

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN

WINERIES OF THE OLD MISSION  
PENINSULA (WOMP) ASSOC., a Michigan  
Nonprofit Corporation, BOWERS HARBOR  
VINEYARD & WINERY, INC, BRY'S WINERY,  
LLC, CHATEAU GRAND TRAVERSE, LTD,  
CHATEAU OPERATIONS, LTD, GRAPE  
HARBOR, INC., MONTAGUE  
DEVELOPMENT, LLC, OV THE FARM, LLC,  
TABONE VINEYARDS, LLC., TWO LADS,  
LLC, VILLA MARI LLC, WINERY AT BLACK  
STAR FARMS, L.L.C.,

Case No: 1:20-cv-01008

Honorable Paul L. Maloney  
Magistrate Ray S. Kent

Plaintiffs,

v

PENINSULA TOWNSHIP, Michigan Municipal  
Corporation,  
Defendant.

ORAL ARGUMENT REQUESTED

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**PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

Plaintiffs, WINERIES OF THE OLD MISSION PENINSULA (WOMP) ASSOC.,  
BOWERS HARBOR VINEYARD & WINERY, INC, BRY'S WINERY, LLC, CHATEAU  
GRAND TRAVERSE, LTD, CHATEAU OPERATIONS, LTD, GRAPE HARBOR, INC.,  
MONTAGUE DEVELOPMENT, LLC, OV THE FARM, LLC, TABONE VINEYARDS, LLC.,

TWO LADS, LLC, VILLA MARI LLC, WINERY AT BLACK STAR FARMS, L.L.C., (collectively “Plaintiffs”), by and through their attorneys, Miller, Canfield, Paddock and Stone, P.L.C. move pursuant to Fed. R. Civ. P. 56 for summary judgment on Count VIII of their First Amended Complaint as there is no genuine issue of material fact and Plaintiffs are entitled to judgment as a matter of law. Plaintiffs rely on the attached Brief in Support of Motion for Partial Summary Judgment and the Exhibits thereto in support of the relief requested.

WHEREFORE, Plaintiffs respectfully requests that this Court enter a judgment in their favor and find Sections 6.7.2(19)(a), 6.7.2(19)(b)(1)(iv), 8.7.3(10)(u)(2)(a)-(c), 8.7.3(10)(u)(2)(e), 8.7.3(10)(u)(5)(b), 8.7.3(10)(u)(5)(g) and 8.7.3(10)(u)(5)(i) of Peninsula Township’s Ordinances are preempted by Michigan law and award Plaintiffs’ their costs and attorneys’ fees incurred in bringing this action.

Respectfully submitted,

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Dated: April 14, 2021

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WESTERN DISTRICT OF MICHIGAN

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Nonprofit Corporation, BOWERS HARBOR  
VINEYARD & WINERY, INC, BRY'S WINERY,  
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**BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR PARTIAL SUMMARY  
JUDGMENT**

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## **I.**

### **INTRODUCTION**

Plaintiffs (collectively, the “Wineries”) move for summary judgment on Count VIII of their First Amended Complaint because Sections 6.7.2(19)(a), 6.7.2(19)(b)(1)(iv), 8.7.3(10)(u)(2)(a)-(c), 8.7.3(10)(u)(2)(e), 8.7.3(10)(u)(5)(b), 8.7.3(10)(u)(5)(g) and 8.7.3(10)(u)(5)(i) of Peninsula Township’s Ordinance directly conflict with, and are therefore preempted by, Michigan law. Specifically, the Michigan Liquor Control Code gives all license holders the right to stay open until 2:00 a.m., the right to operate a kitchen, the right to conduct off-site catering, and the right to enjoy music in their establishment. Peninsula Township’s Ordinance bans those activities. Using the traditional conflict-preemption analysis under Michigan law, the Wineries request that the Court declare these Sections preempted and void.

## **II.**

### **BACKGROUND FACTS**

#### **A. The Michigan Liquor Control Code Comprehensively Regulates the Sale of Alcohol.**

To operate a winery in Michigan, a license from the Michigan Liquor Control Commission (“MLCC”) is required and Michigan has adopted a comprehensive set of laws and regulations governing winery operations: The Michigan Liquor Control Code. Each of the Wineries have active licenses and permits issued by MLCC:

<b>Winery</b>	<b>Licenses</b>	<b>Permits</b>	<b>Exhibit</b>
Bowers Harbor	Small Wine Maker (1992)	On-Premises Tasting Room Outdoor Service Area Sunday Sales (AM) Living Quarters	<b>A</b>
Brys Winery	Small Wine Maker (2005)	On-Premises Tasting Room Sunday Sales (AM) Outdoor Service Area	<b>B</b>
Chateau Grand Traverse	Wine Maker (1976) Small Distiller	On-Premises Tasting Room Outdoor Service Area Sunday Sales (AM)	<b>C</b>



Chateau Operations	Small Wine Maker (1993) Brandy Manufacturer	On-Premises Tasting Room Outdoor Service Area Sunday Sales (AM) Living Quarters Dance-Entertainment Sunday Sales (PM) Beer & Wine Tasting	<b>D</b>
Grape Harbor	Small Wine Maker (1994)	Off-Premises Tasting Room Outdoor Service Area Sunday Sales (AM)	<b>E</b>
Montague Development (licenses held by Chateau Operations via joint venture)	Small Wine Maker (2012)	On-Premises Tasting Room Outdoor Service Area Sunday Sales (AM) Beer & Wine Tasting	<b>F</b>
OV the Farm	Small Wine Maker (2014) Small Distiller	On-Premises Tasting Room Outdoor Service Area Sunday Sales (AM) Sunday Sales (PM)	<b>G</b>
Tabone Vineyards	Small Wine Maker (2018)	On-Premises Tasting Room Outdoor Service Area Sunday Sales (AM)	<b>H</b>
Two Lads	Small Wine Maker (2008)	On-Premises Tasting Room Outdoor Service Area Sunday Sales (AM) Entertainment	<b>I</b>
Villa Mari	Small Wine Maker (2016)	On-Premises Tasting Room Outdoor Service Area Sunday Sales (AM)	<b>J</b>
Winery at Black Star Farms	Small Wine Maker (2007)	On-Premises Tasting Room Outdoor Service Area Sunday Sales (AM)	<b>K</b>

As noted above, each of the Wineries is licensed as a Small Wine Maker or Wine Maker and each has a tasting room permitted by MLCC at their premises. A tasting room permit allows a winery to “provide samples of or sell at retail for consumption on or off the premises...wine it manufactured...[or] bottled.” MCL 436.1113(1)(b). While a new winery tasting room must be approved by the local legislative body, MCL 436.1536(7)(c), local approval “is not required for a

tasting room that was in existence before December 19, 2018.” MCL 436.1536(17).<sup>1</sup> Once a tasting room permit is issued by MLCC, the winery may also receive from MLCC “a Sunday sales permit, catering permit, dance permit, entertainment permit, specific purpose permit, extended hours permit, [and] authorization for outdoor service.” MCL 436.1536(7)(g).<sup>2</sup>

A Catering Permit issued by MLCC “[a]uthorizes a holder of a Wine Maker or Small Wine Maker license to sell, deliver, and serve wine in the original containers at private events.” (**Exhibit L: FAQ Sheet**).<sup>3</sup> “No local legislative approval [is] required.” (**Exhibit M: Brief Description of All Michigan Liquor Licenses and Permits by Licensing Tiers**).<sup>4</sup> An Entertainment and Dance Permit issued by MLCC permits wineries to “allow dancing by patrons” and allow “certain types of live entertainment.”<sup>5</sup> (**Exhibit L: FAQ Sheet**). “No local legislative approval [is] required.” (**Exhibit M**.) For purposes of allowing dancing, entertainment or dance-entertainment, a winery can obtain an Extended Hours Permit from MLCC which allows the winery to “remain open past the normal legal hours of sale between 7:00am to 2:00am” for these activities. (*Id.*). “No local legislative approval [is] required.” (*Id.*) An Outdoor Service Area permit allows for the consumption of wine and food outdoors and the boundaries of an outdoor service area are subject to MLCC approval. *See* Rule 436.1419. Local approval of an outdoor service area is not required. (**Exhibit M**.)

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<sup>1</sup> It is undisputed that each Wineries’ tasting room was in existence before December 19, 2018.

<sup>2</sup> As noted above, the Wineries each currently have several types of permits issued by MLCC and are considering additional permits if the ordinance restrictions are lifted.

<sup>3</sup> [https://www.michigan.gov/documents/lara/Winemaker-rev-11-11\\_368820\\_7.pdf](https://www.michigan.gov/documents/lara/Winemaker-rev-11-11_368820_7.pdf)

<sup>4</sup> [https://www.michigan.gov/documents/lara/licensetypes\\_666205\\_7.pdf](https://www.michigan.gov/documents/lara/licensetypes_666205_7.pdf)

<sup>5</sup> An Entertainment Permit does not allow for topless activity. *Id.*

The only MLCC permit which requires local government approval is a banquet facility permit. *See also* MCL 436.1522(5) (“The commission shall not issue a banquet facility permit unless issuance is approved through adoption of a resolution of the legislative body of the local unit of government within which the permitted facility is located.”); **Exhibit N: MLCC Local Approval Form** (“You must obtain a recommendation from the local legislative body for a new on-premises license application, certain types of license classification transfers, and/or a new banquet facility permit.”)<sup>6</sup>

With the tasting room permit alone, a winery may also “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.” MCL 436.1536(7)(h). This ability is confirmed by MLCC in its Winery FAQ sheet where it states a winery “May serve food or have a restaurant in conjunction with the On-Premises Tasting Room Permit.” (**Exhibit L.**) MCL 436.1111, part of the Michigan Liquor Control Code, states that the term “‘Restaurant’ means a food service establishment defined and licensed under the food law, 200 PA 92, MCL 289.1101 to 289.8111.” The Food Law, MCL 289.1107(t), defines a “food service establishment” as a:

fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, drive-in, industrial feeding establishment, private organization serving the public, rental hall, catering kitchen, delicatessen, theater, commissary, food concession, or similar place in which food or drink is prepared for direct consumption through service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public.

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<sup>6</sup> MLCC also maintains a resource page for local governments, [https://www.michigan.gov/lara/0,4601,7-154-89334\\_10570\\_74006-366372--,00.html](https://www.michigan.gov/lara/0,4601,7-154-89334_10570_74006-366372--,00.html), and as part of that resource is a chart which informs local governments which types of licenses and permits require local approval. (**Exhibit O.**)

Enforcement of the Food Law is specifically delegated to the local health department, not Peninsula Township. MCL 289.3105.

Finally, without the need for an additional permit, Plaintiffs' tasting room permits allow the performance or playing of any type of musical instrument and singing. MCL 436.1916(11).

**B. The Winery Ordinances.**

On June 5, 1972, Peninsula Township adopted its Zoning Ordinance. (**Peninsula Township's Answer to First Amended Complaint, ECF No. 35, PageID.1888, ¶ 42.**)<sup>7</sup> The Zoning Ordinance has been amended over time to add various provisions related to wineries. (*Id.* ¶ 43.) Three specific provisions related to the licenses are at issue here: Section 6.2.7(19) Use by Right – Farm Processing Facility; Section 8.7.3(10) Winery-Chateau; and Section 8.7.3(12) Remote Winery Tasting Room. Collectively, the Wineries refer to these as the “Winery Ordinances.” As discussed below, the Winery Ordinances seek to regulate areas where Michigan law already regulates. The Winery Ordinances are in direct conflict in that they preclude what Michigan law specifically allows.

**1. Section 6.2.7(19) Use by Right – Farm Processing Facility**

The Winery Ordinances prohibit a farm processing facility from operating a restaurant. Section 6.2.7(19)(a). Food is limited to “the sale of limited food items for on-premises consumption. Section 6.7.2(19)(b)1(iv). Farm processing facilities are also precluded from “[a]ctivities such as weddings, receptions and other social functions for hire...” *Id.* While farm processing facilities are allowed to provide wine tastings to guests, eighty-five percent of the grapes contained within that wine must have been grown on Old Mission Peninsula. Section 6.7.2(19)(b)1(ii). Unlike Winery Chateaus, as discussed below, the Winery Ordinances do not

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<sup>7</sup> A copy of Peninsula Township's Zoning Ordinance is attached as **Exhibit P**.

place restrictions on live music, seminars, meetings, hours of operation, outdoor service and similar activities.

## 2. Section 8.7.3(10) Winery-Chateau

The Winery Ordinances contain certain restrictions on winery operations to force the Wineries to purchase fruit from within Peninsula Township in order to engage in the same type of business as other wineries in Michigan. Peninsula Township calls these “Guest Activity Uses.” The Winery Ordinances carve out a few common winery offerings as being outside of Guest Activity Uses which winery chateaus can offer without prior approval of Peninsula Township. For example, “Guest Activity Uses do not include wine tasting and such related promotional activities as political rallies, winery tours and free entertainment.” Section 8.7.3(10)(u)1(d). “Guest Activity Uses [also] do not include entertainment, weddings, wedding receptions, family reunions or sale of wine by the glass.” These uses also do not include the sale of food for on premise consumption. *See* Section 8.7.3(10)(d)1. Thus, the restrictions on Guest Activity Uses in Section 8.7.3(10)(u)5(b) do not apply to these services.

While these limited operations are allowed for winery chateaus, if a winery chateau wishes to make full use of the rights allowed under Michigan law and enjoyed by other wineries in Michigan, it must get prior approval from Peninsula Township. Section 8.7.3(10)(u). These include wine and food seminars and cooking classes, Section 8.7.3(10)(u)2(a), hosting a meeting of a 501(c)(3), Section 8.7.3(10)(u)2(b) and hosting a meeting of an agricultural group. Section 8.7.3(10)(u)2(c). Peninsula Township also includes items like book club meetings as a Guest Activity Use. (**Exhibit Q: WOMP1378**).<sup>8</sup> A benefit for Big Brothers and Big Sisters also needed

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<sup>8</sup> Note that the Township draws a distinction between a book club and other forms of free entertainment. Apparently, a book club is the primary reason a person might come to the winery  
*Continued on next page.*

pre-approval from the Township. (**Exhibit R: WOMP506.**) According to Peninsula Township, the reason this event was a Guest Activity Use and not “a normal Winery-Chateau Tasting Room activity” was because there was 1) a fixed price for entry, 2) the tasting room would be closed and 3) it was a meeting of a non-profit group where a full course meal would not be served.” *Id.*

Guest Activity Uses are subject to increased restrictions as opposed to normal Winery-Chateau Tasting Room activities. Guest Activity Uses cannot occur past 9:30 PM. Section 8.7.3(10)(u)(5)(b). Alcohol sales at Guest Activities are limited to the alcohol produced on site. Guest Activity Uses cannot include amplified music. Section 8.7.3(10)(u)(5)(g).

### **3. Section 8.7.3(12) Remote Winery Tasting Rooms**

The portions of the Winery Ordinances which regulate Remote Winery Tasting Rooms are sparse. Unlike the section of the Winery Ordinances regulating to Winery Chateaus and Farm Processing Facilities, the section of the Winery Ordinances regulating Remote Winery Tasting Rooms do not contain any explicit restrictions on operations. However, the lack of written ordinances has not prohibited Peninsula Township from attempting to restrict the services these wineries can offer. In short, Peninsula Township takes the position that these wineries cannot offer any of the following services or activities: restaurants, food for on-premise consumption, music, entertainment, catering and sales of wine by the bottle for on premise consumption. Unlike the restrictions on Winery-Chateau Guest Activities, the Ordinances do not place any restriction on the hours of operation for a Remote Winery Tasting Room though Peninsula Township has regulated Remote Winery Tasting Rooms as if such a restriction is found within the Winery Ordinances. In essence, Peninsula Township has taken the position that the Winery Ordinances

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such that is a Guest Activity Use. But if the primary reason a person comes to the winery is to taste wine, the entertainment is secondary, so it is not a Guest Activity.

limit Remote Winery Tasting rooms to wine tastings, sale of wine by the glass and the sale of wine by the bottle to go.

### **III. ARGUMENT**

#### **A. Standard of Review**

The Wineries may move for summary judgment by “identifying each claim or defense—or the part of each claim or defense—on which summary judgment is sought.” Fed. R. Civ. P. 56(a). The Court “must grant summary judgment when ‘there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.’” *Hartman v. Thompson*, 931 F.3d 471, 478 (6th Cir. 2019) (quoting Fed. R. Civ. P. 56(a)). Whether a state statute preempts a local zoning ordinance is a question of law. *DeRuiter v. Twp. of Byron*, 949 N.W.2d 91, 96 (Mich. 2020).<sup>9</sup>

“Under the Michigan Constitution, the City’s ‘power to adopt resolutions and ordinances relating to its municipal concerns’ is ‘subject to the constitution and the law.’” *Ter Beek v. City of Wyoming (Ter Beek II)*, 846 N.W.2d 531, 541 (Mich. 2014) (quoting Const. 1963, art. 7, § 22). Thus, a local ordinance may be preempted by state law. *AFSCME v. City of Detroit*, 662 N.W.2d

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<sup>9</sup> See also *In re Baker & Drake, Inc.*, 35 F.3d 1348, 1352 (9th Cir. 1994) (“Whether a state statute is preempted is a question of law.”); *Hotel Employees & Rest. Employees Int’l Union v. Nevada Gaming Comm’n*, 984 F.2d 1507, 1513 (9th Cir. 1993) (“Preemption is predominantly a legal question, resolution of which would not be aided greatly by development of a more complete factual record.”); see also *Citizens for Honesty & Integrity in Reg’l Planning v. County of San Diego*, 258 F. Supp. 2d 1132, 1135 (S.D. Cal. 2003) (“The outcome of this case does not turn on facts, for it ultimately presents a pure question of law, i.e., whether a federal statute that narrowly defines the term ‘wetland’ preempts a local ordinance that broadly defines ‘wetland.’”) (citation omitted); *Sheehan v. Peveich*, 574 F.3d 248, 252 (4th Cir. 2009) (whether a state law “violate[s] the Supremacy Clause ... is a question of law”), cert. denied, 130 S. Ct. 1066 (2010); *CSX Transp., Inc. v. City of Tullahoma*, 705 F. Supp. 385, 386 (E.D. Tenn. 1988) (“The single issue around which this case revolves is whether the City of Tullahoma’s municipal ordinance limiting trains to a 25 m.p.h. speed limit through the City is preempted by the [Federal Railroad Safety Act] and is therefore violative of the supremacy clause. It is purely a question of law.”).

695, 707 (Mich. 2003). State law “may preempt a local regulation either expressly or by implication.” *DeRuiter*, 949 N.W.2d at 96 (citing *Mich. Gun Owners Inc. v. Ann Arbor Pub. Sch.*, 918 N.W.2d 756 (Mich. 2018)). Implied preemption occurs when a local ordinance “is in direct conflict with the state statutory scheme” or if state statutory scheme occupies “the field of regulation which the municipality seeks to enter, to the exclusion of the ordinance.” *People v. Llewellyn*, 257 N.W.2d 902, 904 (Mich. 1977).

While state regulation of alcohol is expansive, the Wineries do not contend that field preemption applies to this case. However, certain provisions of the Winery Ordinances are preempted because they directly conflict with the Michigan Liquor Control Code.

#### **B. Conflict Preemption Standards**

“In the context of conflict preemption, a direct conflict exists when ‘the ordinance permits what the statute prohibits or the ordinance prohibits what the statute permits.’” *DeRuiter*, 949 N.W.2d at 96 (quoting *Llewellyn*, 257 N.W.2d 902 n. 4). *See also Walsh v. City of River Rouge*, 189 N.W.2d 318, 324 (Mich. 1971) (“Assuming the city may add to the conditions, nevertheless the ordinance attempts to prohibit what the statute permits. Both statute and ordinance cannot stand. Therefore, the ordinance is void.”). However, a local unit of government may add conditions to a state statute because “additional regulation to that of a state law does not constitute a conflict therewith.” *Nat’l Amusement Co. v. Johnson*, 259 N.W. 342, 343 (Mich. 1935). But where a state statute allows certain conduct and a local ordinance forbids it, “the ordinance is void.” *Id.* Thus, a local municipality may not enjoin activity allowed by state law “simply by characterizing the conduct as a zoning violation.” *Ter Beek II*, 846 N.W.2d at 542. As the Michigan Supreme Court has explained, even if “a local zoning regulation [was] enacted pursuant to the [Michigan Zoning Enabling Act] does not save it from preemption.” *Id.*



Some cases are easy because the local ordinance and state statute are at odds. For example, a Grand Rapids ordinance prohibiting walkathons conflicted with a state statute which allowed walkathons where the contestants received physician approval. *Nat'l Amusement*, 259 N.W. at 343. Because state law allowed walkathons, the City of Grand Rapids could not ban them. In another case, the City of Wyoming imposed criminal penalties for the use of medical marijuana, despite the fact that the Michigan Medical Marijuana Act (“MMMA”) granted immunity from prosecution for the use of medical marijuana. *Ter Beek II*, 846 N.W.2d at 544. Because the MMMA granted immunity from prosecution, the City of Wyoming could not criminalize it.

Other cases, typically those involving tangential regulation in addition to state statute, are closer questions. These cases often involve the typical municipal authority such as location or setback requirements. Returning to the MMMA, Byron Township passed a local zoning ordinance allowing for the cultivation of medical marijuana by primary caregivers as a “home occupation” only. *DeRuiter*, 949 N.W.2d at 94. The MMMA only required medical marijuana to be grown in an “enclosed, locked facility.” *Id.* Because Byron Township’s ordinance did not “prohibit or penalize all medical marijuana cultivation,” it could specify where the “enclosed, locked facility” had to be. *Id.* at 100. The additional condition did not conflict with the MMMA and was therefore not preempted. *Id.* at 101.

In another example from the alcohol context, Bloomfield Township amended its ordinance to allow automobile service stations to sell alcohol as long as:

(1) alcohol is not sold less than 50 feet from where vehicles are fueled, (2) no drive-thru operations are conducted in the same building, (3) the store meets minimum floor area and lot size requirements, (4) the store has frontage on a major thoroughfare and is not adjacent to a residentially zoned area, (5) the store does not perform any vehicle service operations that would require customers to wait on the premises, and (6) the store is either located in a shopping center or maintains a minimum amount of inventory.

*Maple BPA, Inc v. Bloomfield Charter Twp.*, 838 N.W.2d 915, 919 (Mich. App. 2013). These

restrictions were not conflict preempted because “the Legislature has not expressly spoken concerning the sale of alcohol in buildings with drive-thru windows, the minimum building area of buildings at which alcohol is sold, or the number of parking spaces required for a building from which alcohol is sold.” *Id.* at 922. But even where the Legislature did speak to the issue, “Bloomfield Township’s zoning ordinance is not more restrictive. The ordinance mirrors the statutory language—it does not provide any further constraint, or prohibit what the statute permits.” *Id.*

These examples lead to some basic principles. *National Amusement* and *Ter Beek* show that when a state law grants a right, a local government may not take it away. *DeRuiter* and *Maple BPA* show that a local government can add conditions to a state statute, as long as those conditions do not prohibit what the state statute allows.

### C. **Municipal Authority**

Local governments have limited ability to add these conditions. They are creatures of the State and they possess only those powers granted by the State. *Hunter v City of Pittsburgh*, 207 U.S. 161, 178–79 (1907); *Shelby Charter Twp v State Boundary Comm’n*, 387 N.W.2d 792, 795 n. 4 (Mich. 1986). “[T]he powers conferred upon these corporations and the territory over which they shall be exercised rests in the absolute discretion of the State.” *Id.* “The State, therefore, at its pleasure may modify or withdraw all such powers, may take without compensation such property, hold it itself, or vest it in other agencies, expand or contract the territorial area, unite the whole or a part of it with another municipality, repeal the charter and destroy the corporation.” *Id.* “In all these respects the State is supreme, and its legislative body, conforming its action to the state constitution, may do as it will, unrestrained by any provision of the Constitution of the United States.” *Id.*

The Michigan Constitution expressly provides that cities and villages have the power to adopt ordinances related to municipal concerns, property, and government. Const 1963, art 7 § 22. But there is no specific constitutional provision for townships. Instead, the Michigan Constitution states that townships are corporate bodies and have powers provided by law, and township boards have legislative and administrative powers as provided by law. Const 1963, art 7 § 17.

**D. The State of Michigan Exercises Complete Control of Alcoholic Beverage Traffic in Michigan.**

“[T]he Twenty-First Amendment gives states broad authority over ‘[t]he transportation or importation [of intoxicating liquors] into any State, Territory, or possession of the United States for delivery or use therein.’ U.S. Const. amend. XXI, § 2.

As the Michigan Court of Appeals has stated, “[a]s established by the code, pursuant to Const. 1963, art. 4, § 40, the commission has “the *sole* right, power, and duty to control the alcoholic beverage traffic and traffic in other alcoholic liquor within this state, including the manufacture, importation, possession, transportation and sale thereof.” *L&L Wine and Liquor Corp. v. Liquor Control Comm’n*, 733 N.W.2d 107, 111 (2007); (emphasis in original) (quoting MCL 436.1201(2)). “In the area of regulation of the traffic of alcohol the M.L.C.C. authority is plenary.” *Matter of Ratcliff Enterprises, Inc.*, 44 B.R. 778 (Bank. Ct. E.D. Mich. 1984) (citing *Zukaitis v. Fitzgerald*, 18 F. Supp. 1000 (1937) and *Mutchall v. City of Kalamazoo*, 35 N.W.2d 245 (1948); *see also Noey v. Saginaw*, 261 N.W. 88 (Mich. 1935) (The Constitution of Michigan granted the Legislature the authority to establish a liquor control commission which, subject to statutory limitation, “shall exercise complete control of the alcoholic beverage traffic within this State”). The MLCC has the sole right, power, and duty to control alcoholic beverage traffic in the state. MCL § 436.1201(2). Thus, the regulation of alcohol is an important state interest. *See also Tennessee Wine & Spirits Retailers Ass’n v. Thomas*, 139 S. Ct. 2449, 2463-464 (2019).”

*Greenbush Brewing Co., et al v. Michigan Liquor Control Commission, et. al*, Case No. 1:19-cv-536, Dkt # 59. (July 6, 2020.) Pursuant to the Michigan Constitution, the Legislature enacted a statute creating a liquor control commission and wrote “(e)xcept as by this act otherwise provided, the commission shall have the sole right, power and duty to control the alcoholic beverage traffic....” *Noey*, 261 N.W. at 89. Thus, for a local municipality to have authority to regulate alcoholic beverage traffic, the Michigan Legislature must have explicitly provided that authority by statute.

The Legislature has provided local governments with very few areas in which they may regulate the sale of alcohol. For example, under MCL 436.1209, a local government in which there are no currently active liquor licenses may by ordinance prohibit the retail sale of alcohol. These areas are known as “dry” municipalities. However, once there are retail liquor licenses in a municipality, meaning it is now “wet,” a municipality may not restrict the sale of alcoholic beverages. At that point, a local government’s regulation of alcohol sales, as it relates to this case, is limited to approval of a winery tasting room for on-premise consumption. But, as discussed above, because each Plaintiff’s tasting room was in existence prior to December 19, 2018, Peninsula Township did not have any approval authority. *See* MCL 436.1536(17). Similarly, Peninsula Township has no authority related to the approval of permits issued by MLCC.

**E. Peninsula Township’s Winery Ordinances Directly Conflict With and are Preempted by the Michigan Liquor Control Code.**

Several Sections of the Ordinance are preempted.<sup>10</sup>

**1. Each Plaintiff has a Tasting Room Issued by MLCC.**

Recently, the Michigan Legislature determined that any licensee, like Plaintiffs, which had an existing operating with a tasting room, did not need local approval. MCL 436.1536(17). Each Plaintiff has been operating a tasting room for at least several years. (**Exhibits A through K.**)

**2. Peninsula Township’s Regulation of Winery Hours of Operation is Preempted by MCL 436.1403.**

The general rule in Michigan is that no alcohol sales may be made between 2 a.m. to 7 a.m. daily: “Notwithstanding R 436.1403<sup>11</sup> and R 436.1503<sup>12</sup> of the Michigan administrative code and except as otherwise provided under this act or rule of the commission, an on-premises and an off-premises licensee shall not sell, give away, or furnish alcoholic liquor between the hours of 2 a.m. and 7 a.m. on any day.” MCL 436.2114(1). The Liquor Control Code goes on to give local governments the right to change the hours on Sundays only. MCL 436.2114(1) “does not prevent any local governmental unit from prohibiting the sale of beer and wine between the hours of 7 a.m. and 12 noon on Sunday or between the hours of 7 a.m. on Sunday and 2 a.m. on Monday” under

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<sup>10</sup> For ease of reference, the Wineries have created the chart attached as **Exhibit S** which summarizes various activities which are allowed or specifically dis-allowed by Michigan law and the Winery Ordinances. Where the phrase “allowed” is used without a citation to a specific ordinance section, the Winery Ordinances are silent and do not specifically prohibit the conduct.

<sup>11</sup> Mich. Admin Code R 436.1403 applies to on-premises licensees and reaffirms the 2 a.m. to 7 a.m. daily rule, the 2 a.m. to noon Sunday rule, and creates exceptions for Christmas Eve, Christmas Eve, Boxing Day, and New Year’s Day.

<sup>12</sup> “An off-premises licensee shall not sell, give away, deliver, or furnish alcoholic liquor between the hours of 2 a.m. and 7 a.m. on any day or between the hours of 2 a.m. and 12 noon on Sunday and shall not sell, give away, deliver, or furnish spirits between the hours of 2 a.m. and 12 midnight on Sunday, unless issued a Sunday sales permit by the commission which allows the licensee to sell spirits on Sunday between the hours of 12 noon and 12 midnight.” Mich. Admin. Code R 436.1503.

MCL 436.2111 and “does not prevent any local governmental unit from prohibiting the sale of spirits and mixed spirit drink between the hours of 7 a.m. and 12 noon on Sunday or between the hours of 7 a.m. on Sunday and 2 a.m. on Monday under” MCL 436.2113.

When the Michigan Legislature wants to give local governments the authority to restrict alcohol sales between certain times, it certainly knows how to do so. For example, “The sale of beer and wine between the hours of 7 a.m. on Sunday and 2 a.m. on Monday is allowed. Except as otherwise provided in subsection (6), a county, city, village, or township may prohibit the sale of beer and wine between the hours of 7 a.m. and 12 noon on Sunday or between the hours of 7 a.m. on Sunday and 2 a.m. on Monday” if the local legislative body makes such an authorization or if a petition for the ban succeeds in a general election. MCL 436.2111(1). The Liquor Control Code builds in similar local opt-outs for the sale of spirits or mixed spirit drinks between 7 a.m. on Sunday and 2 a.m. on Monday. *See* MCL 436.2113.

Michigan and Federal Courts have construed this time limitation as giving an absolute right to license holders to sell alcohol between 7 a.m. and 2 a.m, subject to the Sunday limitations and opt-outs. Three cases considering local ordinances which prohibited alcohol sales before 2 a.m. are directly on point. First is the Michigan Supreme Court’s decision in *Noey*, 261 N.W. 88. Like the current law, in 1934 the Michigan Liquor Control Commission prohibited the sale of alcohol between 2:00 a.m. and 7:00 a.m. *Id.* at 89. Despite these standard hours of operation, “the city of Saginaw adopted an ordinance which fixed the closing hours of places licensed to sell intoxicating liquor for consumption on the premises at not later than 12 o’clock p.m. and until 7 o’clock a.m. of the following day.” *Id.* Citing the general rules for conflict preemption, the Michigan Supreme Court held that the City of Saginaw’s shorter hours of operation were not binding upon license

holders within the city. *Id.* at 89–90. In sum, the City of Saginaw’s hours of operation were unenforceable because they conflicted with those set by the Michigan Liquor Control Commission.

A more recent case underscores this point. The City of Keego Harbor, Michigan, conducted a “unlawful harassment campaign” against Goose Island Brewery by withholding administrative approvals, refusing to grant Goose Island a zoning variance, stopping Goose Island’s patrons and issuing them tickets, and reporting Goose Island to the MLCC. *R.S.W.W., Inc. v. City of Keego Harbor*, 397 F.3d 427, 431 (6th Cir. 2005). Keego Harbor’s goal was to force Goose Island to close at 11:00 p.m. every night. *Id.* Goose Island claimed that Keego Harbor’s demand—the 11:00 p.m. closing time—was an unconstitutional condition on its due process rights. *Id.* at 90. The Sixth Circuit reversed the District Court’s dismissal for lack of subject matter jurisdiction. Analyzing Michigan law, the Sixth Circuit first recognized that Goose Island had a property interest in its liquor license issued by the MLCC. *Id.* at 435. It then explained that Mich. Admin. Code R 436.1403, on its face, provides that liquor licensees may not sell alcohol after 2:00 a.m. *Id.* However, the Sixth Circuit acknowledged that in “*Noey* . . . , the Supreme Court of Michigan determined that *a Michigan city ordinance cannot fix closing hours to a period shorter than that specified in the state rule*. Thus, in this matter, there is a written regulation that both confers the benefit at issue (serving alcohol until 2:00 a.m.) and prohibits city officials from rescinding the benefit.” *Id.* at 435–36 (emphasis added).

A third case, *Sherman Bowling Ctr. v. City of Roosevelt Park*, 297 N.W.2d 839 (Mich. App. 1986) held that a city’s ban on outdoor events after 11:00 PM logically meant that an establishment could not sell alcohol after 11:00 PM. The Court of Appeals first emphasized that “[s]tate law expressly provides that MLCC is to have the exclusive authority to regulate the alcoholic beverage traffic in the manner which is attempted in the ordinance.” *Id.* at 842.

Concluding that the ordinance was preempted, the Michigan Court of Appeals explained “[t]he ordinance regulates various activities and imposes various requirements, but does so only in regard to establishments where alcoholic beverages are sold.” *Id.* Therefore, “[t]he sale of alcoholic beverages is a determining factor in whether the ordinance applies to a given establishment. Because of this, the ordinance de facto regulates alcoholic beverage sales.” *Id.* The Court further emphasized that

Any law which provides that if activity A takes place, then activity B may not occur, necessarily provides that if activity B occurs, then activity A may not take place. For instance, one provision of defendant's ordinance states essentially that, if an establishment sells alcoholic beverages, there is to be no entertainment at its outdoor event after 11:00 p.m. Logically, this law also provides that if an establishment is to have entertainment at its outdoor event after 11:00 p.m., then it cannot sell alcoholic beverages.”

*Id.* In short, Courts should look past general labels and must determine whether the ordinance is regulating alcohol in some manner. If it is, the Liquor Control Code controls.

No matter what form an ordinance takes, or what language an ordinance employs, a city cannot regulate or control alcoholic beverage traffic unless authorized by statute. That function belongs exclusively to the MLCC. The MLCC is to determine what types of establishments may sell liquor, when such establishments may sell liquor, and where they may sell it (with certain explicit statutory exceptions). It is the MLCC and not an individual city which is given the authority to determine whether an establishment which operates a special outdoor event providing entertainment can or cannot sell alcoholic beverage.

*Id.* The Court continued

On the other hand, cities may, pursuant to their police power, regulate various activities. However, cities cannot use liquor sales as a determination of when or where another type of activity can take place. A law which uses liquor sales as a determinant regulates when and where liquor sales can take place.

*Id.* Finally, the Court concluded

We do not wish to imply that cities may not regulate the number of outdoor events which can be held or the hours of such outdoor events. Nor do we wish to imply that cities may not regulate the hours within which outdoor entertainment can take place. Provided that they are otherwise valid, general regulations in this regard which are not tied to the sales of alcoholic beverages are not preempted by the



authority granted to the MLCC. The bottom line is that a regulation will not be declared invalid under preemption principles if it applies to establishments which sell alcoholic beverages in a like manner as it does to establishments which do not sell alcoholic beverages.

*Id.* at 843. While *Sherman Bowling* applied a field-preemption analysis, three points are worth nothing. First, its reasoning is persuasive in that it follows the pattern of declaring unconstitutional local ordinances shortening the hours of operation for MLCC licensees. Second, *Sherman Bowling* emphasized that a local unit of government may not attempt to regulate a separate activity as a proxy to regulate alcohol sales. Finally, if a regulation is to survive, the regulation must apply evenhandedly to alcohol and non-alcohol sales alike.

In summary, the Liquor Control Code sets the general hours of operation for all license holds from 7 a.m. to 2 a.m. daily. It allows local governments to shorten the hours on Sundays and specifically gives them two options for enacting such a change. But the Liquor Control Code is silent as to whether local governments can shorten the daily hours on any day besides Sunday. In *Noey*, *Keego Harbor*, and *Sherman Bowling*, the Courts have been unanimous—a local government lacks the authority to impose additional time restrictions. *See also Maple BPA*, 838 N.W.2d at 921 (“In *Noey v. Saginaw*, the Michigan Supreme Court concluded that a local ordinance that prohibited the sale of alcoholic beverages between certain hours that a state statute allowed such sales was invalid to the extent that it was more strict than the state statute.”). *Sherman Bowling* clarifies that this rule applies regardless of the label the local unit of government attaches to the regulation.

Turning to this case, the Township nominally allows sale of wine by the glass in a tasting room. “Sales of wine by the glass in the tasting room is allowed pursuant to the minimum requirements of the Michigan Liquor Control Commission rules and related Michigan Department of Agriculture permits regarding the sales of food for on-premises consumption. The Liquor

Control Commission and the Michigan Department of Agriculture shall control licenses and compliance.” Section 8.7.3(10)(d)(2). But those tasting rooms are limited by the general hours set forth in the Guest Activity Uses section for Winery-Chateaus. “Hours of operation for Guest Activity Uses shall be as determined by the Town Board, but no later than 9:30 PM daily.” Section 8.7.3(10)(u)(5)(b). Therefore, Section 8.7.3(10)(u)(5)(b) sets the hours in which a Winery Chateaus may sell alcohol during a Guest Activity. It also shortens the standard hours of operation set forth by the Liquor Control Code and the Michigan Liquor Control Commission, which state “an on-premises licensee shall not sell, give away, or furnish alcoholic liquor between the hours of 2 a.m. and 7 a.m. on any day nor between the hours of 2 a.m. and 12 noon on Sunday.” MCL 436.2114(1); Mich. Admin. Code R 436.1403. By requiring the Winery Chateaus to cease their standard hours of operation before 2:00 AM, the Ordinance directly conflicts with MCL 436.2114(1) and Mich. Admin. Code R 436.1403.<sup>13</sup>

This direct conflict was unconstitutional in *Noey*, *Keego Harbor*, and *Sherman Bowling*. Therefore, under this binding precedent, the Court must declare Section 8.7.3(10)(u)(5)(b) unconstitutional as preempted by MCL 436.2114(1) and Mich. Admin. Code R 436.1403.

**3. Peninsula Township’s Regulation of Winery Restaurant Operations is Preempted by MCL 436.1536(7)(h).**

The Liquor Control Code defines the term “Restaurant” as “a food service establishment defined and licensed under the food law, 200 PA 92, MCL 289.1101 to 289.8111.” MCL 436.1111(5). The Food Law, MCL 289.1107(t), defines a “food service establishment” as a:

fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, drive-in, industrial feeding establishment, private organization *serving*

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<sup>13</sup> As noted in the table attached as **Exhibit S**, the Winery Ordinances do not contain any restriction on hours of service for Remote Winery Tasting Rooms, Farm Processing Facilities and the activities of Winery Chateaus which are not Guest Activities.

*the public*, rental hall, catering kitchen, delicatessen, theater, commissary, food concession, or similar place in which food or drink is prepared for direct consumption through service on the premises or elsewhere, and any other eating or drinking establishment or operation *where food is served or provided for the public*.

(Emphasis added). Stated simply, a restaurant under the Liquor Control Code is one that serves food to the public. It is a responsible alcohol service practice to serve food with alcohol to limit the effects of intoxication. Enforcement of the Food Law is specifically delegated to the local health department, not Peninsula Township. MCL 289.3105.

The Liquor Control Code is unequivocal that tasting rooms may have restaurants. “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.” MCL 436.1536(7)(h). And although there is a reference to approval from the local legislative body in MCL 436.1536(7)(c) (“The manufacturer or manufacturers must be approved for the on-premises tasting room permit by the local legislative body in which the proposed licensed premises will be located, except in a city having a population of 600,000 or more or as provided in subsection (17).”), that requirement does not apply here. The Wineries are exempt from local approval pursuant to MCL 436.1536(17), which states that “Local approval under subsection (7)(c), (8)(c), or (9)(c) is not required for a tasting room that was in existence before December 19, 2018.” There is no dispute that each of the Wineries held an MLCC tasting room permit prior to December 19, 2018. Thus, the Liquor Control Code gives the Wineries the absolute right to operate a restaurant as part of their tasting rooms.

Other authority confirms this point. For example, the Sixth Circuit recognized “Michigan laws and regulations permit liquor licensees to serve food and alcohol until 2:00 a.m.” *Keego*

*Harbor*, 397 F.3d at 431. And MLCC’s Winery FAQ sheet states a winery “[m]ay serve food or have a restaurant in conjunction with the On-Premises Tasting Room Permit.” (**Exhibit L.**)

Despite this clear statutory authority, restaurants at Farm Processing Facilities are outright prohibited. “The Farm Processing Facility use includes retail and wholesale sales of fresh and processed agricultural produce but is not intended to allow a bar or restaurant on agricultural properties and the Township shall not approve such a license.” Section 6.7.2(19)(a). While the Winery Ordinances do not contain a clear ban on restaurants at Winery Chateaus like they do for a Farm Processing Facility, Peninsula Township interprets the Winery Ordinances to ban restaurants at Winery Chateaus. This is despite Section 8.7.3(10)(c)(2) stating that sale of food for on-premise consumption is allowed pursuant to Michigan Department of Agriculture permitting.

The Township ignore this section and instead points to the Guest Activity Use sections which limit food service during Guest Activities. “No food service other than as allowed above or as allowed for wine tasting may be provided by the Winery-Chateau. If wine is served, it shall only be served with food and shall be limited to Old Mission Peninsula appellation wine produced at the Winery, except as allowed by Section 6. below.” Section 8.7.3(10)(u)(2)(e). The Ordinance only specifies three types of food service during Guest Activities. First, “Wine and food seminars and cooking classes that are scheduled at least thirty days in advance with notice provided to the Zoning Administrator. Attendees may consume food prepared in the class.” Section 8.7.3(10)(u)(2)(a). Second, “Meetings of 501- (C)(3) non-profit groups within Grand Traverse County. *These activities are not intended to be or resemble a bar or restaurant use and therefore full course meals are not allowed*, however light lunch or buffet may be served.” Section 8.7.3(10)(u)(2)(b) (emphasis added). Third, “Meetings of Agricultural Related Groups that have a direct relationship to agricultural production” provided that the Zoning Administrator gives prior

approval, and only then may the Winery Chateaus engage in “Food/wine educational demonstrations” and “Cooking show showcasing Peninsula produce and wine.” Section 8.7.3(10)(u)(2)(c)(i)-(ii). In summary, by its plain terms the Winery Ordinance allows Winery Chateaus to operate restaurants except that restaurant operations are not allowed as part of a Guest Activity without prior approval of the Zoning Administrator.

