



February 5, 2008

Mr. Rob Manigold
Peninsula Township Supervisor

Legislative Review of Ordinances Governing Peninsula Wine Industry

This is to request that the Township begin a process in partnership with Old Mission Peninsula wineries to review winery ordinances working toward a stronger foundation for regulation and enablement of farm-based wineries on this Peninsula. We are at a point in the Old Mission Peninsula wine industry's history to draw on over thirty years of experience to make improvements on the existing regulatory provisions. Currently there are an array of ordinances governing winery operation that at times are difficult to follow, not consistent from winery to winery and positioning Old Mission Peninsula wineries at a disadvantage against competition from neighboring growing areas. We believe improvements can be made in a very positive way landing this community in a spot characterized by a healthy grape growing and wine industry bringing many quality of life benefits to the people of this Township.

We look forward to working with the Township and other interests in bringing this about.

Yours truly,

Joan Kroupa, President

Cc: Mr. Greg Fiebing

Draft Ideas to guide Peninsula Township Relook at winery Regulation in the Township—Notes from Brainstorming Meeting February 19, 2008

Winery Bill of Rights

We want to be enabled as wineries to conduct the normal course of business for a winery. We desire to live within a “performance code” system that is based on empowering a winery to be a winery with sub-uses typical to a winery. The performance code would define impact limits such as sound or hours of operation rather than details of allowed or not allowed uses.

Our regulatory foundation in Peninsula Township varies considerably from winery to winery

Grandfathered on many uses

Chateau Grand Traverse

Winery Chateau

Chateau Chantal

Chateau Grand Traverse

Roadside stand

Bowers Harbor Vineyard

Farm Processing Facility

Brys Estate

Two Lads

Blackstar

Remote Tasting Room

Peninsula Cellars

Each winery is regulated under a specific part of township zoning code. We do not desire that the current zoning code be erased. Each part of Township zoning code regulating wineries enables a specific purpose... Farm processing under Amendment 139 allows farm-based wineries to start quickly to sustain the viability of a specific farm. Winery Chateau enables a winery to have a hospitality business. Remote Tasting Room enables use of a tasting facility apart from the main farm allowing access to a more attractive sales point. Roadside stand provides a quick and simple way to market produce from a farm. The issue is that each part limits wineries from operating in a way that represents what a typical winery would be able to do with no incremental positive impact gains for the people of the Township.

What We Do for the People of Peninsula Township that People Like

- Preserve land and views—Grapes like the prettiest spots
- Preserve family farms and agriculture
- Pays taxes including substantial PDR contribution through our taxes
- Enhance other property values... people like living near a vineyard and winery
- Support other businesses especially restaurants and other farm product producers
- Provide jobs locally conveniently for people of Township close to home
 - Retired

- Homemakers
- Young people
- Farm workers

Our Value Chain and Components We Need to Address

- Farming
 - Tax as agriculture rates rather than commercial rates...or make commercial and allow commercial activities—we currently have the worst of both worlds
 - Make acreage requirements reasonably associated with winery needs
 - Grow the grapes we need within rights to farm
 - Allow all winery activities on conservation easement land—currently some can benefit from conservation easements while others provide the effect but do not get the benefits in reduced taxes or fees for the easement
- Wine Making
 - Building size to allow production to support processing and storage needs relative to farm and business size—limits are too tight and allowance for needed changes/improvements are overly cumbersome.
 - Bring in grapes and other commodities to produce wine as needed.
 - Use space properly permitted by state and federal authorities for any winery activities to full intent of State or Federal permit
- Selling Product
 - Adequate space...particularly tasting space
 - Allow sampling of product in way that is economically feasible
 - Allow sales of product in any space allowed by State or Federal permits
 - Allow sales of value added associated merchandise such as logo items
 - Expand allowances of items that can be sold beyond logo
- Associated Activities--Activities that are normally associated with a winery such as:
 - Food service associated with wine—small restaurant is a basic part of hospitality
 - Weddings, family events and other special events regulated by impact—not type of event
 - Festivals
 - Special tastings
 - New release tastings
 - Political events
 - Possible voucher or credit system within philosophy of master plan—point system to earn more events
 - Use facilities within licenses and codes as long as they meet “impact” limits on items like sound, light, hours etc.

Don't want...

California type Highway 29
Complete random development

Aug 1st

WINERY ORDINANCE DISCUSSION
WOMP MEETING
June 20, 2011
8:30 PM

→ 190 MI fruit to be MI winery
MARWIC - get start-up info to Dan

1. Discoveries & Information

- a. Small Wineries – “What does it take?”
 - i. Start-up costs
 - ii. # of acres per type of facility
 - iii. How many gallons can one expect to produce?
- b. State MLCC Regulations + YTB
 - i. Small Wine Maker License
 - ii. Wine Maker License

2. Existing Language

- a. Strengths
- b. Weaknesses

3. Discussion Topics for Ordinances Changes

- a. Start-up wineries – Less than twenty (20) acres ^{new 40} (co-op option - other areas)
- b. Events – How many, what type, how often, how many people, how to mitigate complaints
- c. “Level the Playing Field” – What can be sold from a winery
- d. Purchasing grapes outside of the appellation and its relation to the ordinance
- e. Other topics needed to be addressed..... (Anything from the Owner’s perspective?)

4. Timeline for adjustments

- a. NOW!
- b. Continue open dialogue with the members of WOMP to continue revision process

MLCC advisory board - new org. LARA
Howard Giddings

Winery Ordinance Concepts for Review

Current Ordinance Classifications:

September 15, 2011

Use By Right:

Farm Processing Facility

Acreage Requirements:	Minimum 20 acres of ag land under ownership & 20 acres leased.
Structure Size Constraints:	Maximum square footage of 6,000 sq.ft.
Limitation of Tasting Room:	Greater of 500 sq.ft. or 25% of area above finished grade.
Sources of Produce:	Old Mission Appellation
Events / Outdoor gatherings:	May participate in Township wide events

Uses Permitted By Special Use Permit:

Food Processing Facility

Acreage Requirements:	Minimum 5 acres of agricultural property under ownership.
Structure Size Constraints:	Maximum coverage allowed under Ag. zoning: N/A
Limitations of Tasting Room:	Not allowed.
Sources of Produce:	N/A
Events / Outdoor gatherings:	Not allowed

Winery - Chateau

Acreage Requirements:	Minimum 50 acres of agricultural property under ownership.
Structure Size Constraints:	Maximum square footage allowed under Ag. Zoning: N/A
Limitation of Tasting Room:	No limitations
Sources of Produce:	No limitations
Events / Outdoor gatherings:	May participate in Township wide events & may host events with a limited number of people based upon annual purchasing of produce besides that which is produced on property owned by the Chateau.

Remote Winery Tasting Rooms:

Acreage Requirements:	Minimum 5 acres for the tasting room plus 150 acres of agricultural property under the same ownership of which, 50% must be in active agricultural production.
Size Constraints:	Maximum square footage allowed under Ag. Zoning: N/A
Limitation of Tasting Room:	No limitations
Events / Outdoor gatherings:	May participate in Township wide events

Proposed New Ordinance Classifications

defined as fruit

Uses By Right:

Estate Winery

- Acreage Requirements: Minimum 10 acres of agricultural property under common ownership.
- Structure Size Constraints: Maximum square footage coverage of 4,000 sq.ft. (Up for debate, but enough to house a processing area and its supported wine production off produce harvested from the 10 acres it sits upon.)
- Limitation of Tasting Room: Not Permitted
- Source of Produce: 85% must be from Old Mission Peninsula (Maintain Old Mission Appellation)
- Events / Outdoor gatherings: Not a participating member.

Other Comments & Issues:

Sales thru roadside stand via state?

can add principle use (winery), no stand as accessory

Farm Processing Facility

- Acreage Requirements: *10 winery extra 30 acre non contiguous*
Minimum 40 acres (20 under common ownership and 20 which can be leased.) *planted to fruit...*
- Structure Size Constraints: Maximum square footage of 8,000 sq.ft.
- Limitation of Tasting Room: Maximum of 25% of the area above finished grade. (Not to exceed 1,500 sq.ft.)
- Sources of Produce: Old Mission Appellation
- Events / Outdoor gatherings: May participate in Township wide events

Other Comments & Issues:

merch?

Uses Permitted By Special Use Permit:

Culture Winery (Name Under Review...)

- Acreage Requirements: Minimum 40 acres of agricultural property under common *20 acre leased* ownership. (20 of the required 40 acre total must be qualified as an "integrated whole" and additional setback will need to be put in place to mitigate impact on neighboring parcels.) *fruit / ag to make wine part of rule*
- Structure Size Constraints: Maximum square footage coverage of 12,000 sq. ft. *+ bonded storage per acre over 40*
- Limitations of Tasting Room: Maximum of 2,000 sq.ft.
- Sources of Produce: Old Mission Appellation
- Events / Outdoor gatherings: Option to host small scale events (Not to exceed "x" participants based on # of commonly owned acres), Maximum of 20 events annually. (Hours of operation, parking, etc. would also need to

tents?

be defined within language.) May participate in Township wide events.

Other Comments & Issues:

Winery - Chateau

- make to fit us
- defined common ownership

+/- w/ cutouts

as opposed to 50 current

defined as owners in corporation under prod.?

Acreage Requirements:

Minimum 80 acres of agricultural property under common ownership. +/- in production, + leased amt. under prod.?

Structure Size Constraints:

Maximum square footage allowed under Ag. Zoning: N/A

Limitation of Tasting Room:

Maximum of 3,000 sq.ft.

Sources of Produce:

Limitations provided by MLCC. - what limits?

Events / Outdoor gatherings:

May host events based upon "x" number of participants (# of participants based upon acreage under common ownership with a limited number of people based upon annual purchasing of produce besides that which is produced on property owned by the Chateau. May participate in Township wide events. &

Other Comments & Issues:

b4b - etc.

- events based on bldg, + land in ownership

- no ratio of tons to guests

Remote Winery Tasting Rooms:

Acreage Requirements:

Minimum 5 acres for the tasting room plus 150 acres of agricultural property under the same ownership of which, 50% must be in active agricultural production.

Size Constraints:

Maximum square footage allowed under Ag. Zoning: N/A

Limitation of Tasting Room:

No limitations

Events / Outdoor gatherings:

May participate in Township wide events

Other Comments & Issues:

more do other area + meet

req w/ TR in ok area.

