the Retail Farm Processing Facility and outdoor seating. There shall be at least twenty (20) acres in Active Production on the same parcel as the Retail Farm Processing Facility. The parcel shall not be divided for as long as the Retail Farm Processing Facility continues in operation.
- iv. The remaining acreage necessary to meet the 60-acre minimum dedication shall consist of a single parcel or two contiguous parcels.
- v. Not more than one (1) single-family dwelling may be located on the parcel containing the Retail Farm Processing Facility. Not more than one (1)

additional single-family dwelling may be located on the remaining dedicated acreage.

- vi. None of the dedicated land shall be used to satisfy acreage density or open space requirements of any other use in the Township while the Retail Farm Processing Facility continues in operation.
4. Setbacks: The minimum setbacks for the Retail Farm Processing Facility with outdoor seating including required parking shall be:
- i. Front Yard Setback: 50 feet.
 - ii. Side and Rear Yard Setback: 200 feet.
 - iii. Outdoor Seating Area: 350 feet from all property lines to minimize negative impacts to neighboring properties from noise, light and odors.
 - iv. No Retail Farm Processing Facility shall be located within a Viewshed, except as permitted by recommendation of the Planning Commission and approval of the Township Board. For those parcels where a Farm Processing Facility is proposed that is entirely within a Viewshed, a location will be considered that minimizes the negative impacts to the Viewshed.
5. Retail Farm Processing Facility Size:
- i. The total floor area of the Retail Farm Processing Facility above finished grade shall not exceed 250 square feet per acre of land comprising the dedicated parcel that contains the Retail Farm Processing Facility and shall not exceed 30,000 square feet of total floor area above finished grade.
 - ii. The Retail Farm Processing Facility may consist of more than one building; however, all buildings used by the Retail Farm Processing Facility with outdoor seating shall be located on the 40-acre minimum parcel that contains the Retail Farm Processing Facility and outdoor seating area and shall not collectively exceed the floor area allowed by Subsection (11)(b) 5 i above.
 - iii. Underground floor area may be allowed in addition to the maximum permitted square footage of floor area above finished grade provided it is entirely below pre-existing ground level and has no more than one loading dock exposed.
 - iv. Retail sales space may be a separate room within a Retail Farm Processing Facility and shall not exceed 1,500 square feet in area.
 - v. The area of any Tasting Room shall be included in the total allowed square footage for retail sales.

6. Pre-existing Buildings: (built prior to December 13, 2022) may be used for a Retail Farm Processing Facility provided they are not greater in size than the maximum allowable square footage per acre as referenced above. The Zoning Board of Appeals may consider variances from setbacks for such pre-existing buildings in accordance with Section 5.7.3, giving special attention to avoiding adverse impacts on surrounding property owners.
7. Outdoor Seating Area Size:
 - i. The outdoor seating area shall be limited to 750 square feet.
 - ii. The maximum occupancy for the outdoor seating area shall be 50 persons at all times.
 - iii. The limits of the outdoor seating area shall be clearly defined with a fence and/or combination of fencing and landscaping that provides year-round screening from adjacent properties.
 - iv. Table umbrellas or permanent shade structures are permitted.
 - v. No temporary structures including tents or canopies are allowed.
8. Vested Right: Approval of a special use permit for an accessory Retail Farm Processing Facility with outdoor seating shall not create any Vested Right in the continued non-agricultural use of any structures built or used for a Retail Farm Processing Facility. Such structures shall only be used for uses permitted by right in Section 6.7.2 in the event that the accessory Retail Farm Processing Facility with outdoor seating use is discontinued or curtailed.
9. Parking: Parking shall conform to the requirements of Section 7.6.
10. Signs: All signage shall conform to the requirements of Section 7.11.
11. Lighting: All exterior lighting shall conform to the requirements of Section 7.14.
12. Access: Access shall be from a paved public road. An access permit from the Grand Traverse County Road Commission or Michigan Department of Transportation shall be required before a Land Use Permit may be issued.
13. Water: Demonstration of adequate water for the Wholesale Farm Processing Facility shall be provided by the appropriate agencies. Conformance to agency requirements shall be required.
14. Sewage and Wastewater Disposal: Demonstration of adequate sewage and wastewater disposal for the Wholesale Farm Processing Facility shall be provided by the appropriate agencies. Conformance to agency requirements shall be required.