These are not conditions on the operation of a restaurant; Sections 6.7.2(19)(a) and 8.7.3(10) are an outright ban. This ban on restaurants is conflict preempted. “A local ordinance is preempted when it bans an activity that is authorized and regulated by state law.” *DeRuiter*, 949 N.W.2d at 98. For example, when Byron Township attempted to impose civil fines for medical marijuana usage despite the Michigan Medical Marijuana Act’s allowance of such use, Byron Township’s ordinance was preempted. *Ter Beek II*, 846 N.W.2d at 541. Moreover, it did not matter that Byron Township was attempting to act under its authority granted by the Michigan Zoning Enabling Act. *Id.* at 542–43. In another example, a local ordinance banning walkathons completely was preempted by a state statute banning walkathons unless certain conditions had been met. *Nat’l Amusement*, 259 N.W. at 343. Because the state statute would allow walkathons if certain conditions were met, the local government could not ban them completely.

The same analysis applies here. The Liquor Control Code—specifically, MCL 436.1536(7)(h)—allows liquor licensees to operate a restaurant as part of their tasting room. The Township’s Ordinance completely bans Farm Processing facilities from operating a restaurant as part of their tasting and restricts when and for what purpose a Winery Chateau may operate a restaurant. Therefore, Sections 6.7.2(19)(a) and 8.7.3(10) are preempted by 436.1536(7)(h).<sup>14</sup>

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<sup>14</sup> The Winery Ordinances do not prohibit a Remote Tasting Room winery from operating a restaurant.

4. Peninsula Township’s Regulation of Winery Catering Operations is Preempted by MCL 436.1547.

The Wineries regulated as Winery Chateaus also would like to use their kitchens for off-site catering. Under the Liquor Control Code, a “catering permit” is “a permit issued by the commission to a . . . holder of a public on-premises license for the sale of beer, wine, or spirits . . . that is also licensed as a food service establishment or retail food establishment under the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111.” MCL 436.1547(1)(b). The catering permit “authorizes the permit holder to sell and deliver beer, wine, and spirits in the original sealed container to a person for off-premises consumption but only if the sale is not by the glass or drink and the permit holder serves the beer, wine, or spirits.” *Id.* However, “[t]he permit does not allow the permit holder to deliver, but not serve, the beer, wine, or spirits.” *Id.* The Liquor Control Commission has the exclusive authority to issue a catering permit. MCL 435.1547(3). There is no cap on how many permits the MLCC may issue “within any local unit of government.” MCL 435.1547(4).

Similar to the restaurant provisions, the MLCC’s FAQ sheet states that a Catering Permit issued by MLCC “[a]uthorizes a holder of a Wine Maker or Small Wine Maker license to sell, deliver, and serve wine in the original containers at private events.” (**Exhibit L: FAQ Sheet.**) “No local legislative approval [is] required.” (**Exhibit M.**)

Under the Ordinance, Winery Chateaus are prohibited entirely from using their facilities for off-site catering. “Kitchen facilities may be used for on-site food service related to Guest Activity Uses *but not for off site catering.*” Section 8.7.3(10)(u)(5)(i) (emphasis added). Like the restaurant usage above, the outright prohibition on catering directly conflicts with the Liquor Control Code. The Township attorney agrees: “As to Section 8.7.3(10)(u)(5)(i), alternative ordinances should be explored to ensure fully (sic) compliance with MCL 436.1547 for a winery

properly licensed and permitted to engage in off-site catering under that state statute.” ECF No. 3-6, PageID.701. Therefore, MCL 435.1547 preempts Section 8.7.3(10)(u)(5)(i). The Winery Ordinances do not prohibit Farm Processing Facilities and Remote Winery Tasting Rooms from catering.

**5. Peninsula Township’s Regulation of Amplified Music is Preempted by MCL 436.1916(11)**

As a natural extension of experiential activities at their tasting rooms, the Wineries would like to use amplified music. The Liquor Control Code allows on-premises licensees to play music without any prior approval from any entity. “The following activities are allowed without the granting of a permit under this section: The performance or playing of an orchestra, piano, or other types of musical instruments, or singing.” MCL 436.1916(a).

The legislature did not leave an option for local units of government to alter this right. Similar to the carve-out with respect to the hours of operation on Sundays, the legislature did give local governments an option to opt out of topless dancing or nudity within the same section of the Liquor Control Code: “This section is not intended to prevent a local unit of government from enacting an ordinance prohibiting topless activity or nudity on a licensed premises located within that local unit of government.” MCL 436.1916(3). However, there is no similar language with respect to music. As with hours of operation and the rationale from *Noey*, the Liquor Control Code thus grants license holders an unfettered right to play the music of their choosing. As the Sixth Circuit phrased it in *Keego Harbor*, “there is a written regulation that both confers the benefit at issue [playing music with no restriction] and prohibits city officials from rescinding the benefit.” *Keego Harbor*, 397 F.3d at 435–36.

Contrary to this plain authorization, the Township does not allow amplified music during a Winery Chateau Guest Activity. “No amplified instrumental music is allowed, however

amplified voice and recorded background music is allowed, provided the amplification level is no greater than normal conversation at the edge of the area designated within the building for guest purposes.” Section 8.7.3(10)(u)(5)(g). This conflicts with the Wineries’ unlimited right to play music without this issuance of a permit under MCL 436.1916(a). MCL 436.1916(a) preempts Section 8.7.3(10)(u)(5)(g).

The Winery Ordinances do not prohibit Farm Processing Facilities and Remote Winery Tasting Rooms from playing amplified music. Similarly, the Winery Ordinances do not prohibit Winery Chateaus from playing amplified music at any other times but during a Guest Activity.

Additionally, if the Court is concerned about a potential nuisance problem that could arise by declaring Section 8.7.3(10)(u)(5)(g) preempted, that will not be an issue. Section 8.7.3(10)(u)(5)(f) states that “No sounds related to the guest activity shall be discernable at the property lines.” The Wineries are not challenging this provision. Instead, they are seeking to use their own property as allowed by the Liquor Control Code. The Wineries should be able to have amplified music indoors, or even amplified music outdoors that does not reach the property lines.

**6. Peninsula Township’s Regulation of Activities Permitted With an Entertainment and/or Dance Permit is Preempted.**

As discussed above, Peninsula Township attempts to control how the Wineries are able to make use of their licensed premises and the permits issues by MLCC. For example, Section 6.7.2(19)(b)(1)(iv) precludes a Farm Processing Facility from offering social functions for hire. Section 8.7.3(10)(u)(2)(a)-(c) precludes a Winery Chateau from various guest activity uses without prior Township approval. And, while there is no ordinance supporting its position, Peninsula Township takes the position that a Remote Winery Tasting Room cannot engage in any form of entertainment. But these ordinances and positions are preempted to the extent that they preclude the Wineries from making use of Entertainment and Dance permits issues by MLCC.



**IV.**  
**CONCLUSION**

Plaintiffs respectfully requests that this Court enter a judgment in their favor and find Sections 6.7.2(19)(a), 6.7.2(19)(b)(1)(iv), 8.7.3(10)(u)(2)(a)-(c), 8.7.3(10)(u)(2)(e), 8.7.3(10)(u)(5)(b), 8.7.3(10)(u)(5)(g) and 8.7.3(10)(u)(5)(i) of Peninsula Township's Ordinances are preempted by Michigan law and award Plaintiffs' their costs and attorneys' fees incurred in bringing this action.

Respectfully submitted,

MILLER, CANFIELD, PADDOCK  
AND STONE, P.L.C.

By: /s/ Joseph M. Infante  
Joseph M. Infante (P68719)  
Stephen M. Ragatzki (P81952)  
Christopher J. Gartman (P83286)  
99 Monroe Avenue NW, Suite 1200  
Grand Rapids, MI 49503  
(616) 776-6333  
infante@millercanfield.com  
gartman@millercanfield.com

Dated: April 14, 2021

**CERTIFICATE OF COMPLIANCE WITH RULE 32(A)**

1. This Brief complies with the type-volume limitation of L. Civ. R. 7.2(b)(i) because this Brief contains 8,094 words.

/s/ Joseph M. Infante  
Joseph M. Infante

**CERTIFICATE OF SERVICE**

I hereby certify that on April 14, 2021, I filed the foregoing Motion for Partial Summary Judgment and Brief in Support via the Court's CM/ECF System, which will automatically provide notice of the filing to all registered participants in this matter.

/s/ Joseph M. Infante  
Joseph M. Infante

37422064.3/159392.00002

# **Exhibit A**

# Alcohol Information Management System

Michigan Liquor Control Commission

## Search Active/Escrowed Licensees

### Licensee Details

**Licensee Name****BOWERS HARBOR VINEYARD & WINERY, INC.****Doing Business As (DBA)****Business ID**

18804

**Local Governmental Unit (LGU)**

PENINSULA TWP

**Status**

Active

**County**

GR TRAVERSE

**Address**

2896 Bowers Harbor Rd Traverse City, MI 49686-9735

**Phone**

(231) 223-7615

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### Insurance / Financial Responsibility

Show 10 entries

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Name	Type	Insurance Provider	Effective Date (From)	Status
IN-500803	Liquor Liability Insurance	AUTO-OWNERS INSURANCE COMPANY	2/11/2008	Active
IN-500804	Non-Retail Surety Bond	HARTFORD FIRE INSURANCE COMPANY	9/9/1992	Active

Showing 1 to 2 of 2 entries

[Previous](#)[1](#)[Next](#)

### Subordinates

Show 10 entries


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Name	Relationship To Business	Status
JACK STEGENGA	Stockholder	Inactive
LINDA STEGENGA	Stockholder	Active
SPENCER STEGENGA	Stockholder	Active

Showing 1 to 3 of 3 entries

[Previous](#)[1](#)[Next](#)

### Licenses

To view details of a license, please click the  button to expand the license details.

Show 10 entries


Copy CSV Excel Print

License #	Group	Type	Subtype	Status	Issue Date	Expiration Date	Statute	Statute: Location Transferable	Under Transfer Process
L-000000048	Manufacturer	Small Wine Maker		Active	9/10/1992	4/30/2021		Y	<input type="checkbox"/>
L-000001661	Miscellaneous	Salesperson		Terminated	5/1/2002	4/30/2005		N	<input type="checkbox"/>
L-000001662	Miscellaneous	Salesperson		Terminated	5/1/2008	4/30/2011		N	<input type="checkbox"/>
L-000001663	Salesperson, Broker, Vendor Representative	Salesperson		Active	5/1/2017	4/30/2023		N	<input type="checkbox"/>
L-000072487	Miscellaneous	Salesperson		Terminated	8/26/1999	4/30/2002		N	<input type="checkbox"/>
L-000075296	Miscellaneous	Salesperson		Terminated	5/22/2000	4/30/2002		N	<input type="checkbox"/>
L-000075487	Miscellaneous	Salesperson		Terminated	6/5/2000	4/30/2002		N	<input type="checkbox"/>
L-000104282	Miscellaneous	Salesperson		Terminated	8/8/2001	4/30/2002		N	<input type="checkbox"/>
L-000106929	Miscellaneous	Salesperson		Terminated	5/1/2005	4/30/2008		N	<input type="checkbox"/>
L-000157088	Manufacturer	Direct Shipper		Active	4/30/2007	4/30/2021		Y	<input type="checkbox"/>

Showing 1 to 10 of 16 entries

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## Permits

To view details of a permit or permission, please click the  button to expand the permit or permission details.

Show 10 entries

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Permit #	Type	Specific Purpose	Status	Issue Date	Expiration Date	CI
+ 18-30920	Outdoor Service Area		Issued	4/26/2018	4/30/2021	N
+ 18-5586	Sunday Sales (AM)		Issued	3/2/2018	4/30/2021	N
+ 19-7186	Living Quarters		Issued	10/28/2019	4/30/2021	N

Showing 1 to 3 of 3 entries

Previous 1 Next

## Violations

Show 10 entries

Copy CSV Excel Print

Violation #	Date Violation Occured	Status	Violation Description	Event/Decision
CV-00055886	7/6/2000	Closed	STKHDR, SPENCER STEGENGA, DID COMMIT A CRIME INVOLVING THE EXCESSIVE USE OF ALCO LIQUOR, OUIL: (LCC INV KRAEMER)	8/24/2000 LIC ACK - COMM WEATHERS 8/25/2000 3 DAY SUSP-WAIVED & \$300 OR 15 DAYS SUSP
CV-00176413		Closed		4/12/2016 4-11-16: WARNING TICKET ISSUED - R436.1719(2) & MCL 436.1203(3) (G)

Showing 1 to 2 of 2 entries

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# **Exhibit B**

(1)

# Alcohol Information Management System

Michigan Liquor Control Commission

## Search Active/Escrowed Licensees

### Licensee Details

**Licensee Name**

BRY'S WINERY, LC

Doing Business As (DBA)

BRY'S ESTATE VINEYARD &amp; WINERY

**Business ID**

153475

**Local Governmental Unit (LGU)**

PENINSULA TWP

**Status**

Active

**County**

GR TRAVERSE

**Address**

3309 Blue Water RdTraverse City, MI 49686-8561

**Phone**

(231) 223-8446

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### Insurance / Financial Responsibility

Show 10 ▾ entries

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Name	Type	Insurance Provider	Effective Date (From)	Status
IN-500922	Liquor Liability Insurance	CINCINNATI INSURANCE COMPANY	1/25/2016	Active
IN-500923	Non-Retail Surety Bond	CINCINNATI INSURANCE COMPANY	3/30/2017	Active

Showing 1 to 2 of 2 entries

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### Subordinates

Show 10 ▾ entries

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Name	Relationship To Business	Status
EILEEN BRY'S	Member	Inactive
EILEEN BRY'S REVOCABLE LIVING TRUST	Member	Active
PATRICK BRY'S	Limited Partner	Active

Showing 1 to 3 of 3 entries

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### Licenses

To view details of a license, please click the  button to expand the license details.

Show 10 entries

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License #	Group	Type	Subtype	Status	Issue Date	Expiration Date	Statute	Statute: Location Transferable	Under Transfer Process
L-000135230	Manufacturer	Small Wine Maker		Active	4/22/2005	4/30/2021		Y	<input type="checkbox"/>
L-000135512	Miscellaneous	Salesperson		Terminated	5/5/2005	4/30/2008		N	<input type="checkbox"/>
L-000135513	Salesperson, Broker, Vendor Representative	Salesperson		Terminated	5/1/2017	4/30/2020		N	<input type="checkbox"/>
L-000146448	Manufacturer	Direct Shipper		Active	5/15/2006	4/30/2021		Y	<input type="checkbox"/>
L-000146982	Miscellaneous	Salesperson		Terminated	5/26/2006	4/30/2008		N	<input type="checkbox"/>
L-000192394	Salesperson, Broker, Vendor Representative	Salesperson		Active	5/30/2014	4/30/2023		N	<input type="checkbox"/>
L-000418523	Manufacturer	On-Premises Tasting Room Permit		Active	12/19/2018	4/30/2021			<input type="checkbox"/>


Showing 1 to 7 of 7 entries

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## Permits

To view details of a permit or permission, please click the  button to expand the permit or permission details.

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Permit #	Type	Specific Purpose	Status	Issue Date	Expiration Date	CI
+ 18-25460	Sunday Sales (AM)		Issued	4/22/2005	4/30/2021	N
+ 18-25494	Outdoor Service Area		Issued	5/15/2006	4/30/2021	N

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## Violations

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Violation #	Date Violation Occured	Status	Violation Description	Event/Decision
CV-00183873		Closed		7/24/2017 PASSED CONTROL BUY OPERATION ON 7-20-2017 (INV.KLINGBEIL/INV.OGDEN/GR 389)

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# **Exhibit C**

(/)

# Alcohol Information Management System

Michigan Liquor Control Commission

## Search Active/Escrowed Licensees

### Licensee Details

Licensee Name  
CHATEAU GRAND TRAVERSE, LTD.  
Doing Business As (DBA)  
CHATEAU GRAND TRAVERSE

Business ID  
18792  
Local Governmental Unit (LGU)  
PENINSULA TWP

Status  
Active  
County  
GR TRAVERSE

Address  
12301 Center RdTraverse City, MI 49686-8558  
Phone  
(231) 223-7355

Go Back

### Insurance / Financial Responsibility

Show 10 entries

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Name	Type	Insurance Provider	Effective Date (From)	Status
IN-501188	Non-Retail Surety Bond	GREAT AMERICAN INSURANCE COMPANY	6/7/1999	Active
IN-501189	Non-Retail Surety Bond	HANOVER INSURANCE COMPANY	3/21/2000	Active
IN-501191	Liquor Liability Insurance	HASTINGS MUTUAL INSURANCE COMPANY	5/1/2011	Active

Showing 1 to 3 of 3 entries

Previous 1 Next

### Subordinates

Show 10 entries


Copy CSV Excel Print

Name	Relationship To Business	Status
EDWARD O'KEEFE	Stockholder	Inactive
O'KEEFE CENTRE, LTD.	Stockholder	Active
SHARON O'KEEFE	Stockholder	Inactive

Showing 1 to 3 of 3 entries

Previous 1 Next

### Licenses

To view details of a license, please click the  button to expand the license details.

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License #	Group	Type	Subtype	Status	Issue Date	Expiration Date	Statute	Statute: Location Transferable	Under Transfer Process
L-000000003	Manufacturer	Wine Maker		Active	5/1/1976	4/30/2021		N	<input type="checkbox"/>
L-00001408	Salesperson, Broker, Vendor Representative	Salesperson		Active	5/2/2017	4/30/2023		N	<input type="checkbox"/>
L-000005900	Salesperson, Broker, Vendor Representative	Salesperson		Active	5/2/2017	4/30/2023		N	<input type="checkbox"/>
L-000071615	Salesperson, Broker, Vendor Representative	Salesperson		Terminated	5/2/2017	4/30/2020		N	<input type="checkbox"/>
L-000083317	Manufacturer	Outstate Seller of Wine		Active	6/7/1999	4/30/2021		Y	<input type="checkbox"/>
L-000133941	Retail - Off Premises	Specially Designated Merchant		Terminated	2/16/2005	4/30/2011		Y	<input type="checkbox"/>
L-000146488	Manufacturer	Direct Shipper		Active	5/16/2006	4/30/2021		Y	<input type="checkbox"/>
L-000171180	Salesperson, Broker, Vendor Representative	Salesperson		Terminated	5/2/2017	4/30/2020		N	<input type="checkbox"/>
L-000179022	Manufacturer	Small Distiller		Active	4/9/2009	4/30/2021		Y	<input type="checkbox"/>
L-000272971	Miscellaneous	Salesperson		Terminated	5/1/2017	4/30/2020		N	<input type="checkbox"/>
L-000417807	Manufacturer	On-Premises Tasting Room Permit		Active	12/19/2018	4/30/2021			<input type="checkbox"/>


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## Permits

To view details of a permit or permission, please click the  button to expand the permit or permission details.

Show 10 ▼ entries

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Permit #	Type	Specific Purpose	Status	Issue Date	Expiration Date	CI
+ 18-19265	Sunday Sales (AM)		Issued	3/3/2018	4/30/2021	N
+ 18-27056	Outdoor Service Area		Issued	4/18/2018	4/30/2021	N
+ 18-27057	Direct Connection		Issued	4/18/2018	4/30/2021	N

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## Violations

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Violation #	Date Violation Occured	Status	Violation Description	Event/Decision
CV-00183874		Closed		7/24/2017 PASSED CONTROL BUY OPERATION ON 7-20-2017 (INV.KLINGBEIL/INV.OGDEN/GR 389)

Violation #	Date Violation Occured	Status	Violation Description	Event/Decision
CV-501100	5/21/2017	Closed	Engaged in cooperative advertising with a retail licensee, Meijer, Inc. : (LCC Supv. Cox)	2/28/2019 Dismissed with no further action taken on this matter on the recommendation of the Assistant Attorney General.

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# **Exhibit D**

# Alcohol Information Management System

Michigan Liquor Control Commission

## Search Active/Escrowed Licensees

### Licensee Details

**Licensee Name**

CHATEAU OPERATIONS, LTD.

Doing Business As (DBA)

CHATEAU CHANTAL

**Business ID**

18806

Local Governmental Unit (LGU)

PENINSULA TWP

**Status**

Active

**County**

GR TRAVERSE

**Address**

15900 Rue De VinTraverse City, MI 49686-9379

**Phone**

(231) 223-4110

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### Insurance / Financial Responsibility

Show 10 entries

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Name	Type	Insurance Provider	Effective Date (From)	Status
IN-537252	Liquor Liability Insurance	FARM BUREAU GENERAL INSURANCE COMPANY OF MICHIGAN	1/1/2021	Active

Showing 1 to 1 of 1 entries

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### Subordinates

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Name	Relationship To Business	Status
ALBERT HROUDA	Stockholder	Inactive
ARNOLD OCHS	Stockholder	Inactive
JOYCE OCHS	Stockholder	Inactive
MARK JOHNSON	Stockholder	Inactive
NADINE BEGIN	Stockholder	Inactive
OCHS ORCHARD LLC	Stockholder	Active
OVER 20 - SEE FILE	Stockholder	Active
ROBERT BEGIN	Stockholder	Inactive

Name	Relationship To Business	Status
ROBERT P. BEGIN AND NADINE M. BEGIN TRUST	Stockholder	Active
RONALD HENDERSON	Fiduciary	Active

Showing 1 to 10 of 11 entries

Previous 1 2 Next

## Licenses

To view details of a license, please click the  button to expand the license details.

Show 25 entries

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License #	Group	Type	Subtype	Status	Issue Date	Expiration Date	Statute	Statute: Location Transferable	Under Transfer Process
L-000000051	Manufacturer	Small Wine Maker		Active	4/8/1993	4/30/2021		Y	<input type="checkbox"/>
L-000107821	Manufacturer	Brandy Manufacturer		Active	1/23/2002	4/30/2021		Y	<input type="checkbox"/>
L-000127418	Miscellaneous	Vendor Representative		Terminated	6/8/2004	4/30/2005		N	<input type="checkbox"/>
L-000128257	Miscellaneous	Vendor Representative		Terminated	7/2/2004	4/30/2005		N	<input type="checkbox"/>
L-000138893	Salesperson, Broker, Vendor Representative	Vendor Representative		Terminated	4/30/2014	4/30/2023		N	<input type="checkbox"/>
L-000140678	Miscellaneous	Vendor of Spirits		Terminated	10/5/2005	4/30/2021		Y	<input type="checkbox"/>
L-000146514	Manufacturer	Direct Shipper		Active	5/16/2006	4/30/2021		Y	<input type="checkbox"/>
L-000235716	Salesperson, Broker, Vendor Representative	Salesperson		Terminated	5/1/2017	4/30/2020		N	<input type="checkbox"/>
L-000236709	Salesperson, Broker, Vendor Representative	Salesperson		Active	5/1/2017	4/30/2023		N	<input type="checkbox"/>
L-000236711	Salesperson, Broker, Vendor Representative	Salesperson		Terminated	5/1/2017	4/30/2020		N	<input type="checkbox"/>
L-000237174	Salesperson, Broker, Vendor Representative	Salesperson		Active	5/1/2017	4/30/2023		N	<input type="checkbox"/>
L-000237187	Salesperson, Broker, Vendor Representative	Salesperson		Active	5/1/2017	4/30/2023		N	<input type="checkbox"/>
L-000251368	Salesperson, Broker, Vendor Representative	Salesperson		Terminated	5/1/2017	4/30/2020		N	<input type="checkbox"/>
L-000270616	Miscellaneous	Salesperson		Terminated	5/10/2017	4/30/2020		N	<input type="checkbox"/>
L-000401330	Salesperson, Broker, Vendor Representative	Salesperson		Active	12/18/2017	4/30/2023			<input type="checkbox"/>
L-000417805	Manufacturer	On-Premises Tasting Room Permit		Active	12/19/2018	4/30/2021			<input type="checkbox"/>

License #	Group	Type	Subtype	Status	Issue Date	Expiration Date	Statute	Statute: Location Transferable	Under Transfer Process
L-000421621	Salesperson, Broker, Vendor Representative	Salesperson		Terminated	5/17/2019	4/30/2023			<input type="checkbox"/>
L-000428096	Salesperson, Broker, Vendor Representative	Salesperson		Terminated	9/17/2019	4/30/2023			<input type="checkbox"/>
L-000435474	Salesperson, Broker, Vendor Representative	Vendor Representative		Active	6/29/2020	4/30/2023			<input type="checkbox"/>

Showing 1 to 19 of 19 entries

Previous 1 Next

## Permits

To view details of a permit or permission, please click the  button to expand the permit or permission details.

Show 10 entries

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Permit #	Type	Specific Purpose	Status	Issue Date	Expiration Date	CI
+ <span>18-22743</span>	<span>Outdoor Service Area</span>		<span>Issued</span>	<span>4/12/2018</span>	<span>4/30/2021</span>	N
+ 18-22743	Direct Connection		Issued	4/12/2018	4/30/2021	N
+ <span>18-22744</span>	<span>Living Quarters</span>		<span>Issued</span>	<span>4/12/2018</span>	<span>4/30/2021</span>	N
+ <span>18-5904</span>	<span>Sunday Sales (AM)</span>		<span>Issued</span>	<span>3/2/2018</span>	<span>4/30/2021</span>	N
+ <span>19-2977</span>	<span>Beer &amp; Wine Tasting</span>		<span>Issued</span>	<span>6/7/2019</span>	<span>4/30/2021</span>	N
+ <span>19-4768</span>	<span>Dance-Entertainment</span>		<span>Issued</span>	<span>7/25/2019</span>	<span>4/30/2021</span>	N
+ <span>20-471</span>	<span>Sunday Sales (PM)</span>		<span>Issued</span>	<span>2/13/2020</span>	<span>4/30/2021</span>	N

Showing 1 to 7 of 7 entries

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## Violations

Show 10 entries

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Violation #	Date Violation Occured	Status	Violation Description	Event/Decision
CV-00012960	9/9/1997	Closed	REC'D - ALLOW PERSON UNDER 21 YEARS OF AGE TO BE A STKHDR (MARIE-CHANTEL BEGIN): DISCOVERED 7-30-97 (LCC INV KRAEMER)	9/25/1997 LIC ACK - COMM STEWART 9/30/1997 \$200 OR 10 DAYS SUSP FURTHER THE COMMISSIONER ORDERS ALL LICENSES AND PERMITS ISSUED BY THE MLCC TO THIS LICENSED SMALL WINEMAKER AT THE ABOVE NAMED ADDRESS BE SUSPENDED AS OF JANUARY 2, 1998 IF THE LICENSED SMALL WINEMAKER CITED IN THIS CASE IS NOT IN COMPLIANCE WITH THE MLCC ACT AND ADMINISTRATIVE RULES.
CV-00016336	8/14/1997	Closed	SELL WINE W/OUT PROVIDING RESTAURANT SERVICE: (LCC INVS KRAEMER & OGDEN)	11/19/1997 12-08-97 MT PLEASANT MOURNING-CARTER-CONTRACT 1/6/1998 \$300 OR 15 DAYS SUSP 4/7/1998 APPEAL HEARING HELD IN LANSING 6/4/1998 AFFIRMED
CV-00174178		Closed		11/19/2015 11-16-15: WARNING TICKET ISSUED - MCL 436.1203(3)(G), R436.1719(2)
CV-00183872		Closed		7/24/2017 PASSED CONTROL BUY OPERATION ON 7-20-2017 (INV.KLINGBEIL/INV.OGDEN/GR 389)



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# **Exhibit E**

# Alcohol Information Management System

Michigan Liquor Control Commission

## Search Active/Escrowed Licensees

### Licensee Details

**Licensee Name**

GRAPE HARBOR, INC.

Doing Business As (DBA)

PENINSULA CELLARS

**Business ID**

18807

Local Governmental Unit (LGU)

PENINSULA TWP

**Status**

Active

**County**

GR TRAVERSE

**Address**

2464 Kroupa Rd Traverse City, MI 49686-9731

**Phone**

(231) 223-4051

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### Insurance / Financial Responsibility

Show 10 entries

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Name	Type	Insurance Provider	Effective Date (From)	Status
IN-502326	Non-Retail Surety Bond	WESTERN SURETY COMPANY	11/28/1994	Active
IN-502333	Liquor Liability Insurance	FARM BUREAU GENERAL INSURANCE COMPANY OF MICHIGAN	2/11/2016	Active

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### Subordinates

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Name	Relationship To Business	Status
CHATEAU AERONAUTIQUE WINERY, LLC	Joint Tenant	Active
CHATEAU DE BAY, LLC	Joint Tenant	Active
DAVID KROUPA	Stockholder	Active
DOMAINE BERRIEN CELLARS, INC.	Joint Tenant	Active
GILL'S PIER VINEYARD AND WINERY, INC.	Joint Tenant	Active
JOAN KROUPA	Stockholder	Active
JOHN KROUPA	Stockholder	Active

Name	Relationship To Business	Status
SANDHILL CRANE VINEYARDS, LLC	Joint Tenant	Active

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## Licenses

To view details of a license, please click the  button to expand the license details.

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License #	Group	Type	Subtype	Status	Issue Date	Expiration Date	Statute	Statute: Location Transferable	Under Transfer Process
L-000000052	Manufacturer	Small Wine Maker		Active	12/27/1994	4/30/2021		Y	<input type="checkbox"/>
L-000107273	Miscellaneous	Salesperson		Terminated	5/1/2005	4/30/2008		N	<input type="checkbox"/>
L-000107274	Miscellaneous	Salesperson		Terminated	5/1/2005	4/30/2008		N	<input type="checkbox"/>
L-000135747	Miscellaneous	Salesperson		Terminated	5/1/2014	4/30/2017		N	<input type="checkbox"/>
L-000146454	Manufacturer	Direct Shipper		Active	5/15/2006	4/30/2021		Y	<input type="checkbox"/>
L-000153856	Salesperson, Broker, Vendor Representative	Salesperson		Terminated	7/13/2017	4/30/2020		N	<input type="checkbox"/>
L-000188250	Miscellaneous	Salesperson		Terminated	5/1/2014	4/30/2017		N	<input type="checkbox"/>
L-000235776	Salesperson, Broker, Vendor Representative	Salesperson		Terminated	5/5/2017	4/30/2020		N	<input type="checkbox"/>
L-000235777	Salesperson, Broker, Vendor Representative	Salesperson		Terminated	5/5/2017	4/30/2020		N	<input type="checkbox"/>
L-000433798	Salesperson, Broker, Vendor Representative	Salesperson		Active	5/1/2020	4/30/2023			<input type="checkbox"/>
L-000433799	Salesperson, Broker, Vendor Representative	Salesperson		Active	5/1/2020	4/30/2023			<input type="checkbox"/>

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# Alcohol Information Management System

Michigan Liquor Control Commission

## Search Active/Escrowed Licensees

### Licensee Details

**Licensee Name**

GRAPE HARBOR, INC.

Doing Business As (DBA)

PENINSULA CELLARS

**Business ID**

130019

**Local Governmental Unit (LGU)**

PENINSULA TWP

**Status**

Active

**County**

GR TRAVERSE

**Address**

11480 Center Rd Traverse City, MI 49686-8663

**Phone**

(231) 223-4251

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### Insurance / Financial Responsibility

Show 10 ▾ entries

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Name	Type	Insurance Provider	Effective Date (From)	Status
IN-538491	Liquor Liability Insurance	FARM BUREAU GENERAL INSURANCE COMPANY OF MICHIGAN	2/11/2021	Active

Showing 1 to 1 of 1 entries

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### Subordinates

Show 10 ▾ entries

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Name	Relationship To Business	Status
CHATEAU AERONAUTIQUE WINERY, LLC	Joint Tenant	Active
CHATEAU DE BAY, LLC	Joint Tenant	Active
DAVID KROUPA	Stockholder	Active
DOMAINE BERRIEN CELLARS, INC.	Joint Tenant	Active
GILL'S PIER VINEYARD AND WINERY, INC.	Joint Tenant	Active
JOAN KROUPA	Stockholder	Active
JOHN KROUPA	Stockholder	Active
SANDHILL CRANE VINEYARDS, LLC	Joint Tenant	Active


Showing 1 to 8 of 8 entries

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## Licenses

To view details of a license, please click the  button to expand the license details.

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License #	Group	Type	Subtype	Status	Issue Date	Expiration Date	Statute	Statute: Location Transferable	Under Transfer Process
L-000060041	Manufacturer	Wine Tasting Room		Terminated	2/29/1996	4/30/2019		Y	<input type="checkbox"/>
L-000417536	Manufacturer	Off-Premises Tasting Room	Full Drinks	Active	12/19/2018	4/30/2021			<input type="checkbox"/>


Showing 1 to 2 of 2 entries

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## Permits

To view details of a permit or permission, please click the  button to expand the permit or permission details.

Show 10 entries

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Permit #	Type	Specific Purpose	Status	Issue Date	Expiration Date	CI
+ 18-21885	Outdoor Service Area		Issued	4/12/2018	4/30/2021	N
+ 18-5942	Sunday Sales (AM)		Issued	3/2/2018	4/30/2021	N

Showing 1 to 2 of 2 entries

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## Violations

Show 10 entries

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Violation #	Date Violation Occured	Status	Violation Description	Event/Decision
CV-00179465		Closed		10/20/2016 9-20-16: WARNING TICKET ISSUED - MCL 436.1529(1)(2) & R 436.1007(2)(3)

Showing 1 to 1 of 1 entries

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# **Exhibit F**

MLCC Active Escrow License Search (/)

# Alcohol Information Management System

Michigan Liquor Control Commission

## Search Active/Escrowed Licensees

### Licensee Details

**Licensee Name**  
CHATEAU OPERATIONS, LTD.  
**Doing Business As (DBA)**

**Business ID**  
226015  
**Local Governmental Unit (LGU)**  
TRAVERSE CITY

**Status**  
Active  
**County**  
GR TRAVERSE

**Address**  
1000 Camino MariaTraverse City, MI 49686-9310  
**Phone**  
(231) 929-4206

Go Back

### Insurance / Financial Responsibility

Show 10 entries

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Name	Type	Insurance Provider	Effective Date (From)	Status
IN-537253	Liquor Liability Insurance	FARM BUREAU GENERAL INSURANCE COMPANY OF MICHIGAN	1/1/2021	Active

Showing 1 to 1 of 1 entries

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### Subordinates

Show 10 entries

Copy

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Print

Name	Relationship To Business	Status
ALBERT HROUDA	Stockholder	Inactive
ARNOLD OCHS	Stockholder	Inactive
JOYCE OCHS	Stockholder	Inactive
MARK JOHNSON	Stockholder	Inactive




Name	Relationship To Business	Status
NADINE BEGIN	Stockholder	Inactive
OCHS ORCHARD LLC	Stockholder	Active
OVER 20 - SEE FILE	Stockholder	Active
ROBERT BEGIN	Stockholder	Inactive
ROBERT P. BEGIN AND NADINE M. BEGIN TRUST	Stockholder	Active
RONALD HENDERSON	Fiduciary	Active



Showing 1 to 10 of 11 entries

Previous 1 2 Next

## Licenses

To view details of a license, please click the  button to expand the license details.


Show 10 entries Copy CSV Excel Print

License #	Group	Type	Subtype	Status	Issue Date	Expiration Date	Statute	Statute: Location Transferable	U Tr Pi
 L-000218280	Manufacturer	Small Wine Maker		Active	9/18/2012	4/30/2021		Y	
L-000219775	Manufacturer	Direct Shipper		Active	10/31/2012	4/30/2021		Y	
 L-000417799	Manufacturer	On-Premises Tasting Room Permit		Active	12/19/2018	4/30/2021			
L-000431448	Salesperson, Broker, Vendor Representative	Salesperson		Active	1/6/2020	4/30/2023			




Showing 1 to 4 of 4 entries

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## Permits

To view details of a permit or permission, please click the  button to expand the permit or permission details.

Show 10 entries Copy CSV Excel Print

Permit #	Type	Specific Purpose	Status	Issue Date	Expiration Date	C Pi
 18-24020	Outdoor Service Area		Issued	9/18/2012	4/30/2021	No
 18-3227	Sunday Sales (AM)		Issued	9/18/2012	4/30/2021	No
 20-826	Beer & Wine Tasting		Issued	2/21/2020	4/30/2021	No

Showing 1 to 3 of 3 entries

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# **Exhibit G**

# Alcohol Information Management System

Michigan Liquor Control Commission

## Search Active/Escrowed Licensees

### Licensee Details

**Licensee Name**

OV THE FARM, LLC

**Doing Business As (DBA)****Business ID**

236023

**Local Governmental Unit (LGU)**

PENINSULA TWP

**Status**

Active

**County**

GR TRAVERSE

**Address**

12011 Center RdTraverse City, MI 49686-8379

**Phone**

(231) 383-5118

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### Insurance / Financial Responsibility

Show 10 ▾ entries

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Name	Type	Insurance Provider	Effective Date (From)	Status
IN-504825	Non-Retail Surety Bond	WESTERN SURETY COMPANY	11/26/2014	Active
IN-515115	Liquor Liability Insurance	GREAT NORTHERN INSURANCE COMPANY	10/4/2018	Active

Showing 1 to 2 of 2 entries

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### Subordinates

Show 10 ▾ entries

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Name	Relationship To Business	Status
CARTER OOSTERHOUSE	Member	Active
TODD OOSTERHOUSE	Member	Active

Showing 1 to 2 of 2 entries

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### Licenses

To view details of a license, please click the [+](#) button to expand the license details.

Show 10 ▾ entries


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License #	Group	Type	Subtype	Status	Issue Date	Expiration Date	Statute	Statute: Location Transferable	Under Transfer Process
L-000244511	Manufacturer	Small Wine Maker		Active	11/26/2014	4/30/2021		Y	<input type="checkbox"/>
L-000244908	Manufacturer	Direct Shipper		Active	12/15/2014	4/30/2021		Y	<input type="checkbox"/>
L-000418060	Manufacturer	On-Premises Tasting Room Permit		Active	12/19/2018	4/30/2021			<input type="checkbox"/>
L-000435799	Manufacturer	Small Distiller		Active	11/9/2020	4/30/2021			<input type="checkbox"/>
L-000437904	Salesperson, Broker, Vendor Representative	Vendor Representative		Active	11/20/2020	4/30/2023			<input type="checkbox"/>

Showing 1 to 5 of 5 entries

Previous 1 Next

## Permits

To view details of a permit or permission, please click the  button to expand the permit or permission details.

Show 10 entries

Permit #	Type	Specific Purpose	Status	Issue Date	Expiration Date	CI
+ 18-28932	Outdoor Service Area		Issued	11/26/2014	4/30/2021	N
+ 18-39758	Sunday Sales (AM)		Issued	9/27/2018	4/30/2021	N
+ 20-2788	Sunday Sales (PM)		Issued	11/9/2020	4/30/2021	N

Showing 1 to 3 of 3 entries

Previous 1 Next

## Violations

Show 10 entries

Violation #	Date Violation Occured	Status	Violation Description	Event/Decision
CV-507434	9/17/2019	Closed	Shipped wine directly to a consumer in this state without including a proper invoice of the purchase : (LCC Inv. Foote)	7/13/2020 Lic Ack Clemente 8/17/2020 Therefore, the Commissioner Orders a penalty fine of \$100 for the charge in this matter. The Commissioner further Orders the Licensee to serve a suspension of five (5) continuous days, to run consecutively and not concurrently with any other suspension Ordered by the MLCC, if the fine is not paid within forty-five (45) days from the mailing date of this Order.

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# **Exhibit H**

# Alcohol Information Management System

Michigan Liquor Control Commission

## Search Active/Escrowed Licensees

### Licensee Details

**Licensee Name**

TABONE VINEYARDS, LLC

**Doing Business As (DBA)****Business ID**

237290

**Local Governmental Unit (LGU)**

PENINSULA TWP

**Status**

Active

**County**

GR TRAVERSE

**Address**

14916 Peninsula Dr Traverse City, MI 49686

**Phone**

(734) 354-7271

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### Insurance / Financial Responsibility

Show 10 entries

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Name	Type	Insurance Provider	Effective Date (From)	Status
IN-509212	Liquor Liability Insurance	CINCINNATI INSURANCE COMPANY	7/26/2018	Active
IN-513068	Non-Retail Surety Bond	SURETEC INSURANCE COMPANY	7/26/2018	Active


Showing 1 to 2 of 2 entries

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### Licenses

To view details of a license, please click the  button to expand the license details.

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License #	Group	Type	Subtype	Status	Issue Date	Expiration Date	Statute	Statute: Location Transferable	Under Transfer Process
L-000411924	Manufacturer	Small Wine Maker		Active	7/26/2018	4/30/2021			<input type="checkbox"/>
L-000414570	Salesperson, Broker, Vendor Representative	Salesperson		Active	10/10/2018	4/30/2023			<input type="checkbox"/>
L-000415337	Manufacturer	Direct Shipper		Active	11/5/2018	4/30/2021			<input type="checkbox"/>

License #	Group	Type	Subtype	Status	Issue Date	Expiration Date	Statute	Statute: Location Transferable	Under Transfer Process
L-000415834	Salesperson, Broker, Vendor Representative	Salesperson		Terminated	11/13/2018	4/30/2020			<input type="checkbox"/>
L-000417922	Manufacturer	On-Premises Tasting Room Permit		Active	12/19/2018	4/30/2021			<input type="checkbox"/>


Showing 1 to 5 of 5 entries

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## Permits

To view details of a permit or permission, please click the  button to expand the permit or permission details.

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Permit #	Type	Specific Purpose	Status	Issue Date	Expiration Date	CI
+ 18-38626	Outdoor Service Area		Issued	7/26/2018	4/30/2021	N
+ 19-3481	Sunday Sales (AM)		Issued	7/22/2019	4/30/2021	N

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# **Exhibit I**

(/)

# Alcohol Information Management System

Michigan Liquor Control Commission

## Search Active/Escrowed Licensees

### Licensee Details

Licensee Name

TWO LADS, LLC  
Doing Business As (DBA)  
TWO LADS

Business ID

200216  
Local Governmental Unit (LGU)  
PENINSULA TWP

Status

Active  
County  
GR TRAVERSE

Address

16985 Smokey Hollow RdTraverse City, MI 49686-9749  
Phone  
(231) 223-7722

Go Back

### Insurance / Financial Responsibility

Show 10 entries Copy CSV Excel Print

Name	Type	Insurance Provider	Effective Date (From)	Status
IN-507091	Non-Retail Surety Bond	AUTO-OWNERS INSURANCE COMPANY	3/21/2008	Active
IN-507094	Liquor Liability Insurance	HASTINGS MUTUAL INSURANCE COMPANY	1/17/2011	Active

Showing 1 to 2 of 2 entries Previous 1 Next


### Subordinates

Show 10 entries Copy CSV Excel Print

Name	Relationship To Business	Status
BEATRICE QUARTEL	Member	Active
CHRISTOPHER BALDYGA	Member	Active
CORNELIUS OLIVIER	Member	Active
DINGEMAN QUARTEL	Member	Active

Showing 1 to 4 of 4 entries Previous 1 Next

### Licenses

To view details of a license, please click the  button to expand the license details.

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License #	Group	Type	Subtype	Status	Issue Date	Expiration Date	Statute	Statute: Location Transferable	Under Transfer Process
L-000167223	Manufacturer	Small Wine Maker		Active	3/21/2008	4/30/2021		Y	<input type="checkbox"/>
L-000171157	Manufacturer	Direct Shipper		Active	6/26/2008	4/30/2021		Y	<input type="checkbox"/>
L-000417872	Manufacturer	On-Premises Tasting Room Permit		Active	12/19/2018	4/30/2021			<input type="checkbox"/>
L-000430168	Salesperson, Broker, Vendor Representative	Salesperson		Active	11/6/2019	4/30/2023			<input type="checkbox"/>
L-000430169	Salesperson, Broker, Vendor Representative	Salesperson		Active	11/6/2019	4/30/2023			<input type="checkbox"/>
L-000430170	Salesperson, Broker, Vendor Representative	Salesperson		Active	11/6/2019	4/30/2023			<input type="checkbox"/>


Showing 1 to 6 of 6 entries

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## Permits

To view details of a permit or permission, please click the  button to expand the permit or permission details.