**The included documents are preliminary and should not be regarded as a final draft language. The concepts presented altering ordinance language are merely that, concepts. Additional discussions & public hearing processes will need to take place prior to any official language being adopted by the Township Board. Thank you again for the time to address this issue.*

Sincerely,

Daniel Leonard; Peninsula Township Planner

Nov. 5th - 2⁰⁰

To: Peninsula Township Planning Commission

AVA Rules
to Michelle
Produced?
From: Michelle Reardon, Planning & Zoning Department

Re: Agricultural Tier Language

Date: September 30, 2014

Bingham
stuff

Points of discussion for the Agricultural Tier language:

tents
consist.

1. Definition of Contiguous – Throughout the tier language the base acreage is required to be “contiguous”. What is the definition of contiguous?

Merriam-Webster: being in actual contact; touching along a boundary or at a point or touching or connected throughout in an unbroken sequence.

Oxford Dictionary: sharing a common border; touching.

Dictionary.com: touching; in contact or in close proximity without actually touching; near.

The current ordinance language allows for this to include parcels that are touching yet separated by a road. Specifically, section 6.7.2 (19) Farm Processing Facility allows the initial 20 acre parcel “may be one parcel or two contiguous parcels and the contiguous parcels may be separated by a road”.

Further, in June of 2013 at a joint meeting of the Township Board, Planning Commission and Zoning Board of Appeals staff was directed to amend zoning language to include right-of-way owned by a property owner as part of the acreage calculations. The discussion indicated that contiguous would include property on two sides of a road if that road was included in the legal description and owned by the applicant.

Staff recommends the definition of contiguous to be: Property that shares a common border and may be separated by a right-of-way provided that right-of-way is in common ownership with the subject parcels.

2. Acres in production requirements – The current regulations rely on minimum acres planted to encourage the protection and use of Peninsula Township agriculture resources. Alternative language suggested allows for the product to be made from 50% peninsula grown products (or 85% as it relates to wine and the Old Mission AVA) and for tree canopy cover to be allowed as part of the planted land calculation.

Wooded areas / land sup. ag on sprayed, etc.
We need resolution on a) how to regulate the acreage in production v. planted (i.e. tree canopy) and b) do we dictate percentage of finished product from peninsula grown produce?

Staff is looking for discussion and historical information on this point.

3. Maximum Coverage Standards – Agricultural Zoning does not currently have a maximum coverage standard. However, the smaller tiers and the Local and Cottage Food Production uses are permitted on smaller acreage parcels and may potentially need this standard.

Our lowest standard for maximum coverage is 15% in the R1-A and R1-B districts. On a 5-acre parcel a max of 15% coverage would allow a maximum of 32,670 square feet of impervious surface coverage. On a 10-acre parcel a max of 15% coverage would allow 65,340 square feet of impervious surface.

While these numbers seem larger than would generally be developed by an applicant staff suggests a maximum coverage standard to protect and prevent the overdevelopment of agricultural land.

4. Guest Use Activities – Current language regulates the persons/groups (non-profits, agriculture related parties) who can participate in these uses and the impacts of the activities (noise, lighting). The impact mitigation language has been added back into the language. Additionally, language requiring the event to be agriculturally related through use of peninsula products, promotional materials and tours has been included.

Staff suggests regulating the activity through mitigating impacts and requiring an agricultural connection is the way to eliminate the creation of an event space and continue to focus on value added agricultural activities.

Feel free to contact me should you have any questions.

To: Peninsula Township Planning Commission
From: Michelle Reardon, Planning & Zoning Department
Re: Agricultural Tier Language
Date: September 30, 2014

Points of discussion for the Agricultural Tier language:

1. Definitions:

Contiguous – property that shares a common border and may be separated by a right-of-way provided that right-of-way is in common ownership with the subject parcels.

Registered Guest - a person or people that stay overnight and have signed a guest register.

Arable Land – land fit for the growing of crops exclusive of mature, healthy, wooded lots.

2. Acres in production requirements: To provide consistency and an increased commitment to the land as a proprietor proceeds through the tiers staff is suggesting the following for minimum acreage requirements:

All tiers will include language stating

Tier 1 – 50% of arable land

Tier 2 – 60% of arable land

Tier 3 – 65% of arable land

Tier 4 – 75% of arable land

Suggested language also includes: "The parcel shall be at least fifty percent (50%) arable land."

To further support the use of OMP produce and to comply with the State of Michigan Department of Agriculture Farm Market GAAMPS staff is suggesting that 51% of all products sold in the tasting room and retail area are products made from produce on-site.

3. Maximum Coverage Standards – Agricultural Zoning does not currently have a maximum coverage standard. Due to the proposed tier language (i.e. acres planted, maximum size of structure) staff does not see a need for additional language regarding maximum coverage standards

4. Maximum Occupancy – Occupancy is determined by the Fire Inspector. Based on information supplied by Chief Rittenhouse this type of use would require fifteen square feet (15sf) per person of occupancy. For a winery with a 2,500 sf tasting room this would allow a maximum capacity of 166 persons.

tier 4-2500 indoor sq ft

Feel free to contact me should you have any questions.

PENINSULA TOWNSHIP PLANNING COMMISSION
SUB-COMMITTEE NOTES
January 22, 2015

Present: P. Rosi, D. Hornberger, L. Serocki
Also present: M. Reardon, E. Crafts, M. Nadolski, N. Heller, J. Krupka, C. Baldyga, J. Kroupa, M. Peters, C. Ruzak

Meeting called to order at 2:01PM

Agenda amended. Number 2 will be Bed and Breakfast; Number 3 will be Ag Tiers.

1. Minutes of November 19, 2014 Approved without change.

2. Review draft B&B language (Section 8.7.3.6). Discussed memo from Planning Department dated January 15, 2015. MEALS--Removed first sentence from (b)16. in draft to reduce redundancy. EVENTS--Will change (b)17.i. to "No more than twenty (20) outdoor events are allowed per calendar year." Will amend (b)17.ii to "No more than two (2) outdoor events are allowed per calendar week." Also, (b)17.iii will be changed to "All events shall end by 9:30."

Discussed: (b)4.v.--two hundred feet set-back from crops is for noise as much as for spray. If property is abutting ag land, could 200 feet set-back be lessened? How far should a B&B be from other uses?? How many complaints are made regarding ag noise and spray? The impact is on the B&B, not on the crops; could be reduced. Staff will look into B&B set-backs from ag crops. (b)7. Should occupancy level be increased? As written a B&B with 3 bedrooms can have 12 guests (4 per room), but a B&B with 5 bedrooms can only have 12 guests. Will leave at 12 guests per B&B. (b)9. How is square footage per bedroom measured? Measured by interior wall. (b)15. B&B establishments cannot rent snowmobiles, ATVs or similar vehicles. Can registered guests bring vehicles? B&B would need parking area so that additional vehicles would be parked legally. Is the phrase "in conjunction with the operation of the establishment" necessary? Should be reworded or removed. If B&B is sold, the SUP goes with the property. Events will not be defined in the ordinance, but there will be a definition in the Zoning Ordinance. Owner would be allowed to have a garden plot closer than 200 feet to the B&B. Owner would be allowed to have a roadside stand. Discussed ag events in association with B&B; that is a value-added event and not included in this ordinance.

3. Review draft Winery language. Discussed memo from M. Reardon dated January 21, 2015. Started with #3. which requires agricultural equipment to be stored in a structure. Can it be a covered structure or is it necessary to have walls? Is this language necessary? Section will be removed. #5. Natural disaster statement. Because of ZO's new format, this statement will be placed in Use By Right section and SUP section not in an over-arching paragraph to cover all tiers. #6. The ag tier language allowed Remote Tasting Rooms only in commercially zoned districts. The current Remote Tasting Room ordinance is tightly interpreted. Look into allowing them as currently written or in a commercial property. #1 and #2--Why are we going to tier language? Tier 1 could be

covered under food processing if some changes were made to the food processing ordinance. Standards would have to be tightened. New language allows for retail sales on site. Current ordinance does not allow for smaller vineyards; forced to build big structures. Could have custom crushes done at other wineries. Staff will go back and refine food products and work on fermented products instead of having a Tier 1. Tier 3 allows 139 wineries to have more opportunities without becoming a chateau. Tier 3 as written looks a lot like Bower Harbors' SUP. Every event at a chateau preserves some ag property on the peninsula as have to use OMP grapes to be allowed events. Should 139 wineries be allowed events too, as they are preserving ag too? There are three main benefits to being a chateau 1.) Can have a B&B, 2). Can have events, 3). Can purchase bulk grape juice, which is very profitable for the winery. Old Mission wines are special; have a very good image. Winery owners will have to look at new ordinances and decide if they want to give up what they have to get something in the new ordinance. GAAMPs now allows tasting at farm markets. Attorney will have to interpret Peninsula Township needs to get closer to GAAMPs regulation. Need to work on Farm Processing, Remote Tasting, Food Processing, and Chateaus. Take what we have learned from tier language and put it in existing ordinances. Lots of work and lots of people had input in Tier Language. Did not discuss #4 (Produce requirements).]

4. Public Comment. All public comment was made during the meeting.

Next meeting Thursday March 12, 2014 at 2:00PM.

Meeting adjourned 4:05PM
laws

SUB-COMMITTEE MEETING
March 12, 2015

Present: P. Rosi, D. Hornberger, L. Serocki
Also Present: M. Reardon, N. Heller, M. Nadolski, D Edmondson, M. Peters, J.
Kroupa, B. Lillie, C. Baldyga

Meeting called to order at 2:06PM.

1. Minutes. Minutes approved without change.

2. Review draft Winery/Processing language. There will be five ordinances regarding food processing: Food Processing Plants, Farm Processing Facility/Use by Right, Winery Chateau, Remote Tasting, and Local Food Processing. Reviewed draft for Food Processing Plants which includes current ordinance Section 8.5, former Tier 1 language, and Cottage Food Production Facility ordinance. Two questions that committee should address: what is the minimum acreage allowed and should all wines be designated AVA? Cottage Food Production is 5 acre minimum; Tier 1 is 10 acre minimum. New draft reads "minimum size requirements for an agricultural zoned parcel unless it is recognized as a legal non-conforming parcel of record." There would be no tasting, no retail component, just processing. Could have a road-side stand if in excess of five acres; wine would have to be licensed. Wording for acreage will remain the same. Will leave AVA limit in ordinance. Should there be a limit on building size? Decided that there should be a maximum square footage. Discussed experimental kitchens where space could be rented for processing. The renting of the facility would constitute a commercial enterprise. Keep the fruit local; 51% has to be grown on peninsula. What about land in production, but not in processing? Would use language similar to the chateau language. Names of ordinances will change so it will be less confusing; tiers will be gone.