15. Fencing or Planting Buffer: In the event that the Township Board determines that noise generation may be disturbing to neighbors, or that the location of the establishment is in an area where trespass onto adjacent properties is likely to occur, then the Township Board may require that fencing and/or a planting buffer be constructed and maintained.
16. Landscaping: The front yard area and/or any side yard adjacent to public right-of-way not used for access and parking shall be planted and maintained in accord with an appropriate landscape design to integrate the Retail Farm Processing facility with outdoor seating into the site, as approved by the Township Board.
17. Data and Records:
 - i. The Farm Operation operating the Retail Farm Processing Facility with outdoor seating shall annually by April 15 of each year provide data and records from the previous calendar year to the Director of Planning demonstrating that (a) a minimum of sixty-five percent (65%) of the Raw Produce processed as measured by weight is grown on land exclusively controlled and operated by that Farm Operation, (b) a minimum of fifty percent (50%) of the ingredients as measured by weight of any processed products sold was derived from Raw Produce grown on land that is exclusively operated and controlled by that Farm Operation, and (c) all land within the Township controlled and operated by the Farm Operation meets the dedicated acreage requirements.
 - ii. The above data shall be supplied to the Township in a format or form approved by the Director of Planning.
 - iii. Any change in the above shall be submitted in writing to the Director of Planning within 60 days of said change. Failure to submit such changes shall be considered a violation of this Ordinance and may be a basis for revocation of the special use permit.
18. Approval Process:
 - i. Approval of a Special Use Permit is required subject to all requirements of Article VIII, Section 8.1. followed by the administrative approval of a Site Plan.
 - ii. A Site Plan application with all required submittal materials shall be submitted to the Director of Planning. The site plan shall include at least:
 - a. the parcel or parcels with parcel numbers dedicated to the Retail Farm Processing Facility with calls and dimensions on all property lines;
 - b. legal descriptions for all parcels;
 - c. all existing and proposed structures including setbacks

- d. from property lines;
 - e. proposed parking, landscaping and lighting;
 - f. floor plan showing all processing areas; and
 - the name, email address, mailing address, and phone number of the Farm Operation.
- iii. Site Plan approval for a Retail Farm Processing Facility with outdoor seating shall be issued by the Director of Planning upon showing that it is compliant with this Ordinance, all conservation easements, and the Special Use Permit approval, including minimum parcel requirements, building size, building height, acreage in crop production, setbacks, landscaping and parking.
- iv. Once the Site Plan is approved and signed by the Director of Planning, a Land Use Permit application may be submitted to the Zoning Administrator.
- v. A permit from the Grand Traverse County Health Department is required before a Land Use Permit for a Retail Farm Processing Facility can be issued.
- vi. No processing or wholesale or retail sales of products shall take place until a Land Use Permit has been issued by the Zoning Administrator.
- vii. Such Land Use Permit shall not be issued until copies of all permits required by state, federal, and other local licenses and permits have been submitted to the Zoning Administrator and the Zoning Administrator has made an on-site inspection to verify compliance with all requirements of the zoning ordinance.
- viii. Any violation of the Special Use Permit issued by the Township Board, the Site Plan Approval issued by the Director of Planning, or the Land Use Permit issued by the Zoning Administrator for this use shall, in addition to the provisions of Section 4.2.1 Violations and Penalties, serve as grounds for revocation of the Special Use Permit, the Site Plan Approval and the Land Use Permit.

Section 8. Deletion of former Subsection 8.7.3(10), Winery-Chateaus: The Peninsula Township Zoning Ordinance, former Subsection 8.7.3(10), is hereby deleted and repealed.