Show 10 entries

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Permit #	Type	Specific Purpose	Status	Issue Date	Expiration Date	CI
+ 18-27930	Sunday Sales (AM)		Issued	3/21/2008	4/30/2021	N
+ 19-6152	Entertainment		Issued	9/6/2019	4/30/2021	N
+ 20-2213	Outdoor Service Area		Issued	2/8/2021	4/30/2021	N
+ 20-3455	Off-Premises Storage		Issued	8/27/2020	4/30/2021	N

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## Violations

Show 10 entries

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Violation #	Date Violation Occured	Status	Violation Description	Event/Decision
CV-00176415		Closed		4/12/2016 4-11-16: WARNING TICKET ISSUED - MCL 436.1203(3)(G)
CV-00183868		Closed		7/24/2017 PASSED CONTROL BUY OPERATION ON 7-20-2017 (INV.KLINGBEIL/INV.OGDEN/GR 389)

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# **Exhibit J**

(/)

Alcohol Information Management System

Michigan Liquor Control Commission

Search Active/Escrowed Licensees

Licensee Details

Licensee Name

VILLA MARI LLC

Doing Business As (DBA)

VILLA MARI VINEYARDS

Business ID

240357

Local Governmental Unit (LGU)

PENINSULA TWP

Status

Active

County

GR TRAVERSE

Address

8175 Center RdTraverse City, MI 49686-1669

Phone

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Insurance / Financial Responsibility

Show 10 entries

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Name	Type	Insurance Provider	Effective Date (From)	Status
IN-508286	Liquor Liability Insurance	CINCINNATI INSURANCE COMPANY	5/6/2016	Active
IN-508287	Non-Retail Surety Bond	THE OHIO CASUALTY INSURANCE COMPANY	5/6/2016	Active

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Subordinates

Show 10 entries

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Name	Relationship To Business	Status
CROFT, L.L.C.	Member	Active


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Licenses

To view details of a license, please click the  button to expand the license details.

Show 10 entries

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License #	Group	Type	Subtype	Status	Issue Date	Expiration Date	Statute	Statute: Location Transferable	Under Transfer Process
L-000261818	Manufacturer	Small Wine Maker		Active	5/6/2016	4/30/2021		Y	<input type="checkbox"/>
L-000261819	Wholesale	Warehouser		Active	5/6/2016	4/30/2021		Y	<input type="checkbox"/>
L-000273307	Salesperson, Broker, Vendor Representative	Salesperson		Active	5/16/2017	4/30/2023		N	<input type="checkbox"/>
L-000273308	Salesperson, Broker, Vendor Representative	Salesperson		Active	5/1/2017	4/30/2023		N	<input type="checkbox"/>
L-000273313	Salesperson, Broker, Vendor Representative	Salesperson		Terminated	5/1/2017	4/30/2023		N	<input type="checkbox"/>
L-000274721	Salesperson, Broker, Vendor Representative	Salesperson		Terminated	6/14/2017	4/30/2020		N	<input type="checkbox"/>
L-000276357	Salesperson, Broker, Vendor Representative	Salesperson		Terminated	6/28/2017	4/30/2020		N	<input type="checkbox"/>
L-000276521	Salesperson, Broker, Vendor Representative	Salesperson		Active	2/9/2018	4/30/2023		N	<input type="checkbox"/>
L-000415689	Salesperson, Broker, Vendor Representative	Salesperson		Active	10/31/2018	4/30/2023			<input type="checkbox"/>
L-000417757	Manufacturer	On-Premises Tasting Room Permit		Active	12/19/2018	4/30/2021			<input type="checkbox"/>

Showing 1 to 10 of 10 entries

Previous 1 Next

## Permits

To view details of a permit or permission, please click the  button to expand the permit or permission details.

Show 10 entries

Permit #	Type	Specific Purpose	Status	Issue Date	Expiration Date	CI
+ 18-18394	Sunday Sales (AM)		Issued	5/6/2016	4/30/2021	N
+ 18-27877	Outdoor Service Area		Issued	5/6/2016	4/30/2021	N

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# **Exhibit K**

Alcohol Information Management System

Michigan Liquor Control Commission

Search Active/Escrowed Licensees

Licensee Details

Licensee Name

WINERY AT BLACK STAR FARMS, L.L.C.

Doing Business As (DBA)

Business ID

198074

Local Governmental Unit (LGU)

PENINSULA TWP

Status

Active

County

GR TRAVERSE

Address

360 E Mc Kinley RdTraverse City, MI 49686-1724

Phone

(231) 944-1300

Go Back

Insurance / Financial Responsibility

Show 10 entries

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Name	Type	Insurance Provider	Effective Date (From)	Status
IN-537100	Liquor Liability Insurance	FARM BUREAU GENERAL INSURANCE COMPANY OF MICHIGAN	1/1/2021	Active

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Subordinates

Show 10 entries

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Name	Relationship To Business	Status
BLACK STAR FARMS, L.L.C.	Member	Active
GRAND TRAVERSE DISTILLERY, L.L.C.	Member	Inactive
ISIDORE'S CHOICE VINEYARDS, LLC	Member	Active
JACK STEGENGA	Member	Inactive
LEE LUTES	Member	Inactive
LEE LUTES SINGLE ASSET TRUST	Member	Active
MONTAGUE ESTATE VINEYARDS, LLC	Member	Active
ROBERT MAMPE	Member	Inactive
ROBERT N. MAMPE REVOCABLE LIVING TRUST	Member	Active




Name	Relationship To Business	Status
WILLIAM JANIS	Member	Inactive

Showing 1 to 10 of 11 entries

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Licenses

To view details of a license, please click the  button to expand the license details.

Show 10 entries


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License #	Group	Type	Subtype	Status	Issue Date	Expiration Date	Statute	Statute: Location Transferable	Under Transfer Process
L-000162732	Manufacturer	Small Wine Maker		Active	9/26/2007	4/30/2021		Y	<input type="checkbox"/>
L-000179012	Manufacturer	Small Distiller		Active	4/9/2009	4/30/2021		Y	<input type="checkbox"/>
L-000417737	Manufacturer	On-Premises Tasting Room Permit		Active	12/19/2018	4/30/2021			<input type="checkbox"/>

Showing 1 to 3 of 3 entries

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Permits

To view details of a permit or permission, please click the  button to expand the permit or permission details.

Show 10 entries

CopyCSVExcelPrint

Permit #	Type	Specific Purpose	Status	Issue Date	Expiration Date	CI
+ 17-114569	Outdoor Service Area		Issued	11/21/2017	4/30/2021	N
+ 18-8436	Sunday Sales (AM)		Issued	4/9/2009	4/30/2021	N
+ 20-2842	Outdoor Service Area		Issued	8/7/2020	4/30/2021	N

Showing 1 to 3 of 3 entries

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# **Exhibit L**



Michigan Department of Licensing and Regulatory Affairs  
Liquor Control Commission (MLCC)  
Constitution Hall – 525 W. Allegan, Lansing, MI 48933  
Mailing Address: PO Box 30005, Lansing, MI 48909  
Toll Free 866-813-0011 – [www.michigan.gov/lcc](http://www.michigan.gov/lcc)

### **Wine Maker or Small Wine Maker Licensing Requirements & General Information**

A Wine Maker license, as defined by MCL 436.1113(10), is issued by the Michigan Liquor Control Commission to a person located in Michigan to manufacture and sell to licensed wholesalers or self-distribute to retailer licensees, wine produced at the licensed winery facility, and to customers for consumption on or off the premises at a tasting room located on its manufacturing premises where it also holds an On-Premises Tasting Room Permit. A Wine Maker licensee may also sell wine it manufactures at an approved tasting room off the manufacturing premises under an Off-Premises Tasting Room License or Joint Off-Premises Tasting Room License.

A Small Wine Maker license, as defined by MCL 436.1111(12), is issued by the Commission to a person located in Michigan to manufacture no more than 50,000 gallons per year and sell to licensed wholesalers or self-distribute to retailer licensees, wine produced at the licensed winery facility, and to customers for consumption on or off the premises at a tasting room located on its manufacturing premises where it also holds an On-Premises Tasting Room Permit. A Small Wine Maker licensee may also sell wine it manufactures at an approved tasting room off the manufacturing premises under an Off-Premises Tasting Room License or Joint Off-Premises Tasting Room License.

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### **How to Apply**

All applicants requesting a new Wine Maker or Small Wine Maker license, seeking to transfer ownership of a Wine Maker or Small Wine Maker license, or transferring interest (stock or membership interest) in a Wine Maker or Small Wine Maker license must submit the following:

- **Application Form**

For a new Wine Maker or Small Wine Maker license or to transfer a Wine Maker or Small Wine Maker license - [Manufacturer License & Permit Application \(Form LCC-150\)](#)

To transfer interest in a Wine Maker or Small Wine Maker license – [License Interest Transfer Application \(Form LCC-101\)](#)

- **Inspection Fee** - A \$70.00 nonrefundable inspection fee is required for each license requested in an application. For example, if an applicant has requested a new Small Wine Maker license in conjunction with a new Micro Brewer license, the inspection fee would be \$140.00.

- **Local Approval** – If the applicant intends to sell wine it manufactures under its Wine Maker or Small Wine Maker license in an approved tasting room located on the manufacturing premises under an On-Premises Tasting Room Permit, it must obtain the approval of the local legislative body of the local governmental unit where it will be licensed. The [Manufacturer License & Permit Application \(Form LCC-150\)](#) contains a Local Governmental Approval form (LCC-106a) that can be used by the local governmental unit to approve or disapprove the request for the On-Premises Tasting Room Permit. Local approval is not necessary for the Commission to consider approval and issuance of a Wine Maker or Small Wine Maker license when the applicant does not intend to sell its wine to customers on the premises where it manufactures the wine and has not applied for an On-Premises Tasting Room Permit; however, applicants will still need to comply with any local ordinances specific to manufacturing operations.
- **License & Permit Fees** – The initial and annual renewal fee for a Wine Maker license is \$100.00 and for a Small Wine Maker license the initial and annual renewal fee is \$25.00. Additional fees will vary based upon whether additional licenses and permits are requested in conjunction with a Wine Maker or Small Wine Maker license. If the Wine Maker or Small Wine Maker license applicant plans to sell its wine at retail on its manufacturing premises in a tasting room, it must also apply for an On-Premises Tasting Room Permit, for which the initial and annual renewal fee is \$100.00.
- **Livescan Fingerprints** – Applicants that have never been licensed through the Michigan Liquor Control Commission must submit fingerprints through the Livescan fingerprinting process - [Livescan Fingerprint Background Request Form](#).
- **Property Document** – Applicants must provide documentation that demonstrates they will have control over the property that comprises the proposed licensed premises. Property documents include deeds, land contracts, and lease agreements.
  - A provision to reassign the license in the event of a default on a land contract or termination of a lease agreement may be included, but may only provide for the reassignment subject to Commission approval.
  - If the applicant is a company and its members or stockholders own the real estate as individuals or under another company, a lease agreement is needed.
  - If the applicant is an individual and he or she owns the real estate with a spouse or someone else who will not be named on the license, a lease between the applicant and the owners of the real estate is needed.
- **Federal Basic Permit** – Applicants must provide a copy of the federal Basic Permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau (TTB) prior to issuance of the Wine Maker or Small Wine Maker license. This is not required to be submitted at the time of application with the Commission, but should be applied for through the TTB as soon as possible, as the TTB process may take longer to complete than the Michigan licensing process.
- **Purchase Agreement** – Applicants requesting to transfer a license from another licensee must submit an executed purchase agreement or other documentation

signed by both the applicant and the current licensee, which details the sale of the liquor license(s) and other business assets.

- Purchase agreements must specifically indicate that the liquor license is being sold and provide the purchase price and terms of the sale.
- Purchasers of on-premises licenses must have at least 10% of the purchase price of the business, excluding real estate.
- Purchase agreements that are not for cash only sales and include real estate must list the personal property, including the licenses, and real estate with the terms and price for each.
- If the personal property and real estate are being purchased by separate people or entities, the purchase agreement must indicate those names and who is purchasing which items.
- If the applicant will not pay the full purchase price at closing, the balance due may be covered by a security agreement or promissory note. Alcoholic beverage inventory cannot be included on a security agreement or promissory note.

**In addition to the documents required by all applicants:**

**Corporations** must submit the following information per Administrative Rule R 436.1109:

- Copy of current, filed Articles of Incorporation.
- Current Certificate of Good Standing from the state where incorporated and Certificate of Authority to Do Business in Michigan, if incorporated outside of this state.
- Certified copy of the minutes of a meeting of its board of directors or a statement signed by an officer of the corporation naming the persons authorized by corporate resolution to sign the application and other documents required by the Commission (or Part 3 of Form LCC-301).
- [Report of Stockholders/Members/Partners \(Form LCC-301\)](#)

**Limited Liability Companies (LLC)** must submit the following information pursuant to Administrative Rule R 436.1110:

- Copy of Articles of Organization and copies of any amendments to the Articles of Organization.
- Current Certificate of Authority to Do Business in Michigan, if the LLC is a non-Michigan LLC.
- Copy of Operating Agreement entered into by members.
- Copy of most recent annual statement filed with the Corporations Division, if an existing LLC.
- Statement signed by a manager of the limited liability company or by at least 1 member if management is reserved to the members naming the person authorized to sign the application and other documents required by the Commission (or Part 3 of Form LCC-301).
- [Report of Stockholders/Members/Partners \(Form LCC-301\)](#)

**Partnerships** must submit the following information per Administrative Rule R 436.1111:

- Partnership Agreement, if a Limited Partnership.
  - [Report of Stockholders/Members/Partners \(Form LCC-301\)](#)
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### **Licensing Process**

- The Licensing Division reviews the application and corresponding documents for completeness and verifies the appropriate fees have been received. If additional documents, fees, or corrections to documents are needed, Licensing will notify the applicant.
- Once all the necessary documents have been received Licensing will submit the request to the Enforcement Division for its investigation.
- The Enforcement Division will contact the applicant to schedule an interview with the applicant (and current licensee for license transfers). At this meeting an investigator will review with the applicant documents, including:
  - purchase agreement
  - financial documents
  - property documents
  - other items pertaining to the application
- After the interview, the investigator will prepare a report for the Commission regarding the investigation and submit the request back to Licensing for further processing.
- Licensing reviews the report from Enforcement and any additional documents received during the interview process. The request is prepared for the Commission to consider and placed on a docket for an upcoming licensing meeting.
- The Commission considers the request, including:
  - the liquor license operating history of the applicant (if a current or prior licensee)
  - the arrest and conviction record of the applicant
  - whether the applicant meets the requirements for a license
  - the applicant's financial information
  - opinions of the local legislative body or police department, if received.
- The Commission will approve or deny the request based on these factors. Occasionally, the Commission will request more information from the applicant before making a final decision.
- After the Commission makes a decision on the request, the file is returned to Licensing for final processing.
  - Approval orders are sent to the applicant requesting any final items before the issuance of the license.

- Denial orders are sent to the applicant and the applicant may appeal the decision.
  - When all the final items are received by Licensing, the completed request is forwarded to the Renewal Unit for the issuance of the physical license documents.
    - Any changes in financial provisions at the time of closing which do not conform to the terms previously indicated and investigated may require submission of new forms and possible additional investigation.
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## **Permits, Permissions, and Authorizations**

**On-Premises Tasting Room Permit** – This permit allows the Wine Maker or Small Wine Maker license to sell wine it manufactures to customers for consumption on or off in an approved tasting room located on the manufacturing premises. If the licensee is also licensed to manufacture beer, spirits, or mixed spirit drink products at the same location where it is licensed with a Wine Maker or Small Wine Maker license, it may also sell those products in the approved tasting room that is issued this permit.

A licensee issued an On-Premises Tasting Room Permit must maintain Proof of Financial Responsibility, or liquor liability insurance, as required by MCL 436.1536(7)(e) and MCL 436.1803 [see [Proof of Financial Responsibility form \(Form LC-95\)](#)], and must comply with the minimum [server training requirements](#) for retail sales as required by MCL 436.1535(7)(d) and MCL 436.1906.

On-Premises Tasting Room Permit limits for Wine Maker or Small Wine Maker licenses:

- A Wine Maker licensee must manufacture wine on the premises where it is sold in an On-Premises Tasting Room Permit location
- A Small Wine Maker licensee must manufacture or bottle wine on the premises where it is sold in an On-Premises Tasting Room Permit location
- A Wine Maker or Small Wine Maker licensee may sell [shiners purchased from another Wine Maker or Small Wine Maker licensee](#):
  - The shiners must be labeled and [registered](#) by the Wine Maker or Small Wine Maker licensee that is selling them
  - A Wine Maker licensee that does not manufacture wine on its premises or a Small Wine Maker licensee that does not manufacture or bottle wine on its premises cannot sell shiners
  - A Wine Maker or Small Wine Maker licensee may transfer shiners from one of its locations to another location with an on-premises tasting room as long as the second location also manufactures or, in the case of a Small Wine Maker, bottles wine
- May sell wine for consumption off the premises
- May sell and serve full size drinks
- No size or number limit on tasting samples
- May serve food or have a restaurant in conjunction with the On-Premises Tasting Room Permit

**Sunday Sales Permit (A.M.)** - A permit that allows the sale of wine on Sunday mornings between 7:00am and 12:00 noon, if allowed by the local unit of government. A Sunday Sales Permit (P.M.) is not required for wine sales after 12:00 noon on Sunday.

**Specific Purpose Permit** - A permit that allows specific types of activities (such as the service of food, sporting activities, meetings, etc.) to occur on the licensed premises outside the legal hours for the sale of alcohol. A specific purpose permit does not allow the sale of alcohol outside of the legal hours of sale.

**Dance Permit** - Allows dancing by patrons of a business with an on premises license. Often combined with an Entertainment Permit.

**Entertainment Permit** - Permits certain types of live entertainment at a business with an on premises license. An entertainment permit does not allow topless activity. Often combined with a Dance Permit.

**Extended Hours Permit** - A permit held in conjunction with a Dance or Entertainment Permit (or both) that allows dancing or entertainment on the licensed premises outside the legal hours for the sale of alcohol. An Extended Hours Permit does not allow the sale of alcohol outside of the legal hours of sale.

**Catering Permit** - Authorizes a holder of a Wine Maker or Small Wine Maker license to sell, deliver, and serve wine in the original containers at private events. A licensee must have a food service establishment license or retail food establishment license to qualify for this permit.

**Beer & Wine Tasting Permit** - A permit that allows for a Wine Maker or Small Wine Maker licensee to conduct a wine tasting event at the licensed premises of a Specially Designated Merchant (SDM) licensee. A Salesperson licensee representing the Wine Maker or Small Wine Maker licensee must conduct the tasting event.

**Living Quarters Permit** - Allows living quarters to be directly connected to the licensed premises.

**Direct Connection permission** - Allows connections from the licensed premises to unlicensed premises.

**Outdoor Service authorization** - Authorization granted by the Commission for a license to sell alcohol outdoors in an area controlled by the licensee. This can be a patio area next to the licensed premises or a space as large as a golf course

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### **Off-Premises Tasting Room License or Joint Off-Premises Tasting Room License**

A Wine Maker or Small Wine Maker licensee may have an approved tasting room at a location off its licensed manufacturing premises where it may sell wine it makes under an



Off-Premises Tasting Room License. Two or more Wine Maker or Small Wine Maker licensees may also operate a joint tasting room together off their licensed manufacturing premises under Joint Off-Premises Tasting Room Licenses. If the Wine Maker or Small Wine Maker licensee also holds a Distiller (Manufacturer of Spirits) or Small Distiller license at a different location, it may also sell spirits it manufactures at the Off-Premises Tasting Room licensed location. See the [Off-Premises Tasting Room License & Permit Application \(Form LCC-150a\)](#) or the [Joint Off-Premises Tasting Room License & Permit Application \(Form LCC-150b\)](#) for details on the requirements for off-premises tasting room licenses.

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### **Churches & Schools**

A new application to sell alcoholic beverages at retail under an On-Premises Tasting Room Permit, or a request to transfer location of an existing license that intends to sell alcoholic beverages under an On-Premises Tasting Room Permit, may be denied if the contemplated location is within 500 feet of a church or school. The Commission may waive the church/school provision if the church or school does not file an objection to the proposed license. If the church or school does file an objection, the Commission shall hold a hearing before making a decision on the issuance of the license.

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### **Michigan Department of Agriculture & Rural Development Requirements**

Facilities that manufacture alcoholic products in Michigan must be licensed through the Michigan Department of Agriculture & Rural Development (MDARD) in addition to licensure through the Commission. You may contact MDARD regarding the licensing requirements for the type of establishment for which you are applying by calling, toll-free, 800-292-3939 or visiting [www.michigan.gov/mdard](http://www.michigan.gov/mdard).

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### **Manufacturing & Labeling**

Wine must be manufactured in accordance with federal wine regulations published in the Code of Federal Regulations (CFR) Title 27, Parts 4 and 24, pursuant to R 436.1707 and R 436.1708.

All wine products sold in Michigan must have labels approved by the Commission prior to being sold. All wine sold in Michigan must be labeled in accordance with TTB regulations. The Commission uses an on-line label registration process through the [Michigan Wholesale Product Registry \(MWPR\)](#), which requires prior registration with the TTB. Upon licensure, the applicant will be provided with a password and instructions to access the on-line registration site. There is no fee for Michigan label registration.

Mandatory label information, pursuant to TTB regulations:

- Brand name.
- Class, type or, in lieu of, a truthful & adequate statement of composition shall appear on the brand label of the product.
- Name and address of bottler or packer where bottled or packed.
- Alcohol content must be listed. By definition, wine may contain  $\frac{1}{2}$  of 1% or more alcohol by volume but not more than 21% alcohol by volume. Table wine with alcoholic content of 11%-14% does not have to list the actual alcohol content. Listing "table wine" is adequate.
- Net contents.
- Government Warning Statement.

For federal labeling information contact the TTB at 866-927-2533 or [www.ttb.gov](http://www.ttb.gov).

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### **Wine Excise Tax Reports**

Wine excise taxes apply to both wine and mixed wine drink. The Wine Maker or Small Wine Maker licensee shall pay the Michigan wine excise tax or may designate a wholesaler to pay the tax on its behalf for all wine or mixed wine drink manufactured by that Wine Maker or Small Wine Maker licensee and sold in this state. A Wine Maker or Small Wine Maker licensee is required to submit a Michigan Wine Tax Report and Michigan Winery Monthly Report of Sales no later than the 15<sup>th</sup> of each month regardless if a wholesaler has been designated to pay the taxes.

Wine that is sold for consumption in an approved tasting room located on the manufacturing premises of a Wine Maker or Small Wine Maker licensee with an On-Premises Tasting Room Permit is subject to the wine excise tax and must be submitted by the Wine Maker or Small Wine Maker licensee regardless if a wholesaler has been designated to pay tax on wholesale shipments to retailers.

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

Tax Rates: 16% or less alcohol by volume = \$0.135 (13  $\frac{1}{2}$  cents) per liter.  
Over 16% to 21% alcohol by volume = \$0.20 (20 cents) per liter

For further questions relating to wine tax, please contact our Financial Management Division at: 517-284-6352. Tax forms and instructions may be located on the Commission website at: [https://www.michigan.gov/lara/0,4601,7-154-89334\\_10570\\_14177\\_15067---,00.html](https://www.michigan.gov/lara/0,4601,7-154-89334_10570_14177_15067---,00.html).

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### **Sales to Wholesalers**

All sales must be made through licensed wholesalers (except retail sales to customers at an approved tasting room with an On-Premises Tasting Room Permit). A Wine Maker or Small Wine Maker licensee may self-distribute to a retailer licensee.

A Wine Maker or Small Wine Maker licensee must grant each of its wholesalers an exclusive sales territory. A Wine Maker or Small Wine Maker licensee must enter into a written agreement each of the wholesalers specifying the brand or brands to be distributed and the territory where exclusive sales are granted. There can be no overlapping of sales territories between wholesalers of similar brands.

There is no prohibition against offering wholesalers quantity discounts as long as the discounts are uniformly offered to all wholesalers. The Liquor Control Code requires the sale and purchase of all alcoholic beverages to be for cash only, at the time of delivery to wholesalers.

A Wine Maker or Small Wine Maker licensee that self-distributes to retailer licensees must file with the Commission a schedule of net cash prices to retailer licensees before January 1, April 1, July 1, and October 1 of each year. The net cash prices shall not be changed during the quarter without first notifying the Commission in writing of the price changes. "Post offs" (price reductions) shall not be granted for periods of less than 14 consecutive calendar days in duration. Quantity discounts to retailers are prohibited. All sales to retailers must be for cash only. For more information on wine price postings read the Wine Price Filing Requirements on the Commission website:

[https://www.michigan.gov/documents/lara/Wine\\_Price\\_Filing\\_535195\\_7.pdf](https://www.michigan.gov/documents/lara/Wine_Price_Filing_535195_7.pdf)

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### **Direct Shipping Wine**

A Direct Shipper license is required for in-state and out-of-state wineries to ship domestic wine directly to Michigan consumers. This license does not allow direct shipment of imported wines. License fee is \$100.00 annually (renewable May 1) and allows total annual shipment to Michigan consumers of 13,500 liters (1,500 9-liter cases). Direct Shippers must pay Michigan excise taxes (quarterly) and Michigan sales tax. The age of the person placing the order must be verified by obtaining a copy of a photo identification issued by a state or the federal government of the person placing the order, or by utilizing an identification service approved by the Commission. The licensee must record and maintain records of the name, address, date of birth and telephone number of the person placing the order on the order form. The Direct Shipper must stamp, print, or label on the outside of the shipping container that the package "Contains Alcohol. Must be delivered to a person 21 years of age or older." A label must be placed on the top panel of the shipping container listing the Direct Shipper license number, order number, the name and address of the individual placing the order, and the name of the designated recipient if different from the name of the individual placing the order. The person delivering the alcohol shall verify the person accepting delivery is of legal age.

### **Salesperson Licenses**

Any person employed by a Wine Maker or Small Wine Maker licensee to sell, deliver, promote, or otherwise assist in the sale of alcoholic liquor in this state is required to hold a Salesperson license issued by the Commission. Employees who work exclusively at the brewery premises and have no contact with wholesalers, retailers, or consumers off the licensed premises do not need a Salesperson license. Salesperson licensees must be at least 18 years of age and are prohibited from being employed by a retailer-tier licensee on a paid or any other basis. For more details on Salesperson licensee requirements and exceptions to the requirements for certain employees please visit the Commission's webpage for Salesperson licensing information: [https://www.michigan.gov/lara/0,4601,7-154-89334\\_10570\\_16941-456243--,00.html](https://www.michigan.gov/lara/0,4601,7-154-89334_10570_16941-456243--,00.html).

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### **Record Retention and Inspection of Premises and Records**

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

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

# **Exhibit M**



## BRIEF DESCRIPTION OF ALL MICHIGAN LIQUOR LICENSES AND PERMITS BY LICENSING TIERS

### Supplier Tier (Often referred to as the “Manufacturer” Tier)

*Suppliers - MCL 436.1603(15)(a)*

- [Outstate Seller of Beer](#) – A licensee that sells beer that has been manufactured outside of Michigan to Wholesaler licensees to sell to retailers. May be a licensee located in Michigan or another state. No local legislative approval required for licensure.
- [Outstate Seller of Mixed Spirit Drink](#) – A licensee that sells mixed spirit drink products that have been manufactured outside of Michigan to Wholesaler licensees to sell to retailers. May be a licensee located in Michigan or another state. No local legislative approval required for licensure.
- [Outstate Seller of Wine](#) – A licensee that sells wine that has been manufactured outside of Michigan to Wholesaler licensees to sell to retailers. May be a licensee located in Michigan or another state. No local legislative approval required for licensure.
- [Vendor of Spirits](#) – A person or company that sells spirits to the Commission to be distributed through the Authorized Distribution Agents (ADAs) to retailers. May be located in Michigan or another state. Distiller, Small Distiller, and Brandy Manufacturer licenses must be registered as a Vendor or Spirits in order to sell their products to the Commission.
- [Vendor Representative](#) – A license held by an individual person who serves as a representative between a Vendor of Spirits and the Commission. No local legislative approval required for licensure.

*Manufacturers (Included in Supplier Tier) – MCL 436.1603(15)(b)*

- [Brewer](#) – A manufacturer of beer which manufactures more than 60,000 barrels of beer a year. Can sell beer to Wholesaler licensees to sell to retailers. May also sell beer to consumers under an On-Premises Tasting Room Permit at the location where it manufactures beer. No local legislative approval required for licensure, if manufacturing only; On-Premises Tasting Room Permit requires local legislative approval.
- [Micro Brewer](#) – A manufacturer of beer which manufactures 60,000 or fewer barrels of beer a year. Can sell beer to Wholesaler licensees to sell to retailers. May also sell beer to consumers under an On-Premises Tasting Room Permit at the location where it manufactures beer. May also self-distribute beer it manufactures to retailers if it manufactures fewer than 1,000 barrels of beer a year. No local legislative approval



## BRIEF DESCRIPTION OF ALL MICHIGAN LIQUOR LICENSES AND PERMITS BY LICENSING TIERS

required for licensure, if manufacturing only; On-Premises Tasting Room Permit requires local legislative approval.

- [Brandy Manufacturer](#) – A manufacturer that manufactures brandy from wine that it manufactures. The Brandy Manufacturer licensee must also be licensed as a Wine Maker or Small Wine Maker licensee. Can sell brandy to the Commission to sell through Authorized Distribution Agents to retailers. May sell brandy it manufactures to customers under an On-Premises Tasting Room Permit at the location where it manufactures it and also through an Off-Premises Tasting Room license or Joint Off-Premises Tasting Room license. No local legislative approval required for licensure, if manufacturing only; On-Premises Tasting Room Permit requires local legislative approval.
- [Distiller \(Manufacturer of Spirits\)](#) – A manufacturer of spirit products that contain more than 10% alcohol by volume which manufactures more than 60,000 gallons of spirits a year. Can sell spirits it manufactures to the Commission to sell through Authorized Distribution Agents to retailers. May sell spirits it manufactures to consumers under an On-Premises Tasting Room Permit at the location it manufactures it and also through an Off-Premises Tasting Room license or Joint Off-Premises Tasting Room license. No local legislative approval required for licensure, if manufacturing only; On-Premises Tasting Room Permit requires local legislative approval.
- [Small Distiller](#) – A manufacturer of spirit products that contain more than 10% alcohol by volume which manufactures 60,000 or fewer gallons of spirits a year. Can sell spirits it manufactures to the Commission to sell through Authorized Distribution Agents to retailers. May sell spirits it manufactures to customers under an On-Premises Tasting Room Permit at the location where it manufactures it and also through an Off-Premises Tasting Room license or Joint Off-Premises Tasting Room license. No local legislative approval required for licensure, if manufacturing only; On-Premises Tasting Room Permit requires local legislative approval.
- [Wine Maker](#) – A manufacturer of wine which manufactures more than 50,000 gallons of wine a year. Can sell wine to Wholesaler licensees to sell to retailers. May also sell wine to consumers under an On-Premises Tasting Room Permit at the location where it manufactures it and also through an Off-Premises Tasting Room license or Joint Off-Premises Tasting Room license. May self-distribute wine it manufactures to retailers. May hold a Farmer's Market Permit that allows the sale and sampling of its wine at a farmer's market. No local legislative approval required for licensure, if manufacturing only; On-Premises Tasting Room Permit requires local legislative approval.
- [Small Wine Maker](#) – A manufacturer of wine which manufactures 50,000 or fewer gallons of wine a year. Can sell wine to Wholesaler licensees to sell to retailers. May also sell wine to consumers under an On-Premises Tasting Room Permit at the





## BRIEF DESCRIPTION OF ALL MICHIGAN LIQUOR LICENSES AND PERMITS BY LICENSING TIERS

location where it manufactures it and also through an Off-Premises Tasting Room license or Joint Off-Premises Tasting Room license. May self-distribute wine it manufactures to retailers. May hold a Farmer's Market Permit that allows the sale and sampling of its wine at a farmer's market. No local legislative approval required for licensure, if manufacturing only; On-Premises Tasting Room Permit requires local legislative approval.

- [Mixed Spirit Drink Manufacturer](#) – A manufacturer of mixed spirit drink products that contain 10% or less alcohol by volume. Can sell mixed spirit drink products it manufactures to Wholesaler licensees to sell to retailers and may also sell mixed spirit drink products to consumers under an On-Premises Tasting Room Permit at the location where it manufactures them. No local legislative approval required for licensure, if manufacturing only; On-Premises Tasting Room Permit requires local legislative approval.
- [Off-Premises Tasting Room License](#) – A license that may be held by a Wine Maker, Small Wine Maker, Distiller, Small Distiller, or Brandy Manufacturer license at a location that is not on the manufacturer's licensed manufacturing premises. Under an Off-Premises Tasting Room license, the manufacturer may only sell the spirit, wine, or brandy products it manufactures at its licensed manufacturing premises. A manufacturer may have up to five (5) Off-Premises Tasting Room licenses (or a combination of Off-Premises Tasting Room licenses and Joint Off-Premises Tasting Room licenses) where full drinks may be sold and served for on-premises consumption and unlimited Off-Premises Tasting Room licenses where limited samples only are sold or given away for on-premises consumption. The sale of spirit, wine, or brandy products to consumers for off-premises consumption is also allowed with an Off-Premises Tasting Room license. Local legislative approval required for licensure.
- [Joint Off-Premises Tasting Room License](#) – A Joint Off-Premises Tasting Room license is issued to a Wine Maker, Small Wine Maker, Distiller, Small Distiller, or Brandy Manufacturer license at a location that is not on the manufacturer's licensed manufacturing premises to be operated jointly with another Wine Maker, Small Wine Maker, Distiller, Small Distiller, or Brandy Manufacturer licensee that also holds a Joint Off-Premises Tasting Room license. Under a Joint Off-Premises Tasting Room license, the manufacturer may only sell the spirit, wine, or brandy products it manufactures at its licensed manufacturing premises. A manufacturer may have up to five (5) Joint Off-Premises Tasting Room licenses (or a combination of Off-Premises Tasting Room licenses and Joint Off-Premises Tasting Room licenses) where full drinks may be sold and served for on-premises consumption and unlimited Joint Off-Premises Tasting Room licenses where limited samples only are sold or given away for on-premises consumption. The sale of spirit, wine, or brandy products to consumers for off-premises consumption is also allowed with a Joint Off-Premises Tasting Room license. Local legislative approval required for licensure.





## BRIEF DESCRIPTION OF ALL MICHIGAN LIQUOR LICENSES AND PERMITS BY LICENSING TIERS

- Consumer Sampling Event License – A license held by a Small Distiller or Vendor of Spirits that allows the licensee to conduct consumer sampling events with spirits it manufactures on the premises of a Specially Designated Distributor licensee. No local legislative approval required for licensure.
- [Direct Shipper](#) – A license held by a Wine Maker or Small Wine Maker licensee that allows the Wine Maker or Small Wine Maker to sell and ship wine directly to a consumer in Michigan or another state. An Outstate Seller of Wine located in another state may hold this license if it is the manufacturer of the wine it ships into Michigan. No local legislative approval required for licensure.
- [Salesperson](#) – A license held by an individual person that sells, delivers, or promotes the products of a manufacturer or other supplier. A person that sells, delivers, or promotes the products of a Wholesaler licensee may also hold a Salesperson license. No local legislative approval required for licensure.
- Broker – A license held by company that operates as a corporate salesperson for a manufacturer. A Broker licensee may also employ Salesperson licensees to sell, deliver, or promote the products of a manufacturer or other supplier. No local legislative approval required for licensure.
- [Warehouser](#) – A license held by a person authorized to store alcoholic beverages. Can be held by a manufacturer or Wholesaler licensee. No local legislative approval required for licensure.
- [Limited Alcohol Buyer](#) – A license that allows a person or company to purchase alcohol for medicinal, mechanical, chemical, or scientific purposes. No local legislative approval required for licensure.
- [Seller of Alcohol](#) – A license that allows a person or company to sell alcohol to a distiller or wine maker for rectifying or fortifying purposes or to an industrial manufacturer. No local legislative approval required for licensure.
- [Industrial Manufacturer](#) – A license that allows a person or company to purchase alcohol for manufacturing products for non-beverage purposes. No local legislative approval required for licensure.

### Wholesaler Tier

- [Wholesaler](#) – A license that allows the distribution of beer, wine, or mixed spirit drink products produced in or brought into Michigan by licensees in the supplier tier to sell



## BRIEF DESCRIPTION OF ALL MICHIGAN LIQUOR LICENSES AND PERMITS BY LICENSING TIERS

to licensees in the retailer tier. Wholesaler licensees are often referred to as “distributors”. No local legislative approval required for licensure.

- [Warehouser](#) – A license held by a person authorized to store alcoholic beverages. Can be held by a manufacturer or Wholesaler licensee. No local legislative approval required for licensure.

### Retailer Tier

The retailer tier consists of stores, restaurants, hotels, bars, and clubs that hold licenses which allow the sale of alcohol to consumers. The retailer tier is broken down into two groups: on-premises licensees that may sell alcohol to customers for consumption on the premises where it is sold; and off-premises licensees that may sell alcohol to customers for consumption somewhere else.

Most retailer licenses are “quota” licenses, which means that there are a limited number of specific license types allowed based on the population of a local governmental unit. Once the quota limit for a license type is met, no new licenses of that type can be issued in that local governmental unit. However, most quota licenses are transferrable by location from one local governmental unit to another. For off-premises licenses, there are exemptions from the quota if there is not another license of the same type within two miles of the location of a proposed licensed business.

The statute also allows for special [“resort” licenses](#) that may be issued in limited numbers each year over the quota limits. On-premises resort licenses have specific investment thresholds to qualify, cannot be transferred to another location once issued, must be open a minimum number of days and hours each week, and come with a \$20,000.00 initial license fee. Off-premises resort licenses are limited to Specially Designated Distributor licenses, but those do not require any minimum investment amounts, do not have minimum days and hours of operation, and have the same license fees as other Specially Designated Distributor licenses.

[Redevelopment Area \(RDA\)](#) and [Development District \(DDA\)](#) licenses are another version of on-premises retailer licenses that can be issued over the quota limits. These licenses require a specific investment threshold to qualify, cannot be transferred to another location once issued, must be open a minimum number of days and hours each week, and come with a \$20,000.00 initial license enhancement fee. If the licensee ever goes out of business the license must be surrendered to the Commission and terminated.

In addition to all of the aforementioned license types, there are a number of individual sections of law that have created versions of on-premises licenses that can be issued in excess of the quota limits. These are referred to as “special act” licenses. These can be issued to colleges and universities, organizations hosting international and



## BRIEF DESCRIPTION OF ALL MICHIGAN LIQUOR LICENSES AND PERMITS BY LICENSING TIERS

national sporting events, motorsports complexes, municipal civic centers, county or municipal airports, and for a wide array of other special purposes.

### *On-Premises Retailer License Types:*

- [A-Hotel](#) – Allows a hotel that has a minimum of 25 rooms to sell and serve beer and wine to customers. May be issued as a quota, resort, RDA, DDA, or special act license. Local legislative approval is required for new, previously unissued license, but not required to transfer ownership or location of an existing license.
- [B-Hotel](#) – Allows a hotel that has a minimum of 25 rooms to sell and serve beer, wine, mixed spirit drink, and spirits to customers. May be issued as a quota, resort, RDA, DDA, or special act license. Local legislative approval is required for new, previously unissued license, but not required to transfer ownership or location of an existing license.
- [Tavern](#) – Allows a restaurant or bar to sell and serve beer and wine to customers. May be issued as a quota, resort, RDA, DDA, or special act license. Local legislative approval is required for new, previously unissued license, but not required to transfer ownership or location of an existing license.
- [Class C](#) – Allows a restaurant or bar to sell and serve beer, wine, mixed spirit drink, and spirits to customers. May be issued as a quota, resort, RDA, DDA, or special act license. Local legislative approval is required for new, previously unissued license, but not required to transfer ownership or location of an existing license.
- G-1 – Allows a private, corporate golf club to sell and serve beer, wine, mixed spirit drink, and spirits to its members only. Must be reclassified from an existing quota on-premises license. Local legislative approval is required to transfer the classification to a G-1 license.
- G-2 – Allows a private, corporate golf club to sell and serve beer and wine to its members only. Must be reclassified from an existing quota on-premises license. Local legislative approval is required to transfer the classification to a G-2 license.
- [Brewpub](#) – Allows a Class C, Tavern, A-Hotel, or B-Hotel licensee to manufacture, sell, and serve its own beer to its customers. May also sell beer it manufactures to customers for off-premises consumption. This is not a quota license. Local legislative approval is required for new, previously unissued license, but not required to transfer ownership or location of an existing license.
- Aircraft – Allows the sale and service of beer, wine, mixed spirit drink, and spirits on an airplane that has a specific route and timetable. This is not a quota license. No local legislative approval required for licensure.



## BRIEF DESCRIPTION OF ALL MICHIGAN LIQUOR LICENSES AND PERMITS BY LICENSING TIERS

- Train – Allows the sale and service of beer, wine, mixed spirit drink, and spirits on a train. This is not a quota license. No local legislative approval required for licensure.
- Watercraft – Allows the sale and service of beer, wine, mixed spirit drink, and spirits on a boat that has a specific route and timetable. This is not a quota license. No local legislative approval required for licensure.
- Club – Allows a private, nonprofit organization to sell and serve beer, wine, mixed spirit drink, and spirits to its members only. This is not a quota license. Local legislative approval is required for new, previously unissued license, but not required to transfer ownership or location of an existing license.
- Special License – A limited term license, generally only for one day, that can be issued to a nonprofit organization for fundraising purposes. Can be issued for beer, wine, and spirits sales and consumption and for a wine auction with wine donated by private individuals. An organization may only be issued twelve (12) Special Licenses each calendar year. This is not a quota license. No local legislative approval required for licensure, but police or sheriff approval required.
- Beer Festival Special License – A limited term license that allows an association comprised of Brewer, Micro Brewer, or Brewpub licensees to hold a beer festival. The association is limited to six (6) events each calendar year. The events can be more than one day, generally two to three days in a row. This is not a quota license. No local legislative approval required for licensure, but police or sheriff approval required.
- Continuing Care Retirement Center License – Allows a registered continuing care retirement center or home for the aged to sell and serve beer, wine, mixed spirit drink, and spirits for consumption by a resident or the bona fide guests accompanying the resident on the premises of the facility. Local legislative approval is required for new, previously unissued license, but not required to transfer ownership of an existing license. Only 20 licenses may be issued to continuing care retirement centers and only 5 licenses may be issued to homes for the aged, statewide. This is not a quota license. Local legislative approval is required for new, previously unissued license, but not required to transfer ownership or location of an existing license.

### *Types of Special Act Licenses, As Referenced Above:*

- State Owned Airport (MCL 436.1505) – Does not count against local governmental unit's on-premises retailer license quota.
- Publicly Owned Airport (MCL 436.1507) – Does not count against local governmental unit's on-premises retailer license quota.
- Municipal Civic Center or Civic Auditorium (MCL 436.1509) – May be issued for a civic center or auditorium which is operated as a municipal enterprise for scheduled events



## BRIEF DESCRIPTION OF ALL MICHIGAN LIQUOR LICENSES AND PERMITS BY LICENSING TIERS

only in a city or township with a population of 5,500 or more. Does not count against local governmental unit's on-premises retailer license quota.