Reviewed draft Farm Processing Facility/Use By Right Winery which incorporates the section previously called Tier 3. The main change from winery language currently used for Farm Processing Facility is the addition of accessory uses. Guest activities would be allowed if they included an agricultural production promotion as part of the activity. Guest activities would be limited to 50 people with 20 events a year, two per week and would take place during normal working hours ending by 9:30PM. Notice would be given to the township on a monthly basis. Sixty-five percent of the land would have to be in production; discussed changing language to include "arable." Parking would have to accommodate guest use. Retail sales would be allowed inside only. Facility would have to be located on a public road.

3. Public Comment. How many categories will there be? At this time there will be

five processing ordinances and also roadside stands. As language is completed, the large chart will be filled in; should make options and requirements readily available. Will be discussed later if the chart should be included in the ZO. Discussed GAAMPS and the need to fit that in to ordinances. Would a beer tasting facility work if it needed such a high percent of ag crop in the product? A small amount of hops is needed per batch. Beer and spirits could be done through the Farm Processing ordinance, but could not sell or taste on peninsula unless in commercial district. Spirits could be sourced from fruit on the peninsula, but beer could not. Might need a brewery ordinance in the future, but not at this time.

Meeting adjourned at 3:48PM

laws

Meeting on Master Plan Agricultural Goals/Actions – Nov 17, 2016 at 2:00 pm
Planning Commission Committee on Master Plan Implementation and Zoning Rewrite

Monnie Peters, Co-Chair of the Committee
Date: November 14, 2016

This Meeting will be the third round-table discussion looking at the Township's 2011 Master Plan Goals and Actions. It will focus on Agricultural Issues in the Township. The task is to go through the Master Plan "Goals and Actions" and discuss the "what" and "who" that is needed to accomplish each "Action". Also, the subject of wineries and winery-chateaus will most likely arise.

The discussion will be directed toward defining the issues that need addressing rather than debating the merits. Once the Ag issues have been enumerated and articulated with a bit of detail, future meetings to discuss the merits in detail will be set up where the appropriate stakeholders can be present, and materials on the topics can be prepared in advance.

The accompanying one page spreadsheet of Master Plan Goals and Actions is an abbreviated version of the full spreadsheet. It covers only the Goals and Actions that relate to Agriculture. You may also be interested in the minutes and packets for the two Ag round-table discussion meetings that were held last summer on June 13 and June 23. Minutes and packets for both meetings (joint Town Board and Planning Commission) can be found on the Township Website.

The first two meetings of the Master Plan Implementation were October 3rd and November 9th. Packet materials and minutes of those meetings can (or will shortly) be found on the Township Website. The Master Plan itself can be found on the Website under Departments, and then Planning. The link to the Master Plan is:
http://www.peninsulatownship.com/uploads/1/0/4/3/10438394/master_plan_2011_-_signed.pdf

The packet has a .pdf version of the Working Spreadsheet. If you would like an excel version, contact me, Monnie Peters, and I will email you one.

Questions or comments: contact me at mgpeters@acegroup.cc or Gordon Hayward, Township Planner, at planner@peninsulatownship.com

Date: 11/14/16 (MGP)

Implementation

Who? TB, PC, P-Staff, O-staff
Priority High / Low

What is needed to do this action?
Research Zoning Other

Ag Goals and Actions only

Peninsula Township Master Plan 2011 Goals and Actions

Area of Concern
Goals Actions

Agricultural Production and Land Use
pp 26-27
Preserve 9000 acres of prime/unique/contiguous farmland
Continue PDR program

Encourage clustering of new residential developments
Promote utilization of best mgmt practices *farming*

Develop refined Agricultural Preservation Zoning District and regs

Retain and attract growers and agricultural entrepreneurs
Encourage growers to produce, process, market ag products

Establish Ag Development Plan w MSU Land Policy Inst

Include AG in capital planning (roads, power)

Raise local profile by communicating ag development, production, to all stakeholders

Ensure complementary harmonious existence between res and ag zones
Establish monitoring schedule to enforce ordinance existing/new SUPs

Remove non-ag related uses from existing ag zone

Rural Agricultural Land Use Goals/Actions

Establish the Rural Ag Zoning District
Identify and verify parcels within Rural Ag District

Retain current ag density calculation for new development

Develop permitted uses in Rural Ag District

Adopt a zoning ordinance that defines stds for Rural Ag District

Commercial and Neighborhood Service Goals/Actions

Consider support of Ag tourism and Agribusiness thru events etc
Develop Ag econ tools for promotion of Ag industry

Continue communication efforts in Ag commun to turn things into zoning

Encourage Ag festivals, Farmers mkts

18 mt.

ag exempt

New online
re-write

Article 3: Zoning Districts and Map
Section 3.06: Permitted Uses by District

Section 3.06 Permitted Uses by District (NEW Table of Land Uses, which includes applicable parts of Sections 6.2 – 6.7)

Use	A-1	R-1A	R-1B	R-1C	R-1D	C-1	Development Standard
Accessory Buildings	P	P	P	P	P	P	<u>Section 7.13</u>
Adult Foster Care, Family Home	P	P	P	P	P		
Adult Foster Care, Small Group Home	SU						<u>Section 6.01</u>
Agricultural Labor Camp, Less than 5 migrant workers	P						
Agricultural Labor Camp, Licensed	P						
Airports and Airfields	SU						
Barn Storage	P						<u>Section 6.02</u>
Bed and Breakfast Establishments	SU	SU	SU	SU	SU		<u>Section 6.03</u>
Boat Livery						SU	
Cemeteries	P						
Child Care, Family Home	P	P	P	P	P		
Child Care, Group Home	SU	SU	SU	SU	SU		<u>Section 6.05</u>
Child Care Centers						SU	<u>Section 6.04</u>
Drive-Through Uses						SU	<u>Section 6.06</u>
Dwelling, Single-Family	P	P	P	P	P		<u>Section 6.07</u>
Dwelling, Two Family	P		P	P	P		
Farm Supply and Implement Dealers						SU	
Field crop and fruit farming, truck gardening, horticulture, aviaries, hatcheries, apiaries, greenhouses and nurseries (no retail sales), and similar agricultural enterprises.	P						
Food Processing Plants	P						<u>Section 6.10</u>
Game or hunting preserves operated for profit	SU						
Gasoline Station and Automobile Service Stations						SU	<u>Section 6.11</u>
General Farming and Horticultural Uses	P	P	P	P	P		<u>Section 6.09</u>
Golf Courses and Country Clubs	SU		SU	SU	SU		<u>Section 6.12</u>
Greenhouses and Nurseries (Retail Sales)	SU						<u>Section 6.13</u>
Guest Houses		P	P	P	P		<u>Section 6.14</u>
Home Occupations	P	P	P	P	P		<u>Section 6.15</u>
Hotels, motels, and tourist courts						SU	<u>Section 6.16</u>
Incinerators and sanitary landfills	SU						<u>Section 6.17</u>
Indoor Recreation						SU	<u>Section 6.19</u>
Institutional Structures and Uses	SU	SU	SU	SU	SU		<u>Section 6.18</u> <u>Section 6.04</u>
Junk Yards						SU	<u>Section 6.20</u>
Keeping of Domestic Pets	P	P	P	P	P		<u>Section 6.21</u>
Kennels	SU						<u>Section 6.22</u>
Local Food Production Facility	P						<u>Section 6.23</u>
Marinas						SU	<u>Section 6.24</u>
Mining or removal of top soil	P						<u>Section 8.05</u>
Mobile Homes (not in a Mobile Home Park)	P	SU	SU	SU	SU		<u>Section 6.25</u>

Commented [PS21]: The Michigan Zoning Enabling Act requires Adult Foster Care Family Homes (i.e., up to 6 residents) must be a permitted use in all residential zones.

Commented [PS22]: The Adult Foster Care Facility Licensing Act classifies different types of adult foster care facilities. The adult foster care facility closest to the type currently permitted in the A-1 district via special use approval is an "Adult Foster Care, Small Group Home" which permits up to 12 residents.

Deleted: Facilities

Commented [PS23]: The Michigan Zoning Enabling Act requires Family Child Care Homes (i.e., up to 6 children) must be a permitted use in all residential zones.

Commented [PS24]: The Michigan Zoning Enabling Act requires a Group Child Care Home (i.e., up to 12 children) to be a special land use, subject to certain conditions, which are listed in the corresponding section in Article 6.

Commented [PS25]: Currently, we propose to make this use permitted by right.

Deleted: SU

Article 3: Zoning Districts and Map
 Section 3.06: Permitted Uses by District

Use	A-1	R-1A	R-1B	R-1C	R-1D	C-1	Development Standard
Mobile Home Park Developments					SU		<u>Section 6.26</u>
Off-street Parking Lots						SU	
Retail Sales						SU	
Planned Unit Development	SU	SU	SU	SU	SU		<u>Section 5.01</u> <u>Section 6.08</u>
Professional Offices						SU	
Public areas, Public Parks, and Public Recreation	P	P	P	P	P		<u>Section 6.28</u>
Public and private conservation areas	P	P	P	P	P	P	<u>Section 6.27</u>
Public buildings and public service installations	SU						
Raising and keeping of small animals	P						
Raising, keeping, and boarding of livestock	P						
Raising of Fur Bearing Animals for Profit	SU						
Recreational Unit Park and Campground	SU	P	P	P	P	P	<u>Section 6.29</u>
Recreational Unit Sales						SU	
Remote Winery Tasting Room	SU						<u>Section 6.30</u>
Rental of Non-owner Occupied Dwelling	P	P	P	P	P		<u>Section 6.31</u>
Restaurants and Taverns						SU	
Riding stables and livestock auction yards	SU						
Roadside stands	P						<u>Section 6.32</u>
Sawmills	SU						
Self Service Storage Facility						SU	<u>Section 6.33</u>
Service Institutions						SU	
Sewage Treatment and Disposal Installations	SU	SU	SU	SU	SU	SU	<u>Section 6.34</u>
Special Open Space Uses, including public beaches, bath houses, recreational camps, and other open space uses operated for profit	SU	SU	SU	SU	SU		<u>Section 6.35</u>
Storage for agricultural products	SU						
Tenant House	P						<u>Section 6.36</u>
Temporary Buildings		P	P	P	P		
Utilities						SU	
Veterinary Hospitals and Clinics	SU						
Warehousing of Products						SU	
Sold at Retail on the Premises							
Warehousing and Light Industrial	SU						<u>Section 6.37</u>
Wind Energy Conversion Systems (WECS)	SU	SU	SU	SU	SU	SU	<u>Section 6.40</u>
Winery, Use by Right	P						<u>Section 6.38</u>
Winery-Chateau	SU						<u>Section 6.39</u>
Wireless Telecommunication Towers	SU					SU	<u>Section 6.41</u>

P = Uses Permitted by Right
 SU = Uses Permitted by Special Use Permit

Deleted: Other Similar
 Deleted: Uses

Commented [PS26]: Although this is currently only permitted in residential districts, many similarly situated parcels in the A-1 district may want the same use. Please note that this use excludes lodging uses, such as Bed and Breakfasts.