Section 9. Amendment of Subsection 8.7.2(13), Remote Tasting Rooms: The Peninsula Township Zoning Ordinance, Subsection 8.7.2(13), is amended to read as follows:

(13) Remote Tasting Rooms within the Agricultural District A-1.

Section 10. Amendment of Subsection 8.7.3(12), Remote Tasting Rooms: The Peninsula Township Zoning Ordinance, Subsection 8.7.3(12), is amended to read as follows:

(12) Remote Tasting Rooms:

- a. Statement of Intent: It is the intent of this Subsection to allow tasting of Alcoholic Liquor and non-alcoholic beverages in a tasting room that is not on the same property as the Farm Processing Facility with which it is associated by special use permit in the A-1 Agricultural District and to establish reasonable standards for the use.
- b. There shall be a minimum parcel size of five (5) acres.
- c. The five-acre parcel shall not have another use such as housing but may be used for the Active Production of agricultural crops.
- d. The building used for the Remote Tasting Room shall be consistent with the neighborhood character within one-half mile of the proposed building. Preliminary building elevations shall be submitted with the special use permit application showing roof type, pitch, and color, and siding type and color. The adaptive re-use of existing structures is encouraged.
- e. The Remote Tasting Room, the parcel on which it is located, and the Farm Processing Facility with which it is associated shall be exclusively controlled and operated by a Farm Operation that also exclusively controls and operates a minimum of 150 acres in Peninsula Township evidenced by a deed, lease, or memorandum of lease in the name of the Farm Operation recorded with the Grand Traverse County Register of Deeds. At least 50% of the 150 acres shall be in Active Production of agricultural crops.
- f. Tasting of Alcoholic Liquor and non-alcoholic beverages produced by the Farm Operation that controls and operates the Remote Tasting Room shall be the only products tasted in the Remote Tasting Room.
- g. Sales of Alcoholic Liquor and non-alcoholic beverages by the bottle produced by the Farm Operation that controls and operates the Remote Tasting Room are allowed for off- premises consumption. Sales of Alcoholic Liquor by the glass produced by the Farm Operation that controls and operates the Remote Tasting Room are allowed pursuant to the minimum requirements of the Michigan Liquor Control Commission rules and related Michigan Department of Agriculture permits regarding the sales of limited food items for on-premises consumption, subject to the requirements of this Zoning Ordinance and special use permits granted hereunder.
- h. Those Remote Tasting Rooms that hold a liquor license may serve limited food items indoors to offset the effects of consuming alcohol. Food items are limited to snacks that require minimal preparation such as cheese and crackers, dried fruit and nuts, and chocolates. No restaurants, cafes or off-site catering shall be permitted as part of a Remote Tasting Room.

Section 11. Severability: The provisions of this Ordinance are declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that

declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

Section 12. Effective Date: This Ordinance shall become effective seven (7) days after publication of a notice of adoption of this Ordinance unless referendum procedures are initiated under MCL 125.3402. If referendum procedures are initiated, this Ordinance will take effect in accordance with MCL 125.3402.


Section 13: Repeal: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

YEAS: Unanimous

NAYS: —

ABSENT/ABSTAIN: —

ORDINANCE DECLARED ADOPTED.


Isaiah Wunsch, Peninsula Township Supervisor

CERTIFICATION

I hereby certify that:

1. The above is a true copy of an Ordinance adopted by the Peninsula Township Board at a duly scheduled and noticed meeting of that Township Board held on December 13, 2022, pursuant to the required statutory procedures.

2. A summary of the above Ordinance was duly published in the Record - Eagle newspaper, a newspaper that circulates within Peninsula Township, on December 16, 2022.

3. Within 1 week after such publication, I recorded the above Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the ordinance, the names of the members of the township board voting, and how each member voted.

4. I filed an attested copy of the above Ordinance with the Grand Traverse County Clerk on 12/19/22, 2022.

ATTESTED:


Rebecca Chown, Peninsula Township Clerk