- Mackinac Island State Park and Presque Isle Harbor Marina (MCL 436.1511) -- Does not count against local governmental unit's on-premises retailer license quota.
- College & University Conference Center (MCL 436.1513(1)) – For scheduled events only. Does not count against local governmental unit's on-premises retailer license quota.
- College & University Golf Course (MCL 436.1513(4)) – Counts against local governmental unit's on-premises retailer license quota.
- College & University Culinary Program (MCL 436.1513a) – Does not count against local governmental unit's on-premises retailer license quota.
- University Hotel & Conference Center (MCL 436.1514) – Counts against local governmental unit's on-premises retailer license quota.
- University Hotel & Conference Center, 2nd Location (MCL 436.1514a) – Counts against local governmental unit's on-premises retailer license quota.
- Government-Owned Golf Course (MCL 436.1515) – Does not count against local governmental unit's on-premises retailer license quota.
- International Sporting Event (MCL 436.1517) – Does not count against local governmental unit's on-premises retailer license quota.
- National Sporting Event (MCL 436.1517a) – Does not count against local governmental unit's on-premises retailer license quota.
- Motorsports Entertainment Complex (MCL 436.1518) – Does not count against local governmental unit's on-premises retailer license quota.
- Professional Hockey & International Soccer At University Stadium (MCL 436.1531(7)) – Does not count against local governmental unit's on-premises retailer license quota.

### *Off-Premises Retailer License Types:*

- [Specially Designated Merchant \(SDM\)](#) – Allows a convenience store, grocery store, or gas station to sell beer and wine to consumers for consumption off the premises. An on-premises retailer may also hold an SDM license to allow customers to purchase beer and wine for takeout. May only be issued as a quota license with a number of exemptions from the quota requirements. No local legislative approval required for licensure.
- [Specially Designated Distributor \(SDD\)](#) – Allows a convenience store, grocery store, or gas station to sell mixed spirit drink and spirits to consumers for consumption off the premises. An SDD license is almost always held in conjunction with an SDM license. The only on-premises retailers that may hold an SDD license are B-Hotel licensees. May be issued as a quota or resort license. No local legislative approval required for licensure.
- [Third Party Facilitator Service \(TPFS\)](#) – Allows a company to facilitate the sale and delivery of beer, wine, or spirits from an SDD or SDM to a consumer using a webpage





## BRIEF DESCRIPTION OF ALL MICHIGAN LIQUOR LICENSES AND PERMITS BY LICENSING TIERS

or mobile application. It is not specifically included in the retailer tier, but due to the statutory prohibitions of a supplier or wholesaler tier licensee from holding interest in a TPFS license, the Commission has determined that it is a retailer tier license. No local legislative approval required for licensure.

*Permits, Permissions, and Approvals* – These permits, permissions, and approvals may be held by licensees in any of the licensing tiers, as specified below.

- **Additional Bar** – A Class C or B-Hotel license may have a second or subsequent bar on the premises where drinks may be purchased at the bar. If a Class C or B-Hotel does not have an Additional Bar, it may only sell from one (1) bar on its premises but may offer table service of alcohol from service bars that only its employees utilize. No other license type requires an Additional Bar to have more than one bar on the licensed premises. No local legislative approval required for approval.
- **Banquet Facility Permit** – A special permit that allows an on-premises retailer licensee, except for a Club or Special License, to sell and serve alcohol at a banquet facility located in a different location from its licensed premises. The Banquet Facility Permit can only be used for scheduled events, cannot have regular meal service, and cannot be open to the general public. Not a license type, but functions similarly to an on-premises license. Local legislative approval is required for new, previously unissued Banquet Facility Permit, but not required to transfer ownership of an existing Banquet Facility Permit.
- **Beer & Wine Tasting Permit** – Allows for beer and wine tastings on the premises of a Specially Designated Merchant licensee. An SDM may hold this permit in order to conduct beer or wine tastings on its premises. A Brewer, Micro Brewer, Wine Maker, Small Wine Maker, Outstate Seller of Beer, or Outstate Seller of Wine may also hold this permit in order for one of its Salesperson licensees to conduct beer or wine tastings on the premises of an SDM licensee. No local legislative approval required for approval.
- **Catering Permit** – Allows for the sale, deliver, and service of beer, wine, and spirits to a customer for a private event. No alcohol can be sold by the drink to guests at the event; the host must buy all the alcohol and it is served to the guests for no charge. The following license types may hold a Catering Permit: A-Hotel, B-Hotel, Class C, Tavern, SDD, SDM, a manufacturer that holds an On-Premises Tasting Room Permit, and Off-Premises Tasting Room license. No local legislative approval required for approval.
- **Dance Permit** – Allows for dancing on the premises of a licensee that has on-premises consumption. The following license types may hold a Dance Permit: A-Hotel, B-Hotel, Class C, Tavern, G-1, G-2, Banquet Facility Permit, a manufacturer that holds an On-



## BRIEF DESCRIPTION OF ALL MICHIGAN LIQUOR LICENSES AND PERMITS BY LICENSING TIERS

Premises Tasting Room Permit, Off-Premises Tasting Room license, and Joint Off-Premises Tasting Room license. This permit may be combined with an Entertainment Permit as a Dance-Entertainment Permit. **No local legislative approval required for approval.**

- **Entertainment Permit** – Allows for monologues, dialogues, motion pictures, still slides, closed circuit television, contests, or other performances for public viewing on the premises of a licensee that has on-premises consumption. The following license types may hold a Dance Permit: A-Hotel, B-Hotel, Class C, Tavern, G-1, G-2, Banquet Facility Permit a manufacturer that holds an On-Premises Tasting Room Permit, Off-Premises Tasting Room license, and Joint Off-Premises Tasting Room license. This permit may be combined with a Dance Permit as a Dance-Entertainment Permit. **No local legislative approval required for approval.**
- **Extended Hours Permit** – Allows for a holder of a Dance, Entertainment, or Dance-Entertainment Permit to remain open past the normal legal hours of sale between 7:00am to 2:00am for the express purpose of allowing dancing or entertainment. The following license types may hold an Extended Hours Permit: A-Hotel, B-Hotel, Class C, Tavern, G-1, G-2, Banquet Facility Permit, a manufacturer that holds an On-Premises Tasting Room Permit, Off-Premises Tasting Room license, and Joint Off-Premises Tasting Room license. **No local legislative approval required for approval.**
- **Living Quarters Permit** – Allows a licensee to have living quarters attached to the licensed premises. All licensees may hold this permit. No local legislative approval required for approval.
- **Off-Premises Tasting Room Permit** – Allows a manufacturer to sell alcoholic liquor it manufactures to consumers for consumption on or off the licensed premises at its licensed manufacturing premises. Local legislative approval is required for approval.
- **Secondary Location Permit** – A special permit that allows an SDM licensee to have a second, adjacent location where it may sell beer and wine to consumer for consumption off the premises in a gas station. Not a license type, but functions similarly to an off-premises license. No local legislative approval required for approval.
- **Specific Purpose Permit** – Allows a licensee that has on-premises consumption to remain open past the normal legal hours of sale between 7:00am to 2:00am for the specific purpose of listed with the permit. For example, a Specific Purpose Permit (Food), would allow the service of food outside the legal hours of alcohol sales. The following license types may hold an Extended Hours Permit: A-Hotel, B-Hotel, Class C, Tavern, G-1, G-2, Brewer, Banquet Facility Permit, a manufacturer that holds an On-Premises Tasting Room Permit, Off-Premises Tasting Room license, and Joint Off-Premises Tasting Room license. No local legislative approval required for approval.



## BRIEF DESCRIPTION OF ALL MICHIGAN LIQUOR LICENSES AND PERMITS BY LICENSING TIERS

- Sunday Sales Permit (AM) – Allows for the sale of beer, wine, mixed spirit drink, or spirits from 7:00am to 11:59am on Sunday for applicable license types in local governmental units that allow Sunday morning sales of alcohol. The following license types may hold a Sunday Sales Permit (AM): A-Hotel, B-Hotel, Class C, Tavern, G-1, G-2, SDD, SDM, Secondary Location Permit, Banquet Facility Permit, a manufacturer that holds an On-Premises Tasting Room Permit, Off-Premises Tasting Room license, and Joint Off-Premises Tasting Room license. No local legislative approval required for approval.
- Sunday Sales Permit (PM) – Allows for the sale of mixed spirit drink, or spirits from 12:00pm on Sunday to 2:00am on Monday morning for applicable license types in local governmental units that allow Sunday afternoon and evening sales of alcohol. The following license types may hold a Sunday Sales Permit (PM): A-Hotel, B-Hotel, Class C, Tavern, G-1, G-2, SDD, Banquet Facility Permit, a manufacturer that holds an On-Premises Tasting Room Permit, Off-Premises Tasting Room license, and Joint Off-Premises Tasting Room license. No local legislative approval required for approval.
- Permission to Maintain Direct Connection to Unlicensed Premises – Allows a licensee to have a doorway from its licensed premises to another part of the same building where it is not licensed. All licensees may have this permission. No local legislative approval required for approval.
- Permission to Maintain Motor Vehicle Fuel Pumps On or Adjacent to the Licensed Premises – Allows an SDD or SDM licensee to have fuel pumps on the premises. No local legislative approval required for approval.
- Permission for Off-Premises Storage – Allows a licensee to store alcohol at a location other than the licensed premises. All licensees may have this permission. No local legislative approval required for approval.
- Authorization for Outdoor Service – Allows an on-premises licensee to sell and serve alcohol in a well-defined and clearly marked area adjacent to the licensed premises. May be held by A-Hotel, B-Hotel, Class C, Tavern, G-1, G-2, Banquet Facility Permit a manufacturer that holds an On-Premises Tasting Room Permit, Off-Premises Tasting Room license, and Joint Off-Premises Tasting Room license. No local legislative approval required for approval.
- Topless Activity Permit – Allows an on-premises retailer licensee to conduct topless activity on its licensed premises. No local legislative approval required for approval.



# **Exhibit N**

**Local Government Approval**

(Authorized by MCL 436.1501)

**Instructions for Applicants:**

- You must obtain a recommendation from the local legislative body for a new on-premises license application, certain types of license classification transfers, and/or a new banquet facility permit.

**Instructions for Local Legislative Body:**

- Complete this resolution or provide a resolution, along with certification from the clerk or adopted minutes from the meeting at which this request was considered.

At a \_\_\_\_\_ meeting of the \_\_\_\_\_ council/board  
(regular or special) (township, city, village)

called to order by \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_

the following resolution was offered: (date) (time)

Moved by \_\_\_\_\_ and supported by \_\_\_\_\_

that the application from \_\_\_\_\_

(name of applicant - if a corporation or limited liability company, please state the company name)

for the following license(s): \_\_\_\_\_

(list specific licenses requested)

to be located at: \_\_\_\_\_

and the following permit, if applied for:

☐ Banquet Facility Permit Address of Banquet Facility: \_\_\_\_\_

It is the consensus of this body that it \_\_\_\_\_ this application be considered for

(recommends/does not recommend)

approval by the Michigan Liquor Control Commission.

If disapproved, the reasons for disapproval are \_\_\_\_\_

**Vote**

Yeas: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

I hereby certify that the foregoing is true and is a complete copy of the resolution offered and adopted by the \_\_\_\_\_

council/board at a \_\_\_\_\_ meeting held on \_\_\_\_\_ (township, city, village)

(regular or special)

(date)

Print Name of Clerk

Signature of Clerk

Date

Under Article IV, Section 40, of the Constitution of Michigan (1963), the Commission shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof, subject to statutory limitations. Further, the Commission shall have the sole right, power, and duty to control the alcoholic beverage traffic and traffic in other alcoholic liquor within this state, including the licensure of businesses and individuals.

Please return this completed form along with any corresponding documents to:

Michigan Liquor Control Commission

Mailing address: P.O. Box 30005, Lansing, MI 48909

Hand deliveries or overnight packages: Constitution Hall - 525 W. Allegan, Lansing, MI 48933

Fax to: 517-763-0059

# **Exhibit O**



Michigan Department of Licensing and Regulatory Affairs  
 Liquor Control Commission (MLCC)  
 525 W. Allegan, P.O. Box 30005 - Lansing, Michigan 48909  
 Toll Free (866) 813-0011 • [www.michigan.gov/lcc](http://www.michigan.gov/lcc)

Off Premise Transactions	Is Local Legislative Body approval required?	Is Local Police approval required?	Is Local Legislative Body or Police opinions required to be considered?	MLCC Investigation required?	Inspection Fees?	Base Fees
Add Space	No	No	No	Yes	Yes	
Change status	No	No	No	No	No	
Correct address	No	No	No	Yes	No	
Drop Space	No	No	No	Yes	Yes	
New Beer & Wine Sampling Permit	No	No	Yes	No	Yes	
New Catering Permit	No	No	Yes	No	Yes	\$100.00
New Direct Connection	No	No	No	Yes	No	
New Gas Pumps	No	No	No	Yes	No	
New Living Quarters Permit	No	No	Yes	No	Yes	
New Participation Permit	No	No	Yes	No	Yes	
New Resort SDD License	No	No	Yes	Yes	Yes	\$150.00 upon licensure
New SDD License	No	No	Yes	Yes	Yes	\$150.00
New SDM License	No	No	Yes	Yes	Yes	\$100.00
New Sunday Sales Permit (AM)	No	No	Yes	No	No	\$160.00
New Sunday Sales Permit (PM)	No	No	Yes	No	No	15% of total license fee
Release license from escrow (in escrow <6 months)	No	No	No	No	No	
Release license from escrow (in escrow 6+ months)	No	No	No	Yes	No	
Transfer Location- Off Premise	No	No	Yes	Yes	Yes	



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Off Premise Transactions	Is Local Legislative Body approval required?	Is Local Police approval required?	Is Local Legislative Body or Police opinions required to be considered?	MLCC Investigation required?	Inspection Fees?	Base Fees
Transfer of stock or transfer of interest	No	No	Yes	Yes	Yes	Upon approval by the Commission pursuant to MCL 436.1529(3)
Transfer owner Drive-thru/up/in Window(w/alcohol beverage sales)	No	No	No	Yes	No	
Transfer ownership of Beer & Wine Sampling Permit	No	No	Yes	No	No	
Transfer ownership of Catering Permit	No	No	Yes	No	No	\$100.00
Transfer ownership of Direct Connection	No	No	No	Yes	No	
Transfer ownership of Gas Pumps	No	No	No	Yes	No	
Transfer ownership of Living Quarters Permit	No	No	Yes	No	No	
Transfer ownership of Participation Permit	No	No	Yes	No	No	
Transfer ownership of Resort SDD License	No	No	Yes	Yes	Yes	\$150.00
Transfer ownership of SDD License	No	No	Yes	Yes	Yes	\$150.00
Transfer ownership of SDM License	No	No	Yes	Yes	Yes	\$100.00
Transfer ownership of Sunday Sales Permit (AM)	No	No	Yes	No	No	\$160.00
Transfer ownership of Sunday Sales Permit (PM)	No	No	Yes	No	No	15% of total license fee



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On Premise Transactions	Is Local Legislative Body approval required?	Is Local Police approval required?	Is Local Legislative Body or Police opinions required to be considered?	MLCC Investigation required?	Inspection Fees?	Base Fees
Add Space	No	No	No	Yes	Yes	
Change Specific Purpose Permit hours	No	No	No	No	No	
Change status	No	No	No	No	No	
Correct address	No	No	No	Yes	No	
Drop Space (current licensees)	No	No	No	Yes	Yes	
New Additional Bar	No	No	No	No	Yes	\$350.00 per bar
New A-Hotel License	Yes	No	Yes	Yes	Yes	\$250.00
New Aircraft License	No	No	Yes	Yes	Yes	\$600.00
New Banquet Facility Permit	Yes	No	Yes	Yes	Yes	\$600.00
New B-Hotel License	Yes*	No	Yes	Yes	Yes	\$600.00
New Brewpub License	Yes*	No	Yes	Yes	Yes	\$100.00
New Catering Permit	No	No	Yes	No	Yes	\$100.00
New Class C issued under MCL 436.1521a(1)(a)	Yes	No	Yes	Yes	Yes	\$20,000 upon licensure
New Class C issued under MCL 436.1521a(1)(b)	Yes	No	Yes	Yes	Yes	\$20,000 upon licensure
New Class C License	Yes*	No	Yes	Yes	Yes	\$600.00
New Club License	Yes*	No	Yes	Yes	Yes	\$300.00
New Continuing Care Retirement Center License	Yes*	No	Yes	Yes	Yes	\$600.00
New Dance Permit	No	No	Yes	No	Yes	

\*except in a city having a population of 600,000 or more, pursuant to MCL 436.1501(2)



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On Premise Transactions	Is Local Legislative Body approval required?	Is Local Police approval required?	Is Local Legislative Body or Police opinions required to be considered?	MLCC Investigation required?	Inspection Fees?	Base Fees
New Dance-Entertainment Permit	No	No	Yes	No	Yes	
New Direct Connection	No	No	No	Yes	No	
New Entertainment Permit	No	No	Yes	No	Yes	
New Extended Hours Permit (Dance, Topless Activity, Entertainment)	No	No	Yes	No	Yes	
New Living Quarters Permit	No	No	Yes	No	Yes	
New Outdoor Service	No	No	No	Yes	No	
New Participation Permit	No	No	Yes	No	Yes	
New Resort A-Hotel License	Yes*	No	Yes	Yes	Yes	\$20,000 Enhancement upon licensure
New Resort B-Hotel License	Yes*	No	Yes	Yes	Yes	\$20,000 Enhancement upon licensure
New Resort Class C License	Yes*	No	Yes	Yes	Yes	\$20,000 Enhancement upon licensure
New Resort Tavern License	Yes*	No	Yes	Yes	Yes	\$20,000 Enhancement upon licensure
New SDM in conj with On Premise license	No	No	Yes	Yes	Yes	\$100.00
New Specific Purpose Permit (Food, Golf, etc.)	No	No	Yes	No	Yes	
New Sunday Sales Permit (AM)	No	No	Yes	No	No	\$160.00
New Sunday Sales Permit (PM)	No	No	Yes	No	No	15% of total license fee
New Tavern License	Yes*	No	Yes	Yes	Yes	\$250.00
New Topless Activity Permit	No	No	Yes	No	Yes	
New Train License	No	No	Yes	Yes	Yes	\$100.00

\*except in a city having a population of 600,000 or more, pursuant to MCL 436.1501(2)



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On Premise Transactions	Is Local Legislative Body approval required?	Is Local Police approval required?	Is Local Legislative Body or Police opinions required to be considered?	MLCC Investigation required?	Inspection Fees?	Base Fees
New Watercraft License	No	No	Yes	Yes	Yes	\$100.00
Release license from escrow (in escrow <6 months)	No	No	No	No	No	
Release license from escrow (in escrow 6+ months)	No	No	No	Yes	No	
Temporary Permit	No	Yes	Yes	No	Yes	
Transfer Classification Class C to Tavern	No	No	Yes	No	Yes	
Transfer Classification Class C/Tavern to G1/G2	Yes	No	Yes	Yes	Yes	
Transfer Classification Class C to B Hotel	No	No	Yes	Yes	Yes	
Transfer Classification B Hotel to Class C/Tavern	No	No	Yes	Yes	Yes	
Transfer Classification Tavern to Class C	Yes	No	Yes	No	Yes	\$600.00
Transfer Location- On Premise	No	No	Yes	Yes	Yes	
Transfer of stock or transfer of interest	No	No	Yes	Yes	Yes	Upon approval by the Commission pursuant to MCL 436.1529(3)
Transfer ownership of Additional Bar	No	No	No	No	No	\$350.00
Transfer ownership of A-Hotel License	No	No	Yes	Yes	Yes	\$250.00
Transfer ownership of Aircraft License	No	No	Yes	Yes	Yes	\$600.00
Transfer ownership of Banquet Facility Permit	No	No	Yes	Yes	No	\$600.00
Transfer ownership of B-Hotel License	No	No	Yes	Yes	Yes	\$600.00
Transfer ownership of Brewpub License	No	No	Yes	Yes	Yes	\$100.00
Transfer ownership of Catering Permit	No	No	Yes	No	No	\$100.00





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On Premise Transactions	Is Local Legislative Body approval required?	Is Local Police approval required?	Is Local Legislative Body or Police opinions required to be considered?	MLCC Investigation required?	Inspection Fees?	Base Fees
Transfer ownership of Class C License	No	No	Yes	Yes	Yes	\$600.00
Transfer ownership of Class G-1 License	No	No	Yes	Yes	Yes	\$1,000.00
Transfer ownership of Class G-2 License	No	No	Yes	Yes	Yes	\$500.00
Transfer ownership of Continuing Care Retirement Center License	No	No	Yes	Yes	Yes	\$600.00
Transfer ownership of Dance Permit	No	No	Yes	No	No	
Transfer ownership of Dance-Entertainment Permit	No	No	Yes	No	No	
Transfer ownership of Direct Connection	No	No	No	Yes	No	
Transfer ownership of Entertainment Permit	No	No	Yes	No	No	
Transfer ownership of Extended Hours Permit(Dance,Topless,Entertain)	No	No	Yes	No	No	
Transfer ownership of Living Quarters Permit	No	No	Yes	No	No	
Transfer ownership of Outdoor Service	No	No	No	Yes	No	
Transfer ownership of Participation Permit	No	No	Yes	No	No	
Transfer ownership of Resort A-Hotel License	No	No	Yes	Yes	Yes	\$250.00
Transfer ownership of Resort B-Hotel License	No	No	Yes	Yes	Yes	\$600.00
Transfer ownership of Resort Class C License	No	No	Yes	Yes	Yes	\$600.00
Transfer ownership of Resort Tavern License	No	No	Yes	Yes	Yes	\$250.00
Transfer ownership of Specific Purpose Permit (Food, Golf, etc.)	No	No	Yes	No	No	
Transfer ownership of Sunday Sales Permit (AM)	No	No	Yes	No	No	\$160.00



Michigan Department of Licensing and Regulatory Affairs  
 Liquor Control Commission (MLCC)  
 525 W. Allegan, P.O. Box 30005 - Lansing, Michigan 48909  
 Toll Free (866) 813-0011 • [www.michigan.gov/lcc](http://www.michigan.gov/lcc)

On Premise Transactions	Is Local Legislative Body approval required?	Is Local Police approval required?	Is Local Legislative Body or Police opinions required to be considered?	MLCC Investigation required?	Inspection Fees?	Base Fees
Transfer ownership of Sunday Sales Permit (PM)	No	No	Yes	No	No	15% of total license fee
Transfer ownership of Tavern License	No	No	Yes	Yes	Yes	\$250.00
Transfer ownership of Topless Activity Permit	No	No	Yes	No	No	
Transfer ownership of Train License	No	No	Yes	Yes	Yes	\$100.00
Transfer ownership of Watercraft License	No	No	Yes	Yes	Yes	\$100.00

# **Exhibit P**

**PENINSULA TOWNSHIP ZONING ORDINANCE**

**A LAND USE CODE**

-----  
**PENINSULA TOWNSHIP**

**GRAND TRAVERSE COUNTY**

**TRAVERSE CITY, MICHIGAN 49686**

**Effective Date:**

**June 5, 1972**

**Including Amendments through August 31, 2009**

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PENINSULA TOWNSHIP ZONING ORDINANCE

ORDINANCE NO. 2

An Ordinance to amend the Peninsula Township Zoning Ordinance designated as an Ordinance to establish zoning districts and regulations in the Township of Peninsula, County of Grand Traverse and State of Michigan, in accordance with the provisions of Act 184 of the Public Acts of 1943 as amended; to define certain terms used herein; to provide for regulations governing nonconforming uses and structures; to establish a Board of Appeals and define its duties and powers; to provide for the administration and enforcement; to provide for amendment; and to provide penalties for the violation of this Ordinance.

THE TOWNSHIP OF PENINSULA ORDAINS:

PREAMBLE

The Peninsula Township Zoning Ordinance is hereby amended to provide as follows, viz:

ARTICLE I

SHORT TITLE

This Ordinance shall be known as "Peninsula Township Zoning Ordinance" and will be referred to herein as "this Ordinance."

ARTICLE II

INTERPRETATION

Section 2.1 Purposes: The purposes of this Ordinance are to protect the public health, safety, morals and general welfare of the inhabitants of the Township; to provide for adequate light, air and convenience of access to secure safety from fire and other dangers; to avoid undue concentration of population by regulating minimum open spaces and by regulating and limiting types and locations of buildings and regulating the location of trades, industries, and buildings designated for specific uses; to provide for the orderly development of the Township; to encourage the use of lands and resources of the Township in accordance with their character and adaptability; to provide for safety in traffic, adequacy of parking and reduce hazards to life and property; to facilitate the development of adequate systems of fire protection, education, recreation, water supplies and sanitary facilities; and to conserve life, property, natural resources and the use of public funds for public services and improvements to conform with the most advantageous use of lands, resources and properties.

Section 2.2 Scope: It is not intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with existing provisions of law or ordinance, except as hereinafter specifically repealed, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law, relating to the use of buildings or premises, or with any private restrictions placed upon property by covenant or deed; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits or by such private restrictions, the provisions of this Ordinance shall control.

### ARTICLE III

#### DEFINITIONS

Section 3.1 Rules Applying to the Text: For the purpose of this Ordinance, certain rules of construction apply to the text as follows:

- (1) Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- (2) The word "person" includes a corporation or firm as well as an individual.
- (3) The word "building" includes the word "structure".
- (4) The word "lot" includes the word "plot", "tract", or "parcel".
- (5) The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
- (6) The word "used" or "occupied" as applied to any land or building shall be construed to include the word "intended, arranged, or designed to be used or occupied".
- (7) Any word or term not interpreted or defined by this Article shall be used with a meaning of common or standard utilization.

Section 3.2 Definitions: For the purpose of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

Accessory Building: A subordinate building or structure on the same lot with a principal or main building, or the part of the main building occupied by or devoted exclusively to an accessory use.

Accessory Use: A use customarily incidental and subordinate to the principal use or building located on the same lot as the principal use or building.

Adequate Permanent Access: An easement or right-of-way of sufficient width for roadway and snow storage purposes without infringing on neighboring or adjacent property. The minimum adequate permanent access shall be thirty-three (33) feet in width.



Adjacent - Adjoining Area: That area of the Township bounded by major thoroughfares as described in the Township Major Thoroughfare Plan requiring the same land use designation in the Comprehensive Land Use Plan of Peninsula Township.

Adult Foster Care Facility: A governmental or nongovernmental establishment having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care facility shall include homes for the aged.

Agricultural Labor Camp: An agricultural labor camp means a tract of land and all buildings or other structures pertaining thereto, all or part of which is established, occupied, or used as living quarters for less than five (5) migrant farm laborers engaged in agricultural activities, including related food processing. **(ADDED BY AMENDMENT 90) (REVISED BY AMENDMENT 166B)**

Licensed Agricultural Labor Camp: An agricultural labor camp for migrant farm laborers licensed by the State of Michigan.**(ADDED BY AMENDMENT 90)(REVISED BY AMENDMENT 166B)**

Alterations: Any modification, additions, or change in construction or type of occupancy, any change or rearrangement in the structural parts of a building; any enlargement of a building, whether by extending a side or by increasing in height; or the moving from one location to another.

Bed and Breakfast Establishment: Means a private residence that offers sleeping accommodations to transient tenants in 3 or fewer rooms for rent, is the owner's residence in which the owner resides while renting the rooms to transient tenants, and serves breakfasts at no extra cost to its transient tenants. **(REVISED BY AMENDMENT 136)**

Basement: A story having part, but not more than one-half (1/2) of its height below finished grade. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet or if used for business or dwelling purposes.

Board of Appeals: Peninsula Township Board of Appeals.

Boarding of livestock: Providing care, custody and control of livestock for others, with or without remuneration, on agricultural land or in buildings incidental to the use for agricultural purposes but not for hourly rental of animals and not a petting farm. **(ADDED BY AMENDMENT 155A)**

Boat Hoist: A devise to raise and/or store boats above or out of the water. Included are shore stations, hoists, inclined ramps with carts on rails or similar devices. **(REVISED BY AMENDMENT 109A)**

Boat House: An enclosed structure designed for the use and storage of private boats and marine equipment having a maximum height of eleven (11) feet and a maximum area of 300 square feet.

Boat Livery: A boat livery is hereby defined and declared to be any structure, site or tract of land utilized for the storage, servicing or rental of boats and for the sale of hunting and/or fishing tackle, equipment, boats and etc.

Building: Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind. This shall include tents, awnings and vehicles situated on private property and used for purposes of a building, whether or not mounted on wheels.

Building Area: The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

Building Envelope - An area identified on a site plan within which a building or structure may be located. **(ADDED BY AMENDMENT 151)**

Building, Front line of: The line that coincides with the face of the building nearest the front line of the lot. This face includes sun parlors and enclosed porches, but does not include steps.

Building, Height of: The vertical distance measured from the mean elevation of the finished grade line of the ground about the front of the building to the highest point of the roof.

Building Lines: A line defining the minimum front, side and rear yard requirement outside of which no building or structure may be located.

Building, Principal: A building in which is conducted the main or principal use of the lot on which it is located.

Campground: Means any parcel or tract of land under the control of any person wherein sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for five (5) or more recreational units.

Cellar: A story having more than one-half (1/2) of its height below the average finished level of the adjoining ground. A cellar shall not be counted as a story for the purposes of height measurement in stories.

Child Care Organization: A facility for the care of children under 18 years of age, as licensed and regulated by the State under Act 116 of the Public Acts of 1973 and the associated rules promulgated by the State Department of Social Services. Such organizations shall be further defined as follows:

- (1) "Child care center" or "day care center" means a facility, other than a private residence, receiving more than 6 pre-school or school age children for group care for period of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day.

The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative pre-school, play group, or drop-in center. "Child care center" or "day care center" does not include a Sunday school conducted by a religious institution or a facility operated by a religious institution where children are cared for during short periods of time while persons responsible for such children are attending religious services.

- (2) "Family day care home" means a private home in which 1 but less than 7 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.
- (3) "Group day care home" means a private home in which more than 6 but not more than 12 children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than 4 weeks during a calendar year.

Common land: A parcel or parcels of land together with the improvements thereon, the use, maintenance, and enjoyment of which are intended to be shared by the owners and occupants of the individual building units in a planned unit development.

Cupola: Ornamental structures for architectural decoration placed in a prominent position, usually at the top of a larger roof or dome. They often appear as small buildings in their own right, like diminutive temples perched on top of a building. They are non-habitable and do not have interior access except for maintenance purposes. **(ADDED BY AMENDMENT 159)**

Decibels: A decibel is a unit of measurement of the intensity of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in decibels.

Density: The number of dwelling units residing upon, or to be developed upon, a net acre of land.

District: An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements, and height limitations.

Dwelling: Any building or structure or part thereof occupied as the home, residence or sleeping place of one or more persons either permanently or transiently regardless of whether cooking facilities exist.

Dwelling, Multiple: A dwelling other than a one family dwelling including apartment houses, co-operatives and condominiums.

Dwelling, Single-Family: A detached building designed for or occupied exclusively by one family.

Dwelling Unit: A building or portion thereof designed exclusively for residential occupancy by one (1) family regardless of whether cooking facilities exist.

Easement: See Right-of-Way.

Erected: The building, construction, alteration, reconstruction, moving upon, or any physical activity upon a premises or lot.

Essential Services: The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, telephone transmission or distribution system including poles, wires, main, drains, sewers, pipes, conduits, cable, towers, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, but not including buildings, reasonably necessary for the furnishing of adequate service by such public utilities, departments, or commissions.

Existing Building: A building existing or for which the foundations are in place or upon which there has been substantial work done prior to the effective date of this Ordinance or any amendment thereto.

Existing Use: A use of premises or buildings or structures actually in operation, openly, visibly and notoriously prior to the effective date of this Ordinance or any amendment thereto.

Family: (1) An individual or group of two or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit, or (2) a collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or other similar determinable period.

Farmhouse: A single family dwelling on a farm used or previously used as the residence of the farm owner. **(ADDED BY AMENDMENT NO 113A)**

Farm Processing Facility: 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.**(ADDED BY AMENDMENT NO 139A)**

Feeder Lot: An area used for the concentrated feeding of large numbers of marketable meat producing animals carried on as a commercial operation rather than as part of a normal farming operation.

Fence: A barrier including gates when closed which has openings of more than fifty (50%) percent of each one square yard of surface area; constructed of wood, masonry, metal or other durable parts such as stone, rails, boards, wire mesh, or other material designed and marketed for such use; and used to mark a boundary or to define or enclose a specific area for the purpose of protection, privacy or confinement. **(ADDED BY AMENDMENT 142)**

Fence - Temporary: A fence of temporary nature, such as a snow fence, a fence erected around construction works, or maintained pursuant to building code or other ordinances of the Township or the county on behalf of the Township. **(ADDED BY AMENDMENT 142)**

Flood Plain Area: Those areas along the Great Lakes Shore Line falling below the elevation 582.8 I.G.L.D. **(583.5 I.G.L.D. - 1985)**

Garage, Private: An accessory building or an accessory portion of a principal building designed or used solely for the storage of noncommercial motor vehicles owned and used by the occupants of the building to which it is accessory.

Gasoline Service Station: Any area of land, including any structures thereon, used or designed for the supply of gasoline, oil, or other fuel for the propulsion of vehicles. For the purpose of this Ordinance, this term shall also mean any area or structure used or designed for polishing, greasing, washing, cleaning, or servicing such motor vehicles.

Golf Course - An area of land used for the game of golf and consisting of more than one golf hole. **(ADDED BY AMENDMENT 91)**

Grade, Finished: The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs related thereto.

Guest Unit: A room or group of rooms occupied, arranged or designed for occupancy by one (1) or more guests for compensation.

Health Department: Grand Traverse-Leelanau-Benzie District Health Department, sometimes referred to as Tri-County Health Department.

Highway: Any public thoroughfare in Peninsula Township, including Federal and State roads and highways.

Home Occupation: An accessory use of professional, service, or business character conducted within a dwelling by the family residents thereof, which is clearly secondary and incidental to the use of the dwelling for living purposes and does not change the character thereof.

Hotel, Motel, Tourist Court: Commercial establishments, known to the public as hotels, motor-hotels, motels or tourist courts, including resort hotels and hotels operated by membership organizations, and open to the general public, primarily engaged in providing lodging, or lodging and meals, for the general public; however, not including bed and breakfast establishments or Recreational Unit Parks or tent sites. **(REVISED BY AMENDMENT 114C)**

Junk Yard: A "junk yard" as used herein is defined to be any establishment or premises where worn out or discarded material is bought, kept, sold and/or stored; any premises upon which two (2) or more unlicensed used motor vehicles which cannot be operated under their own power are kept or stored for a period of (15) days or more shall be deemed to be a "junk yard" within the meaning of this Ordinance.

Kennel: Any lot or premises used for the sale, boarding, or breeding of dogs, cats, or other household pets. Kennel shall also mean the keeping of five (5) or more dogs, cats or other household pets over the age of six (6) months.

Land Use Permit: Permit required for any change in use of land or structure in accordance with the provisions of this Ordinance.

Line, Street: The dividing line between a street right-of-way and a lot.

Lot: The parcel of land having frontage along a street or right-of-way on which one principal building and its accessories are located or intended to be located together with any open spaces required by this Ordinance. Two (2) or more parcels, lots of legal record, or platted lots, when contiguous and when held in common ownership, may be treated together as a single lot for purposes of this Ordinance. Unless otherwise provided in this Ordinance; public and private streets and road rights-of-way, and easements for ingress and egress shall divide lots (including parcels and sites) for purposes of this Ordinance. **(REVISED BY AMENDMENT 158)**

Lot, Corner: A lot which has at least two (2) contiguous sides abutting upon a street for their full length.

Lot, Depth of: The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

Lot - Front of: That lot line which is (or contains) the road line of the principal road or right-of-way providing access to the lot. **(REVISED BY AMENDMENT 88)**

Lot, Interior: A lot other than a corner lot.

Lot, Line: The lines bounding a lot as herein described.

Lot - Width of - Frontage: The frontage width, is measured along the front lot line and is a straight line connecting the two points where the front lot line intersects the two adjacent side lot lines. **(ADDED BY AMENDMENT 88)**

Lot - Width of - Minimum: The minimum lot width shall be measured at the shortest distance between the side lot lines within 100 feet of the front lot line. Where the front lot line is not a straight line, and curves into the lot, the minimum lot width shall be measured at the shortest distance between the side lot lines measured tangent to a curve 100 feet from the front lot line. **(ADDED BY AMENDMENT 88)(REVISED BY AMENDMENT 107E)**

Lot of Record: A lot which is part of a subdivision, the map of which has been recorded in the Office of the Register of Deeds in Grand Traverse County or a lot described by metes and bounds, the deed or land contract to which has been recorded in the Office of the Register of Deeds in Grand Traverse County.

Major Thoroughfare: Arterial or collector-distributor road.

Marina: A commercial boat basin or dock with facilities for berthing and servicing all types of water craft, as well as providing supplies, provisions, service and fueling facilities.

Migrant Farm Laborer: Is a person employed in agricultural work of a seasonal or other temporary nature who:

- a. has to travel from his or her permanent place of residence to do the farm work so that he/she is unable to return to his/her permanent residence within the same date;
- b. is not employed in farm work year round by the same employer; and
- c. does not have an ownership interest in the property. **ADDED BY AMENDMENT**

**NO. 166A:**

Lot Width Measurements. Table



Mobile Home: Means a trailer coach, a trailer or a single family manufactured living unit which is transported to a site as one (1) or more modules, any of which is so constructed as to permit permanent occupancy as a dwelling or sleeping place by one (1) or more persons, and licensable as a "trailer coach" under Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948, and meets the Mobile Home Construction and Safety Standards, (24 CFR part 3280) and bears a HUD label so indicating.

Mobile Home - Occupied: Means a trailer coach which is being used for dwelling or sleeping purposes.

Mobile Home Park, Trailer Coach Park or Park: Means any parcel or tract of land under the control of any person, upon which three (3) or more occupied trailer coaches are harbored on a continual or non-recreational basis, or which is offered to the public for that purpose, regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment or facility used or intended for use incidental to the harboring or occupancy of trailer coaches; except as provided by section 91 of Public Act #172 of the Public Acts of 1970.

Nonconforming Use: A building, structure, or use of land existing at the time of enactment of this Ordinance, and which does not conform to the regulations of the district or zone in which it is situated.

Normal High Water Mark: See Ordinary High Water Mark.

Open Space - An area that is open to the sky exclusive of roads, parking lots and building envelopes. **(REVISED BY AMENDMENT 151)**

Ordinary High Water Mark: A point 579.8 feet above sea level (International Great Lakes Datum 1955 **change for 1985 = 580.5 - add .7 to get to 1985**) and 581.0 feet above sea level (United States Geological Survey Datum).

Plan, General Development: A statement of policy by the Township Zoning Board relative to the agreed-upon desirable physical pattern of future community development, consisting of a series of maps, charts, and written material that represents a sound conception of how the community should grow in order to bring about the very best community living conditions.

Planned Unit Development: A land area which has both individual building sites and common property, such as a park, and which is designed and developed under one (1) owner or organized group as a separate neighborhood or community unit.

Practical Difficulty: To obtain a dimensional variance, the applicant must show *practical difficulty* by demonstrating all of the following:

- (a) Strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for any permitted purpose, or would render conformity unnecessarily burdensome;

- (b) A variance would do substantial justice to the applicant as well as to other property owners in the district, and that a lesser relaxation would not give substantial relief and be more consistent with justice to others;
- (c) The plight of the owner is due to unique circumstances of the property; and;
- (d) The problem was not self-created. **(ADDED BY AMENDMENT 171A)**

Principal Use: The main use to which the premises are devoted and the principal purpose for which the premises exists.

Private Launching Ramp: A space or structure from which a boat may be launched for the use and benefit of the patrons of the waterfront marina or boat yard wherein said boats are berthed or docked.

Public Utility: Any person, firm, corporation, municipal department or board fully authorized to furnish to the public electricity, gas, steam, telephone, telegraph, transportation or water.

Recreation, Private: A recreational space or structure, or combination thereof, belonging to and/or operated by private interests for use by private individuals and/or organizations and/or the public, consisting primarily of man-made structures and/or other artificial apparatus which are necessary to form the basis for said use.

Recreational Unit: Means a tent, or vehicular-type unit, primarily designed as temporary living quarters for recreational camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. A tent means a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors. Recreation unit shall include "Travel trailers", "Camping trailer", "Motor home", "Truck camper", "Slide-in-camper" and "Chassis-mount camper" as defined in Public Act 171. Public Acts of 1970, Michigan. **(REVISED BY AMENDMENT 114A)**

Regional Wastewater Treatment System: That system being planned as of the effective date of this Ordinance by the City of Traverse City and the five townships surrounding Traverse City.

Registered Guest: Means a person or people that stay overnight and have signed a guest register. **(ADDED BY AMENDMENT 114B)**

Right-of-Way: A street, alley, or other thoroughfare or easement permanently established for passage of persons or vehicles which, if used to establish a lot front, provides adequate permanent access.

Road - Access by Easement - Easement Access: A right-of-way or commons area including a frontage road which provides access to a lot or parcel in lieu of access from a public or private road. **(ADDED BY AMENDMENT 88)**

Road - County Standards: The Standards and Specifications for Subdivision Streets as adopted by the Grand Traverse County Road Commission. **(ADDED BY AMENDMENT 88)**

Road - Cul-de-sac: A local road of short length having one end terminated by a vehicular turn-around. **(ADDED BY AMENDMENT 88)**

Road - Frontage is a private road approved by the Township Zoning Administrator as meeting the published standards of Peninsula Township to serve as a lot frontage road for Zoning purposes, and may include approved roads in a Condominium Project, but does not include alleys, easements, driveways, or the like unless they have been approved by the Township as frontage roads. **(ADDED BY AMENDMENT 88)**

Road - Highway A right-of-way along with related improvements which provides for vehicular and pedestrian access to abutting properties. **(ADDED BY AMENDMENT 88)**

Road - Local Access: Local access roads provide access to homes, farms and other low intensity land uses. Traffic desires are local in nature and these roads do not require trip continuity for an extended length. **(ADDED BY AMENDMENT 88)**

Road - Local: a public or private road designated a local road by the Grand Traverse County Road Commission which is intended primarily for access to abutting properties. **(ADDED BY AMENDMENT 88)**

Road - Marginal Access: A local road which is parallel and adjacent to arterial roads and which provides access to abutting properties and protection from through traffic and not carrying through traffic. **(ADDED BY AMENDMENT 88)**

Road - Primary: Those roads of considerable continuity which are designated as primary roads by the Grand Traverse County Road Commission. **(ADDED BY AMENDMENT 88)**

Road - Private Subdivision is a private road in a subdivision approved by the Grand Traverse County Road Commission pursuant to the Plat Act (Act 288, P.A. of 1967 as amended). **(ADDED BY AMENDMENT 88)**

Road - State Highway: State or federal numbered highway. **(ADDED BY AMENDMENT 88)**

Road - Sight Distance: The unobstructed vision on a horizontal plane along a road centerline from a driver-eye height of 3.75 feet and an object height of 6 inches. **(ADDED BY AMENDMENT 88)**

Roadside Stand: A "roadside stand" is a structure or display area used for displaying and selling regionally grown fresh and/or processed farm, produce and products. Such farm stands must be operated as an accessory use of a farm. (Amendment 86A)

Self Service Storage Facility: A structure or structures containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

Shared Waterfront Ownership: Property with frontage on Grand Traverse Bay that is owned by more than one family through deed, land contract, non-exclusive easement or other form of ownership. **(REVISED BY AMENDMENT 109A)**

Sign: Any device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, good, or service, or any other message.