Deleted: Storage of Trailer Units
 Deleted: P
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Commented [PS27]: "Farm Processing Facilities" are proposed to be called "Winery, Use by Right." See Article 6 for proposed regulation changes.
 Deleted: Farm Processing Facility
 Deleted: SU

Section 3.07 A-1, Agricultural District (currently Section 6.7)

(A) Intent and Purpose (currently Section 6.7.1)
This District is intended to recognize the unique ecological character of the Peninsula and to preserve, enhance, and stabilize existing areas within the Township which are presently being used predominately for farming purposes, yet recognize that there are lands within the district which are not suited to agriculture, therefore allowing other limited uses which are deemed to be compatible with agricultural and open space uses.

(B) Uses Permitted by Right (currently Sections 6.7.2)	(C) Uses Permitted by Special Use Permit (currently Section 6.7.3)
<ul style="list-style-type: none"> • Accessory buildings • <u>Adult Foster Care, Family Home</u> • Agricultural Labor Camp, Less than 5 Migrant Workers • Barn storage • Cemeteries • <u>Child Care, Family Home</u> • Field crop and fruit farming, truck gardening, horticulture, aviaries, hatcheries, apiaries, greenhouses and nurseries (no retail sales), and similar agricultural enterprises. • General Farming and Horticultural Uses • Home occupations • Keeping of pets • Licensed Agricultural Labor Camp, Licensed • Local Food Production Facility • Mining or removal of top soil • Mobile homes (not in a Mobile Home Park) • Public areas, public parks, and public recreation • Public and private conservation areas • Raising and keeping of small animals • Raising, keeping, and boarding of livestock • <u>Rental of Non-Owner Occupied Dwelling</u> • Roadside stands • Single-family dwellings • Tenant house • Two-family dwellings • <u>Winery, Use by Right</u> 	<ul style="list-style-type: none"> • <u>Adult Foster Care, Small Group Home</u> • Adult foster care facilities • Airports and airfields • Bed and Breakfast establishments • <u>Child Care, Group Home</u> • Food processing plants • <u>Game or hunting preserves operated for profit</u> • Golf courses and country clubs • Greenhouses and nurseries (retail sales) • Incinerators and sanitary landfills • Institutional structures • Planned Unit Developments • Public buildings and public service installations • Raising of fur bearing animals • <u>Recreational Unit Park and Campgrounds</u> • Remote Winery Tasting Rooms • <u>Riding stables and livestock auction yards</u> • Sawmills • Sewage Treatment and Disposal Installations • Special Open Space uses, such as public beaches, bath houses, recreational camps, and other open space uses operated for profit • Storage for agricultural products • Veterinary hospitals, clinics, and kennels • Warehousing and light industrial • Wind Energy Conversion Systems (WECS) • Winery-Chateau • Wireless Telecommunication Towers

Deleted: Family day care and group day care homes

Deleted: Farm Processing Facility

Deleted: Section 3.06

The above list is a summary of uses permitted by right or special land use approval in the district, subject to Section 3.06.

(D) Dimension Regulations (currently Section 6.7.4 and Section 6.8)

Lot Standards		Minimum Setbacks	
Min. Lot Area (sq. ft.)	5 acres	Front Yard	35 feet
Min. Lot Width (ft.)	330 feet	Side Yard	50 feet
Max. Lot Coverage (%)	n/a	Rear Yard	50 feet
Max. Building Height (ft.)	35 feet	Ordinary High Water Mark	60 feet
Max. Building Height (stories)	2.5 stories		
Min. Elevation Width of a Principal Structure	n/a		

Area and Bulk Requirements are subject to Article 4 "Schedule of Regulations" limiting the height and bulk of buildings, the minimum size of lot permitted, and providing minimum yard setback requirements.

YOUNG, GRAHAM, ELSENHEIMER & WENDLING, P.C.

Attorneys at Law
104 E. Forest Home, P.O. Box 398
Bellaire, Michigan 49615
(231) 533-8635
Facsimile (231) 533-6225

Bryan E. Graham
Peter R. Wendling
Eugene W. Smith

James G. Young, Of Counsel

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."] by definition, these are then allowed in the TR?

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

Zoning Board of Appeals
June 21, 2106
Page 3

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

WORKING DRAFT February 12, 2020

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DEFINITION	Limited Production Winery (NEW)	Winery (Separated from Farm Pros.) (UPDATE)	Winery-Chateau (UPDATE)	Remote Tasting Room (UPDATE)	Commercial Winery-Chateau (NEW)
Small Winery: A small winery is a facility operated by the holder of a "small wine maker" license issued by the Michigan Department of Licensing and Regulatory Affairs Liquor Control Commission (MLCC). A small winery may include support and accessory uses as specifically described in this ordinance.	Winery: A Winery is a facility operated by the holder of a "wine maker" or "small wine maker" license issued by the Michigan Department of Licensing and Regulatory Affairs Liquor Control Commission (MLCC). A winery may include support and accessory uses as specifically described in this ordinance.	Winery-Chateau: A Winery Chateau is a facility operated by the holder of a "wine maker" or "small wine maker" license issued by the Michigan Department of Licensing and Regulatory Affairs Liquor Control Commission (MLCC). A Winery Chateau may include support and accessory uses as specifically described in this ordinance.	Remote Tasting Room: A Remote Tasting Room is a facility operated by the holder of a "wine maker" or "small wine maker" license issued by the Michigan Department of Licensing and Regulatory Affairs Liquor Control Commission (MLCC). A Remote Tasting Room may include support and accessory uses as specifically described in this ordinance and is part of a larger farming operation elsewhere in Peninsula Township	Commercial Winery-Chateau: A Commercial Winery-Chateau is a facility operated by the holder of a "wine maker" or "small wine maker" license issued by the Michigan Department of Licensing and Regulatory Affairs Liquor Control Commission (MLCC). A Commercial Winery-Chateau may include support and accessory uses as specifically described in this ordinance	
PERMITTED/SPECIAL USE	Special Use in A-1	Permitted Use in A-1	Special Use in A-1	Special Use in A-1	Permitted Use in C-1
SALE OF WINE FOR OFF-SITE CONSUMPTION	Allowed	Allowed in retail/public space	Allowed	Allowed	Allowed
SALE OF WINERY-RELATED MERCHANDISE	Not Allowed	Allowed in retail/public space	Allowed	Allowed	Allowed
AN INDOOR TASTING ROOM	Not Allowed	Allowed in retail/public space	Allowed (subject to any SUP conditions)	Allowed (subject to any SUP conditions)	Allowed
AN OUTDOOR TASTING AREA	Not Allowed	Allowed (but may not exceed 500 square feet).	Allowed (subject to any SUP conditions)	Allowed (subject to any SUP conditions)	Allowed

	Limited Production Winery (NEW)	Winery (Separated from Farm Pros.) (UPDATE)	Winery-Chateau (UPDATE)	Remote Tasting Room (UPDATE)	Commercial Winery-Chateau (NEW)
MAXIMUM BUILDING SIZE	2,000 square feet (subject also to any SUP additional conditions).	The total floor area of a Winery Facility (above finished grade) shall equal 250 square feet per acre of land owned or leased for the specific farm operation, but may not exceed 30,000 square feet of total floor area (above finished grade). (Current language)	None (subject to any SUP conditions)	None (subject to any SUP conditions)	No maximum building size
LIMITS ON INDOOR RETAIL/PUBLIC SPACE	Not Allowed	Retail space may be a separate room and shall be the lesser of 1500 square feet in area or 25% of the total floor area of the Farm Processing Facility (above finished grade). (existing language)	No limit (subject to any SUP conditions)	No limit (subject to any SUP conditions)	No Limit
ACREAGE REQUIRED.	10 acres. One or more contiguous parcels (not separated by a road).	40 acres. One 20-acre parcel plus or more contiguous or non-contiguous parcels equaling 40 acres.	50 Acres. One or more contiguous parcels (not separated by a road).	A 5 Acre, minimum parcel size for the remote tasting room itself, plus, at least 150 acres in Peninsula Township under the same ownership. At least 50% of such acres shall be in active agricultural use. (existing language)	Not applicable
CROP COVERAGE	50% of the site must be covered in plant material that can made into wine.	50% of the site must be covered in plant material that can made into wine.	50% of the site must be covered in plant material that can made into wine.	At least 50% of off-site acres shall be in active agricultural use. (existing language)	None

	Limited Production Winery (NEW)	Winery (Separated from Farm Pros.) (UPDATE)	Winery-Chateau (UPDATE)	Remote Tasting Room (UPDATE)	Commercial Winery-Chateau (NEW)
INDOOR ACTIVITIES	Not Allowed	<ul style="list-style-type: none"> Sale of wine for off premises consumption & winery-related merch. Wine tasting Educational activities/tours Serving catered food, pre-packaged food and small plates (not in a "stand alone facility") 	<ul style="list-style-type: none"> Sale of wine for off premises consumption & winery-related merch. Wine tasting Educational activities/tours Serving catered food and/or pre-packaged food On-site food preparation and food service (not in a "stand alone facility"). Guest rooms 	<ul style="list-style-type: none"> Sale of wine for off premises consumption & winery-related merch. Wine tasting Educational activities/tours Serving catered food and/or pre-packaged food 	<ul style="list-style-type: none"> Sale of wine for off premises consumption & winery-related merch. Wine tasting Educational activities/tours Serving catered food and/or pre-packaged food On-site food preparation and food service (not in a "stand alone facility"). Guest rooms
OUTDOOR ACTIVITIES	Not Allowed	<ul style="list-style-type: none"> Educational activities/tours Outdoor Tasting Area Outdoor activities (allowed only in MLCC defined area) 	<ul style="list-style-type: none"> Educational activities/tours Outdoor Tasting Area Outdoor activities allowed only in MLCC defined area -- and (subject to SUP conditions). 	<ul style="list-style-type: none"> Educational activities/tours Outdoor Tasting Area Outdoor activities allowed only in MLCC defined area -- and subject to SUP conditions) 	<ul style="list-style-type: none"> Educational activities/tours Outdoor Tasting Area Outdoor activities allowed only in MLCC defined area
<i>(Activities = typical uses of the property that take place as patrons regularly visit a venue to participate in normal activities associated with the establishment. In the case of a winery, activities generally include wine tasting, wine sales, tours and educational activities, etc.)</i>					
MUSIC AND OTHER ENTERTAINMENT	Not allowed	Indoor only and subject to the township noise ordinance.	Indoor only and subject to any specific SUP provisions and township noise Ord.	Indoor only and subject to any specific SUP provisions and township noise Ord.	Indoor only and subject to the township noise ord.
HOURS OF OPERATION	Not Applicable	Close at 9:30	Close at 9:30	Close at 9:30	Not restricted
LOGO MERCH. AND PROMO-RESTRICTIONS.	Not applicable	Not restricted	Not restricted	Not restricted	Not restricted
ON FOOD ADVERT.	Not applicable	Not restricted	Not restricted	Not restricted	Not restricted
PARKING STANDARD	Required parking based on employee parking demand.	Required parking based on occupancy of the retail space (per fire code), employee parking demand, and outdoor tasting area.	Required parking based on the occupancy of the public spaces within a building (per fire code), employee parking, guest rooms, and parking necessary to support participants at outdoor events.	Required parking to be based on occupancy of the retail space (per fire code) and employee parking demand, and outdoor tasting area.	Required parking based on the occupancy of the public spaces within a building (per fire code), employee parking demand, guest rooms, and parking necessary to support outdoor events.

*Now added
reservations*

	Limited Production Winery (NEW)	Winery (Separated from Farm Pros.) (UPDATE)	Winery-Chateau (UPDATE)	Remote Tasting Room (UPDATE)	Commercial Winery-Chateau (NEW)
INDOOR EVENTS	Not allowed	Indoor events are allowed, with attendance limited to building occupancy (per fire code).	Indoor events are allowed, with attendance limited to building occupancy (per fire code).	Indoor events are allowed, with attendance limited to building occupancy (per fire code).	Indoor events are allowed, with attendance limited to building occupancy (per fire code).
OUTDOOR EVENTS	Not Allowed	Indoor events occur simultaneously with normal activities. <i>Not Allowed</i>	Indoor events occur simultaneously with normal activities. Outdoor events may not exceed 75 participants at any one time (subject to any SUP conditions); <i>At least 1 hr. in advance.</i> Outdoor event areas to be defined on SUP application and scaled to correspond to accommodate no more than 75 participants	Not Allowed	Indoor events occur simultaneously with normal activities. No limit on event sizes, with provision of adequate parking

Events = of function which is scheduled in advance and may involve a specific time period, ticket sales, invitations, advertisements, reservations, on-line sign up or similar types of pre-planning and scheduling for a specific number of participants for a specific time period. Examples of events include cooking demonstrations, dinners, reunions, yoga, book readings, painting, etc.)

weddings

	Limited Production Winery (NEW)	Winery (Separated from Farm Pros.) (UPDATE)	Winery-Chateau (UPDATE)	Remote Tasting Room (UPDATE)	Commercial Winery-Chateau (NEW)
GUEST ROOMS	Not Allowed	Not Allowed	Up to (12) guest rooms.	Not allowed	Guest Rooms Allowed (no maximum)
MANAGERS RESIDENCE	A separate managers residence is not permitted. A residence on the same site as the small winery must be occupied by the property/winery owner.	Permitted, provided only one dwelling is allowed on the same parcel as the Winery	Permitted	Not allowed on site of Remote Tasting Room.	Permitted
WINERIES ON PDR LAND?	Await Legal Opinion	Await Legal Opinion	Await Legal Opinion	Await Legal Opinion	Await Legal Opinion
WINERY SUPPORT USES ON PDR LAND?	Not Applicable	Not Applicable	Await Legal Opinion	Not Applicable	Not Applicable
SETBACKS	Building(s) must comply with normal agricultural setbacks.	Building(s) must comply with normal agricultural setbacks.	Building(s) must comply with normal agricultural setbacks.	Building(s) must comply with normal agricultural setbacks.	Building(s) must comply with normal commercial setbacks.
CATERING	Not allowed	Catered food may be brought in.	Catered food may be brought in. Food may also be prepared at the Winery and delivered for consumption elsewhere.	Catered food may be brought in.	Catered food may be brought in. Food may also be prepared at the Winery and delivered for consumption elsewhere.
FOOD SALES AND SERVICE	Not allowed	Serving catered food, pre-packaged food and small plates is allowed in retail/public space and outdoor tasting area. However, such activity may not be a "stand alone facility" operating independently with separate hours of operation or entrances associated with the winery.	Serving catered food, pre-packaged food and food plates is allowed, along with on-site food preparation and food service. However, such activity may not be a "stand alone facility" operating independently with separate hours of operation or entrances associated with the winery.	Serving catered food, pre-packaged food and small plates is allowed. However, such activity may not be a "stand alone facility" operating independently with separate hours of operation or entrances associated with the Remote Tasting Room.	Food sales and service is allowed.
FOOD TRUCKS	Not allowed	Not allowed	Not Allowed	Not Allowed	Allowed

September 9, 2019

Gregory M. Meihn
Equity Partner
Direct Dial: (248) 721-8183
gmeihn@foleymansfield.com

Rob Manigold, Supervisor
Peninsula Township Board
13235 Center Road
Traverse City MI 49686

Re: *Township Winery Ordinances*

Dear Supervisor Manigold:

The following is a bullet-point summary of my findings relative to the Township's winery ordinances for your consideration and reference. This summary incorporates my legal opinions regarding the same as supported by my previous May 30, 2019 opinion (Ex. A) and August 2019 correspondence to Attorney Infante (Ex. B). Implicit in those opinions, contrary to Attorney Infante's interpretation, is that the Michigan Liquor Control Code does not fully preempt local zoning statutes that also concern alcoholic beverage sales.

Ordinances for Possible Revision, Modification, or Clarification

The following are the ordinances I believe have potential issues that should be addressed:

- 8.7.3(10)(u)(2)(e) – *Restaurants* – should be modified
 - Has the potential to improperly restrict food service, possibly preempted by state statute—MCL §436.1536 allowing wineries to serve food/have restaurant
 - 2018 amendments to MLCC impact this as they allow for restaurant as a part of on-premises tasting room
- 8.7.3(10)(u)(5)(i) – *Catering* – should be modified
 - Ordinance restricts off site catering, but may be preempted by MCL 436.1547 in scenarios in which a winery has a permit under MLCC for off-site catering
- 8.7.3(10)(u)(5)(b) – *Hours of Service* – needs to be fully revised
 - Ordinance restricts guest activity uses after 9:30 p.m. while MCL 436.1403 permits service until 2:00 a.m.—preemption issue because there is a regulation that confers the benefit and prohibits officials from rescinding

- 8.7.3(10)(u)(2)(b) – *Meetings of 501(c)(3) Non-Profits* – requires clarification only
 - Need to ensure equal competition for out-of-county non-profits if it prevents them from holding meetings at the wineries, clarify to avoid Commerce Clause issue
- 8.7.3(10)(u)(2)(c) – *Meetings of Agricultural Groups* – requires clarification only
 - Need to ensure that groups other than only “agricultural groups” may hold meetings at the wineries as well by clarifying “guest activity uses”, clarify to avoid Commerce Clause issue
- 8.7.3(10)(u)(2)(e) – *Serving Only Old Mission Wine* – needs to be fully revised
 - Ordinance restricts sale of other wines produced outside of region and likely violates the Commerce Clause unless no other reasonable means to advance sales of local wines
- 8.7.3(10)(u)(3) – *Requiring Grape Purchases* – needs to be fully revised
 - Ordinance requires wineries to purchase certain local grape tonnage to have guest activity uses and likely violates the Commerce Clause unless no other reasonable means to advance sales of local grapes
- 6.7.2(19)(b) – *85% Threshold Requirement for Juice in Wine Sold* – should be modified
 - Ordinance requires 85% of the juice for wines processed, tasted and sold be from fruit grown on Old Mission Peninsula, more than likely violates the Commerce Clause
- 6.7.2(19)(b)(v) – *Logo Merchandise Restriction* – needs to be fully revised
 - Ordinance restricts wineries ability to merchandise and logo certain products and allows others, with other restrictions that violate the First Amendment
- 8.7.3(12)(i) - *Other Logo and Promotional Restrictions* – needs to be fully revised
 - Ordinance suppresses ability of wineries to promote own items and otherwise restricts ability to market wineries and particular products in violation of the First Amendment
- 8.7.3(12)(k) - *Restricts Food Advertising* – needs to be fully revised
 - Not permitting wineries to promote food, to the extent they are allowed and properly permitted to serve either on-site or off-site violates First Amendment

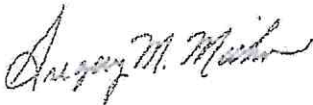
Ordinances Which Require No Absolute Revision

- 8.7.3(10)(u)(5)(g) – *Music* – no revision absolutely necessary
 - Only restriction is to amplified instrumental music while the MLCC does not regulate that, but rather, just playing/performing the same—no preemption
- 8.7.3(10)(u)(1)(b) and 8.7.3(10)(u)(5)(a) – *Requiring Promotional Materials* – no revision necessary
 - Ordinances require that wineries provide generic advertising materials, but do not otherwise restrict their ability to promote and advertise themselves—See *Glickman v. Wileman Bros & Elliot, Inc.*, 512 U.S. 457 (1997)

Conclusion

The above lists should be used as guideposts to foster a discussion of the necessary and other potential revisions to the Township's winery ordinances. While many of the legal issues would otherwise require some declaration by a court of competent jurisdiction, the opinions offered by counsel for the Township err on the side of caution and cooperation with their local wineries in an effort to offer the most mutually beneficial regulations possible for all involved.

Sincerely,



Gregory M. Meihn

GMM/MTW
Attachments

Planning Workshop/Meeting

Peninsula Township Hall
13235 Center Road
Traverse City MI, 49686
May 30, 2019
3:00 to 4:30 PM

Input from
farm owners

protects residents / preserve ag / do business
Peninsula Township Planning, Zoning, Code Enforcement
&
WOMP Representatives
Christina - level playing
for all - but is
fair?

- Top 5 concerns

AGENDA / DISCUSSION TOPICS

1. Introductions
2. WOMP - Overview of local winery challenges and opportunities

Survey - what ?'s from us?
what complaints?