Sign-Agricultural Products: An on-premises sign which indicates the retail sale of agricultural products including those sold at roadside stands and U-Pick operations.

Sign-Banner: A sign made of natural or synthetic fabric used to call attention to a land use or product, service, or activity; however, not including pennants or flags.

Sign-Billboard/Highway Advertising: An off-premise sign owned by a person, corporation or the entity that engages in the business of selling the advertising space on that sign.

Sign-Business Center: A sign which gives direction, name, and identification to a business center and which may include identification of individual businesses within the center.

Sign-Business Identification: A sign identifying a business operating on the premises where located. This sign does not include Home Occupation or Bed and Breakfast business.

Sign-Construction Site: A sign identifying a construction site.

Sign-Directional: A sign which sets forth no advertising display, used to direct visitors to a land use.

Sign-Entrance Way: A sign that identifies a residential or industrial subdivision, apartment complex, condominium development, or permitted institution.

Sign-Event: A on-premises sign placed for a period of time greater than two (2) days that is used to identify an event that is temporary in nature such as Home Tours, bazaars, races, tours and quasi-public fund raising events.

Sign-Event-Directional: A off-premises sign placed for a period of time greater than two (2) days that is used to identify the route to an event that is temporary in nature such as bazaars, races, tours and quasi-public fund raising events. Directional Event Signs include such things as marks painted on or along the road surface whether or not approved by the Department of Transportation or County Road Commission.

Sign Face: That part of a sign structure which is used to graphically communicate a message or announcement.

Sign- Farm Processing Facility: An on-premises sign identifying a Farm Processing Facility.  
**(ADDED BY AMENDMENT 174)**

Sign-Flashing: Any pulsating illuminated (including sequentially reflectorized) sign .

Sign-Ground Pole: A sign supported by one (1) or more uprights, poles, braces or some other structure, placed in the ground surface and not attached to any building.

Sign-Illuminated: A sign that utilizes artificial light by either emission or reflection.

Sign-Informational: A small, on premises sign used to identify architectural features of a land use such as building entrances, drop boxes, rest rooms, handicapped ramps or similar features.

Sign-Ingress-Egress: A small sign located adjacent to the entrance or exit drives of a business to identify the points of vehicular ingress and egress.

Sign-Marquee/Awning: An "Identification of Business" sign attached to a marquee, canopy, or awning projecting from the building.

Sign-Name Plate: A non-electric on-premises identification sign giving name and address of an occupant.

Sign-Off-Premises: A sign that identifies or communicates a message relating to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

Sign-On-Premises: A sign identifying or advertising a business, person, activity or service located on the premises where the sign is located.

Sign-Pennant: A small, often triangular, tapering flag used in multiples as a device to call attention, on a temporary basis, to a land use or activity.

Sign-Portable: A freestanding sign not permanently anchored or secured to the ground. Trailers or similarly mounted signs. Signs on parked vehicles where the sign is the primary use of the vehicle or wheeled object. A vehicle which because of its placement and regularity of position serves the same purpose as a portable sign.

Sign-Private Property/Access Control: A sign placed to control access to a property such as: "No Hunting"; "No Trespassing" or "Private Property".

Sign-Promotional: A sign that is placed in a window for a limited period of time and is used to advertise a sale, a special event, or similar activity.

Sign-Real Estate: A temporary sign advertising the real estate upon which the sign is located as being for lease, sale/auction, or seasonal rent.

Sign-Roadside Stand: A sign located on the same premises with a roadside stand which identifies the roadside stand and may also identify products to be sold at the roadside stand.

Sign-Roof: Any sign which is on or attached to the roof of a building.

Sign-Wall: A sign which is attached directly to or painted upon a building wall.

Sign-Window: A permanent sign which is installed inside a window and is intended to be viewed from outside.

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

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

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

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

Street: Provides direct access to individual abutting properties.

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

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

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

Township Board: Peninsula Township Board.

Trailer Coach: Mobile Home as defined herein.

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

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

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



WECS shall mean a combination of:

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

Tower Height:

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

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

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

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

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

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

Yard: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein. The measurement of a yard shall be construed as the minimum horizontal distance between the lot line and the building line.

Yard, Rear: An open space on the same lot with a main building unoccupied except as herein permitted, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the sidelines of the lot. The depth of the rear yard shall be measured between the rear line of the lot, or the center line of the alley, if there be any alley, and the rear line of the building.

Yard, Side: An open, unoccupied space on the same lot with the building, situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a front line shall be deemed a side line.

Zoning Permit: Permit required for any change in use of land, or structure in accordance with the provisions of this Ordinance. See Land Use Permit.



## ARTICLE IV

### ADMINISTRATION AND ENFORCEMENT

#### Section 4.1 Administration:

Section 4.1.1 Zoning Administrator: A Zoning Administrator shall be appointed by and on such terms as shall be determined by the Township Board; provided that the Zoning Administrator shall not be a member of the Township Board, The Planning Commission, nor the Board of Appeals. The Zoning Administrator shall perform such duties as the Township Board may prescribe, in addition to any duties prescribed in this Ordinance. To be eligible for appointment, the Zoning Administrator shall be generally informed on good building construction, on good practice in fire prevention, and the proper installation of safety, health and sanitary facilities. The Zoning Administrator shall be in good health and physically capable of fulfilling the duties set forth in Section 4.1.2. In case the Zoning Administrator is personally interested in the construction of any building subject to the provisions of this code, the Township Board shall designate some other person to examine the plans, to inspect such building, and to issue the necessary permits, approvals and certificates. Compensation for the Zoning Administrator shall be established by the Township Board.

Section 4.1.2 Duties: It shall be the duty of the Zoning Administrator to receive applications for land use permits and issue or deny the same; to inspect buildings or structures; to determine compliance with the land use permits issued in compliance with this Ordinance; and to be in charge of the enforcement of this Ordinance. The Zoning Administrator and the Township's Ordinance Enforcement Officer, appointed by the Township Board pursuant to the Ordinance Enforcement Officer Ordinance, are hereby authorized to Investigate ordinance violations; serve and issue notice of violations; serve and issue appearance tickets as authorized under Chapter 4 of the Code of Criminal Procedure Act, Public Act 175 of 1927, as amended (MCL 764.9c); and appear in court or other judicial proceedings to assist in the prosecution of Zoning Ordinance Violations.

**(REVISED BY AMENDMENT 167)**

#### Section 4.1.3 Land Use Permits:

- (1) General: Any individual, corporation, association, officer, department, board or bureau of the State, County or Township planning to erect or move a structure to the extent of more than twenty five (25) square feet of floor area or to establish a new use for any premises in any land use district, shall file an application in writing with the Zoning Administrator for a land use permit. Said Zoning Administrator shall issue a "Land Use Permit" if such planned building or structure or mobile home or land use is in compliance with the provisions of the Ordinance. The application shall be on a form prescribed by the Zoning Administrator and approved by the Township Board. The applicant shall furnish permits or approvals from the Grand Traverse - Leelanau - Benzie District Health Department, The Grand Traverse County Road Commission, the Michigan Department of Natural Resources and the Grand Traverse County Soil Conservation District and plans which will meet the requirements of Section 7.2.5 of the Zoning Ordinance before the Zoning Administrator may issue a permit. Each land use permit shall be issued in triplicate and the copies shall be distributed as follows: one to the applicant which he is to retain until construction is completed; one to the

Township Supervisor; and one to be retained by the Zoning Administrator as a part of the permanent records of the Township. The Zoning Administrator shall promptly inform the applicant of the denial of a "Land Use Permit" if such planned building or structure or land use does not comply with the provisions of this Ordinance.

- (2) Evidence of Ownership: All applications for permits under the provisions of this Ordinance shall be accompanied with evidence of ownership of all property affected by the coverage of the permit.
- (3) Property Boundaries: The Zoning Administrator shall require property boundaries to be located and marked by a registered land surveyor. In case of properties located along a shoreline, if there is any question of location of the "ordinary high water mark", the Zoning Administrator shall also require this level to be set and marked by a registered land surveyor.
- (4) Voiding of Permit: Any permit granted under this section shall become null and void after one (1) year from the date of granting such permit unless the development proposed shall have passed its first building inspection. Before voidance is actually declared, the Zoning Administrator shall notify the applicant of such voiding action by sending a notice by certified mail to the applicant at the address indicated on the permit application.
- (5) Inspection: The development or usage proposed by a zoning permit shall be subject to two (2) inspections, the first prior to the issuance of a building permit, and the second when the building is completed. It shall be the duty of the permit holder to notify the Zoning Administrator regarding the time that construction will be ready for inspection. Failure of the permit holder to make proper requests for inspection shall automatically cancel the permit, requiring the issuance of a new permit before occupancy may be permitted.

Section 4.1.4 Fees: The fees for land use permits shall be established by the Township Board. Fees for inspection and the issuance of permits or certificates required under this Ordinance may be collected by the Zoning Administrator in advance of issuance. The amount of such fees is shown in the schedule of fees established by the Township Board and shall cover the cost of inspection and supervision resulting from the enforcement of this Ordinance.

Section 4.2 Enforcement:

Section 4.2.1 Violations and Penalties: Any person, firm, association, corporation or other entity which shall violate any provision of this Ordinance in any particular, or who fails to comply with any of the regulatory measures or conditions imposed by the Zoning Board of Appeals or the Township Board pursuant to this Ordinance or otherwise pursuant to Michigan law, shall, unless such violation has abated, ceased to exist or otherwise been remedied within fifteen (15) days after being provided with written notice of such violation from the Enforcement Officer, be deemed. to be responsible for a municipal civil infraction as defined by Michigan statute, which shall be punishable by a civil fine for each violation to be determined by the Court, along with costs. which may include all expenses, direct and indirect, to which the Township has been put in connection with municipal infraction. Costs of not more than \$500.00 shall be ordered.

A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan law. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance. Provisions of this Ordinance may also be enforced by suit for injunctive relief. **(REVISED BY AMENDMENT 167B)**

Section 4.2.2 Conflicting Regulations: In the interpretation, application, and enforcement of the provisions of this Ordinance, whenever any provision or limitation imposed or required by the provisions of this Ordinance are more stringent than any other law or ordinance, then the provisions of this Ordinance shall govern, provided that whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such other law or ordinance shall govern.

## ARTICLE V

### BOARD OF APPEALS

#### Section 5.1 Creation and Membership:

Section 5.1.1 Establishment: There is hereby established a Board of Appeals in accordance with Act 184 of the Public Acts of Michigan of 1943, as amended. The Board of Appeals shall perform its duties and exercise its powers as provided by Sections 18 through 23, of the said Act, as amended, and in such a way that the objectives of this Ordinance may be equitably achieved; that there shall be provided a means for competent interpretation and controlled flexibility in the application of this Ordinance; that the health, safety and welfare of the public be secured; and that substantial justice be secured.

Section 5.1.2 Membership, Terms of Office: There shall be a Board of Appeals which shall consist of five members appointed by the Township Board. The first member of such Board shall be a member of the Township Planning Commission. The remaining members of the Board shall be selected from the Electors of the township residing outside of incorporated cities and villages. The members selected shall be representative of the population distribution and of the various interests present in the Township. One member may be a member of the Township Board. An elected officer of the Township shall not serve as chairman of the Board of Appeals. An employee or contractor of the Township Board may not serve as a member or an employee of the Township Board of Appeals. The total amount allowed the Board of Appeals in any one year as per diem or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum which sum shall be appropriated annually in advance by the Township Board. Members of the Board of Appeals shall be removable by the Township Board for nonperformance of duty or misconduct in office upon written charges and after public hearing.

A member shall disqualify himself from a vote in which he has a conflict of interest. Failure of a member to disqualify himself from a vote in which he has a conflict of interest shall constitute misconduct in office. The term of each member shall be for 3 years, except that of the members first appointed, two shall serve for 2 years and the remaining members for 3 years. A successor shall be appointed not more than one month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.

Section 5.2 Meetings and powers: Meeting of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board in its rules of procedure may specify. The Chairman or in his absence the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the Board of Appeals shall be open to the public. The Board shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk and shall be a public record. The Board shall not conduct business unless a majority of the members of the Board are present.

Section 5.3 Duties; Rules; Hearing and Decision of Appeals; Right to and Grounds of Appeal: The Board of Appeals shall act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of the Zoning Maps, and may fix rules and regulations to govern its procedures sitting as such a Board of Appeals. It shall hear and decide appeals from and review any order, requirements, decision or determination made by the administrative official charged with enforcement of this Ordinance. It shall also hear and decide all matters referred to it or upon which it is required to pass under this Ordinance. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the Township, County or State. The grounds of every determination shall be stated.

Section 5.4 Time to and Notice of Appeal; Transmission of Record: Such appeal shall be taken within such time as shall be prescribed by the Board of Appeals by general rule, by the filing with the Zoning Administrator or other officer from whom the appeal is taken and with the Board of Appeals of a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed was taken.

Section 5.5 Stay of Proceedings Pending Appeal: An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeals shall have been filed with him that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court on application, on notice to the officer from whom the appeal is taken and on due cause shown.

Section 5.6 Hearings and Notices; Right to be Heard; Disposition of Appeals; Decision not Final: The Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such Ordinance, the Board of Appeals shall have the power in passing upon appeals to vary or modify any of its rules, regulations or provisions so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done. The decision of the Board of Appeals shall not be final, and any person having an interest affected by this Ordinance shall have the right to appeal to the Circuit Court.

Section 5.7 Duties and Powers: The Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms or intent of this Ordinance, but does have power to act on those matters where by statute, or this Ordinance, provision is made for an administrative review, interpretation, variance, exception, or special approval permit as defined therein.

Section 5.7.1 Review: The Board shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other official in administering or enforcing any provisions of this Ordinance.

Section 5.7.2 Interpretation: The Board of Appeals shall have the power to:

- (1) Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of this Ordinance.
- (2) Determine the precise location of the boundary lines between zoning districts.
- (3) Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district.

Section 5.7.3 Variances: The Board shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, PROVIDED ALL of the BASIC conditions listed herein and any ONE of the SPECIAL conditions listed thereafter can be satisfied.

- (1) Basic Conditions: That any variance from this Ordinance:
  - (a) Will not be contrary to the public interest or to the intent and purpose of this Ordinance.
  - (b) Shall not permit the establishment within a district any use which is not permitted by right, under special conditions, or by special use permit within that zone district, or any use or dimensional variance for which a conditional use permit is required.
  - (c) Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.
  - (d) Is not where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.
  - (e) Will relate only to property that is under control of the applicant.



- (2) Special Conditions: When ALL of the foregoing basic conditions can be clearly demonstrated:
- (a) Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Ordinance, these hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
  - (b) Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or uses in the same zoning district. Such circumstances or conditions shall not have resulted from any act of the applicant subsequent to the adoption of this Ordinance.
  - (c) Where the lot or parcel of land was of legal record or had been laid out by a registered surveyor prior to the effective date of this Ordinance.
  - (d) Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.
- (3) Rules: The following rules shall be applied in the granting of variances:
- (a) The Board may specify, in writing, such conditions regarding the character, location, and other features that will in its judgment, secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate the permit granted.
  - (b) Each Variance granted under the provisions of this Ordinance shall become null and Void unless: The construction authorized by such variance or permit has been commenced within six (6) months after the granting of the variance; and the occupancy of land, premises, or buildings authorized by the variance has taken place within one (1) year after the granting of the variance.
  - (c) No application for a variance which has been denied wholly or in part by the Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.
- (4) Additional Conditions in Determining Variances for Decks or Deck with Attached Seating and/or Attached Storage within the Great Lakes Ordinary High Water Mark Setback: In determining whether to grant a variance permitting construction of a deck or of a deck with attached seating and/or attached storage within the ordinary high water mark setback, the Board of Appeals shall, in addition to considering Basic and Special Conditions established by this Ordinance, consider the following conditions:
- (a) The physical characteristics of the waterfront property which may require the construction of a deck to make use of that property.
  - (b) The proximity of the proposed structure to the main traveled portion of the roadway so as to insure the safety of users and/or property.

- (c) The extent to which the proposed structure will obstruct the public view of the shoreline.
- (d) The degree of exposure of the structure to damage by the elements.
- (e) The aesthetics of the structure as viewed from both the land and the water.

Section 5.7.4 Special Exceptions: When, in its judgment, the public welfare will be served and the use of neighboring property will not be injured thereby, the Board may, in a specific case, after due notice and public hearing and subject to appropriate conditions and safeguards, determine and vary the application of the regulations of this Ordinance in harmony with the general character of the district and the intent and purposes of this Ordinance. The granting of a special exception shall in no way constitute a change in the basic uses permitted in the district affected nor on the property wherein the exception is permitted. The Board may issue either temporary or conditional permits as special exceptions for the following land and structure uses:

- (1) Temporary permits: For temporary uses and temporary structures, partial structures including garage and basement dwellings, subject to the following procedures and limitations:
  - (a) An application for a permit for the erection or movement of a temporary structure for dwelling purposes shall be made to the Board on a special form used exclusively for that purpose.
  - (b) A temporary permit shall not be granted unless the Board finds adequate evidence that the proposed location of the use will not be detrimental to property in the immediate vicinity; and that the proposed water supply and sanitary facilities have been approved by the Health Department.
  - (c) The Board may impose any reasonable conditions in addition to the district requirements in which the use is proposed, including setbacks, land coverage, off-street parking, landscaping, and other requirements deemed necessary to protect adjoining properties and the public welfare. The violation of any such condition shall automatically invalidate the permit.
  - (d) The permit issued shall clearly set forth the conditions under which the permit is granted and shall state that the proposed temporary dwelling structure is to be vacated upon expiration of a specific time limit not to exceed twelve (12) months. The permit may be renewed in the case of mobile homes if the conditions of (a) above can be met again.
- (2) Conditional Permits: When conditions exist that are unique to a particular situation, a conditional permit may be issued with specific limitations imposed by the Board. The land or structure use may be permitted to be established and to continue in use as long as the conditions unique to the use exist. The permit may be canceled when the conditions upon which the permit was issued cease to exist. The permit issued shall contain all the specified conditions under which continued use may be allowed. Conditional permits may be issued for the following uses:

- (a) The Board may authorize the conversion of existing single-family dwellings to two-family dwellings in an Agricultural District where adequate off-street parking space can be provided in accordance with standards stated in Article VII, Section 7.6.3.
- (b) Landlocked Lots: In cases where landlocked lots existed prior to the date of this amendment, the Board of Appeals may authorize the use of such lots for a permitted use PROVIDED such use is determined to have adequate permanent access across land which is not required by any other lot to meet the standards of this Ordinance and FURTHER that the use of the landlocked lot meets all the other standards of this Ordinance.
- (c) The Board may authorize the use of a lot in the Agricultural District of less than five (5) acres where a farmhouse or tenant house existed as part of a farm operation and subsequently through consolidation of farms or other actions is no longer necessary as a farm-related residence provided:
  - 1. The lands immediately surrounding the residence are agricultural lands as shown on the Agricultural Preservation Map adopted by Planning Commission as an amendment to the Township Comprehensive Plan; and
  - 2. The lands immediately surrounding the residence continue to be actively farmed along with the balance of the farm; and
  - 3. The minimum lot size is not less than one (1) acre with a lot width not less than 210 feet; and
  - 4. The density on the remaining farmland is reduced by one dwelling unit through a recorded deed restriction; and
  - 5. It can be demonstrated that no farmland would be lost from production should the smaller lot be allowed.

**(REVISED BY AMENDMENT 113B)**

Section 5.8 Essential Services: The Board of Appeals shall have the power to permit the erection and use of a building or an addition to an existing building, or a public service corporation or for public utility purposes, in any permitted district to a greater height or of larger area than the district requirements herein established, and permit the location in any use district of a public utility building, structure or use if the Board shall find such use, height, area, building or structure reasonably necessary for the public convenience and service. Personal Wireless Communications towers and facilities shall not be considered Essential Services.

Section 5.9 Bond for Compliance:

Section 5.9.1 Bond Authorized: In authorizing any variance, or in granting any conditional, temporary or special approval permits, the Township Board of Appeals may require that a bond be furnished to insure compliance with the requirements, specifications and conditions imposed with the grant of variance or permit and to insure the discontinuance of a temporary use by a stipulated time.



## ARTICLE VI

### ZONING DISTRICTS, MAP AND SCHEDULE OF REGULATIONS

#### Section 6.1 General Provisions:

Section 6.1.1 Districts Established: For the purpose of this Ordinance the Township of Peninsula is hereby divided into the following districts:

R-1A Rural and Hillside Residential  
R-1A Planned Unit Development  
R-1B Coastal Zone Residential  
R-1B Planned Unit Development  
R-1C Suburban Residential  
R-1C Planned Unit Development  
R-1D Community Residential  
R-1D Planned Unit Development  
C-1 Commercial  
A-1 Agricultural

Section 6.1.2 Zoning Districts Map: The boundaries of the districts are hereby defined and established as shown on a map entitled "Zoning District Map of Peninsula Township, Grand Traverse County, Michigan" which accompanies this Ordinance and which map with all explanatory matter thereon is hereby made a part of this Ordinance.

The official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk and bearing the following words: "This is to certify that this is the official Zoning Map (consisting of 24 pages), referred to in Article VI, Section 6.1.2 of the Peninsula Township Zoning Ordinance adopted on June 5, 1972." If in accordance with the provisions of this Ordinance and of the applicable statute, amendments effecting changes are made in district boundaries or other matter portrayed on the official Zoning Map, such changes shall not be considered final, and zoning permits shall not be issued until changes have been made on the official Zoning Map. Such Map changes shall be made within five (5) normal working days after the effective date of the Ordinance amendment. Each Map change shall indicate the zoning amendment number on the Map. Two (2) copies of the official Zoning Map shall be maintained and kept up to date, one (1) with the Township Clerk and one (1) in the Zoning Administrator's office.

Section 6.1.3 Interpretation of District Boundaries: Where uncertainty exists with respect to the boundaries of any of the districts indicated on the Zoning Map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the streets or highways shall be considered to be such boundaries.
- (2) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- (3) Boundaries indicated as approximately following Township boundary lines shall be construed as following such Township boundary lines.

- (4) Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance therefrom as indicated on the official Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the official Zoning Map.
- (5) Boundaries following the shoreline of a stream, lake, or other body of water shall be construed to follow such shorelines; on the Great Lakes, the boundaries shall be the ordinary high water mark, elevation 579.8 feet above sea level, International Great Lakes Datum of 1955.
- (6) Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two (2) districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Board of Appeals.

Section 6.1.4 Scope of Regulations: No building or structure, or part thereof, shall be erected, moved, constructed, or altered, and no new use or change in use shall be made unless in conformity with the provision of this Ordinance and with the regulations specified for the district in which it is located.

- (1) The regulations applying to each district include specific limitations on the use of land and structure, height and bulk of structures, density of population, lot area, yard dimensions, and area of lot that can be covered by each structure.
- (2) The Board of Appeals shall have the power to classify a use which is not specifically mentioned along with a comparable permitted or prohibited use for the purpose of clarifying the use regulations in any district.

Section 6.1.5 Categories Within Zone Districts: In order to insure all possible benefits and protection for the Zone Districts in this Ordinance, the land uses have been classified into three (3) categories:

- (1) Uses permitted by RIGHT. The primary uses and structures specified for which the Zone District has been established.
- (2) Uses permitted UNDER SPECIAL CONDITIONS. Uses and structures compatible with the primary uses and structures permitted within the Zone District but subject to the special conditions specified with the Zone District.
- (3) Uses permitted by SPECIAL USE PERMIT. Uses and structures which have been generally accepted as reasonably compatible with the primary uses and structures within the Zone District, but could present potential injurious effects upon the primary uses and structures within the Zone District, therefore require special consideration in relation to the welfare of adjacent properties and to the community as a whole. All such uses proposed shall be approved in accordance with the provisions of Article VIII of this Ordinance.

Section 6.2 R-1A Districts: Rural and Hillside Residential:

Section 6.2.1 Intent and Purpose: This section establishes the R-1A Rural and Hillside Residential District to set standards for the continued development of: (1) rural areas suited to very low density residential development; (2) fragile hillside areas; and (3) interface areas between more intensive residential uses and agricultural land uses. This district includes existing low density residential developments as well as areas within which such development appears both likely and desirable.

Section 6.2.2 Uses Permitted by Right:

(1) Single Family Dwellings:

(2) Customary Uses and Structures

- (a) Accessory Buildings: Accessory buildings such as farm buildings and a detached garage for the storage of automobiles shall be permitted with a single-family dwelling; provided, however, that the farm buildings and garage shall comply with the setback restrictions and side yard requirements.
- (b) Guest Houses: A guest house detached from the dwelling shall not be permitted on the same lot with a single-family dwelling unless the lot has a width twice the normal width, and the guest house is so located as to be qualified as a single-family dwelling in its own right on one-half the width of the lot of the principal dwelling.
- (c) Boat Hoists and Docks:
  - 1. A maximum of one (1) dock per parcel plus one boat hoist, is permitted per fifty (50) feet of shore line, measured at the ordinary high water line, provided that a pre-existing lot of record is allowed at least one dock and one boat hoist.
  - 2. Boat hoists and docks are allowed on properties of insufficient size for a single-family dwelling, provided the lot is a pre-existing lot of record or has a minimum width of fifty (50) feet and also provided that provision is made for a minimum of two (2) parking places off the adjacent road right-of-way. In the event of properties owned by the same party being separated by a thoroughfare, parking may be provided on the inland parcel and need not be in excess of that required for a single-family dwelling.
  - 3. No dock shall be wider than seven (7) feet and no longer than necessary to provide adequate water depth for the boat using the dock or boat hoist.
  - 4. Shared waterfront ownership is allowed pursuant to Section 7.4.2. **(REVISED BY AMENDMENT 109C)**

(d) Decks and Storage: **(REVISED BY AMENDMENT 140)**

1. Intent It is the intent of this section to allow reasonable use of shoreline property by allowing decks with attached seating and enclosed storage to be located in front yard and ordinary high water line setback areas. It is also intended to only allow decks in locations where shoreline vegetation can be retained to protect scenic beauty, control erosion, reduce septic tank effluent and reduce other nutrients from entering the water. It is recognized that there are shoreline areas where decks and/or storage are not appropriate or reasonable because of the limited area between the road right-of-way and the Ordinary High Water Line. It is also recognized that the levels of the Great Lakes vary over time, and it can be hazardous to build structures where they may be damaged by high water or become a hazard to boats if they are destroyed by wave action.
2. Decks (including attached seating and/or attached storage) shall be allowed within the Ordinary High Water Line and the Front Yard setbacks in the case of properties located along the Great Lakes shoreline, provided:
  - (a) All parts of the deck, attached seating, storage and railing shall be constructed within a building envelope as provided below: (See Figure 6-1)
    - i. Located a minimum distance of 35 feet from the Ordinary High Water Line which is 581 feet above sea level (USGS).
    - ii. Located above the Flood Elevation Line which is 584 feet above sea level (USGS).;
    - iii. Located outside the fifteen foot side yard setbacks;
    - iv. The floor of the deck at any point shall not have a height greater than thirty (30) inches above the finished grade of the site and no higher than the center of the traveled surface of the adjacent roadway.
    - v. Attached Seating shall be no higher than 34 inches above the floor of the deck and no higher than 34 inches above the center of the traveled surface of the adjacent roadway.
    - vi. Enclosed storage shall be no higher than 34 inches above the floor of the deck or 64 inches above finished grade, whichever is higher, provided that it is no higher than 34 inches above the center of the traveled surface of the adjacent roadway.
  - (b) There shall be no walls, roofs or other construction attached to a deck other than the allowed seating, storage and railings required to meet the minimum requirements of construction codes.
  - (c) Unattached items such as umbrellas, grill, swing or hammock are allowed as accessories to a deck.
  - (d) Enclosed storage areas shall be constructed so as to conceal all stored material.
  - (e) The total area of land covered by the deck, seating and storage shall not exceed ten (10%) percent of that land area within the side yard setbacks extending: a) from the road right-of-way to the ordinary high water mark; or b) where there is a residence on the

parcel, from a line parallel to the road right-of-way and touching the closest part of the foundation of the residence to the ordinary high water line.

(f) No deck shall be constructed within a road right-of-way.

(e) Rental of Non-owner Occupied Dwelling: **(REVISED BY AMENDMENT 182)**

1. Intent -This is a clarifying amendment that confirms the determination by the Zoning Board of Appeals on September 9, 1999, that the minimum length of time that a dwelling may be rented and be in conformance with the intent of the ordinance is one month and reaffirmed by the Zoning Board of Appeals on September 11, 2008 as 30 days. This is also to distinguish between rental of a "non-owner occupied dwelling" and "Bed and Breakfast" which is rental of a owner occupied dwelling.
2. A property owner may rent a non-owner occupied dwelling, provided that the minimum length of time that the dwelling may be rented is 30 days.

(3) Public Recreation:

(4) Storage of Trailer Units:

(5) The Keeping of Domestic Pets: Provided that all pets are so maintained as to not constitute a public nuisance and provided further that in the event the same are horses or livestock, then the sheltering structure shall be at least two hundred (200 feet) from any lot line and the pasturing area shall be at least one hundred (100 feet) from any lot line; and both the pasturing area and the sheltering structure shall be at least two hundred (200 feet) from any well or residence.

(6) General Farming and Horticultural Uses: Including the carrying on of usual soil practices of cultivation, spraying and fertilization including the use of barnyard and poultry manure, and also including migrant workers' quarters and roadside stands for the sale of agricultural products, but excluding the raising and grazing of farm animals and fowl excepting as permitted in (5) above.

(7) Family Day Care Homes and Group Day Care Homes:

- (a) Such uses shall be duly licensed by the State Department of Social Services.
- (b) Fencing of outdoor play areas may be required should it be determined by the Zoning Administrator that conditions exist in the immediate vicinity which could be hazardous to the user children or that objectionable trespass could occur onto neighboring properties by the user children. The Zoning Administrator shall make such determination by contacting adjacent property owners by U.S. Mail and allowing a ten (10) day response time to receive comments from the neighbors regarding such probability.
- (c) The Zoning Board of Appeals may, at any time, limit the hours of operation of a family day care home should they receive any written complaints regarding operating hours.

2. Figure 6-1.

Section 6.2.3 Uses Permitted Under Special Conditions: The following uses of land and structures shall be permitted, subject to the conditions hereinafter imposed for each use.

- (1) Temporary Buildings: For uses incidental to construction work; such buildings shall be removed upon the completion or abandonment of the construction work or within the period of one (1) year, whichever is the lesser time period. Such structures shall not be used for dwelling purposes unless they meet the requirements of Section 7.2.1.
- (2) Home Occupations: The intent of this Section is to preserve the existing residential characteristics in individual neighborhoods while encouraging some home occupations. Peninsula Township's master policy plan calls for residential neighborhoods that provide for low impact, environmentally sensitive housing that preserves the quality of life currently enjoyed by its resident, consequently, home occupations allowed in these zones should not change the existing characteristics of a given neighborhood. In this regard, home occupations that emit noise, dust, odor or vibrations, discernable at property boundaries, would be excluded. Other physical changes such as, retail sales made to the general public, increased light or glare or noticeably increased volume of traffic brought about by a home occupation that would exert a visible, physical impact on a given neighborhood would not be allowed.
  - (a) A "Home Occupation Permit" shall be obtained from the Zoning Administrator prior to beginning a home occupation and shall be issued to the person conducting the home occupation and shall not run with the land. Such permit shall be revoked should the home occupation at any time not meet the provisions of this Ordinance. Any permit shall become null and void one (1) year after issuing the permit unless the home occupation has been established and is operating.
  - (b) The following incidental uses are allowed and do not need a permit:
    - 1) Garage Sales provided they occur not more than twice in any calendar year.
    - 2) Party Sales for the purpose of selling merchandise or taking orders are allowed.
    - 3) An Office in the residence is allowed provided there are no employees except family members living at the residence, and further provided that no customers or clients arrive at the residence.
  - (c) Home Occupations are permitted in residential structures when carried on by the residents of the dwelling along with up to two (2) full time equivalent employees within either the dwelling or an accessory building.
  - (d) The area utilized for the Home Occupation shall not exceed one-fourth (1/4) of the floor area of one (1) story of the dwelling including attached garages and excluding porches and decks whether or not the dwelling or an accessory building is so utilized.



- (e) No outdoor activities nor outdoor storage in excess of those normally found in the immediate neighborhood shall be allowed in connection with such use. The Zoning Administrator shall make such a determination prior to issuing a land use permit.
- (f) Home Occupation activities shall not discharge any odor or dust, nor shall any vibration, noise, glare be discernable at property boundaries and all lighting shall conform to the requirements of Section 7.14. **(REVISED BY AMENDMENT 175B)**
- (g) Home Occupations shall not be permitted if the occupation would normally have deliveries or pick-ups by semi-trailer.
- (h) No hazardous or controlled substances or materials shall be used or stored on the premises unless prior approval is obtained from proper authorities.
- (i) No retail sales shall be permitted on the premises, however, incidental sales previously made off-premises or by phone may be picked up at the premises. Direct sales of products off display shelves or racks is not allowed.
- (j) No more than four (4) vehicles shall be parked in the driveway at any given time except for personal or private activities. Parking spaces shall be provided so that no cars are parked on the lawn or on the shoulders of the road.
- (k) The occupants of a residence may give instruction in a craft or fine art within the residence, provided, that the other requirements of this section are met and a Home Occupation Permit is issued. Sales of incidental items related to the instruction are allowed.
- (l) In no event shall the use of a building for a home occupation alter the residential character of the building nor shall it require external alterations, construction or repair of any kind such as, converting a garage door into a store front with display windows, which would not be customary to residential use.
- (m) Existing garages shall be retained for inside parking of vehicles. **(REVISED BY AMENDMENT 135)**

Section 6.2.4 Uses Permitted by Special Use Permit: The following uses of land and structures may be permitted by the application for and the issuance of a special use permit when specified procedures and requirements, as outlined in the Article and Sections cited, are complied with:

- (1) Planned Unit Development: Subject to all requirements of Article VIII, Section 8.3.
- (2) Special Open Spaces: Subject to all requirements of Article VIII, Section 8.7.3(3).
- (3) Wind Energy Conversion Systems: Subject to all requirements of Article VIII, Section 8.7.3 (9).



- (4) Mobile Homes in Residential Districts: Subject to all requirements of Article VIII, Section 8.9.
- (5) Bed and Breakfast Establishments: Subject to all requirements of Article VIII, Section 8.7.3(6).
- (6) Institutional Structures and uses subject to the provisions of Article VIII, Section 8.6.

Section 6.2.5 Driveways: To reduce fire hazard and make possible access to all dwellings by the Fire Department, no driveways shall have a width or overhead clearance less than thirteen (13) feet from bordering trees, overhead wires and other obstructions.

Section 6.2.6 Completion: Any dwelling, accessory building or addition thereto must be completed on the exterior surface with a suitable finishing material including painting or staining in the case of wood, within two (2) years from date of issuance of the land permit and prior to its occupancy.

Section 6.2.7 Area and Bulk Requirements: Shall be subject to the provisions of Section 6.8 "Schedule of Regulations" limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

Section 6.3 R-1B District: Coastal Zone Residential District:

Section 6.3.1 Intent and Purpose: This section establishes the R-1B Coastal Zone Residential District to set standards for the development of residential properties of a semi-rural character along lake shore drives and in areas of high scenic value where more intensive development would deteriorate the Peninsula environment, and less intensive development is not essential to maintenance of the established environment.

Section 6.3.2 Uses Permitted: All uses permitted by "Right", "Under Special Conditions" or by "Special Use Permit" in the R-1A District, subject to all restrictions specified therefor. Also permitted as of right:

- (1) Two-family dwellings.

Section 6.3.3 Uses Permitted Under Special Use Permit: The following uses of land and structures shall be permitted, subject to the conditions hereinafter imposed for each use:

- (1) Golf Courses and Country Clubs: Other than golf driving ranges and miniature golf courses, subject to the conditions set forth in Article VIII, Section 8.7.2 (4) and Section 8.7.3(4).
- (2) Institutional Structures and Uses: Subject to the provisions of Article VIII, Section 8.6.
- (3) Deleted by Amendment No. 67(4).

Section 6.3.4 Area and Bulk Requirements: Shall be subject to Section 6.8 "Schedule of Regulations" limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

Section 6.4 R-1C Districts: Suburban Residential Development:

Section 6.4.1 Intent and Purpose: This section establishes the R-1C Suburban Residential District to encourage medium density residential development associated with proximate areas of Traverse City. Such development shall fall within the logical service pattern of the Regional Wastewater Treatment System, whether or not serviced by that system.

Section 6.4.2 Uses Permitted: All uses permitted by "Right", "Under Special Conditions" or by "Special Use Permit" in the R-1A and R-1B Districts, subject to all restrictions specified therefor.

Section 6.4.3 Area and Bulk Requirements: Shall be subject to Section 6.8 "Schedule of Regulations" limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

Section 6.5 R-1D Districts: Community Residential:

Section 6.5.1 Intent and Purpose: This section establishes the R-1D Community Residential District to encourage moderately high density development where community services such as fire protection, schools, commercial development, community parks and services are available.

Section 6.5.2 Uses Permitted: All uses permitted by "Right", "Under Special Conditions" or by "Special Use Permit" in the R-1A, R-1B and R-1C Districts, subject to all restrictions specified therefor.

Section 6.5.3 Uses Permitted by Special Use Permit:

- (1) Mobile Home Park Developments shall be subject to the provisions of Article VIII, Section 8.2.

Section 6.5.4 Area and Bulk Requirements: Shall be subject to the provisions of Section 6.8 "Schedule of Regulations" limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

Section 6.5A P.U.D. Residential Districts:

Section 6.5A.1 Intent and Purpose: This section establishes the R-1A-PUD, R-1B-PUD, R-1C-PUD and R-1D-PUD, planned unit development residential districts to allow the planned development of areas of the township where conventional development practices are not suited to the terrain; or existing land use or natural environmental conditions make conventional development practices undesirable yet the density allowed is suitable to the intent of the conventional district designated.

Section 6.5A.2 Uses Permitted by Special Use Permit:

- (1) Planned unit developments subject to all requirements of Article VII, Section 8.1 and 8.3 and uses and standards established for the corresponding conventional district described respectively in Article VI, Section 6.2, 6.3, 6.4 and 6.5.

Section 6.6 C-1 Commercial:

Section 6.6.1 Intent and Purpose: This section establishes the C-1 Commercial District to allow for convenience type shopping for Township residents and for limited marina and transient lodging facilities. It is the purpose of this regulation to avoid undue congestion on major highways, to promote smooth and safe traffic flow along highway routes. Commercial activities within this district are those which primarily offer goods and services which are generally required by a family at intervals of a week or less.

Section 6.6.2 Uses Permitted Under Special Use Permits: The following uses of land may be permitted by the application for and the issuance of a special use permit when specified procedures and requirements, as outlined in Article VIII and sections cited, are complied with. All of the following uses must be conducted in a permanent, enclosed building unless otherwise provided herein.

- (1) Retail stores and shops including warehousing of products sold at retail on the premises, service institutions, utilities, restaurants and taverns, recreational unit sales, farm supply and implement dealers, professional offices and off street parking lots. Provided that requirements of Section 8.1.3 and 7.6 are met.
- (2) Gasoline Service Stations. Provided the site development requirements of Article VIII, Section 8.8 are met.
- (3) Marinas: Provided the site development requirements of Article VIII, Section 8.7.3 (6) are met.
- (4) Wind Energy Conversion Systems: Subject to all requirements of Article VIII, Section 8.7.3 (9).
- (5) Hotels, motels and tourist courts: Subject to all requirements of Article VIII, Section 8.10.
- (6) Self Service Storage Facility

Section 6.6.3 Site Development Requirements:

- (1) Yard Storage: Whenever a business establishment engages in storage of supplies, merchandise, containers or any other materials outside the confines of an enclosed building structure, it shall provide an enclosure of solid fence not less than six (6) feet in height around such yard storage area. The fence shall be constructed and maintained in a manner approved by the Zoning Administrator. The Zoning Administrator may permit substitution of a barrier or screen other than a fence when the same will serve the purpose of screening from vision, noise and odor.
- (2) Off Street Parking: As provided in Article VII, Section 7.6.

- (3) Landscaping: The front yard area and any side yard not used for parking or driveway space shall be planted and maintained in accord with an appropriate landscape design, as designated by the Township Board. **(REVISED BY AMENDMENT 144)**
- (4) Signs as allowed by Section 7.11.

Section 6.6.4 Area and Bulk Requirements Shall be subject to the provisions of Section 6.8 Schedule of Regulations.

Section 6.6.5 Self Service Storage Facility

Section 6.6.5.1 Intent

The Self-Service Storage Facility provides space for the dead storage of personal goods left for a period of time. A number of people desire storage in addition to that normally provided with their residence such as: Excess furniture after moving from a larger to a smaller dwelling; Storage of automobiles, boats, recreational vehicles, and all kinds of miscellaneous bulky possessions. There are commercial businesses that need places to store old records and files.

A Self-Service Storage Facility is to be located in one of the existing commercial areas in Bowers Harbor, Mapleton and Old Mission or in an area adjacent to these areas that is rezoned for commercial expansion. This is consistent with the Township Comprehensive Plan Commercial Policies.

Section 6.6.5.2 Uses:

- (14) Rental Space for dead storage of personal property only and no business activity other than rental of storage units shall be conducted on site.

Section 6.6.5.3 Standards:

- (1) Rental storage units shall not be used for the servicing or repair of motor vehicles, boats, trailers, lawn mowers and other similar equipment; or for office, retail, manufacturing or other similar uses.
- (2) No activities such as miscellaneous or garage sales shall be conducted on the premises.
- (3) All storage uses shall be inside an enclosed building.
- (4) An on-site residence for a resident manager may be approved by the Township Board as part of the business.
- (5) The lease shall include a statement of allowed uses and uses that are not allowed by this Section.
- (6) There shall be a designated manager to provide a security function; to insure that the conditions of the lease are met; and that the Self-Service Storage Facility is used for its designated purpose.

- (7) For Self-Service Storage Facilities with storage area of 20,000 square feet or more, a residence for a resident manager shall be required on the site as shown on an approved site plan.
- (8) Minimum Parcel Size Shall be 45,000 square feet with a minimum width of 150 feet. (80 10' by 20' units = 22,000 square feet with a 35% lot coverage by structures equals 44,000 square feet.)
- (9) Existing C-1 Zone Setbacks Front - 35'; Side 10'; Rear 30'. 35% lot coverage by structures.
- (10) Security fencing shall not include electrically charged, barbed wire or razor wire, and shall not be placed in a required front yard setback area.
- (11) Spacing between structures shall be a minimum of 20 feet and emergency access shall be provided to at least three sides of all structures.
- (12) Lighting: All lighting shall conform to the requirements of Section 7.14. **(REVISED BY AMENDMENT 175B)**
- (13) Signs shall comply with Section 7.11. Signs.
- (14) Vehicle Access: Access drives shall be designed to handle automobiles, vans, light trucks, and other two-axle vehicles. Access to all structures shall be as determined by the Township Board in consultation with the Peninsula Township Fire Chief.

Section 6.7 A-1 District: Agricultural:

Section 6.7.1 Intent and Purpose: This District is intended to recognize the unique ecological character of the Peninsula and to preserve, enhance, and stabilizing 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.