Business trends, regional competition, business constraints, promotion of Old Mission products, etc.

3. Township - Overview of governmental challenges and role

Promote agri-tourism, agricultural land preservation, code enforcement, special use permit process, complex regulations/need for updates, etc.

4. Where is the local winery industry going and how can we forge stronger partnerships?

What should we work on first?

5. Further Discussion Topics

unconstitutional
case law presentations

can't dictate "wedding"
yoga -

Sarika - what's wrong w/ guest use act?

Christina - have to tie activity to agriculture
- food in TR

Food
events
impact us
who

Landy - impacts good vs. other land use experience

- they want to look at everything - show old amendments

- Tons of acres for events

- Tents

- what's the event equation (Five vs pkg vs acreage)

Randys Powerpoint

WINERY & WINERY RELATED REGULATORY COMPARISONS

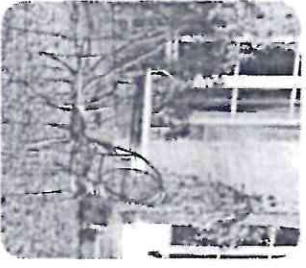
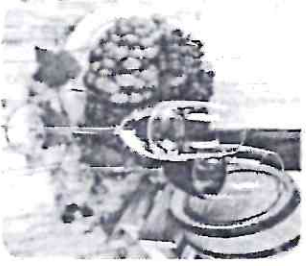
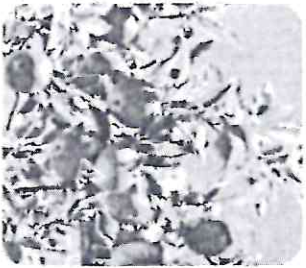
EXISTING REGULATIONS AND ORGANIZATIONAL FORMAT

Definition	Food Processing Plants	Farm Processing Facility:	Winery-Chateau:	Remote Tasting Room
	Not specifically defined now	Means a building or buildings containing an area for processing equipment where agricultural produce is processed or packaged and prepared for wholesale and/or retail sales. In addition to processing, the building(s) may also include a retail sales area for direct sales to customers and a tasting room for the tasting of fresh or processed agricultural produce including wine. The facility also includes necessary parking, lighting and access to a public road.	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.	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.
Permitted or Special Use	Special Use in A-1	Permitted Use in A-1	Special Use in A-1	Special Use in A-1
Acres Req.	None	40 Acres (not necessarily contiguous)	50 Acres	5-Acre, minimum parcel size = plus, there shall also be a minimum of 150 acres in Peninsula Township under that ownership and a minimum of 50% of the 150 acres shall be in active agricultural use.
Comments	<ul style="list-style-type: none"> Although not defined in Ord. – Food Processing Plants seem geared toward agricultural operations, with workers, multiple buildings, waste-water production, emissions, etc. No Tasting Room or Direct Sales 	<ul style="list-style-type: none"> Often called “use by night winery” Existing Wineries like Black Star and Hawthorn are in this group. Would not necessarily have to be a cider mill, sale of lavender and lavender products, sale of honey, flowers, maple syrup sales, sunflower seeds, etc. No events (except participating in “township-wide” events) No specific requirement that agricultural produce processed or packaged on the site is grown on the site. 	<ul style="list-style-type: none"> 75% of the site shall be used for the active production of crops The principal use permitted upon the site shall be a winery. Guest rooms, manager’s residence, and single-family residences are support uses on the same property as the winery. Can have 6 single family residences & up to 12 guest rooms 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. Hours of operation for Guest Activity Uses shall be as determined by the Town Board, but no later than 9:30 PM daily. Improve definition. 	<ul style="list-style-type: none"> Packaged food products can be sold on site for off-premises consumption Bottled wine can be sold for off-premises consumption The tasting room, required acreage to be under the same ownership
Issues	<ul style="list-style-type: none"> Need a definition 	<ul style="list-style-type: none"> Consider separating wineries from farm processing facilities, since wineries are different now under new MLCCT regs 		<ul style="list-style-type: none"> Improve definition

POSSIBLE REORGANIZATION / FRAMEWORK

Definition	Food Processing Plants	Farm Processing Facility:	Winery	Winery Chateau:	Remote Tasting Room
	(MUCW) Food Processing: A manufacturing establishment producing or processing foods for human consumption from plant material. This includes fruit and vegetable canning, preserving, and related processing. Processing includes packing, repacking, canning, preserving, freezing, making, storing and distribution to wholesale customers. Food processing does not include facilities that slaughter or process animals for human or pet consumption and do not offer direct retail sales to customers.	(Updated) Farm Processing Facility: A Farm Processing Facility is a building or buildings containing an area for agricultural product processing equipment. Farm products are processed, packaged and prepared for wholesale or retail sales. Farm products include non-alcoholic products made from plants grown on the farm from trees, vines, and bushes, along with items such as honey, wax, flowers, lavender, herbs and seasonings. With the exception of eggs, a farm processing facility does not process or sell products made from animals or animal parts. Farm products are processed, packaged and prepared for wholesale or retail sales. A Farm Processing Facility may also include a retail sales area for direct sales to customers and tasting or sampling. Such retail sales are limited to products produced on the farm, or those otherwise allowed as part of a roadside stand.	(REV) Winery: A Winery is a facility operated by the holder of a "wine maker" or "small wine maker" license issued by the Michigan Department of Licensing and Regulatory Affairs Liquor Control Commission (MLCC). A winery may include: 1) a tasting room 2) sale of wine for consumption on or off the premises 3) sale of full-size drinks 4) sale of food for on-site consumption in association with an on-premises tasting room. 5) Sale of winery-related merchandise. 6) Catering services	Winery-Chateau: Winery-Chateau is a winery (as herein separately defined) that may also include: 1) A limited number of guest rooms 2) A venue for weddings, family reunions and social events.	(Updated) Remote Tasting Room: A building, or portion thereof, operated by the holder of a "wine maker" or "small wine maker" license issued by the Michigan Department of Licensing and Regulatory Affairs Liquor Control Commission (MLCC). A remote tasting room may include: 1) a tasting room 2) sale of wine for consumption on or off the premises 3) sale of full-size drinks 4) sale of food for on-site consumption with an on-premises tasting room. 5) Sale of winery-related merchandise. 6) Catering services
Permitted/ Special Use Acreage Req.	Special Use in A-1 None	40 Acres (not necessarily contiguous) Permitted Use in A-1	40 acres (not necessarily contiguous) Permitted Use in A-1	Special Use in A-1 50 Acres	Special Use in A-1
General Comments	<ul style="list-style-type: none"> Consider adding lot coverage req. more site plan review standards, etc. 	<ul style="list-style-type: none"> Require that agricultural produce processed or packaged on the site is grown on the site. Can have food tasting – but can't serve food in a restaurant format. 	<ul style="list-style-type: none"> Allow wineries to sell food for on-site consumption as associated with an on-premises tasting room. Allow wineries to engage in catering. Do not address hours of operation Require 75 percent of the site be covered in vines or trees that bear fruit that can be made into wine. Adhere to the same ratios of building sizes and parcel sizes as a Farm Processing Facility. Specifically, the total floor area of a Farm Processing Facility (above finished grade) is 250 square feet per acre – or 30,000 sq. ft. max. and retail space may not exceed 1,500 sq. ft. 	<ul style="list-style-type: none"> Place a maximum attendance on events. One event per day and 75 people in attendance in addition to regular activities associated with wine tasting, wine sales and related sale of food for on-site consumption as associated with an on-premises tasting room. No size limitation of facilities (like winery) – except that as a special use, specific and limitations could be placed on activities and facilities as a condition of Special Use approval. 	<ul style="list-style-type: none"> 5-Acre, minimum parcel size = plus, there shall also be a minimum of 150 acres in Peninsula Township under that ownership and a minimum of 50% of the 150 acres shall be in active agricultural use. Change to address restrictions to the sale of merchandise and food.

POSSIBLE REORGANIZATION (OVERVIEW)



Food Processing
A food processing facility is a manufacturing establishment producing or processing foods for human consumption from plant or animal sources. This includes but is not limited to slaughtering, processing, and packaging of food products and distribution of food products that are used for or processed directly for human or pet consumption and for other industrial uses.

Farm Processing Facility
A farm processing facility is a building or building complex in an area for agricultural products produced by processors, packing and prepared for shipment or sale. Farm products include crops, flowers, trees, nuts, and berries, eggs, honey, cotton, wool, and other products grown on the farm, field and orchards. A farm processing facility is not a winery, distillery, brewery, or food processing facility. A farm processing facility may include:
1) a retail sales area for direct sales to customers. Retail sales are limited to products produced on the farm, or those otherwise owned as part of a working farm.
2) a storage room for the storage of fresh or processed agricultural products produced on the farm, or those otherwise owned as part of a working farm.
3) a small restaurant, with food limited to retail sales and storage.

Winery
A winery is a facility owned by the holder of a wine maker's or retail liquor license, or other state or local liquor license, for the production and bottling of wine. A winery may include:
1) a tasting room
2) sale of wine for consumption on or off the premises.
3) sale of bulk wine
4) sale of food for on-site consumption in connection with an on-premises tasting room
5) sale of wine-related merchandise
6) catering services.

Winery-Distillery
Winery-Distillery is a winery for liquor distilled, that may also include:
1) A retail outlet of beer, wine and liquor
2) A retail outlet of wine, spirits, liqueurs and soda water.

Remade Tasting Room
A facility of portion demand, operated by the holder of a wine maker's or retail liquor license, or other state or local liquor license, for the production and bottling of wine. A remade tasting room may include:
1) a tasting room
2) sale of wine for consumption on or off the premises
3) sale of food and beverage
4) sale of food for on-site consumption in connection with an on-premises tasting room
5) sale of wine-related merchandise
6) catering services.

POTENTIAL CHANGES ... Winery, Winery Chateau and Remote Tasting Room Standards

Issue	Background / Context Legal Issues	Planning Issues	Potential Changes
Sale of Food	<ul style="list-style-type: none"> MCL 436.1536(7) does not prohibit the Township's winery ordinances because it is not a valid statute and even if it were, the Township's ordinance do not prohibit wineries from operating; restaurants with some permissible restrictions. While this is a valid oversimplification of prescription principles, this ordinance may present an issue relative to exemption as the recently passed MCL 436.1536 does permit wine makers to serve food or have a restaurant in conjunction with the On-Premises Tasting Room Permit. MCL 436.1536 (7) (h) A brewer, micro brewer, wine maker, small wine maker, distiller, small distiller, brandy manufacturer, or mixed spirit drink manufacturer may own and operate a restaurant or allow another person to operate a restaurant as part of the on-premises tasting room on the manufacturing premises. 	<ul style="list-style-type: none"> Restaurants are a special use in C-1. Note that MCL 436.1536 (7) (h) says, "to operate a restaurant as part of the on-premises tasting room on the manufacturing premises". The restaurant associated with a Winery, Winery Chateau, or remote tasting room should not be a "stand alone facility" operating independently from the tasting room. 	<ul style="list-style-type: none"> Wineries (now farm processing) The total floor area of a Winery (above finished grade) is 250 square feet per acre – or 30,000 sq. ft. max. (propose no change from now). The retail space for wine sales, tasting and food may not exceed the lessor of 25% of the facility or 1,500 sq. ft. (no change from now) Any area for food sales must fit into this limited retail space. Winery-Chateau No limit on retail space or space for a restaurant / food sale. Any restaurant area or other space for the sale of food must be an integral and functional extension of the tasting room with identical hours of operation. Remote Tasting Room Same as Winery-Chateau above.
Catering	<ul style="list-style-type: none"> Section 436.1536(7)(h) is not preempted by MCL 436.1537. As to Section 436.1536(7)(h), alternative ordinances should be explored to ensure fully compliance with MCL 436.1537 for a winery properly licensed and permitted to engage in off-site catering under that state statute. 	<ul style="list-style-type: none"> From a planning perspective, catering may be a positive activity as it promotes peninsula agricultural products without generating local traffic. Food and wine would be taken elsewhere (potentially off the peninsula). 	<ul style="list-style-type: none"> Wineries (now farm processing) No limitation on Catering Winery-Chateau No limitation on Catering Remote Tasting Room No limitation on Catering
Music and Other Entertainment	<ul style="list-style-type: none"> MCL 436.1916(1) does not preempt the Township ordinances as both permit music and local authority is recognized by that state law. The Township's restriction on amplified music should be considered for potential revision. In this instance, there is no preemption by state law as both permit music and local authority is not only permitted by state law, but recognized by the very statute that is claimed to preempt. However, the restriction on amplified music should be revisited in terms of potential revision to more completely identify the appropriate sound pressure levels (have an independent property and local sound pressure). The ordinance should be revised as it is more restrictive than MCL 436.1403 and the Township ordinance fixes hours shorter than that specified in the state statute. Ordinance restricts guest activity uses after 9:30 p.m. while MCL 436.1403 permits service until 2:00 a.m. - preemption issue because there is a regulation that confers the benefit and prohibits officials from rescinding 	<ul style="list-style-type: none"> Noise and the potential for noise from a land use is a general standard applying to all special land uses. The Township has a separate noise ordinance (Ordinance 40) that should be reviewed. 	<ul style="list-style-type: none"> Wineries (now farm processing) No change Winery-Chateau No Change Remote Tasting Room No Change
Hours of Operation	<ul style="list-style-type: none"> Ordinance restricts guest activity uses after 9:30 p.m. while MCL 436.1403 permits service until 2:00 a.m. - preemption issue because there is a regulation that confers the benefit and prohibits officials from rescinding 	<ul style="list-style-type: none"> Seems reasonable to distinguish between hours of service and events. The tasting room could be open, but pre-scheduled events could be restricted to end at 9:30 PM 	<ul style="list-style-type: none"> Wineries (now farm processing) No limitation on hours of operation for Winery Events are not allowed. Winery-Chateau No limitation on hours of operation. Events must conclude at 9:30 Remote Tasting Room No limitation on hours of operation. Events must conclude at 9:30
Meetings of S01(a) 3 Non-Profits	<ul style="list-style-type: none"> MCL 436.1536(7)(h) - Wineries (now farm processing) - requires clarification early Need to ensure equal competition for out-of-county non-profits if it prevents them from holding meetings at the wineries, clarify to avoid Commerce Clause issue 	<ul style="list-style-type: none"> No significant planning issues related to which kinds of nonprofits may meet at a Winery Chateau. Very hard to enforce 	<ul style="list-style-type: none"> Wineries (now farm processing) NA Winery-Chateau Focus on the number of people allowed at events only Remote Tasting Room -NA

Issue	Background / Context Legal Issues	Planning Issues	Potential Changes
<p>Meetings of Agricultural Groups</p>	<ul style="list-style-type: none"> 8.7.3(4)(d)(2)(b) - Meetings of Agricultural Groups - requires certification Nothing in this ordinance states that "no other groups can hold meetings" or "only a Winery." Rather, it restricts "Guest Activity Uses" under Section 8.7.3(1)(d)(2). Again, the stated intent of these ordinances does not address this, but this section should be amended for clarity regarding other groups' ability to hold meetings at their wineries. Need to ensure that groups other than only "agricultural groups" may hold meetings at the wineries as well by clarifying "guest activity uses", clarify to avoid Commerce Clause issue 	<ul style="list-style-type: none"> Not many significant planning issues related to which kinds of nonprofits may meet at a Winery Chateau. Very hard to enforce 	<p>Wineries (now farm processing)</p> <ul style="list-style-type: none"> NA Winery-Chateau Focus on the number of people allowed at events and not on the types of groups, associations, affiliations, etc. Remote Tasting Room Focus on the number of people allowed at events and not on the types of groups, associations, affiliations, etc. <p>Wineries (now farm processing)</p> <ul style="list-style-type: none"> Eliminate requirement that "grape wine that is processed, tasted and sold in a Farm Processing Facility under this section is limited to "Old Mission Peninsula" Eliminate requirement that "Fruit wine, other than grape wine, that is processed, tasted and sold in a Farm Processing Facility under this section is limited to wine bearing a label identifying that 85% of the juice is from fruit grown on Old Mission Peninsula;" <p>Winery-Chateau</p> <ul style="list-style-type: none"> Eliminate requirement that "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;" Eliminate requirement that "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" <p>Remote Tasting Room</p> <ul style="list-style-type: none"> No change needed
<p>Sale of OMP wine / OMP Grape Purchases / Juice</p>	<ul style="list-style-type: none"> 8.7.3(10)(u)(2)(c) - <i>Servicing, Only Old Mission Wineries</i> - to be fully revised Ordinance restricts sale of other wines produced outside of region and likely violates the Commerce Clause unless no other reasonable means to advance sales of local wines 8.7.3(10)(u)(3) - Requiring Grape Purchases - needs to be fully revised Ordinance requires wineries to purchase certain local grape tonnage to have guest activity uses and likely violates the Commerce Clause unless no other reasonable means to advance sales of local grapes. 6.7.2(19)(b) - 85% Threshold Requirement for Juice in Wine Sold - should be modified. Ordinance requires 85% of the juice for wines processed, tasted and sold be from fruit grown on Old Mission Peninsula, more than likely violates the Commerce Clause <p>Current Requirements to Sell OMP Wine</p> <p>Farm Processing Facilities (proposed to be changed to "Winery")</p> <ul style="list-style-type: none"> 6.7.2. 19 (b) 1. If "Grape wine that is processed, tasted and sold in a Farm Processing Facility under this section is limited to "Old Mission Peninsula" appellation wine meaning 85% of the juice will be from fruit grown on Old Mission Peninsula;" "6.7.2. 19 (b) 1. If Fruit wine, other than grape wine, that is processed, tasted and sold in a Farm Processing Facility under this section is limited to wine bearing a label identifying that 85% of the juice is from fruit grown on Old Mission Peninsula;" <p>Winery Chateaus</p> <ul style="list-style-type: none"> 8.7.3 (10) (u) (2) (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 5, below. 8.7.3 (10) (u) (2) 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. <p>Remote Tasting Room</p> <ul style="list-style-type: none"> No existing requirements for OMP Wine/Grapes 	<ul style="list-style-type: none"> Apart from legal issues, enforcement is challenging. Only have spotty compliance with these requirements now. 	<p>Wineries (now farm processing)</p> <ul style="list-style-type: none"> Eliminate requirement that "grape wine that is processed, tasted and sold in a Farm Processing Facility under this section is limited to "Old Mission Peninsula" Eliminate requirement that "Fruit wine, other than grape wine, that is processed, tasted and sold in a Farm Processing Facility under this section is limited to wine bearing a label identifying that 85% of the juice is from fruit grown on Old Mission Peninsula;" <p>Winery-Chateau</p> <ul style="list-style-type: none"> Eliminate requirement that "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;" Eliminate requirement that "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" <p>Remote Tasting Room</p> <ul style="list-style-type: none"> No change needed

Issue	Background / Context Legal Issues	Planning Issues	Potential Changes
<p>Logo Merch. And Promotional restrictions.</p>	<p>Constitutionally, the Town of Pt's ordinance may be subject to challenge in the proposed regulations to the wine, as specifically stated below.</p> <ul style="list-style-type: none"> 6.7.3(1)(k) (Logo Merchandise Restriction) specifically needs to be revised Ordinance restricts wineries ability to merchandise and logo certain products and allows others, with other restrictions that violate the First Amendment Ordinance suppresses ability of wineries to promote own items and otherwise restricts ability to market wineries and particular products in violation of the First Amendment <p>Current Language</p> <p>Farm Processing Facilities 6.7.3.(1)(j) (v) Logo merchandise may be sold provided: 1. The logo merchandise is directly related to the consumption and use of the fresh and/or processed agricultural produce sold at retail; 2. The logo is prominently displayed and permanently affixed to the merchandise; 3. Specifically allowed are: a) gift boxes/packaging containing the approved products for the specific farm operations; b) Wine Glasses; c) Corkscrews; d) Cherry Pits; and e) Apple Peeler; and 4. Specifically not allowed are unrelated ancillary merchandise such as: a) Clothing; b) Coffee Cups; c) Bumper Stickers.</p> <p>Winery-Chatteau Largely silent on sale of winery-related merchandise</p> <p>Remote Tasting Room 8.7.3(12)(j) Retail sale of non-food items which promote the winery or Peninsula agriculture and has the logo of the winery permanently affixed to the item by silk screening, embossing, monogramming, details or other means of permanence. Such logo shall be at least twice as large as any other advertising on the item. No generic or non-logo items may be sold. Promotional items allowed may include corkscrews, wine glasses, gift boxes, t-shirts, bumper stickers, etc.</p>	<ul style="list-style-type: none"> Apart from legal issues, enforcement is challenging. 	<p>Wineries (now farm processing)</p> <ul style="list-style-type: none"> Change to permit winery-related merchandise within the area of the building allowed for retail sale. <p>Winery-Chatteau</p> <ul style="list-style-type: none"> Add language to clearly state that winery-related merchandise can be sold <p>Remote Tasting Room</p> <ul style="list-style-type: none"> Make the language for a Winery-Chatteau and Remote Tasting room identical – allowing the sale of winery-related merchandise <p>Add definition of Winery Related Merchandise:</p> <p><i>Winery Related Merchandise: Products, including, but not limited to: Wine glasses, corkscrews, cookbooks, decanters, wine racks, wine bottle holders, bottle stoppers, wine-related educational materials, cheese cutting boards, gift baskets, apparel, and similar merchandise.</i></p>
<p>Restriction on Food Advertising</p>	<p>8.7.3(12)(k) - Restrict: Food advertising is prohibited to be fully revised</p> <ul style="list-style-type: none"> Not permitting wineries to promote food, to the extent they are allowed and properly permitted to serve either on-site or off-site violates First Amendment <p>Current Language</p> <p>Farm Processing Facilities (No Similar Provision) Winery-Chatteau (No Similar Provision) Remote Tasting Room 8.7.3(12)(k) Signs and other advertising may not promote, list or in any way identify any of the food or non-food items allowed for sale in the tasting room.</p>	<ul style="list-style-type: none"> No Planning Issues 	<p>Wineries (now farm processing)</p> <ul style="list-style-type: none"> No Change necessary <p>Winery-Chatteau</p> <ul style="list-style-type: none"> No Change necessary <p>Remote Tasting Room</p> <ul style="list-style-type: none"> Eliminate Section 8.7.3(12)(k)