Section 6.7.2 Uses Permitted by Right:

- (1) One-family dwellings.
- (2) Two-family dwellings.
- (3) Mobile homes: Provided the mobile home shall meet the requirements of the Mobile Home Construction and Safety Standards Act (24 CFR part 3280) and bear a HUD label so indicating.
- (4) Field crop and fruit farming, truck gardening, horticulture, aviaries, hatcheries, apiaries, green houses, tree nurseries, and similar agricultural enterprises along with accessory uses incidental to the above.
- (5) Raising and keeping of small animals such as poultry, rabbits, and goats.
- (6) Raising keeping and boarding of livestock, such as cattle, hogs, horses, ponies, sheep,

and similar livestock, except feeder lots. **(REVISED BY AMENDMENT 155B) (REVISED BY AMENDMENT 162A)**

- (7) Customary home occupations.
- (8) Roadside stands selling regionally grown fresh and/or processed farm produce, raw forest products, cut flowers, potted plants, agricultural and forest products, but excluding items of a kind that are not grown regionally, and also excluding non-agricultural items and products the sale of which requires a permit from the Michigan Liquor Control Commission. Roadside stands are subject to the following terms and conditions: **(REVISED BY AMENDMENT 95)**
  - (a) The stand is not over 150 square feet in area. The 150 square foot area may be within a larger existing structure, so long as the larger structure meets all the setback requirements of the Agricultural District.
  - (b) Awnings up to 4 feet projection from the stand structure may be used on three sides of the structure. In the event that the 150 square feet is part of a larger structure the awning is allowed only on the portion making up the 150 square feet.
  - (c) There shall be a ratio of 1 parking space per 25 square feet of structure to the maximum 150 square feet. There shall be a minimum of five (5) parking spaces available and clearly marked with adequate turn around, so that all vehicles are furnished parking off the public right-of-way.
  - (d) No land use permit is required for a roadside stand if the structure is less than 25 square feet in area.
  - (e) If the roadside stand is less than twenty five (25) square feet in area or is larger than twenty five (25) square feet but is only left in place seasonally, the roadside stand may be located adjacent to the front lot line rather than meeting the front setback required by Section 6.8.1.
  - (f) It is the intent of this section to provide only for the limited seasonal sale of agricultural and related products, but not to encourage the size of investment in equipment that would require a commercial zone. **(REVISED BY AMENDMENT 86)**
- (9) Cemeteries, public or private.
- (10) Agricultural Labor Camp for less than five (5) migrant workers. **(REVISED BY AMENDMENT 90)**
- (11) Licensed Agricultural Labor Camp. **(ADDED BY AMENDMENT 90)**
- (12) Tenant house as a part of farm property for full-time farm employees associated with principal use and subject to the same height and setback requirements as the principal dwelling.

- (13) Public areas and Public parks such as recreation areas, forest preserves, game refuges, and similar public uses of low-intensity character.
- (14) Public and private conservation areas and structures for the conservation of water, soils, open space, forest and wildlife resources.
- (15) Customary uses and structures incidental to the permitted principal use of the premises as allowed in Section 6.2.2(2).
- (16) Mining or removal of top soil subject to provisions of Article VII Section 7.2.3.
- (17) Family Day Care & Group Day Care Homes subject to all requirements of Article VI, Section 6.2.2(7).
- (18) Barn Storage. **(ADDED BY AMENDMENT 131)**
  - (a) The intent of this use is to help make it economical for farmers to keep and maintain barns that might otherwise may be allowed to decay because they are obsolete. It is not intended to be a self-storage use where there is regular access to the rental space by owners of the stored materials.
  - (b) It is not intended to allow a property owner to build a barn just for rental storage, or to rent storage in a barn and then build a similar structure for farm use.
  - (c) The zoning administrator may issue a land use permit for rental of storage space in barns for boats, campers, farm equipment or similar items in barns in the Agricultural A-1 District, provided:
    - 1. The barn has been previously used for the storage of agricultural crops or for housing of livestock.
    - 2. The barn has been in existence in its present form for not less than twenty (20) years prior to the application for a land use permit for this use;
    - 3. The zoning administrator has determined that the barn is no longer used for farm purposes because of farm consolidation or changes in operations; and
    - 4. The barn is not increased in size or the exterior modified for the use, however, doors or the interior may be modified if necessary to make the barn suitable for storage.
    - 5. The rental of storage space in a barn shall be discontinued if a new barn is constructed for a use that can be accommodated in the old barn.
    - 6. The Zoning Board of Appeals may grant a variance from the minimum twenty (20) year requirement, provided the Zoning Board of Appeals determines that the request is consistent with the intent of this section to not allow a property owner to build a barn just for rental storage, or to rent storage in a barn and then build a similar structure for farm use.



(19) Farm Processing Facility **(ADDED BY AMENDMENT 139B)**

(a) Statement of Intent: It is the intent of this subsection to promote a thriving local agricultural production industry and preservation of rural character by allowing construction and use of a Farm Processing Facility. The Farm Processing Facility use includes retail and wholesale sales of fresh and processed agricultural produce but is not intended to allow a bar or restaurant on agricultural properties and the Township shall not approve such a license. The majority of the produce sold fresh or processed has to be grown on the specific farm operation (land owned or leased for the specific farm operation) of the party owning and operating the Specific Farm Processing Facility. Eighty-five (85) percent of the produce sold fresh or processed has to be grown on Old Mission Peninsula. Activities such as weddings, receptions and other social functions for hire are not allowed, however, participation in approved township wide events is allowed. It is not the intent to grant any vested interest in non-agricultural uses of any structure built for a Farm Processing Facility. This amendment is not intended to supersede any Conservation Easement. **(REVISED BY AMENDMENT 181)**

(b) Farm Processing Facility is permitted in the Agricultural A-1 Zone subject to the following: **(REVISED BY AMENDMENT 181)**

1. Retail and Wholesale Sales - Retail and Wholesale Sales (including tasting) of fresh or processed agricultural produce is allowed subject to the requirements of subsection (b) 2 and further provided:
  - i. The Liquor Control Commission and the Michigan Department of Agriculture shall control licenses and compliance;
  - ii. 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;
  - iii. 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;
  - iv. Sales of wine by the glass in a tasting room is allowed pursuant to the minimum requirements of the Michigan Liquor Control Commission rules and related Michigan Department of Agriculture permits regarding the sales of limited food items for on-premises consumption; and
  - 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 operation; b) Wine Glasses; c) Corkscrews; d) Cherry Pitter; and e) Apple Peeler; and
4. Specifically not allowed are unrelated ancillary merchandise such as: a) Clothing; b) Coffee Cups; c) Bumper Stickers.

2. Limitations on Sources of Produce

- I. Not less than 85 percent of all of the agricultural produce sold fresh or processed shall be grown on Old Mission Peninsula and a majority shall be grown on the land owned or leased for the specific farm operation by the same party owning and operating the specific Farm Processing Facility.
- II. If crop conditions or natural disaster result in a shortage of locally-grown fruit for a particular year; the Township Board may approve a larger proportion of produce grown off the land owned or leased for the specific farm operation by the same party owning and operating the Specific Farm Processing Facility for that particular year, provided that verification of such conditions are presented to the Township Board by a public organization representing the fruit growers of northwest Michigan that is duly recognized by the Township Board. Processed products produced in such a year shall not exceed the highest volume produced in any of the preceding five years.
- III. Wine shall be produced and bottled in the winery and the label shall include "produced and bottled by" immediately preceding the place where bottled or packed in accordance with the Bureau of Alcohol, Tobacco and Firearms law, article 27CFR, paragraph 4.35 (a) (1) definition for "Produced and Bottled By", meaning 75% of such products will be fermented and clarified on the site (this requirement is intended to comply with federal regulations and does not supersede the requirements of 85% grown on Old Mission Peninsula). Sparkling wine or sparkling juices may be "finished" and bottled off site and so labeled.
- IV. Any fruit beverage shall meet the same requirements as the wine in iii. above except for the labeling requirements.
- V. Dried fruit, a minimum of 85% by weight which is grown on Old Mission Peninsula and a minimum of 50% by weight which is grown on the farm, may be dried off premises and sold in the Farm Processing Facility retail room, provided, no more than the amount of fruit sent out for this processing is returned for retail sale.

3. Participation in "Township Wide Events" such as "Blossom Days" as specifically approved by the Township Board shall be allowed.

4. Parcel requirements:

- I. A total of forty (40) acres of land are required to be devoted to the operation of a farm processing facility.
- II. The forty (40) acres shall be located within Peninsula Township and shall be owned or leased for the specific farm operation by the same party owning the specific Farm Processing Facility.
- III. The parcel containing the specific Farm Processing Facility shall have a minimum area of 20 acres and a minimum parcel width of 330 feet.
- IV. The 20 acre minimum parcel (which may include public road rights-of-way) and the winery shall be owned by the same party. None of the 20 acres shall be alienable.
- V. The 20 acre parcel may be one parcel or two contiguous parcels and the contiguous parcels may be separated by a road.
- VI. There shall be no more than one house on the 20 acre parcel containing the Farm Processing Facility and no more than one house on the remaining required 20 acres.
- VII. Up to twenty (20) of the forty (40) acres does not have to be contiguous and may be either owned by, or leased with exclusive control and use transferred to the operator of the Farm Processing Facility.
- VIII. None of the minimum 40 acres shall be used to satisfy acreage density or open space requirement of any other food processing or other use in the Township while the farm processing facility use is in effect.
- IX. The number of allowed dwellings which may be built on the total 40 acres dedicated to the Farm Processing Facility use, shall be two. However, the right to build the remaining dwelling units may be extinguished by sale or donation, provided a permanent conservation easement to that effect is recorded with the County Register of Deeds. In addition the remaining dwelling units may be clustered on contiguous land, under the same ownership as the land from which the units are removed, providing that a permanent conservation easement is placed on the land from which the units are removed, in accordance with Section 8.3.6(3). The clustered dwelling units may not be placed on any part of the acreage which makes up the minimum 40 acres dedicated for the Farm Processing Facility use.
- X. If property is leased, the lease shall be for a minimum of one year, and the lease shall be recorded with the Grand Traverse County

Register of Deeds.

- XI. There shall be a minimum of 5 acres of crops grown on the same parcel as the Farm Processing Facility.
5. Setbacks: The minimum setbacks for the Farm Processing Facility including retail areas and customer parking shall be:
  - I. Side and rear yard 100 feet;
  - II. Front yard 50 feet;
  - III. Minimum of 200 feet from any pre-existing residence on adjoining property.
6. Farm Processing Facility Size: The total floor area above finished grade (one or two stories) of the Farm Processing Facility including retail space room shall be no larger 6,000 square feet or .5% of the parcel size whichever is less. The retail space shall be a separate room and may be the greater of 500 square feet in area or 25% of the floor area above finished grade. The facility may consist of more than one building, however all buildings shall be located on the 20 acre minimum parcel that contains the Farm Processing Facility. Underground buildings are not limited to, and may be in addition to, the 6,000 square feet of floor area provided that it is below pre-existing ground level and has no more than one loading dock exposed.
7. Pre-existing buildings (built prior to this amendment) may be used for a Farm Processing Facility provided that if it is more than 6,000 square feet in size, the retail space room shall not be larger than 1,500 square feet. The Zoning Board of Appeals may consider variances from setbacks for such pre-existing buildings if it shall first be determined that such extension shall not be inimical to public health, safety or welfare, particularly with regard to surrounding property owners.
8. Vested Interest: There shall be no vested interest in non-agricultural uses of the structures. Structures shall only be used for allowed uses in the A-1Agriculture District in the event that the Farm Processing Facility use is abandoned.
9. Parking: A minimum of one parking space for each 150 square feet of floor area in the retail/tasting area. Parking shall comply with Section 7.6 of the Zoning Ordinance.
10. Lighting: All lighting shall conform to the requirements of Section 7.14. **(REVISED BY AMENDMENT 175B)**
11. Signs: A Farm Processing Facility sign meeting the standards of Section 7.11 is allowed with a Food Processing Facility. **(REVISED BY AMENDMENT 174)**

12. Access: A driveway permit from the County Road Commission or M.D.O.T. shall be required before a land use permit can be issued.
13. Data and Records:
  - I. The owner of the specific Farm Processing Facility shall annually provide data and records to the Zoning Administrator showing that a majority of the products processed are grown on the land owned or leased for the specific farm operation by the same party owning and operating the specific Farm Processing Facility. The data and records shall also document compliance with off-site processing requirements of this section.
  - II. An up to date record of land ownership or lease to comply with acreage requirements shall be provided to the Zoning Administrator.
  - III. The above data shall be supplied to the Township in a format or form approved by the Township Zoning Administrator.
  - IV. Any change in the above shall be submitted promptly in writing to the Zoning Administrator. Failure to submit such changes shall be considered a violation of the Ordinance.
14. Approval Process:
  - I. A site plan drawn to scale (one or more sheets as appropriate) is submitted to the Zoning Administrator along with the appropriate permit fee as established by the Township Board.
  - II. The site plan shall include at least:
    1. the parcel;
    2. existing and proposed structures including setbacks from property lines;
    3. proposed parking and lighting;
    4. floor plan showing processing and retail areas;
    5. parcel numbers and/or legal description of the parcels making up all the minimum parcel requirements; and the name, address and phone number of the owner of the property.
  - III. A permit from Grand Traverse County Health Department is required before preliminary Farm Processing Facility permit can be issued.
  - IV. A preliminary Farm Processing Facility permit shall be issued by the Zoning Administrator upon a showing that the minimum requirements of parcel, building size, acreage requirement, setback and parking are met.
  - V. No processing or sales of products shall take place until a final Farm Processing Facility permit has been issued by the Zoning Administrator. Such final Farm Processing Facility permit shall not be issued until copies of all permits required by State, federal and other local licenses and permits have been submitted to the Zoning Administrator, and the Zoning Administrator has made an on-site inspection to verify compliance with all the requirements of the

## Zoning Ordinance.

15. Any violation of the Land Use Permit issued by the Zoning Administrator for this use shall, in addition to the provisions of Section 4.2.1 Violations and Penalties, serve as grounds for closing the retail operations, including tasting, portions of the use by the Township Board. In the event of any such alleged violation is made in writing to the Township Board, the Township shall give written notice of such alleged violation to the Applicant at the last address furnished to the Township by the Applicant. The notice shall state that unless the violation is corrected or resolved to the satisfaction of the Township Board within 30 days from the date of the notice, then the Township Board shall require the owner to close all retail sales operations on the premises, after hearing, until such time as the Township Board removes the restriction. In the event a hearing becomes necessary, the Township Board shall establish the notice requirements and such other conditions with respect to the hearing as the Township Board may deem appropriate.
16. Residence within a Farm Processing Facility. **(ADDED BY AMENDMENT NO 146)**
  - I. A single family dwelling may be allowed as part of a structure containing a Farm Processing Facility provided the following requirements are met:
  - II. The dwelling and Farm Processing Facility combined shall not exceed any of the Setback or Facility Size requirements established above.
  - III. The dwelling shall be the only dwelling on the 20 acre parcel containing the farm processing facility.
  - IV. The maximum height of the structure shall be 35 feet or 2 ½ stories whichever is less.

Section 6.7.3 Uses Permitted by Special Use Permit: The following uses of land and structures may be permitted in any agricultural district by the application for and issuance of special use permit when all the procedural requirements specified in Article VIII, 8.1 "Uses Authorized by Special Use Permit: General Standards and Requirements" are satisfied together with any applicable requirements as outlined in the particular Articles and Sections cited:

- (1) Planned Unit Developments subject to all requirements of Article VIII, Section 8.3.
- (2) Special open space uses subject to all requirements of Article VIII, Section 8.7.3 (3).
- (3) Recreational Unit Park subject to all requirements of Article VIII, Section 8.4. **(REVISED BY AMENDMENT 114E)**
- (4) Food processing plants subject to all requirements of Article VIII, Section 8.5.
- (5) Institutional Structures subject to all requirements of Article VIII, Section 8.6.

- (6) Greenhouses and nurseries selling at retail on the premises.
- (7) Riding stables and livestock auction yards.
- (8) Raising of fur bearing animals for profit.
- (9) Game or hunting preserves operated for profit.
- (10) Veterinary hospitals, clinics and kennels.
- (11) Sawmills.
- (12) Storage for agricultural products.
- (13) Golf courses and country clubs subject to all requirements of Article VIII, Section 8.7.2(4) and Section 8.7.3(4).
- (14) Public buildings and public service installations.
- (15) Incinerators and sanitary fills, sewage treatment and disposal installation subject to all requirements of Article VIII, Section 8.7.2(1) and (2), and Section 8.7.3(1) and (2).
- (16) Deleted by Amendment No. 67(6)
- (17) Airports and Airfields.
- (18) Warehousing and light industrial subject to all requirements of Article VIII, Section 8.7.2(7) and Section 8.7.3(7).
- (19) Wind Energy Conversion Systems: Subject to all requirements of Article VIII, Section 8.7.3(8).
- (20) Bed and Breakfast Establishments: Subject to all requirements of Article VIII, Section 8.7.3(6).
- (21) Adult Foster Care Facilities: Subject to all requirements of Article VIII, 8.7.3(9).
- (22) Winery-Chateau: Subject to all requirements of Article VIII, Section 8.7.3(10).

Section 6.7.4 Area and Bulk Requirements: Are subject to Section 6.8 "Schedule of Regulations" limiting the height and bulk of buildings, the minimum size of lot permitted, and providing minimum yard setback requirements.

Section 6.7.5 Conservation Easement Restricted Farmland.

Section 6.7.5.1 Intent The Peninsula Township Purchase of Development Rights Ordinance allows future building sites under certain conditions and in specific locations as shown on recorded conservation easements. It is the intent of this section to allow those future building sites to be used for residents on the farm or to be sold along with all or a portion of the

restricted farmland with a minimum area of one acre or more. It is also the intent of this section avoid the conversion of preserved agricultural land by allowing access to these individual future building sites without requiring a new public or private road to the site.

Section 6.7.5.2 Reserved Building Site Access

Restricted farmland may be divided without the requirement of providing access to a public or private road irrespective of Section 7.10 Road Standards provided:

- (1) A reserved dwelling site shall have access to an existing road by either a driveway or a new private road. Access by private road shall be required if it serves or is to serve three (3) or more residences.
- (2) A residential building site may be separated from the remainder of the restricted farmland on a parcel of not less than one acre irrespective of Section 6.8.1. with access as provided in 1. above.
- (3) Where access is provided by a driveway and not a public or private road; the front yard setback will be fifty (50) feet rather the thirty-five (35) foot front yard setback required from a public or private road. **(ADDED BY AMENDMENT 117A)**



The Regulations contained herein shall govern the Height, Bulk, and Density of Structures and Land Area by Zoning Dist.

Zoning District	Minimum Zoning		Maximum Height of Structures Stories Feet	Minimum Lot in Feet	Minimum Yard Setback Per			Normal High Water Mark	Maximum % of lot area Covered by All Structures	Minimal Elevational Width of a Principal Structure
	Lot Size Per Dwelling Unit	Width in Feet			Front	Side	Rear			
R-1A, Rural & Hillside	1 Acre	150 (b)	2 ½ (c)	35	30 (j)	15 (j)	30 (j)	60 (d)	15	24'
R-1A, PUD; R-1B PUD	(e)	(e)	2 ½ (c)	35	30 (e)	15 (e)	30 (e)	60 (d)	15	24'
R-1C, PUD; R-1D PUD	(e)	(e)	2 ½ (c)	35	30 (e)	15 (e)	30 (e)	60 (d)	15	24'
R-1B, Coastal Zone										
Single and Two-Family	25,000	100 (b)	2 ½ (c)	35	30 (j)	15 (j)	30 (j)	60 (d)	15	24'
R-1C, Suburban Residential										
Single and Two-Family	20,000	100 (b)	2 ½ (c)	35	25 (j)	15 (j)	30 (j)	60 (d)	25	24'
R-1D, Community Residential										
Single and Two-Family	15,000	100 (b)	2 ½ (c)	35	25 (j)	15 (j)	30 (j)	60 (d)	30	24'
C-1 Commercial	25,000	150	2 ½ (c)	35	35	10	30	60 (d)	35	
A-1, Agricultural	5 A.	330 (g,h,i)	2 ½ (c)	35	35 (j)	50 (f,j)	50 (f,j)	60 (d)		

Section 6.8.1 Schedule Limiting Height, Bulk, Density, and Area by Zoning District. Footnotes -- Additional Requirements

- (b) In the case where curvilinear street pattern produces irregularly-shaped lots with nonparallel side lot lines, a lessor frontage width at the street line may be permitted provided that the lot width at the building line is equal to the lot width for that district.
- (c) Allowable height variations are subject to the provisions of Article VII, Section 7.3
- (d) Does not include fishing, boating or swimming docks, open decks, and boat hoists as provided in Section 6.2.2(2) (c) and 6.2.2(2) (d).
- (e) As approved under Section 8.3.
- (f) The minimum setback for other than residential structures shall be fifteen (15) feet. PROVIDED, HOWEVER, the minimum side yard setbacks for residences shall be fifteen (15) feet on lots of record with lot widths of one hundred ninety-nine (199) feet or less that were recorded prior to the adoption of Amendment No. 91 by the Township Board on June 9, 1992. **(REVISED BY AMENDMENT 108)**
- (g) Where a lot in the Agricultural District has its access on a public road, the lot shall have a minimum lot width and frontage width of 330 feet. Where a lot in the Agricultural District has as its access a frontage road, that lot shall have a minimum lot width and frontage width of 100 feet and if the lot also abuts a public road, the lot shall also have a width of not less than 330 feet on the public road side of the lot. Where a lot has been created by Planned Unit Development, the minimum frontage width shall be that which is approved by the Township Board.
- (h) REQUIRED LOT SHAPE A lot in the Agricultural District shall be of such shape that a square measuring 210 feet on a side can be located within the parcel. The square has no relevance to structure location or setbacks. **(REVISED BY 107D)**
- (i) Access to residential building sites on farmland subject to a recorded Conservation Easement consistent with the intent of Ordinance No. 23 shall be regulated by the provisions of Section 6.7.5. **(ADDED BY AMENDMENT 117B)**
- (j) See Section 7.7.1.1 for required setbacks of residences adjacent to agricultural lands. **(ADDED BY AMENDMENT 138A)**



## Section 6.9 CONDOMINIUM SUBDIVISIONS (ADDED BY AMENDMENT 92)

### Section 6.9.1 Intent

It is recognized that Michigan statutes provide for the implementation of developments consisting of one-family detached residential dwelling units and sites through procedures other than those enabled by the Subdivision Control Act (Act 288 of 1967, as amended). The intent of this section is to provide procedures and standards for the review and approval or denial of one-family residential subdivisions implemented under the provisions of the Condominium Act (Act 59 of 1978, as amended) and to insure that such developments are consistent and compatible with conventional one-family platted subdivisions and promote the orderly development of the adjacent areas. It is not intended that commercial or industrial condominium projects will be reviewed or approved.

### Section 6.9.2 General Provision

For the purpose of this section, a Condominium Subdivision shall include any residential development in a residential or agricultural district proposed under the provisions of the Condominium Act (Act 59 of 1978, as amended) consisting of two (2) or more single family detached residential structures on a single parcel, with the exception that the provisions of this Section 6.9.2 limiting condominium subdivisions to single family detached structures shall not apply to condominium developments which are reviewed and approved through the Special Use Permit - Planned Unit Development option.

### Section 6.9.3 Required Plans and Conditions

#### Section 6.9.3.1 Condominium Lots

The Condominium Subdivision Plan shall indicate specific parcel dimensions with front, rear and side condominium lot lines allocated to each condominium dwelling unit. For the purpose of this section and to assure compliance with the provision herein, these parcels shall be referred to as condominium lots. The description, size, location and arrangement of the condominium lots shall conform to the requirements of a conventional platted subdivision. All condominium subdivision lots shall be deeded as limited common elements for the exclusive use of the owners of the condominium subdivision units.

#### Section 6.9.3.2 Area and Bulk Requirements

Each condominium dwelling unit shall be located within a condominium lot.

- (1) The minimum size condominium lot per dwelling unit, maximum dwelling unit height, minimum yard setbacks, minimum elevational width of principal structure and maximum percentage of condominium lot area covered by all structures shall conform with the requirements of the zoning district in which located, and with Section 6.8 SCHEDULE OF REGULATIONS.
- (2) The condominium lot size and the required setbacks shall be measured from the designated front, rear and side condominium lot lines.
- (3) Side condominium lot lines shall be essentially at right angles to straight roads and radial to curved roads.

- (4) Narrow deep condominium lots shall be avoided. The depth of a condominium lot generally shall not exceed two and one-half (2-1/2) times the width as measured at the building line.
- (5) Corner condominium lots shall have extra width to permit appropriate building setback from both roads or orientation to both roads.
- (6) Condominium lots shall back into such features as primary roads, except where there is a marginal access road, unless a secondary access is provided. Such condominium lots shall contain a landscaped easement along the rear at least twenty (20) feet wide to restrict access to the primary road, to minimize noise, and to protect outdoor living areas.
- (7) Condominium lots extending through a block and having frontage on two local roads shall be prohibited.
- (8) Unless the circumstances are such that the land area is not of sufficient size to develop secondary roads, all condominium lots shall front on secondary roads and condominium lots along M-37, Center Road, Peninsula Drive, Bluff Road, Montague Road and East Shore Drive shall be back up lots.
- (9) All condominium lots shall front upon a public road, private road or frontage road. Variances may be permitted in an approved planned unit development.

#### Section 6.9.3.3 Streets

If a condominium subdivision is proposed to have private streets, they shall be designed to at least the minimum design, construction, inspection, approval and maintenance requirements of this Ordinance. All public streets within a condominium subdivision shall be constructed as required by the Grand Traverse County Road Commission.

#### Section 6.9.3.4 Water Supply and Sewage Disposal Systems

Water Supply and Sewage Disposal Systems shall comply with the requirements of Section 5.4 REQUIRED IMPROVEMENTS: Section 5.4.4 WATER SUPPLY, and Section 5.4.5 SANITATION SEWER SYSTEM: of the Peninsula Township Subdivision Control Ordinance No. 8.

#### Section 6.9.3.5 Street Trees

There shall be a minimum of one (1) tree per interior condominium lot with a frontage of seventy (70) feet or less, or a minimum of two (2) trees per condominium lot with a frontage of more than seventy (70) feet. At least three (3) trees shall be provided for a corner condominium lot.

The species and location of street trees shall comply with the requirements of Section 5.4.8 STREET TREES: of the Peninsula Township Subdivision Control Ordinance No. 8.

#### Section 6.9.3.6 Accessory Structures (ADDED BY AMENDMENT 163)

Accessory structures to serve all unit owners in a condominium shall be allowed within the general common elements provided the accessory structure is shown on the site plan, and provided further:

- (1) Each structure is no more than 200 square feet in area provided the total percent of the condominium parcel covered by all structures does not exceed the maximum amount allowed in the zoning district;
- (2) The site plan includes the maximum area to be covered by all structures for each

- condominium unit and for the general and the limited common elements.
- (3) The structure height is no greater than 15 feet;
  - (4) The structure meets the underlying zoning district setbacks from the property lines of the condominium project.
  - (5) The structure is located within the General Common Elements of the Condominium;
  - (6) The structure and its proposed use(s) is shown on the site plan approved or amended by the Township Board and receives a Land Use Permit from the Zoning Administrator prior to construction.
  - (7) The use of the structure shall be for one or more of the following uses.
    - (a) Recreational - deck, gazebo, bus shelter or picnic shelter.
    - (b) Utility - Storage of maintenance or recreation equipment or trash enclosures.

#### Section 6.9.3.7 Wetland and Floodplain Restrictions

There shall be no development or modification of any kind within a wetland or floodplain area without there first having been issued a wetlands permit by the Department of Natural Resources and/or an Earth Change Permit from Grand Traverse County as appropriate.

Lands subject to high organic content soils, high water table, flooding or otherwise deemed by the Planning Commission to be uninhabitable shall not be used for residential purposes, or for uses that may in the judgment of the Planning Commission increase the danger to health, life, or property or increase the flood hazard. Such land within a condominium subdivision shall be set aside for other uses, such as parks or other open space.

Section 6.9.3.8 Removal of Fruit Trees When an area having existing fruit producing trees, vines or shrubs, is approved for a condominium subdivision, the owner of the property shall remove and destroy all such trees, shrubs and vines before final approval of the condominium subdivision plan.

Section 6.9.3.9 Plans required for the Control of Erosion and Sedimentation In the event that any developer shall intend to make changes in the contour of any land proposed to be developed, or changed in use by grading, excavating or the removal or destruction of the natural topsoil, trees, or other vegetative covering thereon, the same shall only be accomplished after the owner of said land or his agent has submitted to the Planning Commission for approval a plan for erosion and sedimentation controls, unless there has been a prior determination by the Planning Commission that such plans are not necessary. Such plans shall contain adequate measures for control of erosion and siltation, where necessary, using the guidelines and policies contained in Section 5.4.13 PLANS REQUIRED FOR THE CONTROL OF EROSION AND SEDIMENTATION: of the Peninsula Township Subdivision Control Ordinance No. 8.

#### Section 6.9.4 Plan Application - Data and Information Required

The proprietor shall submit a written application to the Township Zoning Administrator for approval of the Condominium Subdivision Plan and also the fee established by the Township Board for review of such plans.

Section 6.9.4.1 Condominium Plan, Protective Covenants and Deed Restrictions: The condominium subdivision developer shall submit to the Township Zoning Administrator eleven (11) copies of the condominium subdivision plan and proposed protective covenants and deed restrictions which would meet the requirements of Section 112(1) and 113 to 119 of the Subdivision Control Act. The name of the proposed project shall be subject to the approval of the Township to eliminate duplicate names or names that are similar to existing developments.

- (1) Size and Sale: The condominium subdivision plan may be on paper and shall be not less than 24 inches by 36 inches, at a scale of at least 1 inch to 100 feet showing the date and north arrow.
- (2) Information Required: The following shall be shown on the condominium subdivision plan or submitted with it.
  - (a) The name of the proposed condominium subdivision.
  - (b) Names, addresses and telephone numbers of the proprietor and the surveyor preparing the plan.
  - (c) Location of the condominium subdivision, giving the name of the township and county.
  - (d) Legal description of the property
  - (e) The names of property owners, zoning, and use of abutting lands.
  - (f) Statement of intended use of the proposed condominium, such as, residential single family, two-family and multiple housing. Also, any sites proposed for parks, playgrounds, schools, or other public uses.
  - (g) A map of the entire area scheduled for development and all contiguous land owned by the proprietor, if the proposed plan is a portion of a larger holding intended for subsequent development.
  - (h) A location map showing the relationship of the proposed plan to the surrounding area.
  - (i) The land use and existing zoning of the proposed condominium subdivision.
  - (j) Location, type, dimensions, and proposed use of all existing structures.
  - (k) Condominium lot lines and the total number of condominium lots by block.
  - (l) Contours shall be shown on the condominium subdivision plan at 5-foot intervals where slope is greater than 10%, and 2-foot intervals where slope is 10% or less.
  - (m) A site report as described in the rules of the State Department of Public Health. The site report is required if the proposed condominium subdivision is not to be served by public sewer and water.
  - (n) Proposed and existing storm and sanitary sewers, water mains and their respective profiles, or indicate alternative methods.
  - (o) Right-of-way easements, showing location, width, and purpose.
  - (p) The location and types of all significant existing vegetation, water courses and bodies, flood plains and water retention areas, and soil types.
  - (q) In the event soils or vegetation types indicate wetlands may be present, a wetlands determination by Michigan Department of Natural Resources as to the existence of any wetlands on the property.
  - (r) A statement of deed restrictions and by-laws as applicable.

Section 6.9.4.2 Preliminary Engineering Plans:

The proprietor shall submit nine (9) sets of preliminary engineering plans for streets, water, sewers, and other required public improvements. The engineering plans shall contain enough information and detail to enable the Planning Commission to make a determination as to conformance of the proposed improvements to applicable township regulations and standards.

Section 6.9.4.3 LIGHTING STANDARDS: All lighting shall conform to the requirements of Section 7.14. **(REVISED BY AMENDMENT 175B)**

Section 6.9.5 REVIEW PROCEDURES

Section 6.9.5.1 Distribution to Authorities:

The Zoning Administrator shall deliver the proposed condominium subdivision plan to the Planning Commission and Township Board for review. The Zoning Administrator shall retain one copy, send one copy each to the Peninsula Township Fire Chief; the Township Planner; and to Grand Traverse County Planning Commission for plan review.

Section 6.9.5.2 Staff Review:

The Township Planner shall send recommendations to the Planning Commission at least ten (10) days prior to Planning Commission review as provided for in Section 6.9.5.3.

Section 6.9.5.3 Planning Commission:

- (1) The Planning Commission shall review the condominium subdivision plan and the reports of the County Road Commission, the County Drain Commissioner/Soil Erosion Officer, County Health Department, and County Planning Commission, and Township Planner.
- (2) The Planning Commission shall hold a public hearing on the proposed condominium subdivision plan.
- (3) If following the review and public hearing prescribed above, the Planning Commission determines that the proposed plan meets all requirements of this Ordinance, the Planning Commission shall send notice of action taken with comments to the Township Board.
- (4) If the condominium subdivision plan does not meet all requirements, the Planning Commission shall recommend disapproval of the plan by the Township Board, it shall state its reason in its official minutes and forward same to the Township Board, and recommend that the Township Board disapprove the condominium subdivision plan until the objections causing disapproval have been changed to meet with the approval of the Planning Commission.

Section 6.9.5.4 Township Board:

- (1) The Township Board shall not review, approve or reject a condominium subdivision plan until it has received from the Planning Commission its report and recommendations.
- (2) The Township Board shall consider the condominium subdivision plan at its next meeting after receipt of the recommendations from the Planning Commission.
- (3) The Township Board shall either approve the condominium subdivision plan, reject the plan and give its reasons, or table the proceedings pending changes to the plan to make it acceptable to the Board.

### Section 6.9.6 Conditions and Duration of Approval

#### Section 6.9.6.1 Conditions:

The approval of the Township Board will indicate that the proposed condominium subdivision plan meets the provisions of section 141. (1) of the Condominium Act relating to the ordinances and regulations of Peninsula Township, but does not cover additional permits that may be required after the Master Deed has been recorded.

#### Section 6.9.6.2 Duration:

Approval of the condominium subdivision plan by the Township Board shall be for a period of one year from the date of its approval by the Township Board. The Township Board may extend the one year period if applied for and granted in writing but only concerning its own requirements.

#### Section 6.9.6.3 Condominium Subdivision Plan Approval Contract:

- (1) If the Township Board approves the condominium subdivision plan, it shall instruct the township attorney to prepare a contract setting forth the conditions upon which such approval is based; such contract, after approval by the Township Board, shall be entered into between the township and petitioner prior to the issuance of a land use permit for any construction in accordance with the approved condominium subdivision plan. All reasonable costs, as established by the Township Board, related to the preparation of said contract shall be paid by the petitioner to the Township Treasurer prior to issuance of any land use permits.
- (2) As a condition of the approval of the condominium subdivision plan by the Township Board, the petitioner shall furnish a cash bond or irrevocable bank letter of credit from a bank chartered in the State of Michigan in the amount of the cost plus an additional 10% of the cost of the proposed improvements to common land, as estimated by the township planner, guaranteeing the completion of such improvement within a time to be set by the Township Board.

### Section 6.10 Vehicular Parking

Section 6.10.1 Intent and Purposes: This district is intended to restrict the use of areas set aside for parking purposes as part of an adjacent or nearby land use under Section 7.6.1.

Section 6.10.2 Uses Permitted Under Special Conditions: A lot or lots within the P-1 Vehicular Parking District shall be used only for off-street parking in accordance with Off-Street Parking and Loading Regulations, Section 7.6

#### Section 6.10.3 Yards and Lot Sizes:

- (1) Maximum front and side yards shall conform to the requirement for the most restrictive adjacent zoning district.
- (2) Lots shall be of sufficient size to permit the construction of a parking facility in accordance with Off-Street Parking Requirements, Section 7.6.4.



## ARTICLE VII

### SUPPLEMENTARY REGULATIONS

#### Section 7.1 Miscellaneous Regulations:

Section 7.1.1 Prior Building Permits: Any building permit issued prior to the effective date of this Ordinance shall be valid, in accordance with its terms, even though not conforming to provisions of this Ordinance, provided that construction is commenced within twelve (12) months after the date of permit issuance and that the entire building shall be completed according to the plans filed with the permit application within one and one-half (1-1/2) years after issuance of building permit.

Section 7.1.2 Sanitation Requirements: No structure shall be erected, altered or moved upon a lot or premise and used in whole or in part for a dwelling, business, industrial or recreational purpose unless it meets the following requirements.

- (1) Compliance shall be had with all provisions of the Tri-County Health Ordinance in force in Grand Traverse County entitled "Sanitary Code of Minimum Standards Regulating Sewage Disposal-Water Supplies and Sanitation of Habitable Buildings in Grand Traverse, Leelanau and Benzie Counties of Michigan" as the same may be amended from time to time, and violation of any provision of that Ordinance shall constitute a violation of this Ordinance.

#### Section 7.2 Supplementary Use Regulations:

Section 7.2.1 Use of Structure for Temporary Dwelling: No structure shall be used for dwelling purposes that does not meet the minimum standards as defined in this Ordinance. No partial structure or other temporary structure whether of a fixed or portable construction, shall be erected or moved onto a lot and used for any dwelling purposes for any length of time unless authorized by the Board of Appeals by the issuance of a temporary permit as provided for in Article V, Section 5.7.4.

#### Section 7.2.2 deleted by amendment 100C

Section 7.2.3 Mining or Removal of Topsoil: No topsoil shall be removed for purposes of resale nor shall any open pit mining for the purposes of extracting sand, gravel or minerals be permitted in the A-1 zone within 200 feet of any public highway nor within 50 feet of any side or rear lot lines of any lot adjoining land zoned for residential uses, unless the removal within said restricted areas in this zone shall have been first approved by the Board of Appeals.

When an open pit mine or gravel pit has ceased to be worked regularly, any "attractive nuisance" features such as steep banks or deep holes that could be a hazard to the safety of children shall be promptly rough graded so as to remove such hazard or hazards. When an open pit mine or gravel pit has ceased to be worked regularly for a period of three years, it shall be rough graded in such a manner as to restore the land to contours harmonious with those of the surrounding terrain, protected from erosion and vegetative cover established.

Section 7.2.4 Outdoor Storage: No land in any of the foregoing Districts shall be used in whole or in part for the storage of unused or discarded equipment or materials, or for the storage of unlicensed cars, boats, salvage, waste and junk outside of properly authorized buildings within said Districts, except as required for the storage of usable farm machinery necessary for permitted agricultural uses and except as permitted in connection with a use otherwise authorized by the Commercial District.

Section 7.2.5 Stormwater Detention: (ADDED BY AMENDMENT 61 (8))

- (1) When any land in the Township is developed or altered in any way which affects stormwater runoff, the owner shall develop and submit to the Zoning Administrator for approval by the Township a plan detaining any stormwater runoff onto adjacent properties including roads and other rights of way. Such detention shall follow accepted stormwater detention practices.
- (2) The maximum amount of stormwater runoff allowed shall not exceed that which existed prior to the development or improvement of the property.

Section 7.2.6 Supplemental Setbacks for Planned Unit Developments, Mobile Home Parks and Other Group Housing Developments:

- (1) Intent and Purpose: It is the intent of this Ordinance that residential developments other than conventional subdivisions be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity of the township in which they are located, and that such a use will not change the essential character of the area in which it is proposed. In as much as planned unit developments, mobile home parks and other group housing developments may involve higher densities of land use, or building types may distinctly differ from the single-family, conventionally-built dwellings which predominate the Township, periphery setbacks for such developments are established.
- (2) Periphery Setbacks All buildings including single-family dwellings and mobile homes within a planned unit development, a group housing development or a mobile home park development shall be placed at least fifty (50) feet from any public right-of-way line for existing roadways bordering a site, and at least thirty (30) feet from any development boundary line which is not a public road right-of-way. Setback spaces shall be occupied by plant materials and appropriately landscaped.

Section 7.2.7 Setback for Agricultural Lands Abutting Certain Residential Land Uses: In the event that lands abutting a mobile home park are brought into agricultural production after the development of the mobile home park, the agricultural lands and the related activities shall be separated from any residential or accessory structure by a buffer of one hundred (100) feet in width. The buffer under the control of the farm operator shall be measured between the lands used for agricultural purposes and any residential or accessory structure on the adjacent parcel.



Section 7.3 Supplementary Height and Area Regulations:

Section 7.3.1 Permitted Exceptions: When a given use is permitted in any District, the following kinds of structural appurtenances shall be permitted to exceed the otherwise required height limitations for authorized uses, provided that they shall not be used for human occupancy:

- (1) Ornamental church steeples and cupolas.
  - (2) Functional chimneys, ventilators, television aerials and ham radio antenna.
- (REVISED BY AMENDMENT 159)**

Section 7.3.2 Permitted Exceptions, Agricultural Districts: In the agricultural district, traditional agriculture related buildings, such as barns and silos, may be constructed to heights in excess of that specified for the district, provided they are first granted a special use permit for such exception under the procedures and requirements of Section 8.1 of this Ordinance.

Section 7.3.3 Individual lot areas in plats abutting certain agricultural lands described in Section 4.7.10 of the Township Subdivision Control Act recorded subsequent to the date of this amendment may be less than the required minimum PROVIDED the average lot size in the recorded plat is not less than the required minimum and PROVIDED FURTHER that any reduced lot size is not less than Seventy (70) percent of the required lot area. Provision for reduced lots shall be stated on the recorded plat so that minimum average lot sizes will be maintained in the event of any subsequent amendments to the plat. No more than twenty (20) percent of the total lots in the plat shall contain less than the required minimum lot area.

Section 7.3.4 Any lot existing and of record on the effective date of this original Ordinance may be used for any permitted use specified for the District in which such lot is located whether or not such lot complies with the lot area and width requirements of this Ordinance, PROVIDED that all other requirements of this Ordinance are complied with, and PROVIDED FURTHER that not more than one (1) dwelling unit shall occupy any lot except in conformance with the required lot area for each dwelling unit.

Section 7.4 Supplemental Great Lake Shoreland Regulations:

Section 7.4.1 Intent and Purpose: It is the intent and purpose of this Ordinance to protect water quality and land resources related to the Great Lakes Shoreland for the future health, safety and welfare of Township residents.

Section 7.4.2 Shared Waterfront Ownership: Any waterfront land that is to be used by more than one family shall meet the following requirements:

- (1) Intent It is the intent of this section to reduce the conflicts that occur between residential single family use and shared waterfront use, such as a number of families using the beach, making noise, trespassing, temporarily storing boats, boat hoists and other equipment.

- (2) Land Use Permit Where more than one family has Shared Waterfront Ownership in the waterfront property, a land use permit shall be obtained from the Zoning Administrator. The application for land use permit shall indicate the number of families with access rights, the name and address of a principal family member for each family, the name and address of one person who shall receive the tax bill in the event that all families do not have taxable real property in Peninsula Township and a site plan showing compliance with the minimum requirements of this Section 7.4.2. The Zoning Administrator shall be notified of any change in ownership.

(3) Minimum Lot Widths and Vehicle Parking Space Requirements:

- (a) For shared waterfront property Not approved within a Subdivision or Condominium.