**PENINSULA TOWNSHIP
PLANNING COMMISSION**

**Winery & Michigan Liquor Commission Regulations
Study Session**

December 18, 2019
3:00 PM
Township Hall
13235 Center Road
Traverse City, MI 49686

AGENDA

A quorum of the Planning Commission may be present.

1. Business

- A. Review of "take-a-ways" from previous meeting on November 28
 - Review GAAMP's (Generally Accepted Agricultural Management Practices)
 - Issues concerning catering focused on bringing food/meals in to wineries, not catering food out.
 - Consideration of small agri-tourism operations (apart from roadside stands).
 - There is interest in providing for small wineries (on perhaps 5-10-acre parcels).
 - Desire to simplify and clarify regulations.
- B. Consideration of new regulatory framework (subject to more discussion and input)
- C. Future coordination with the Township Board and full Planning Commission

This is a working committee.



Randy Mielnik, AICP
Planning Director

Posted December 12, 12:00 PM

WORKING DRAFT - December 19, 2019

	Small Winery (NEW)	Winery (New - Separate from Processing) (NEW)	Winery-Chateau: (Update)
DEFINITION	<p>Small Winery: A small winery is a facility operated by the holder of a "small wine maker" license issued by the Michigan Department of Licensing and Regulatory Affairs Liquor Control Commission (MLCC). A small winery may include:</p> <ol style="list-style-type: none"> 1) An indoor tasting room 2) An outdoor tasting area 3) Managers residence 4) Sale of wine for consumption on or off the premises 5) Sale of pre-packaged food and serving of catered food. 6) Sale of winery-related merchandise 	<p>Winery: A Winery is a facility operated by the holder of a "wine maker" or "small wine maker" license issued by the Michigan Department of Licensing and Regulatory Affairs Liquor Control Commission (MLCC). A winery may include:</p> <ol style="list-style-type: none"> 1) An indoor tasting room 2) An outdoor tasting area (subject to size limitations). 3) Managers residence 4) Sale of wine for consumption on or off the premises 5) Sale of pre-packaged food, and serving of catered food. 6) Sale of winery-related merchandise. 	<p>Winery-Chateau: Winery-Chateau is a winery (as herein separately defined) that may also include:</p> <ol style="list-style-type: none"> 1) A limited number of guest rooms 2) An outdoor event venue 3) Food preparation for on-site consumption and catering (food prepared on-site and delivered elsewhere, or bringing food in for on-site consumption).
PERMITTED/ SPECIAL USE	Special Use In A-1	Permitted Use In A-1 <i>5% check w/ Gregory</i>	Special Use in A-1
ACREAGE REQUIRED.	<ul style="list-style-type: none"> • XX acres (5 or 10?) • One or more contiguous parcels (not separated by a road). 	<ul style="list-style-type: none"> • XX acres (40 Currently) (one or more contiguous or non-contiguous parcels). <i>Dist. Pennsylvania 2017</i> 	<ul style="list-style-type: none"> • XX Acres (50 currently) • One or more contiguous parcels (not separated by a road).
CROP COVERAGE	XX% (50-75?) of the site must be covered in agricultural products that can made into wine.	XX% (50-75?) of the site must be covered in agricultural products that can made into wine.	XX% (75?) of the site must be covered in agricultural products that can made into wine.
GUEST ROOMS	Not permitted	Not permitted	Up to XX (12?) guest rooms.
MANAGERS RESIDENCE	Permitted, provided only one dwelling is allowed on the same parcel as the small winery.	Permitted, provided only one dwelling is allowed on the same parcel as the Winery	Permitted - <i>with regulatory w/ no limits</i>
WINERIES ON PDR LAND?	Await Legal Opinion	Await Legal Opinion	Await Legal Opinion

*How changed effect current users - a legal matter
Said Larry*

	Small Winery (NEW)	Winery (New -- Separate from Processing) (NEW)	Winery-Chateau: (Update)
WINERY SUPPORT USES ON PDR LAND?	Await Legal Opinion	Await Legal Opinion	Await Legal Opinion
MAXIMUM BUILDING SIZE	<ul style="list-style-type: none"> The total floor area of a Small Winery Building (above finished grade) shall not exceed X, XXX (2,000?) square feet. 	<ul style="list-style-type: none"> The total floor area of a winery (above finished grade) shall equal not more than X % of the parcel(s) (2% of 40 acres would equal about 35,000 square feet) Underground facilities used only for processing or packaging of agricultural produce may be in addition to the permitted square footage of floor area provided it is entirely below pre-existing ground level and has no more than one loading dock exposed. 	<ul style="list-style-type: none"> No maximum building size. (subject to any SUP conditions)
SETBACKS	<ul style="list-style-type: none"> Building(s) must comply with normal agricultural setbacks. 	<ul style="list-style-type: none"> Building(s) must comply with normal agricultural setbacks. 	<ul style="list-style-type: none"> Building(s) must comply with normal agricultural setbacks.
INDOOR RETAIL/PUBLIC SPACE	<ul style="list-style-type: none"> Indoor retail/public space does not exceed XXX square feet (subject to any additional SUP conditions) (200 square feet?) 	<ul style="list-style-type: none"> Indoor retail/public space does not exceed XX percent of the Winery (10% of the 35,000 square feet would equal 3,500 square feet). 	<ul style="list-style-type: none"> No limits on the amount of indoor retail/public space (subject to any additional SUP conditions)
FOOD SALES AND SERVICE	<ul style="list-style-type: none"> Serving catered food and/or pre-packaged food may be allowed in retail/public space and outdoor tasting area. Sale and serving of catered food may not be a "stand alone facility" operating independently with separate hours of operation or entrances associated with the winery. 	<ul style="list-style-type: none"> Serving catered food and/or pre-packaged food is allowed in retail/public space and outdoor tasting area. Sale of pre-packaged food and serving of catered food not a "stand alone facility" operating independently with separate hours of operation or entrances associated with the winery. <i>No separate</i> 	<ul style="list-style-type: none"> Serving catered food and/or pre-packaged food is allowed in the winery. Food preparation, food service and sale of pre-packaged food may not be a "stand alone facility" operating independently with separate hours of operation or entrances associated with the winery.
CATERING	<ul style="list-style-type: none"> Catered food may be brought in. 	<ul style="list-style-type: none"> Catered food may be brought in. <i>and out</i> 	<ul style="list-style-type: none"> Catered food may be brought in. Food may also be prepared at the Winery and delivered for consumption elsewhere.

Wedding
allowed

	Small Winery (NEW)	Winery (New – Separate from Processing) (NEW)	Winery-Chateau: (Update)
INDOOR EVENTS	<ul style="list-style-type: none"> Indoor events (such as dinners, weddings, banquets, reunions, yoga, painting) may take place with the number of people limited to the occupancy (per fire code) of the retail space. 	<ul style="list-style-type: none"> Indoor events (such as dinners, weddings, banquets, reunions, yoga, painting) may take place with the number of people is limited to the occupancy (per fire code) of the retail space 	<ul style="list-style-type: none"> Indoor events such as dinners, weddings, banquets, reunions, yoga, painting, are allowed and the number of people is limited to the occupancy of area devoted to public use (per fire code). Indoor events may occur simultaneously with normal activities such as wine-tasting, wine tours, and food sales/consumption
OUTDOOR EVENTS	<ul style="list-style-type: none"> No outdoor events allowed. A small outdoor tasting area may be approved as part of the SUP approval. 	<ul style="list-style-type: none"> No outdoor events allowed An outdoor tasting area no larger than 2000 square feet is allowed. <p><i>area</i></p>	<ul style="list-style-type: none"> Outdoor events involving one-time activities such as dinners, weddings, banquets, reunions, yoga, painting are allowed, but may not exceed 20 people at any one time. Outdoor event areas to be defined on SUP application and scaled to correspond to accommodate no more than 20 people. Outdoor/Indoor events may occur simultaneously with normal activities such as wine-tasting, wine tours, and food sales/consumption, provided such e Indoor or outdoor, subject to any specific SUP provisions and township noise ordinance.
MUSIC AND OTHER ENTERTAINMENT	<ul style="list-style-type: none"> Indoor or outdoor, subject to any specific SUP provisions and township noise ordinance. 	<ul style="list-style-type: none"> Indoor only and subject to the township noise ordinance. 	<ul style="list-style-type: none"> Indoor or outdoor, subject to any specific SUP provisions and township noise ordinance.
HOURS OF OPERATION	<ul style="list-style-type: none"> Not restricted 	<ul style="list-style-type: none"> Not restricted 	<ul style="list-style-type: none"> Not restricted
LOGO MERCH. AND PROMOTIONAL RESTRICTIONS.	<ul style="list-style-type: none"> Permitted in area allocated for retail/public space 	<ul style="list-style-type: none"> Permitted in area allocated for retail/public space 	<ul style="list-style-type: none"> Allowed inside the building spaces.
RESTRICTION ON FOOD ADVERTISING	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> None

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structure
application
area