<u>No. of Families</u>	<u>Minimum</u>
<u>With Access Rights</u>	<u>Lot Width</u>

Two Families	100
Three Families	150
Four Families	200
Over Four Families	
(Five additional feet per family)	

- (b) For shared waterfront property approved within a Subdivision, Condominium or Planned Unit Development; or Amendment thereto:

<u>No. of Families</u>	<u>Minimum</u>
<u>With Access Rights</u>	<u>Lot Width</u>

Two Families	55
Over Two Families	
(Five additional feet per family)	

**(REVISED BY AMENDMENT 122)**

- (c) One parking space for each boat hoist shall be provided off the traveled portion of the road such that all portions of a parked vehicle are at least five (5) feet from the driving lane to provide safe egress from the vehicle.
- (c) Each parking space shall be a minimum of twenty-three (23) feet in length. The parking space does not have to be paved or graveled.
- (4) Group docking, hoist and other related facilities and boat hoists shall not exceed one dock per parcel and one boat hoist per fifty (50) feet of shore line, measured at the ordinary high water mark, and shall be located as near as possible to the center of the parcel.
- (5) No dock shall be wider than seven (7) feet and no longer than necessary to provide adequate water depth for the boat using the dock or boat hoist.
- (6) No dwelling units or clubhouses are allowed on shared waterfront parcels.

- (7) The area within fifteen (15) feet of side lot lines shall not be used for the permanent or temporary placing or storage of boats, boat hoists and other equipment, nor for locating fire pits or decks flush with the ground.
- (8) A portable toilet is allowed, provided it is not placed within a road right-of-way, and not closer than twenty (20) feet from the water's edge. Also provided that screened shall be between the toilet and the nearest property line, the road and the water.  
**(REVISED BY AMENDMENT 109B)**

Section 7.4.3 Filling and Grading Within 200 feet of Normal High Water Mark: The following rules shall apply to any filling, grading or other earth movement within 200 feet of the normal high water mark to prevent harmful erosion and related sedimentation:

- (1) The smallest amount of bare ground shall be exposed for as short a time as feasible.
- (2) Temporary ground cover such as mulch must be used as soon as possible and permanent cover such as sod be planted.
- (3) Diversions, silting basins, terraces and other methods must be used to trap any sediment.
- (4) Fill must be stabilized according to accepted engineering practices.
- (5) The Zoning Administrator may issue a land use permit for a sea wall without regard to the Minimum yard setback from the ordinary high water mark otherwise required in Section 6.8.1 when a sea wall is necessary to protect or prevent structures on the premises from erosion damage caused by high water.

Section 7.4.4 Removal of Shore Cover: Regulation of tree cutting along the Great Lakes shoreline is necessary to protect scenic beauty, control erosion and reduce effluent and nutrient flow from the shoreland. These provisions shall not apply to the removal of dead, diseased or dying trees at the discretion of the landowner, or to silvicultural thinning upon recommendation of a forester. Tree cutting in a strip paralleling the shoreline and extending thirty-five (35) feet inland from all points along the normal high water mark of the shoreline shall be limited in accordance with the following provisions:

- (1) No more than 30% of the length of this strip shall be clear cut to the depth of the strip.
- (2) Provided, further that cutting of this 30% shall not create a clear cut opening in this strip greater than thirty (30) feet wide for every one hundred (100) feet of shoreline.
- (3) In the remaining 70% length of this strip cutting shall leave sufficient cover to screen cars, dwellings, accessory structures, as seen from the water; to preserve natural beauty and to control erosion.
- (4) Natural shrubbery shall be preserved as far as practicable, and where removed it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.

- (5) Paths - any paths, roads or passages within the strip shall be so constructed or surfaced as to be as effective in controlling erosion.
- (6) Cutting Plan - as an alternative to the above requirements a special cutting plan allowing greater cutting may be permitted by the Board of Appeals. In applying for such a permit the Board may require the lot owner to submit a sketch of his lot including the following information: location of all structures, location of parking, gradient of the land, existing vegetation, proposed cutting and proposed replanting. The Board may grant such a permit only if it finds That such special cutting plans:
  - (a) Will not cause undue erosion or destruction of scenic beauty, and
  - (b) Will provide substantial shielding from the water of dwellings, accessory structures and parking areas. The Board may condition such a permit upon a guarantee of tree planting by the lot owner. Such an agreement shall be enforceable in court.
- (7) Commercial Forestry - from the inland edge of the thirty-five (35) foot strip to the outer limits of the shoreland the commercial harvesting of trees shall be allowed when accomplished under accepted forest management practices. The maintenance and improvement of water quality shall be emphasized in all timber harvesting operations. The purpose of this provision will favor long-lived species.

Section 7.4.5 Review by Michigan Water Resources Committee If it is determined by the Zoning Administrator that any proposed structure may adversely effect, deteriorate or alter the shoreland resource, preliminary plans and specifications shall be transmitted to the staff of the Michigan Water Resource Commission for review and approval. If it is determined by the Water Resources Commission staff that such development would adversely affect public and private rights, impair the public trust or otherwise deteriorate the unique shoreland resource, such determination shall be considered sufficient justification for denying a building permit.

Section 7.4.6 Deleted by Amendment 61(10) 8/13/85

Section 7.4.7 Flood Plain Controls:

- (1) Intent and Purposes: The purpose of these regulations is to protect those areas of the Township which are subject to predictable flooding in the flood plain of the Great Lakes. All land included in the flood plain shall be subject to the requirements specified herein, in addition to the normal zoning district requirements in which said land is located.
- (2) Flood Plain Area Identification: Flood plain shall be those areas falling below elevation 582.8 I.G.L.D. (elevation 582.8 - 1955 I.G.L.D. equals elevation 583.5 - 1985 I.G.L.D. or elevation 584 USGS). Such flood areas shall be restricted as to use, building encroachment, and occupancy, so that human life is protected and future flood damage is minimized. In the event of reasonable doubt as to the location of a flood plain, the Zoning Administrator may require the applicant to submit detailed engineering studies prepared by a registered professional engineer showing the extent and location of floodable areas.

- (3) Permitted Uses: Notwithstanding any other provisions of this Ordinance, no uses shall be permitted to Occur within a flood plain except the following:
- (a) Uses, such as farms, truck gardens, nurseries, parks, playgrounds, preserves, bridle paths, or other similar uses. **(REVISED BY AMENDMENT 98)**
  - (b) Yard and setback areas or other open space portions required for any District, PROVIDED that the elevation of the lowest floor designed for human habitation shall be at least three (3) feet above the established flood plain.
  - (c) Off-street parking uses, PROVIDED that all parking areas shall conform to the provisions of Section 7.6.
  - (d) Roads, service drives, utility uses, when designed so as not to increase the possibility of flood or be otherwise detrimental to the public health, safety, and welfare.
- (4) Restricted Uses: Any structure where human habitation is contemplated either as a place of residence, places of public gathering or employment, shall be prohibited from locating in flood plain areas.
- (5) Required Conditions: Any construction within the flood plain shall conform to the requirement of Section 7.4 of this Article, and permits for such construction shall not be issued unless they receive review and approval by the Board of Appeals.
- (a) Any construction within the flood plain shall be so fixed to the site as to withstand the force of the expected velocity of flood water. The Board of Appeals may require professional engineering review of any such construction.
  - (b) Where topographic data, engineering studies, or other studies are needed to determine the effects of flooding or flow of water, the applicant shall submit such data or studies, prepared by a registered professional engineer, to the Board of Appeals.
  - (c) Filling in flood plain areas to raise lands above the flood plain may be permitted with the approval of the Board of Appeals subject to prior approval of the Michigan Department of Natural Resources and Public Act 245 of Public Act 1929, as amended.

Section 7.5 Non-Conforming Uses and Structures: **(REVISED BY AMENDMENT 171B)**

Section 7.5.1 Intent and Purpose:

Non-Conforming Use. At the discretion of the owner, the lawful use of any building, structure, land or premises existing prior to the effective date of this Ordinance, although the use does not conform to the provisions of this Ordinance, may be continued; and such use of any building may be extended throughout such building, provided no structural changes be made therein except those required for safety and sanitation.

Non-Conforming Structure. It is the intent to allow the continued use of a non-conforming structure. It is also the intent that the Zoning Board of Appeals may grant a variance to move or reconstruct a non-conforming structure where the structure was legally built on parcels that would be otherwise unbuildable due to overlap in the yard requirements. It is not the intent to allow significant increases in the intensity of previously established residential use on otherwise unbuildable lots. It is not the intent to allow the construction of a residence on a vacant parcel where yard requirements meet or overlap such that there is no buildable area on the parcel.

Section 7.5.2 Change of Use: Whenever the non-conforming use of any structure or land is changed in whole or in part to a conforming use, such use shall not thereafter be reverted to any non-conforming use. If the non-conforming use of any building, structure or land is discontinued through vacancy, lack of operation or otherwise for a continuous period of twelve (12) months, then any future use of said building, structure or land shall conform, in its entirety, to the provisions of this Ordinance; provided, however, that the Board of Appeals may, upon application within six (6) months of the termination of said period, permit the resumption of such non-conforming use.

Section 7.5.3 Reconstruction of Damaged Non-Conforming Structure: Nothing in this Ordinance shall prevent the reconstruction, repair or restoration and the continued use of any non-conforming building or structure damaged by fire, collapse, explosion, acts of God or acts of the public enemy, subsequent to the effective date of this Ordinance, wherein the non-conforming user has first obtained the approval of the Board of Appeals, wherein the Board of Appeals has first determined that the continued use will be substantially the same as the previous non-conforming use and that such continued use will not be detrimental to the health, safety and welfare and that substantial justice is achieved.

Section 7.5.4 Repair and Alteration of Non-Conforming Structure: Nothing in this Ordinance shall prevent the repair, alteration, reinforcement, improvement or rehabilitation of a non-conforming building or structure or part thereof existing at the effective date of this Ordinance that may be necessary to secure or insure the continued advantageous use of the building or structure; provided, however, that such repair, alteration, reinforcement, improvement or rehabilitation proposes no change in the use of said building or structure or any part thereof.

Section 7.5.5 Additions to Non-Conforming Structure:

- (1) The Zoning Board of Appeals may grant a variance for addition(s) to non-conforming structure(s) on a legal non-conforming lot if the continued intensity of residential use is substantially the same, provided that all the following are met:
  - (a) There is increased safety to the residents of the structure and to the traveling public on the road providing access to the parcel;
  - (b) Safety and substantial justice is achieved; and
  - (c) If the variance allows the structure to encroach in the setback from the Ordinary High Water Line, conditions of approval shall include at a minimum, the following additional provisions:
    1. provisions for stabilization of the shoreline so that the structure is not



- likely to be damaged by high water or wave action;
  - 2. there is no additional detriment to adjacent properties;
  - 3. shoreline vegetation is existing or established consistent with the intent of Section 7.4.4 Removal of Shore Cover ; and
  - 4. sea walls will not be allowed unless it is determined that there is no feasible alternative.
- (d) In addition to (1) through (4) above, the subject parcel shall also meet all of the basic and special conditions as provided for all variances in Section 5.7.3.
- (2) The Zoning Administrator, without the necessity for a variance by the Zoning Board of Appeals, shall issue a land use permit for an addition to a non-conforming structure provided all of the following are met: (SEE FIGURE 3)
- (a) the addition is not located in any required yard or setback from the ordinary high water line;
  - (b) no existing setback is less than five (5) feet;
  - (c) the sum of the actual setbacks, pertaining to the proposed addition, is not less than the sum of the required side yard setbacks for the zoning district; and
  - (d) in addition to the above side yard requirements, all other applicable dimensional requirements of the subject parcel are satisfied (other than those to which it is lawfully non-conforming). **(REVISED BY AMENDMENT 176A)**

Section 7.5.6 Moving or Replacing Non-Conforming Structure: The Township Zoning Board of Appeals may grant a variance for moving or replacing a residential structure on a legal non-conforming lot so that the continued intensity of residential use of the lot is substantially the same as in the pre-existing structure, provided all of the following are met:

- (1) The moved or replaced structure is less non-conforming than the previous structure;
- (2) There is increased safety to the residents of the structure and to the traveling public on the road providing access to the parcel;
- (3) Safety and substantial justice is achieved;
- (4) If the variance allows the structure to encroach into the setback from the Ordinary High Water Line, conditions of approval shall include:
  - (a) provisions for stabilization of the shoreline so that the structure is not likely to be damaged by high water or wave action;
  - (b) there is no additional detriment to adjacent properties;
  - (c) shoreline vegetation is existing or established consistent with the intent of Section 7.4.4 Removal of Shore Cover ; and
  - (d) sea walls will not be allowed unless it is determined that there is no feasible alternative.
- (5) In addition to (1) through (4) above, the subject parcel shall also meet all of the basic and special conditions as provided for all variances in Section 5.7.3. **(REVISED BY AMENDMENT 176B)**

Section 7.5.7 District Changes: Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of another classification, the provisions of this Section shall also apply to any existing uses or structures that become non-conforming as a result of boundary changes.

Section 7.6 Off-Street Parking and Loading Regulations:

Section 7.6.1 Requirements: There shall be provided in all Districts, at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The proper number of parking spaces for any given use as specified in this Section are based upon considerations of the maximum number of motor vehicles that can be expected on the premises at the same time during an average day.

- (1) Location of Residential Off-Street Parking spaces may be within a rear yard or side yard. Off-street parking shall not be permitted within a minimum front yard setback unless otherwise provided in this Ordinance.
  - (a) Required residential off-street parking spaces shall consist of parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve.
- (2) Location of Off-Street Parking for Other Than Residential Use: Shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown on all lots or parcels intended for use as parking by the applicant.
- (3) Joint Use of Off-Street Parking Areas: May be provided collectively by two or more buildings or uses PROVIDED the total number of parking spaces shall not be less than the sum of the requirements of the space requirements computed separately.
  - (a) In the instance of dual function of off-street parking spaces where operating hours or parking needs of individual building or uses occur at distinctly different times, the Board of Appeals may grant an exception.
- (4) Fractional Spaces: When units of measurement determining the number of required parking spaces result in a fractional space, any fraction up to and including one-half ( $\frac{1}{2}$ ) shall be disregarded and fractions over one-half ( $\frac{1}{2}$ ) shall require one (1) parking space.
- (5) In Cases of Uses Not Specifically Mentioned: The requirements of off-street parking spaces shall be in accord with the use which the Zoning Administrator considers is similar in type.
- (6) Use of Off-Street Parking Areas shall prohibit commercial repair work, storage of merchandise, or servicing or selling of trucks or motor vehicles.



Section 7.6.2 Definitions: The term "floor area" as applied in this Section is that area used or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers, but excluding floor areas which are used or intended for use exclusively for storage, for housing of mechanical equipment integral with the building, hallways, or utilities or maintenance facilities.

- (1) Measurement of floor area shall be of the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.
- (2) Dwelling unit, as used in this section, shall be consistent with the definition of dwelling unit contained in Article III.

Section 7.6.3 Parking Space Requirements: The number of required off-street parking spaces in all Districts shall be provided in accordance with the following minimum requirements:

<u>USE</u>	<u>NUMBER OF PARKING SPACES PER UNIT OF MEASURE</u>
<p>(1) <u>Residential</u></p> <p>(a) One-Family, Two-Family Multiple Family, Mobile Home</p> <p>(b) Housing for the Elderly</p> <p>(c) Mobile Home Park</p> <p>(d) Adult Foster Care Facility</p>	<p>Two (2) for each dwelling unit.</p> <p>One (1) for each two (2) units, and one (1) for each employee.</p> <p>Two (2) for each mobile home site plus one (1) for each employee, plus one (1) visitors space for each four (4) mobile homes.</p> <p>One (1) for each non-resident employee on the maximum shift plus one (1) for each three adult foster residents occupying the home, in addition to those required for permanent non-foster residents of the home.</p>

<p>(2) <u>Institutional</u></p> <p>(a) Churches or Temples</p> <p>(b) Private Clubs, swimming pool clubs, or similar uses.</p> <p>(c) Golf courses open to the general public, except miniature or "par-3" courses</p> <p>(d) Nursery or Child Care Centers</p>	<p>One (1) for each three (3) seats in the main unit of worship.</p> <p>One (1) for each two (2) members' families or individuals plus spaces for each accessory use, such as a restaurant or bar.</p> <p>Four (4) for each one (1) golf hole plus one (1) for each two employees.</p> <p>One (1) for each three hundred and fifty (350) square feet of floor space.</p>
<p>(3) <u>Business and Commercial</u></p> <p>(a) Beauty Parlor or Barber Shop</p> <p>(b) Restaurants, taverns, bars</p> <p>(c) Gasoline Service Station and automobile repair garages</p> <p>(d) Laundromats and coin operated dry cleaners</p> <p>(e) Retail Stores, except as otherwise specified herein</p>	<p>Two (2) for each beauty and/or barber shop chair.</p> <p>One (1) for each seventy-five square feet of floor area.</p> <p>One (1) for each service and repair stall, plus one (1) for each worker on each shift.</p> <p>One (1) for each two (2) washing or dry-cleaning machines</p> <p>One (1) for each one hundred and fifty (150) square feet of floor area.</p>
<p>(4) <u>Offices</u></p> <p>(a) Business or professional offices, except doctors, dentists, or similar professions</p> <p>(b) Professional Offices or doctors, dentists, or similar professions</p>	<p>One (1) for each two hundred (200) square feet of floor area.</p> <p>One (1) for each one hundred (100) square feet of floor area.</p>

<p>(5) <u>Industrial and Warehousing</u>  (a) Industrial or manufacturing establishments, research and testing laboratories, and related accessory offices</p> <p>(b) Warehouses or wholesale establishments and related accessory offices</p>	<p>Five (5) plus one (1) for every one (1) employee for the largest working shift.</p> <p>Five (5) plus one (1) for every one (1) employee for the largest working shift</p>
<p>(6) <u>Marinas</u></p>	<p>One space for each one hundred fifty (150) square feet of building area, exclusive of area used for boat storage, plus one additional space for every one and one-half (1.5) slips or mooring locations, excluding designated transient slips. Additional spaces will be required for such uses as stores and restaurants as provided above.</p>
<p>(7) <u>Bed and Breakfast Establishments</u></p>	<p>One (1) space per rental sleeping room in addition to the two (2) spaces required for owner/occupant.</p>
<p>(8) <u>Hotel, Motel, Tourist Court</u></p>	<p>One (1) for each sleeping room, plus one (1) for each employee of the maximum working shift.</p>
<p>(9) <u>Winery-Chateau</u></p>	<p>One (1) for each one hundred fifty (150) square feet of retail floor space in the "tasting room," plus one (1) for each employee of maximum working shift, plus three (3) spaces for tour buses or cars with trailers, plus one space for each (1) guest room.</p>
<p>(10) <u>Headquarters Building</u>  <b>(ADDED BY AMENDMENT 114F)</b></p>	<p>One (1) for each two hundred (200) square feet of floor area plus one for each employee on the largest working shift.</p>
<p>(11) <u>Recreational Unit Site</u>  <b>(ADDED BY AMENDMENT 114F)</b></p>	<p>Each site shall have a parking space for at least one (1) vehicle other than the recreational unit.</p>

Section 7.6.4 Off-Street Parking Site Development Requirements: All off-street parking areas shall be designed, constructed, and maintained in accordance with the following standards and requirements:

- (1) No parking lot shall be constructed until a permit therefor is issued by the Zoning Administrator.
- (2) Before such permit is issued, plans and specifications shall be submitted to the Zoning Administrator showing the location, capacity, size, site design, surfacing, marking, lighting, drainage, entrances, exits, and any other detailed features essential to the design and construction of the proposed parking facility.
  - (a) Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements:

<u>Parking Pattern</u>	<u>Maneuvering Lane Width</u>	<u>Parking Space Width</u>	<u>Parking Space Length</u>
(Parallel parking)	12 ft.	8 ft.	23 ft.
30 to 53	12 ft.	8 ft. 6 in.	20 ft.
54 to 74	15 ft.	8 ft. 6 in.	20 ft.
75 to 90	20 ft.	9 ft.	20 ft.

- (b) All parking spaces shall be provided access by maneuvering lanes. Backing directly onto a street shall be prohibited.
- (c) Adequate ingress and egress to the parking lot by means of clearly defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than residential use shall not be across land zoned for residential use.
- (d) Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least twenty-five (25) feet distant from adjacent property located in any residential district.
- (e) Except for residential lots, all parking areas, including parking spaces and maneuvering lanes shall be surfaced with a material that shall provide a durable, smooth, and dustless surface; and shall be graded and drained to dispose of all collected surface water.
- (f) All lighting shall conform to the requirements of Section 7.14. **(REVISED BY AMENDMENT 175B)**
- (g) Ingress and egress to the parking lot shall provide adequate stacking space so that vehicles do not block the ingress/egress road or park on public road shoulders.

- (3) All parking areas containing over twenty seven hundred (2700) square feet or more of parking area, including access drives thereto, shall be effectively landscaped with planting strips on all sides adjacent or visible from surrounding properties and on all sides abutting a public street.

(a) Landscaping Defined: Landscaping shall mean some combination of planted trees, shrubs, vines, ground cover, flowers or lawns. In addition, the combination or design may include rock ground cover not to exceed twenty (20%) percent of the total of any landscaped area, earth mounds, and such structural features as fountains, pools, art works, screens, walls, fences, or benches, but such objects alone shall not meet the requirements of this section.

(b) Landscaping Design Standards:

1. Any required planting strip shall be a minimum of ten (10') feet in width.
2. One street tree shall be planted adjacent to the public right-of-way for each twenty-four (24) lineal feet of frontage.
3. Where screens of non-living material are used, at least one shrub or vine shall be planted on the right-of-way of property line side for each ten (10) lineal feet of screen or fraction thereof.
4. Parking lots with more than two (2) parking aisles shall require landscaped areas of at least ten (10) square feet of interior landscaping for each parking space, interior being defined as the area within the perimeter of the paved surface.  
Landscaped areas shall be a minimum of seventy-five (75') square feet with a minimum dimension of eight (8') feet. Interior landscape areas shall be designed so as to create minimum interference with snow removal.
5. The selected combination of plant material shall be a harmonious combination of living deciduous and evergreen trees, shrubs and vines so arranged to present as aesthetically pleasing whole.
6. The application of the above standards may be adjusted, in part or in whole, to allow credit for healthy plant material to be retained on or adjacent to the site if such an adjustment is consistent with the intent of this Ordinance.

(c) Maintenance: It shall be the owner's responsibility to see that the landscaping is maintained in a neat, clean, orderly and healthful condition. This includes, among other things, proper pruning, mowing of lawns, weeding, removal of litter, replacement of plants when necessary, and the regular watering of all plants.

- (d) Occupancy: No occupancy of land use shall occur unless the parking and landscape improvements have been completed or a completion bond, a cash deposit, a letter of credit or certified check to cover the cost of the contemplated improvements as estimated by the Zoning Administrator has been deposited with the Zoning Administrator.
- (e) Time Period: The required improvements are to be completed within one year of the issuance of a land use permit. In the event of unusual delays or adverse weather conditions that make it impossible to plant, the Zoning Administrator may grant a single extension of the time limit for a further period of not more than six months.
- (4) Whenever a development requiring off-street parking has parking areas containing over twenty seven hundred (2700) square feet or more, provision shall be made for on-site snow storage area in addition to the required parking lot area. snow storage shall be provided on the ratio of fifteen (15) square feet per one hundred (100) square feet of parking lot surface area. Snow storage areas shall be located in such manner that when utilized they do not interfere with clear visibility of traffic or adjacent streets and highways and the landscaping required in Section 7.5.4(3) is protected from damage.

Section 7.7 Developments Abutting Agricultural Lands:  
**(REVISED BY AMENDMENT 91.) (REVISED BY AMENDMENT 138)**

Section 7.7.1 Agricultural Setback: The following setbacks shall be required when a planned unit development, subdivision, condominium, mobile home park, or other group housing is developed; and on those metes and bounds parcels created after the effective date of this amendment, as provided below

Section 7.7.1.1 Requirement for Agricultural Setback:

- (1) A setback of 100 feet from the property line of the adjacent property shall be required for accessory uses, buildings or structures as follows:
  - (a) When a planned unit development, subdivision, condominium, mobile home park, or other group housing is developed adjacent to land that is zoned A-1 Agriculture, and;
  - (b) When a planned unit development, subdivision, condominium, mobile home park, or other group housing is developed adjacent to land that is zoned Residential but is shown on the Agricultural Preserve Map of the Peninsula Township Comprehensive Plan as adopted and amended from time to time by the Planning Commission.
- (2) A setback of 50 feet from the property line of the adjacent property shall be required for those portions of metes and bounds parcels created after the adoption of this amendment that have a common line with land that is zoned A-1 Agriculture unless that A-1 Agriculture zoned land is being used for residential purposes.
- (3) The setback areas required by (1) and (2) above shall not be used for accessory uses, buildings or structures.
- (4) A setback of 100 feet shall be required when a planned unit development,

subdivision, condominium, mobile home park, or other group housing is developed adjacent to land that is zoned Residential but is currently being used for agricultural production that includes the carrying on of usual soil practices of cultivation, spraying and fertilization.

Section 7.7.1.2 Lot Designation: Subdivision Lots or Condominium Limited Common Elements adjacent to such agricultural lands shall have designated building sites shown on the preliminary and final plans. Residential and accessory uses shall be located within the designated areas. Plans accompanying applications for zoning permits shall show such designated sites.

Section 7.7.1.3 Exceptions to Required Setbacks:

- (1) The Township Board may, upon recommendation of the Planning Commission, decrease the required setback on any or all lots or limited common elements when the Township Board determines that one or more of the following conditions exist:
  - (a) The existence of topographic conditions i.e. steep slopes, changes in grade, wetlands etc. or other site conditions which make it:
    1. unlikely that any of the uses allowed in the agricultural district would be located on the adjacent agriculturally zoned land; or
    2. so that the properties are sufficiently separated to mitigate incompatibilities of use;
  - (b) There exists an easement such as a conservation easement on the land adjacent to the proposed plat that restricts agricultural uses in such a manner that protection to future homeowners is equal or better than that provided by the 100 foot setback; or.
  - (c) There are existing residential uses along the lot line of the agriculturally zoned property.

Section 7.7.2 Fencing Certain Agricultural Lands: When lands used for a planned unit development, mobile home park or other group housing development abut agricultural lands as described in Section 7.7.1, the developer shall, prior to construction of residential units, install a control fence along the boundary between the development and the agricultural lands unless the Township Board determines that trespass problems are not likely and in that case the Board may determine that the fence is not required. The fence is intended to limit trespass onto the agricultural lands. If, at a later date, the Township Board determines that trespass is a problem, the Township Board after holding a public hearing on the issue may then require the owner or owners of the property adjacent to agricultural land to install a fence.

- (1) Suggested minimum fencing specifications:
  - (a) Mesh: No. 11 gauge woven wire farm fence shall be 46-1/2" in height with 6-1/2" square mesh pattern (uniformly spaced).
  - (b) Line Posts: Wood line posts shall be 4-1/2" minimum diameter and 7' in length, spaced not more than 16'6" (center to center) and set 2'6" into the ground. All posts shall be wolmanized or treated in an equivalent manner. Wood shall be cedar, oak or approved equal.



- (c) Corner, End, Gate and Intermediate Braces Posts: These shall be 8' minimum length and 8" minimum diameter, set 3'6" into the ground, spaced 10' from adjacent line posts, and located as shown on Plans. Intermediate braced posts shall be located a maximum of 660' apart on straight runs. Corner post shall be located at all changes in direction.

- (2) Fencing required by this Section shall be built as approved by the Township Board.  
**(REVISED BY AMENDMENT 137A)**

Section 7.8 Removal of Fruit-producing Trees, Vines or Shrubs from Properties Being Developed: Because of the unique character of Peninsula Township as a commercial fruit-producing area where the livelihood and well-being of many area residents depends on the successful production of fruit crops, it is necessary to control dangerous insects and infectious plant diseases which constitute a menace to such fruit crops. Since neglected, abandoned, or semi-abandoned fruit-producing plants often harbor such insects, pests and plant diseases, the owner of properties being developed for planned unit developments, mobile home parks, or other group housing developments shall remove and destroy all existing fruit-producing plants from the subject properties. The removal of all such plants shall occur prior to the commencement of construction unless it can be clearly demonstrated that the plants will be maintained and treated on a regular basis by a pesticide applicator licensed by the Michigan Department of Agriculture.

Section 7.9 Airport Overlay District.

Section 7.9.1 Definitions:

**Airport Overlay Zone District-** The Airport Overlay Zone District is the airport hazard area consisting of all of the lands within Peninsula Township lying beneath the approach, transitional, 149 feet horizontal, conical and 500 foot horizontal surface; said land being located within a circle having a radius extending horizontally (6.32 miles) from the established center of the useable landing area of the airport.

**CRITICAL ZONE.** The critical zone includes the clear zone approach-departure surface and the transitional surface as defined in the attached diagram(Airport Imaginary Surfaces).

**INNER HORIZONTAL SURFACE AREA.** The inner horizontal surface area is that area surrounding the airport for a distance of three miles, excluding the clear zone surface, transitional surface and airport approach-departure clearance surface.

**OTHER HORIZONTAL SURFACE.** The outer horizontal surface is the airport hazard area less the critical zone area beyond a three mile distance of the Inner Horizontal Surface area to the outer boundary of the Airport Overlay Zone District.

Section 7.9.2 Area Affected

Every parcel of land which lies in whole or in part within the Airport Overlay Zone as depicted on the Official Zoning Map is subject to the regulations of this Overlay Zone to the extent the parcel lies within this Overlay Zone. The regulations of this Overlay Zone are in addition to any regulations in the underlying land use district; however, these regulations supersede all conflicting regulations of the underlying land use district to the extent of such conflict, but no further.



#### Section 7.9.3 Height Limitations

No person shall erect any building or structure to an actual height in excess of the height limitations indicated below unless issued a permit by Peninsula township. Structure heights exceeding the following limitations may be granted a permit upon receipt of a favorable review in response to notice being filed with the FAA or State of Michigan Aeronautical Department by the applicant in response to the applicant's submission of a Form 7460.

- (1) No structure within the inner horizontal surface area shall exceed the elevation of 774 U.S.G.S. (except as provided in Subsection D).
- (2) No structure will be allowed to penetrate the critical zone surface as depicted on Sheets 2 through 4 of the official Airport Zoning Plans (except as provided in Subsection D).
- (3) No structure shall be allowed to penetrate the conical or outer horizontal surfaces as depicted on Sheets 2 through 4 of the Official Airport Zoning Plans (except as provided in Subsection D).
- (4) Provided, however, a structure having a height of 35 feet or less, will be allowed to penetrate any surface area and will not be subject to this section.

#### Section 7.9.4 Conflicting Federal or State Regulations

The regulations of the Airport Overlay Zone are not intended to conflict with existing or future approach protection regulations promulgated by the United States (Federal Aviation Regulations Part-77), the State of Michigan (P.A. 23 of 1950 as amended by P.A. 158 of 1976), or any agencies thereof, including, but not limited to, the giving of notice of any construction, erection or alteration of a building or structure that:

- (1) Would be more than 149 feet above ground level at its site.
- (2) Would be above any imaginary surface extending outward and upwards at 100:1 slope within 20,000 feet of the nearest point of an airport runway more than 3,200 feet in length; or
- (3) Would be above any imaginary surface extending outward and upward at 50:1 slope within 10,000 feet if the nearest point of an airport runway less than 3,200 feet in length.

#### Section 7.9.5 Unlawful Land Uses

It shall be unlawful to put any parcel within 3 miles (inner horizontal surface area) of the Airport to any use which would:

- (1) Create electrical interference with radio communication between the airport and aircraft or create interference with navigational aids employed by the airport or by aircraft.
- (2) Make it difficult for aircraft pilots to distinguish between airport lights and other lights or result in glare in the eyes of aircraft pilots using the airport.

- (3) Create air pollution in such amounts as to impair the visibility of aircraft pilots in the use of the airport.
- (4) Would endanger the landing, taking off or maneuvering of aircraft.
- (5) Abnormally attract birds.
- (6) Would otherwise create an airport hazard.

#### Section 7.9.6 Land Use Guidance Zones

- (1) Purpose: the purpose of Land Use Guidance Zones (Sheet 5, Airport zoning Plans) is to designate areas where in certain types of land uses that are recommended due to undesirable effects that may be caused due to the operation of aircraft within such zones.
- (2) Acceptable Land Use: The use of land within the areas shown on the zoning plans are compatible, land use as outlined in Land Use Guidance Chart II, as shown on Sheet 5 of the zoning plans.

#### Section 7.9.7 Official Zoning Map

The Official Zoning Map is hereby amended to show the Airport Overlay Zone as provided for in the approved Cherry Capital Airport Zoning Plans Sheet 1 through 5, as approved by the Peninsula Township Planning Commission on November 21, 1989.

#### Section 7.10 Road Standards **(ADDED BY AMENDMENT 88)**

##### Section 7.10.1 Frontage Road Permit:

The Zoning Administrator shall issue a preliminary road frontage permit prior to the commencement of any construction work on a frontage road. Such permit shall only be issued after the initial plans, specifications, drainage plan, easement language, and joint maintenance agreement have all been approved. The final frontage road permit shall be issued after the private road has been constructed and, if requested by the Zoning Administrator, certification has been made by a Licensed Professional Engineer that the facility was built according to the submitted plans and specifications or that any deviation from the approved plans and specifications does not impair the functional intent of the approved design.

- (1) No parcel of land or lot created after the adoption of this amendment shall be issued a land use permit without having the required lot width or frontage width along a public road a private road or an approved frontage road.
- (2) No land use permit for a structure shall be issued until the preliminary road frontage permit has been issued, and no occupancy permit shall be issued until the final frontage road permit has been issued by the Zoning Administrator.
- (3) Only public roads shall be used to access non-agricultural commercial, industrial or business uses, however private internal roads may be used as access to individual buildings or uses within an approved development.

Section 7.10.2 Joint Maintenance Agreement:

- (1) A proposed easement and road maintenance agreement shall be provided to the Township Zoning Administrator. The easement and road maintenance agreement shall provide as a minimum:
  - (a) Majority vote rules regarding road maintenance and improvement decisions.
  - (b) The owner of each parcel will be responsible for payment of the share of costs apportioned to his or her parcel.
  - (c) The owners shall have standing and the right to commence legal or equitable action against a delinquent parcel owner or parcel owners to foreclose a lien or otherwise collect the sums owed.
  - (d) The agreement shall be recorded and shall run with the land and bind and benefit the parcels, and the owners thereof, in perpetuity.
  - (e) The owner or owners of the land served by the road shall provide for the requirement to grade, drain, and otherwise maintain the private road in accordance with the requirements of the ordinance.
  - (f) A statement that the owners have not asked the Grand Traverse County Road Commission to accept the road as a public road. As such, the roadway will be private and the Road Commission will have no obligation to maintain the road in any manner. This provision does not prevent the future upgrading to County Road Standards nor requesting the road to be taken over by the County Road Commission. **(REVISED BY AMENDMENT 107A)**
- (2) The easement and road maintenance agreement shall be reviewed and approved by the Township Attorney for compliance with the Township regulations. Following approval of the Township Attorney, the agreement shall be recorded with the Grand Traverse County Register of Deeds.

Section 7.10.3 Drainage Plan:

A Drainage Plan meeting the approval of the Grand Traverse County Soil Erosion and Sedimentation Control Officer shall be prepared by a registered professional engineer, which plan will control erosion and retain storm water on site or direct it to a proper drainage course. The drainage plan, as it affects the roadways shall indicate the manner in which surface drainage is to be disposed of. To accomplish this will usually require making use of existing ditches, natural water courses, or constructing tributaries thereto. An easement of twenty (20) feet or more in width shall be provided when the drain crosses private property within the project or adjacent to it. The drainage plan shall conform to the requirements of all agencies having jurisdiction. The owner or owners of the land served by the road shall provide in a road maintenance agreement for the requirement to grade, drain, and otherwise maintain the private road in accordance with the requirements of the ordinance.

Section 7.10.4 Right-of-Way, Temporary Grading Easements and Utility Easements:

The following right-of-way, temporary grading easements and utility easements are required for all private roads:

Right-of-way or Easement Access Minimum Width of 33 feet.

The frontage road including shoulders and ditches shall be located within this Right of Way or Easement Access.

Temporary Grading Easement.

A Temporary Grading Easement of at least 16.5 feet shall be provided on each side of the Right-of-way or Easement Access until such time as the road is completed. Greater Temporary Grading Easements may be required on steep slopes so that the road, including shoulders and ditches can be constructed within the Right-of-way or Easement Access according to the plan provided for by Section 7.10.9.

Utility Easement.....Minimum Width of 10 feet.

A Utility Easement for public and private utilities shall be provided on each side of the Right-of Way and may be within a Grading Easement or located outside the Grading Easement. **(REVISED BY AMENDMENT 107B)**

Section 7.10.5 Hold Harmless Agreement:

Waiver or indemnification and "hold harmless" agreement to benefit the municipality, as approved by the Township Attorney.

Section 7.10.6 Road Layout:

- (1) The road layout shall conform to any adopted road plan of Peninsula Township and shall also conform to the pattern established by adjacent roads.
- (2) All existing roads that terminate at the boundaries of a proposed development shall be connected with the road system of the proposed development.
- (3) Suitable access from an isolated parcel previously dependent on this property for sole access to existing public roads must be provided such access by easement or dedication.
- (4) The layout of roads shall provide as much as possible for a continuous circuit for travel. In special cases where the lands to be divided are limited in area or are subject to a natural barrier, the Township Board or Zoning Administrator may approve a dedication which provides access to another road at one end only if a cul-de-sac of forty (40) foot minimum roadbed radius with sixty (60) foot radius right-of-way is provided at the terminus of the road to permit turning in a continuous circuit. No more than five driveways will be permitted to enter the cul-de-sac beyond the point of curvature at the beginning of the cul-de-sac. A cul-de-sac shall not be allowed where it is reasonable to connect to adjacent properties. Refer to Figure 2, sketch of typical cul-de-sac and typical intersection.

Section 7.10.7 Road Names:

All frontage roads serving more than two residential properties and if required by the County Equalization Department shall have a road name approved by the Township Board. The proprietor shall furnish and erect road name signs at all intersections within the project and entrances thereto to assist in the location of the property by emergency vehicles. The design and color of the road name signs shall be as approved by the Grand Traverse County Road Commission.

Section 7.10.8 Signs:

Traffic control signs shall be placed in accordance to the Michigan Manual of Uniform Traffic Control Devices. Signs marked "Private Road" shall be erected and maintained by the Proprietor at the entrance to all private roads in subdivisions and condominiums.

Section 7.10.9 Required improvements and specifications:(1) PLAN AND PROFILE

- (a) Plan and profile drawings shall be prepared by the Proprietor's Registered Professional Engineer in detail complete enough to be used as construction plans.
- (b) Detailed Construction plans shall be provided at a scale of 1" = 100' or larger and shall include:
  - 1. Detailed survey drawings showing the easement, proposed road location and all parcels benefitted by the frontage road. The plan shall incorporate all construction standards of the Township.
  - 2. The proposed gradients of all roads and the location of drainage facilities and structures, as well as other pertinent information.
  - 3. Utility easements shall be shown on the plan and such utility easements shall include public sewer, water, and gas as well as telephone, electric, and cable easements.
- (c) Vertical curves shall be used at all changes in grade. Sight distance, horizontal and vertical alignment shall be based on a minimum design speed of twenty-five (25) MPH. Sight distance and alignment shall be in accordance with current A.A.S.H.O. standards for Geometric Design. Horizontal curve radii, vertical curve lengths, and percent of grade shall all be shown on the plan and profile drawings.
- (d) For design of roadbed, shoulders, ditch profiles and slope requirements refer to Figure 1, sketch of typical road cross sections
- (e) Two copies of the plan and profile drawings shall be forwarded to the Zoning Administrator for approval. More detailed construction plans may be required by the Zoning Administrator. One copy will be returned to the Proprietor's engineer with approval or necessary revisions marked thereon. Approval must be obtained before construction begins.

- (2) CLEARING, GRUBBING AND MAINTENANCE: All trees, stumps, brush, and roots thereof shall be entirely removed between the outside limits of the ditches and also within the 25 foot radius at all intersections whichever is greater. Maintenance of the cleared area shall be performed as necessary to keep the area clear of trees and brush.

(3) GRADES AND PAVING:

Permissible percent grades on any Frontage Road shall be within the following ranges:

Maximum

..... 9%

..... 12% When the conditions below are met.

..... 1% Cul-de-sac

Minimum ..... 0.4%

Frontage roads with grades of up to 9 percent shall have a roadbed width of not less than 18 feet and may be paved or have a gravel surface and shall have 2 foot shoulders on each side. With grades greater than 9 percent, the roadbed width shall be surfaced with bituminous pavement to a width of not less than 20 feet. Integral bituminous raised edge may be used in areas subject to severe erosion, possibly eliminating the need for roadside ditches. Minimum width between beginnings of raised edges shall be the same as for a paved roadbed.

- (4) DRAINAGE STRUCTURES AND EROSION CONTROL: Drainage structures shall be installed as indicated on the Drainage Plan. Minimum diameter of culverts shall be 12 inches unless a smaller diameter is approved by the Drain Commissioner and/or County Road Commission. The bottom ends of culverts shall extend to the bottom of the slope. Either concrete culvert pipe, corrugated metal pipe or corrugated polyethylene pipe meeting Michigan Department of Transportation specifications of the required size and strength may be used. Standard flared end sections shall be used on all road cross-culverts. Guard posts shall be placed beside the ends of cross culverts to mark their location. Bridges shall be designed for HS-20 or more loading on all roads. Culverts at driveway entrances may be necessary. Sodding, rip-rapping, sediment basins, topsoil, seeding, mulching, or other methods of erosion control shall be used in accordance with the recommendations of the Soil Erosion and Sedimentation Control Officer and the Drain Commissioner.  
**(REVISED BY AMENDMENT 107C)**

- (5) SURFACING A minimum total depth of six inches of compacted dense aggregate shall be placed on frontage roads.
- (a) The aggregate base course shall be placed on the prepared sub-grade for the entire width of the roadway in accordance with the Standard Plans for Frontage Roads (Figure 1). All material specifications shall meet the current MDOT specifications.
  - (b) Where bituminous aggregate pavement is required, bituminous aggregate pavement course Michigan Department of Transportation Specification 4.11 20AA Aggregate (or an alternate mix approved by the Zoning Administrator) applied in two or more courses, shall be placed at the minimum rate of 275#/SYD, the leveling course shall be placed at a rate of 165#/SYD with the remainder placed on the surface course. A time period of no more than one year shall elapse between the placement of any two courses of bituminous pavement. A bituminous prime coat applied at the rate of 0.25 gal/SYD on the prepared aggregate base course and a bituminous bond coat applied at a rate of 0.10 gal/SYD between pavement courses will be required.
  - c. Shoulders shall be stabilized with 2 ½" or more of good compacted topsoil over 6" of compacted gravel. Shoulders shall be sodded or seeded and mulched to insure an adequate covering of grass.

- (6) INTERSECTIONS:
- (a) ANGLE OF INTERSECTION: Roads shall intersect at ninety (90) degrees or closely thereto and in no case at less than eighty (80) degrees.
  - (b) SIGHT TRIANGLES: Minimum clear sight distance at all minor road



intersections shall permit vehicles to be visible to the driver of another vehicle when each is one hundred twenty five (125) feet from the center of the intersection.

- (c) NUMBER OF ROADS: No more than two (2) roads shall cross at any one (1) intersection.
  - (d) "T" INTERSECTIONS: "T" type intersections shall be used where practical.
  - (e) CENTERLINE OFFSETS: Slight jogs at intersections shall be avoided if possible. Where such jogs are unavoidable, road centerline shall be offset by a distance of one hundred fifty (150) feet or more.
  - (f) VERTICAL ALIGNMENT OF INTERSECTION: A nearly flat grade with appropriate drainage slopes is desirable within intersections. This flat section shall be carried back fifty (50) feet from the center of the intersection.
- (7) UTILITIES: Adequate utility easements shall be provided within or adjacent to the right-of-way and dedicated to the public for sewer, water, gas, electric, telephone and cable use. All sewer, water, electrical, telephone, cable, and gas utilities which are placed underground in the frontage road right-of-way shall be placed prior to final soil erosion measure work where at all possible.

#### Section 7.10.10 Frontage Road Approval Process:

- (1) Sufficient copies of complete construction plans, drainage plan, easement and road maintenance agreement, and hold harmless agreement shall be presented to the Zoning Administrator who shall submit the copies of the hold harmless agreement, easement, and the road maintenance agreement to the Township Attorney for review and approval. The applicant shall also submit copies to the County Road Commission, Department of Transportation, Drain Commissioner, and County Soil Erosion Office for their review and comment and any appropriate permits.
- (2) The Zoning Administrator shall review the plans and the proposed benefitting properties for conformance with the Township Master Plan, the Zoning Ordinance, the Subdivision Control Ordinance, the Condominium Subdivision Ordinance, and any other requirements of the Township.
- (3) The Zoning Administrator shall issue a preliminary road frontage permit prior to the commencement of any construction work on the road. Such permit shall only be issued after the initial plans, specifications, easement language, joint maintenance agreement, and hold harmless agreement have all been approved, and appropriate reviews and permits have been received from the agencies to whom copies were submitted in accordance with Section (1) above. The final frontage road permit shall be issued by the Zoning Administrator after the private road has been constructed and certification has been made by a licensed professional engineer that the facility was (a) built according to the plans and specifications and/or (b) that any deviation from the approved plans and specifications does not impair the functional intent of the approved design.
- (4) In order to insure that the requirements of this section are complied with, the Zoning Administrator is hereby authorized to require that construction regulated by this section be inspected by a licensed engineer with appropriate certification provided to the Zoning Administrator. The cost of such inspection shall be paid by the applicant prior to the issuance of the final road permit.

Section 7.10.11 Existing Non-Conforming Frontage Roads:

Roads existing and used as frontage roads at the time this amendment is approved, and which do not meet the right-of-way widths of this ordinance may continue to be used, provided that the grade, roadbed, shoulder and paving requirements are met prior to the issuance of land use permits or occupancy permits for new structures by the Zoning Administrator.

Section 7.10.12 Guarantee of Completion of Required Improvements:

The Township Board may require all improvements and facilities to be completed before it approves the final plat, condominium plan or project plan.

In lieu of the actual installation of required public improvements, or soil erosion measures not covered by Act 347 of P.A. 1972, the Township Board may permit the applicant to provide a financial guarantee of performance in one or a combination of the following arrangements for those requirements which are over and beyond the requirements of the County Road Commission, County Drain Commissioner or any other agency responsible for the administration, operation or maintenance of the applicable public improvement.

The Township Board may waive financial guarantees of performance under this Ordinance for road lights, or road trees. In case these improvements are specified, completion may be required prior to the issuance of occupancy permits by the Zoning Ordinance.

(1) Performance or Surety Bond:

- (a) Accrual: The bond shall accrue to the Township, covering construction, operation and maintenance of the specific public improvement.
- (b) Amount: The bond shall be in an amount equal to the total estimated cost for completing construction of the specific public improvement, including contingencies, as estimated by the Township Board.
- (c) Term Length: The term length in which the bond is in force shall be for a period to be specified by the Township Board for the specific public improvement.
- (d) Bonding or Surety Company: The bond shall be with a surety company authorized to do business in the State of Michigan, acceptable to the Township Board.
- (e) The escrow agreement shall be drafted at the expense of the developer and approved by the Township Attorney.

(2) Cash Deposit, Certified Check, Negotiable Bond, or Irrevocable Bank Letter of Credit:

- (a) Treasurer, Escrow Agent or Trust Company: A cash deposit, certified check, negotiable bond, or an irrevocable bank letter of credit, such surety acceptable by the Township Board, shall accrue to the Township. These deposits shall be made with the Township Treasurer, or deposited with a responsible escrow agent, or trust company, subject to the approval of the Township Board



- (b) Dollar Value: The dollar value of the cash deposit, certified check, negotiable bond, or an irrevocable bank letter of credit, shall be equal to the total estimated cost of construction of the specific public improvement including contingencies, as estimated by the Township Board.
  - (c) Escrow Time: The escrow time for the cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit, shall be for a period to be specified by the Township Board.
  - (d) Progressive Payment: In the case of cash deposits or certified checks, an agreement between the Township and the subdivider may provide for progressive payment out of the cash deposit or reduction of the certified check, negotiable bond or irrevocable bank letter of credit, to the extent of the cost of the completed portion of the public improvement, in accordance with a previously entered into agreement.
- (3) CONDITION OF TOWNSHIP APPROVAL OF FINAL ROAD PROJECT - FINANCIAL GUARANTEES: With respect to financial guarantees, the approval of all final road projects shall be conditioned on the accomplishment of one of the following:
  - (a) The construction of improvements required by this Ordinance shall have been completed by the applicant and approved by the Township Board.
  - (b) Surety acceptable to the Township Board shall have been filed in the form of a cash deposit, certified check, negotiable bond, irrevocable bank letter of credit or surety bond.
- (4) INSPECTION OF PUBLIC IMPROVEMENTS UNDER CONSTRUCTION: Before approving a final project, an agreement between the applicant and the Township Board shall be made to provide for checking or inspecting the construction of public improvements and conformity to plans.
- (5) PENALTY IN CASE OF FAILURE TO COMPLETE THE CONSTRUCTION OF A PUBLIC IMPROVEMENT: In the event the applicant shall, in any case, fail to complete such work within such period of time as required by the conditions of the guarantee for the completion of public improvements, it shall be the responsibility of the Township Board to proceed to have such work completed. In order to accomplish this, the Township Board shall reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check, irrevocable bank letter of credit, or negotiable bond which the applicant may have deposited in lieu of a surety bond, or may take such steps as may be necessary to require performance by the bonding or surety company, and as included in a written agreement between the Township Board and the applicant.

Figure 1

Figure 2a

Figure 2b

**Section 7.11 Signs: (SECTION 7.11 ADDED BY AMENDMENT 100D)**

It is the intent of this ordinance to limit the number and size of signs in order to prevent traffic hazards, promote safety for passers by, and to maintain in so far as possible the rural ambience and the environment of the Township. It is also the intent to allow signs which are appropriate, proportional, and in scale with adjacent uses and roadways, and which are compatible with the character of the community.

To allow Peninsula Township to regulate the height, size, display area, setback, lighting, and distances between billboards, and other regulatory powers pursuant to Act 153 of 1990, in order to control outdoor advertising along federal aid trunkline highways.

To allow billboards for the purposes of outdoor advertising, that provides information, identification, and/or direction, without jeopardizing the beauty of the natural landscape or disrupting the environment of historically significant features or sites.

To regulate outdoor advertising in such a way as to create land use patterns that are in concert with future land use objectives and to prevent signs that would detract from scenic roadways and scenic views.

To insure compatibility with rural lands, neighborhoods, and business areas, in order to protect land values, thereby enhancing the image of the community for residents, tourists, and visitors.

**Section 7.11.1 Sign Placement and/or Design Requirements:** All signs shall conform with Table 7.11.6 and all other provisions of this ordinance.

- (1) All signs shall be located on the same premises as the associated use, unless otherwise provided for in this Ordinance.
- (2) No sign shall be constructed, erected, moved, enlarged, illuminated, or substantially altered unless authorized in accordance with this ordinance. Repainting or changing the message of a sign shall not in and of itself be considered a substantial alteration.
- (3) Flags or insignia of any governmental or non-profit organization when not displayed in connection with a commercial promotion or as an advertising device shall not be considered signs.
- (4) Signs may be free standing, attached to a building, or installed inside a window, provided, if the sign is attached to a building:
  - (a) The sign does not project more than twelve (12) inches from the building wall;
  - (b) The exposed face of the sign is in a plane parallel to the building wall or structure.
  - (c) The sign does not extend above the height of the building or wall.
- (5) A two-sided sign shall be considered as one sign when:
  - (a) With respect to a V-type sign, the angle between the sign faces does not exceed fifteen (15) degrees, or;

- (b) With respect to double faced (back-to-back) signs, the distance between the backs of each face does not exceed three (3) feet.
- (6) The support system for billboards is a structure which must meet all setbacks, and requires a lot that meets the area and size requirements for the district in which located.
- (7) Materials, supports, frames, letters and sign surfaces may be any commonly used material, however, the use of natural or natural appearing materials is highly encouraged.
- (8) The sign including supporting structures shall not be more than one and one/half times the width of the sign face alone.
- (9) The area of a sign shall be the minimum area of a parallelogram, ellipse, or circle which is capable of containing the graphics, symbols, and/or written copy along with the background area.
- (10) Height of signs shall be measured from the highest point of the sign or supporting structure to the elevation of the highest point of grading beneath the sign exclusive of architectural landscaping related to the sign.
- (11) Setbacks shall be measured from the lot line of the road from which the sign will be viewed to the leading edge of the sign or support structure whichever is less.
- (12) If illumination is allowed by this Ordinance, such illumination shall conform to the requirements of Section 7.14. **(REVISED BY AMENDMENT 175B)**
- (13) All plans for construction, design and appearance of signs permitted in Commercial Districts shall be reviewed as part of the site plan approval process.
- (14) All plans for the construction, design and appearance of Entrance Way Signs and Subdivision Development Signs not subject to a Special Use Permit shall be submitted to the Zoning Board of Appeals for review and approval.
- (15) In addition to any other consideration, the Planning Commission and/or the Zoning Board of Appeals shall consider the following in reviewing and approving signs:
  - (a) Compatibility of the sign with the character of the neighborhood.
  - (b) The sign does not unreasonably block views from other properties.
  - (c) Materials and colors used are natural looking and consistent with surrounding structures in the vicinity, and with the intent of the Ordinance.
- (16) Signs shall not be placed within road rights-of-way.
- (17) Signs shall not be attached to trees.
- (18) Signs shall not be attached to utility structures or poles except by the utility company.
- (19) Signs shall not be placed so as to interfere with driver or pedestrian vision at

intersections of public roads, private roads, or driveways. In order to not obstruct the view of on-coming traffic from the ingress or egress point of the property, signs, if higher than three (3) feet, shall not be placed within a clear site zone which is a triangle with sides fifteen feet from the beginning of the radius of the entrance way measured along the road providing access to the property and along the access drive fifteen feet from the end of the radius of the entrance way.

- (20) There shall be a minimum horizontal spacing of 2,000 feet between any two billboards including both sides of a highway.

Section 7.11.2 Prohibited Signs: The following signs shall NOT be allowed in any district:

- (1) Signs which do not relate to existing businesses or products.
- (2) Signs which are illegal under applicable State or local laws, regulations and/or ordinance.
- (3) Signs that are not clean and in good repair or that have become unsafe or not secure.
- (4) Signs not securely fastened to a substantial structure.
- (5) Signs which attempt or appear to attempt to regulate, warn, or direct the movement of traffic, or which interfere with or resemble any official traffic sign, signal or device.
- (6) Signs which are not consistent with the standards in this Ordinance.
- (7) Flashing signs, portable signs, roof signs, advertising flags, revolving, moving or animated signs, signs with automated changes in sign appearance and all types of banners, pennants, streamers, and airborne devices attached to the ground or buildings except where otherwise specifically permitted by this Ordinance.  
**(REVISED BY AMENDMENT 175B)**
- (8) Signs utilizing vehicles, trucks, vans, or other wheeled devices, or tripods, sandwich boards, or (unless specifically allowed elsewhere in this Ordinance) changeable message boards.
- (9) Commercial signs extending perpendicularly from a building wall.
- (10) Directional Signs except those specifically allowed by this Ordinance.
- (11) Signs within a road right-of-way except traffic direction and control signs placed by the County Road Commission or Michigan Department of Transportation.
- (12) Prohibited Billboards:  
The following types of billboards shall not be permitted:
  - (a) A billboard within 500 feet of any residential district, historic district, park, school, church, hospital, retirement home, cemetery, or government building. A billboard located within 500 feet of a residential, commercial, industrial, or agricultural use on the same property.

- (b) A billboard that is stacked, tiered, stepped, or placed next to or along side of any other billboard or sign.
- (c) A billboard which would, by its erection, destroy significant natural vegetation and/or cause significant existing vegetation to be removed.
- (d) A billboard mounted on or over the roof of a building.
- (e) Billboards which may otherwise be prohibited by any other laws, ordinances or regulations.

Section 7.11.3 Signs Permitted in all Districts: The following signs shall be allowed in all zoning districts:

- (1) Agricultural Products Signs on the same premises with a general farm or horticultural use while the retail outlet is in operation. Signs may be two sided and may have changeable strips identifying specific products or products in season.
- (2) Church/Non-profit Social Organization/Governmental Sign.
- (3) Construction Site Sign may be displayed while construction is taking place.
- (4) Entrance Way Sign.
- (5) Event Sign and Directional Event Signs are permitted under the following conditions:
  - (a) The event has been approved by the Peninsula Township Board.
  - (b) The specific size, number, location, and duration of placement of the signs has been approved by the Peninsula Township Board.
- (6) Informational Signs.
- (7) Memorial/Historical Markers
- (8) Name Plate Sign.
- (9) Official signs of a non-commercial nature erected by a public utility.
- (10) Private Property/No Hunting/No Trespassing Sign.
- (11) Public notice signs placed by public agencies.
- (12) Real Estate Sign while the property is available for rent/lease or sale.
- (13) Roadside Stand Sign.
- (14) Signs required by law or placed by any governmental agency for traffic control.



- (15) Subdivision Development Sign.
- (16) Yard/Garage Sale Signs.  
The on-site sign may not be displayed for more than three (3) consecutive days and not more than ten (10) days in any 365-day period.
- (17) Signs approved in association with a Special Use Permit.  
In approving a Special Use Permit, the Township Board may approve any or all signs allowed in this Ordinance provided that the approved signs:
  - (a) Are related to an approved use in the Special Use Permit;
  - (b) The design, size, setback and lighting are shown on a scale drawing;
  - (c) The number and location of all signs is reasonably necessary to meet the intent of this ordinance.**(REVISED BY AMENDMENT 107G).**

Section 7.11.4 Signs Permitted in Commercial Districts: In the Commercial Districts the following signs shall be permitted:

- (1) Signs allowed by Section 7.11.3.
- (2) Billboards - PROVIDED that they shall be allowed only along M-37 and shall be restricted to properties zoned Commercial C-1.
- (3) Business Center Sign.
- (4) Business Identification Sign.
- (5) Promotional sign provided it pertains to the business or product on the property and also provided that it is changed at least bi-weekly.

Section 7.11.5 Signs Permitted in the A-1 Agricultural District: The following signs shall be permitted in the A-I District:

- (1) Signs allowed by Section 7.11.3.
- (2) Signs representing state or national awards won by the farm unit and/or its proprietors, and is removed within a year of placement.
- (3) Farm Processing Facility. **(ADDED BY AMENDMENT 174)**

Section 7.11.6: Sign Placement and Requirements Table (see Section 7.11.1 for sight triangle provisions) **(REVISED BY AMENDMENT 174)**

- (1) Areas are in square feet.
- (2) Setbacks are measured from road rights-of-way that are lot lines, however no signs shall be placed in required side yards that are not road rights-of-way.

(3) THE FOLLOWING SIGNS DO NOT NEED A SIGN PERMIT:

=====

Sign Type	No.	Area	Hgt.	Stbk.	Lt.
Agricultural Products	2	6	4	0	No
Construction Site	1	6	4	0	No
Farm Processing Facility	1	9	6	0	No
Name Plate **Unless attached to a building	1	3	4**	0	Yes
Promotional Sign	1	3	N/A	N/A	No
Real Estate	1	6	4	0	No
Roadside Stand	1	9	6	0	No
Yard/Garage Sale	1	6	4	0	No
Private Property * Not more than one per 100 feet of frontage or portion thereof.	*	1	6	0	No

**(REVISED BY AMENDMENT 174)**

**TABLE 7.11.6: SIGN PLACEMENT AND REQUIREMENTS TABLE**  
**CONTINUED**

(d) The following signs require approval of the Zoning Board of Appeals unless approved by the Township Board either as part of a Special Use Permit or as an Event Permit and they also require a sign permit issued by the Zoning Administrator.

Sign Type	No.	Area	Hgt.	Stbk.	Lt.
Billboard	1	30	10	15	No
Business Center With or without Business Identification Signs	1	30	10	***	Yes
Business Identification Within a Business Center	1	30	**	**	Yes
**Wall or Marquee/Awning Only Not in a Business Center	1	9	10	15	Yes
Church/Non-Profit/Governmental	1	9	6	15	Yes
Entrance Way	1	9	6	15	Yes
Event Sign	1	6	4	0	No
Directional Event Sign	(As approved by the Township Board)				
Ingress/Egress	***	2	3	0	***
Informational	***	2	***	***	***

\*\*\* as per approved site plan

(e) Such permit shall be preceded by the submission of an application on a form prescribed by the Board of Appeals accompanied with a filing fee. The Board of Appeals shall thereafter hold a hearing on the application, said hearing to be at such time and place and preceded by such notice as the Board of Appeals may determine. If the Board of Appeals shall determine that the granting of the application will not be inimical to the public health, safety, morals or welfare, then it may issue a permit for the erection of the sign as described in the application. In assuring the maintenance and preservation of public health, safety, morals and welfare, The Zoning Board of Appeals may establish reasonable set back, structural and maintenance provisions which shall be made a part of the sign permit. Sign permits may be revoked at any time conditions specified under Section 7.11 apply or conditions specified in permit are not met.

Section 7.12 Personal Wireless Communications **(SECTION 7.12 ADDED BY AMENDMENT 118B)**

The Telecommunications Act of 1966 as amended February 8, 1996 sets forth provisions concerning placement, location and construction of towers and related facilities for personal wireless services.

In order that such towers not cause visual pollution or create a safety hazard or reduce property values on adjacent properties, reasonable regulations for the location, use of existing structures (e.g., water towers, school and church steeples, tall buildings), design of structures and towers, is appropriate. Personal wireless service are specifically determined to NOT be essential services nor to be public utilities as such terms are used in this Ordinance.

Peninsula Township has adopted policies and the voters have approved increased property taxes to purchase development rights on certain farmlands to preserve the agricultural industry, retain the rural character of the township and preserve the unique scenic views of farms and shoreline. A considerable amount of property value in Peninsula Township is directly related to these efforts to retain the scenic qualities, agricultural land and management of growth in the township. It is consistent with these policies and programs to allow towers to be constructed in locations and to such heights that they do not interfere with these efforts to preserve the scenic views and township character.

It is the intent of these regulations to allow antennae to be located on monopoles as short as possible so as to maintain property values on surrounding properties, not impair scenic views, and provide reasonable service to Peninsula Township residents. It is not the intent to create "antennae farms" with a number of monopoles and antennae in a small area.

Taller towers may be allowed if it is proven to the satisfaction of the Township Board that reasonable service to Peninsula Township residents cannot be provided by low monopoles.

It is not the intent to regulate ham radio antennae under this section.

Section 7.12.1 Personal Wireless Communications Towers and Related Facilities

Construction of Wireless Telecommunication Antenna Towers and Equipment Shelter Buildings are allowed in Peninsula Township subject to the following provisions:

- (1) Wireless Telecommunication Antenna Towers and Equipment Shelter Buildings shall not be placed in any road right-of-way or in any easement for road purposes.
- (2) Such towers and facilities may be located in the Agricultural A-1 Zone or the Commercial C-1 Zone.
- (3) Such towers and facilities shall be placed on parcels (whether the land is owned or leased by the tower owner), that have an area no less than the minimum parcel size for the district.

- (4) All setbacks for the zoning district shall be met and in addition, no tower shall be placed closer than 50% of the tower's height from any property line. **(REVISED BY AMENDMENT NO. 129)**
- (5) No tower shall be placed in a scenic view area as shown on the Scenic View Map adopted or subsequently amended as part of the Peninsula Township Comprehensive Plan.
- (6) All tower proposals of more than thirty-five (35) feet shall be submitted to the Cherry Capital Airport Commission and FAA for review and approval prior to approval by Peninsula Township.
- (7) Prior to approval by the Township any franchise required by the Township Board shall be in place.
- (8) Wireless Telecommunication Antenna Towers of 40 feet or less, including antenna. All such tower location proposals shall require approval by the Planning Commission.
  - (a) The Planning Commission shall notify all property owners within 300 feet of the property considered for placement of a tower. The notice shall be sent by first class mail not less than 7 days prior to the public hearing and shall include the proposal, and the time, date and location wherein the plans can be reviewed and the date that the Planning Commission will hold a public hearing on the proposal.
  - (b) The Planning Commission shall determine the following conditions have been met in order to approve an application. **(REVISED BY AMENDMENT NO. 129)**
    1. The tower is not located in a prime scenic view as shown on the Scenic View Map adopted or subsequently amended as part of the Peninsula Township Comprehensive Plan, or; The tower is located in a prime scenic view but its location is adjacent to existing structures, is backed by trees or other vegetation, or is otherwise located so that in the sole discretion of the Planning Commission it does not impair the scenic view.
    2. Antennae and/or repeaters may be mounted on existing towers or, if approved by the Planning Commission, on other existing structures.
    3. Any application for use of a new or existing tower shall be accompanied by a Registered Engineer's certification of the design and safety of the tower to withstand winds of 100 miles per hour.
    4. The tower and/or antenna may be required to be painted or screened if located on a building or structure.

5. The service building is aesthetically and architecturally compatible with its environment.
  - a. The service building shall be constructed of compatible materials such as wood, brick, or stucco, and shall be designed to architecturally match the exterior of residential structures within three hundred feet of the property on which it is located.
  - b. In no case will metal exteriors be allowed for service buildings.
  - c. All connecting wires from towers to accessory buildings shall be underground.
  - d. All electrical and other service wires to the facility shall be underground.
  - e. The service building shall be no larger than necessary to house the equipment and meets all setback requirements of this Ordinance.
- (9) Wireless Telecommunication Antenna Towers of 40 feet or more, including antenna are regulated through Section 8.7.3.

Section 7.12.2 Township Property Exempt:**(DELETED BY AMENDMENT 184)**

Section 7.13 Fences:

- (1) Intent: The intent of this section is to allow fences with a height of four (4) feet or less within required yards (setbacks) with restrictions so that fences: a) are not erected which would block views; b) do not obstruct access by emergency personnel; c) are not within the road right-of-way; are not below the flood elevation line; and d) are not closer than three (3) feet of adjacent property without the agreement of the neighboring owner.
- (2) Excluded Fences: The following fences shall not be regulated by this section:
  - (a) Agricultural fences that are used for general farming and horticultural uses, field crop and fruit farming, raising and keeping of small animals, and raising and keeping of livestock.
  - (b) Temporary fence such as snow fences placed during the winter to control drifting snow or safety fences during construction.
  - (c) A Decorative Fence no greater than eighteen (18) inches in height and/or four (4) inches in width and is not a barrier.
- (3) Location: Unless otherwise provided in this Ordinance; No fence shall be constructed within a required yard setback unless that fence is four (4) feet in height or less measured from final grade and with a width no greater than two (2) feet at any point.
- (4) Obstructions: No fence shall obstruct access by emergency personnel. A gate at least three (3) feet in width shall be provided for access by emergency personnel to all parts of the property and as such shall not be considered an obstruction.
- (5) Required Setbacks:
  - (a) No fence shall be constructed closer to the shoreline of Grand Traverse Bay

than the flood elevation line.

- (b) No fence shall be placed within a road right-of-way.
  - (c) No fence shall be placed closer than twenty (20) feet from the driving lane of a road, street or alley.
  - (d) No fence shall be placed closer than three (3) feet to an adjacent property line without both owners providing approval in writing to the Zoning Administrator and such approval shall include a statement that the fence shall be maintained in good condition and such maintenance shall be the responsibility of each property owner.
- (6) Construction: Fences shall be designed so as not to impede the natural or established water drainage along lot lines.

**Section 7.14 Exterior Lighting Regulations: (ADDED BY AMENDMENT 175A)**

- (1) All new outdoor light fixtures and specified lighting practices shall conform with this section.
- (2) Outdoor lighting fixtures existing as of the effective date of this amendment may continue to be used except as otherwise provided.
- (3) Voluntary compliance with the intent of this section for exempt uses or structures and existing outdoor fixtures is encouraged.

**Section 7.14.1 Intent:** The Peninsula Township Board finds that this Section of the Ordinance complies with the Master Plan and that the dark night sky is considered a valuable natural and aesthetic resource which should be protected. The dark night sky contributes significantly to our quality of life by contributing to the public peace and to the health, safety, and welfare of the residents of and visitors to Peninsula Township. The essential public purposes that warrant Township regulation of the use of outdoor light fixtures include, but are not necessarily limited to:

- (1) Safety of individuals using outdoor areas for legitimate and necessary purposes after dark.
- (2) Minimization of light pollution, which has a detrimental effect on the environment, astronomical research, amateur astronomy, and general enjoyment of the night sky.
- (3) Elimination of unnecessary and/or unwanted illumination of adjacent and distant properties.
- (4) Conservation of electrical energy-generating resources.
- (5) Protection of vehicular and pedestrian traffic from dangerous glare.

**Section 7.14.2 Lighting-Related Definitions:**

- (1) **Automatic Timing Device:** A device which automatically turns outdoor light fixtures and/or circuits on and off.
- (2) **Floodlight:** A very strong artificial light so directed or diffused as to give a comparatively uniform illumination over a rather large area and often used to light

up the outside of buildings.

- (3) Full Shielding: A technique or method of construction which causes light emitted from an outdoor light fixture or any bright reflecting section to be such that the light source and any bright reflecting surface is not visible above the shield horizontal plane or beyond the boundaries of the property.
- (4) Glare: Intense blinding light emanating directly from a lamp, reflector or lens including bright reflective sections.
- (5) Light Pollution: Artificial light which causes a detrimental effect on the environment, astronomical observation, enjoyment of the naturally-illuminated night sky or causes undesirable glare or unnecessary and/or unwanted illumination of adjacent or even distant properties.
- (6) Light Source: The bulb or other element in an outdoor light fixture which emits light.
- (7) Motion Detector: A device triggered by motion and used to energize light sources.
- (8) Outdoor Light Fixture: An illuminating device which is permanently installed outdoors, including but not limited to devices used to illuminate signs.
- (9) Shield: In general, a permanently-installed, non-translucent shade, cowl, hood, baffle, or other construction which limits, restricts, or directs light, or the visibility of a light source, to meet the standards of this Section.
- (10) Security Lighting: Such outdoor light fixtures and/or practices intended to discourage intrusion on the premises by unwanted persons.
- (11) Vehicle Use Area: A Vehicle Use Area is a paved or unpaved driveway, maneuvering, loading and delivery area, solid waste collection, temporary storage area and outdoor processing area.
- (12) Yard Lighting: Such outdoor light fixtures and/or practices intended for the convenience, enjoyment, and safety of a property owner.

Section 7.14.3 Exterior Lighting Standards:

- (1) All new outdoor light fixtures shall:
  - (1) Have full shielding.
  - (2) Driveway post lights shall have translucent lens or covers to protect vehicular and pedestrian traffic from glare.
  - (3) Control light fixtures with manual switches, motion detection devices or other automatic timing devices.
- (2) Building facades may be lit, but only in a downward direction and fully shielded.
- (3) Security lighting may be approved as part of a site plan, and if approved shall be



fully shielded.

(4) Prohibited lighting types and/or practices:

- (1) Searchlights, lasers, or other high-intensity lights designed or used primarily to light the sky for advertising or entertainment purposes;
- (2) Broad-spectrum lighting, such as quartz, metal halide and mercury vapor lighting because of the diffusive and reflective characteristics of such light;
- (3) Foliage/tree “up lighting”.

(5) Illuminated Signs

- (1) Illuminated signs must be turned off no more than one (1) hour after the close of business and may be turned on no earlier than one (1) hour before the opening of business except by special permission granted as a condition of site plan approval.
- (2) External illumination of signs, billboards, advertising kiosks, and information boards shall be mounted at the top of the sign or sign structure and be fully shielded;
- (3) Internally illuminated signs, billboards, advertising kiosks, and information boards shall have a dark background with lighter-colored translucent (not transparent) lettering, logos, and/or designs.

(6) Parking Lots for commercial uses, planned unit developments, condominium subdivisions, subdivisions, public and institutional buildings, schools; churches, parks, processing facilities, retail sales uses and other vehicular use areas;

- (1) Parking lots shall be illuminated no earlier than one (1) hour before regular hours of operation, and no more than one (1) hour after regular hours of operation except by special permission granted as a condition of site plan approval.
- (2) Pole height shall not exceed 15 feet except a pole height of up to 25 feet may be allowed for loading areas where necessary for agricultural purposes.
- (3) A greater number of low mounted lights are favored over elevated lights.

Section 7.14.4 Application/Review Procedures for Special Use Permits and Platted Subdivisions.

The application for all Special Use Permits and subdivisions after the effective date of this amendment shall include the following information:

- (1) Description of all illuminating devices, fixtures, lamps, supports, and reflectors, shall include catalog cuts, manufacturer’s illustration and the like.
- (2) Photometric data shall be superimposed on the site plan. For smaller projects, the applicant may provide photometric data supplied by the manufacturer which is separate from the site plan.

- (3) Such other information about the site or adjoining sites as may be essential for the Township Board to determine if the requirements of this section are being met.

Section 7.14.5 Exemptions: The following uses and activities shall be exempt from the Exterior Lighting Regulations:

- (1) Emergency equipment while in use.
- (2) Holiday decorations, provided that decorative exterior lighting shall not include searchlights or stroboscopic lights.
- (3) Fixtures such as decorative or porch lights or walkway lighting.
- (4) All outdoor light fixtures producing light directly from solar or the combustion of fossil fuels such as kerosene lanterns or gas lamps provided the intensity of light does not create glare or distractions that pose a potential danger to vehicular or pedestrian traffic or unnecessary and unwanted glare in the night sky.
- (5) Lighting fixtures to illuminate the American flag may have light shining vertically provided the light source is shielded and the light is focused on the flag.

Section 7.14.6 Relief from Exterior Lighting Regulations:

Applications for relief from the regulations of this Section may be made to the Peninsula Township Zoning Board of Appeals pursuant to Section 5.7 provisions and standards for variances. Any ruling granting relief shall contain all conditions upon which said permit has been granted, including but not limited to the effective dates, times, locations and specifications of the lighting fixtures and plans permitted.

ARTICLE VIII

USES AUTHORIZED BY SPECIAL USE PERMIT

Section 8.1 General Standards and Requirements:

Section 8.1.1 Intent and Purpose: Rather than permitting all of the many and varied land use activities within individual and limited zoning districts, it is the intent of this Ordinance to provide a set of procedures and standards for specific uses of land or structures that will allow, on one hand practical latitude for the investor or developer, but that will at the same time, maintain sound provisions for the protection of the health, safety, convenience, and general welfare of Township inhabitants. In order to provide controllable and reasonable flexibility, this Article permits detailed review of certain specified types of land use activities which, because of their particular and unique characteristics may be authorized within certain zone districts by the issuance of a special use permit. By such a procedure, safeguards upon each use which are deemed necessary for the protection of the public welfare, may be reviewed and the standards set forth within the Ordinance shall be considered and determined by the Township Board upon recommendation by the Planning Commission before issuing such special use permits.

The following Sections, together with previous references in other Articles of this Ordinance, designate specific uses that require a special use permit and in addition, specify the procedures and standards which must be met before such permit can be issued.

Section 8.1.2 Permit Procedures: An application for a special use permit for any land or structure use permitted under this Article shall be submitted and processed under the following procedures:

- (1) Submission of Application: Any application shall be submitted through the Zoning Administrator on a special form for that purpose. Each application shall be accompanied by the payment of a fee as established by the Township Board to cover costs of processing the application. No part of any fee shall be refundable.
- (2) Data Required: Every application shall be accompanied by the following information and data:
  - (a) The special form supplied by the Township Zoning Administrator filled out in full by the applicant, including a statement of supporting evidence showing compliance with the requirements of Section 8.1.3.
  - (b) Site plan, plot plan, development plan, drawn to scale (preferable 1"=50'), of total property involved showing the location of all abutting streets, the location of all existing and proposed structures and their uses, and the location and extent of all above ground development, both existing and proposed.
  - (c) Preliminary plans and specifications of the proposed development.

(3) Township Board and Planning Commission Actions:

- (a) The application along with all required data shall be transmitted to the Township Board for consideration after referral to a study by the Planning Commission.
- (b) The Planning Commission may hold a public hearing on the application.
- (c) Upon receipt of a recommendation from the Planning Commission, the Township Board shall publish in a newspaper having a general circulation in the Township, one (1) notice that a request for special land use approval has been received.

- 1. The content of the notice shall:
  - (1) Describe the nature of the special land use request.
  - (2) Indicate the property which is the subject of the special land use request.
  - (3) State when and where the special land use request will be considered.
  - (4) Indicate when and where written comments will be received concerning the request.
  - (5) Indicate that a public hearing on the special land use request may be requested by the property owner or the occupant of any structure located within three hundred (300) feet of the boundary of the property being considered for a special use.
- 2. The notice shall be given not less than five (5) nor more than fifteen (15) days before the date the application will be considered.
- 3. The notice shall be delivered personally or by mail to:
  - i. The owners of property for which approval is being considered.
  - ii. All persons to whom real property is assessed within three hundred (300) feet of the boundary in question.
  - iii. The occupants of all structures within three hundred (300) feet of the boundary of the property in question. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure; except that, if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organization, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spacial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

- (d) A public hearing on a special land use request shall be held by the

Township Board if:

1. A public hearing is requested by the Township Board, the applicant for special land use authorization, a property owner, or the occupant of a structure located within three hundred (300) feet of the boundary of the property being considered for a special land use.
  2. The decision on the special land use request is based on discretionary grounds.
- (e) Notification of a public hearing on a special land use request must be made as required in this Section for a notice of a request for special land use approval.
- (f) Final Approval & Conditions.
1. Final approval by the Township Board shall be preceded by a finding and determination with respect to compliance with the regulations set forth in this Article.
  2. Reasonable conditions may be required with the approval of a special use permit, to the extent authorized by law, for the purpose of insuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased services and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, insuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner.
  3. Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of individuals in the project and those immediately adjacent, and the community as a whole, shall be reasonably related to the purpose affected by the special use permit, and shall be necessary to meet the intent and purpose of this Ordinance, and be related to the objective of insuring compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the record of the approved special use permit.

**(REVISED BY AMENDMENT 96A)**

(4) Phasing.

- (a) Where a project is proposed for development in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the project and the residents of the surrounding area.
- (b) The Township Board shall approve the final project for one phase at a time.

**(ADDED BY AMENDMENT 96C)**

(5) Commencement and Completion.

- (a) For special use permits not involving construction, a land use permit for the use shall be acquired within one year following final approval of the special use permit, or within one year of the schedule established for the project in the approved special use permit whichever is later.  
If a land use permit is not received within such time, any approval of the special use shall expire and be null and void, provided, an extension for a specified period may be granted by the Township Board upon good cause shown if such request is made to the Township Board prior to the expiration of the initial period.
- (b) For special use permits involving construction, such construction shall be commenced within one year following final approval of the special use permit, or within one year of the schedule established for the project in the approved special use permit whichever is later.
- (c) Each phase of the project shall be commenced within one year of the schedule established for the project phase in the approved special use permit.

For special use permits involving construction, if such construction is not commenced within such time, any approval of the final plan for the project shall expire and be null and void, provided, an extension for a specified period may be granted by the Township Board upon good cause shown if such request is made to the Township Board prior to the expiration of the initial period.

- (d) An occupancy permit shall be received within one year of approval of a land use permit for any construction authorized by special use permit.

If an occupancy permit is not received within such time, any approval of the final plan for the project shall expire and be null and void, provided, an extension for a specified period may be granted by the Township Board upon good cause shown if such request is made to the Township Board prior to the expiration of the initial period.

- (e) In the event a final plan has expired, a new application shall be required, and shall be reviewed in light of the then existing and applicable law and ordinance provisions. **(ADDED BY AMENDMENT 96C)**

- (6) Effect of Approval. If and when approved, the special use permit, with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such amendment. **(ADDED BY AMENDMENT 96C)**

Section 8.1.3 Basis for Determinations: Before making recommendation on a special use permit application, the Town Board shall establish that the following general standards, as well as the specific standards outlined in each section of this Article,

shall be satisfied.

- (1) General Standards: The Town Board shall review each application for the purpose of determining that each proposed use meets the following standards, and in addition, shall find adequate evidence that each use on the proposed location will:
  - (a) Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
  - (b) Not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
  - (c) Be served adequately by essential facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools.
  - (d) Not create excessive additional requirements at public cost for public facilities and services.
  - (e) Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by fumes, glare or odors.
- (2) Conditions and Safeguards: The Town Board may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for insuring that the intent and objectives of this Ordinance will be observed. The breach of any condition, safeguard or requirement shall automatically invalidate the permit granted.
- (3) Specific Requirements: In reviewing an impact assessment and site plan, the Town Board and the Planning Commission shall consider the following standards:
  - (a) That the applicant may legally apply for site plan review.
  - (b) That all required information has been provided.
  - (c) That the proposed development conforms to all regulations of the zoning district in which it is located.
  - (d) That the plan meets the requirements of Peninsula Township for fire and police protection, water supply, sewage disposal or treatment, storm drainage and other public facilities and services.
  - (e) That the plan meets the standards of other governmental agencies where applicable, and that the approval of these agencies has been obtained or is assured.
  - (f) That natural resources will be preserved to a maximum feasible extent, and that areas to be left undisturbed during construction shall be so located on the site plan and at the site per se.
  - (g) That the proposed development property respects flood ways and flood



- plains on or in the vicinity of the subject property.
- (h) That the soil conditions are suitable for excavation and site preparation, and that organic, wet or other soils which are not suitable for development will either be undisturbed or modified in an acceptable manner.
  - (i) That the proposed development will not cause soil erosion or sedimentation problems.
  - (j) That the drainage plan for the proposed development is adequate to handle anticipated stormwater runoff, and will not cause undue runoff onto neighboring property or overloading of water courses in the area.
  - (k) That grading or filling will not destroy the character of the property or the surrounding area, and will not adversely affect the adjacent or neighboring properties.
  - (l) That structures, landscaping, landfills or other land uses will not disrupt air drainage systems necessary for agricultural uses.
  - (m) That phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility service, drainage or erosion control.
  - (n) That the plan provides for the proper expansion of existing facilities such as public streets, drainage systems and water sewage facilities.
  - (o) That landscaping, fences or walls may be required by the Town Board and Planning Commission in pursuance of the objectives of this Ordinance.
  - (p) That parking layout will not adversely affect the flow of traffic within the site, or to and from the adjacent streets.
  - (q) That vehicular and pedestrian traffic within the site, and in relation to streets and sidewalks serving the site, shall be safe and convenient.
  - (r) That outdoor storage of garbage and refuse is contained, screened from view and located so as not to be a nuisance to the subject property or neighboring properties.
  - (s) That the proposed site is in accord with the spirit and purpose of this Ordinance and not inconsistent with, or contrary to, the objectives sought to be accomplished by this Ordinance and the principles of sound planning.

## Section 8.2 Mobile Home Park Developments:

Section 8.2.1 Statement of Intent: Mobile home park developments have special characteristics which require full consideration of their locational needs, their site layout and design, their demand upon community services, and their relationship to and effect upon surrounding uses of land. Compliance shall be had with all of the procedures and applicable requirements stated in Section 8.1 and the additional requirements of this Section.



Section 8.2.2 Uses That May Be Permitted: Any mobile home development may include any or all of the following uses, PROVIDED that a plan of the proposed development is approved by the State of Michigan in accordance with Act No. 419, Public Acts of 1976, as amended, and PROVIDED FURTHER that said development plan can meet the standards of this Section.

- (1) Mobile Homes: "Mobile Homes" means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.
- (2) One permanent building for conducting the operation and maintenance of the mobile home park development and such other accessory buildings including a caretaker's residence as may be necessary for the normal operation of the mobile home development.
- (3) Parking requirements:
  - (a) Parking shall be prohibited on any street or access lane.
  - (b) No visitor vehicles shall be parked or stored within any required open space between mobile homes or any drive or street within the mobile home park.
  - (c) Space between mobile home units may be used for parking of motor vehicles provided that such space is paved and meets the requirements of Section 7.6 of this Ordinance.
  - (d) Off-street group parking facilities shall be within three hundred (300) feet of all mobile home lots intended to be served.

Section 8.2.3 Site Development Requirements: All mobile home park developments shall comply with the following site development and maintenance requirements, viz:

- (1) State Law: The development shall comply with all requirements of Act 419, Public Acts of 1976, as amended. In cases where higher standards have been adopted by the Township and approved by the Mobile Home Commission, the higher standards shall prevail.
- (2) Plans: A preliminary plan filed in conformance with the requirements of Section 11 of the "Mobile Home Commission Act" shall be filed with the Zoning Administrator at the time of the filing of application for a special use permit.
- (3) License: Every mobile home park shall be licensed by the Michigan Department of Commerce as required by Rule 802 of the General Rules of the Michigan Mobile Home Commission.
- (4) Site Size: Any mobile home park development shall have a site of at least fifteen (15) acres.

- (5) Site Location: Access to the mobile home park development site location shall be from a public thoroughfare only. Said Access shall be designed with a capacity to safely and effectively handle any increased traffic which may be generated by the mobile home park development.
- (6) Park Yard Dimension: Mobile home developments shall also meet the zoning requirements of Sections 7.2.6 and 7.7 of this Ordinance.
- (7) Site Access:
  - (a) Each mobile home park development shall be provided with a paved entrance or exit drive off a public thoroughfare.
  - (b) Said entrance or exit drives shall be located no closer than one hundred twenty-five (125) feet from the intersection of any two (2) public thoroughfares.
- (8) Space Requirements:
  - (a) The mobile home park shall be developed with sites having an average of 5,500 square feet per mobile home site being served.
  - (b) Said 5,500 square foot average may be reduced by twenty (20) percent provided that the individual site shall be equal to at least 4,400 square feet.
  - (c) For each square foot of land gained through the reduction of the site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space, but in no case shall the open space requirement be less than that required under R 125.1946, Rule 946, of the Michigan Administrative Code.
- (9) Yard Requirements: No mobile home unit shall be located closer than twenty-three (23) feet from any private street or roadway, ten (10) feet from a side site line, or ten (10) feet from a rear site line.
- (10) Wood Burning Heating Systems: The installation of wood burning heating stoves or furnaces shall require a permit issued by the Grand Traverse County Construction Code Office.
- (11) Park Roads
  - (a) Each mobile home lot or premises shall have access to a park driveway, roadway or street which shall be paved to a minimum width of twenty-four (24) feet; however, no parking shall be permitted on said roadway or street.
  - (b) If a one-way street pattern is proposed and adopted, then the street width may be paved to a minimum of sixteen (16) feet.
- (12) Mobile Home Unit Lot Improvement: Each mobile home unit shall occupy at

least a single lot size and shall comply with the following, viz:

- (a) All parking areas within the mobile home park shall be clearly defined.
- (b) Each mobile home unit shall have skirting or equal treatment which shall be fire resistant, vented, and have access panels.
- (13) Building Height: No mobile home unit or other building or structure shall exceed twenty-five (25) feet in height; excepting that, one permanent building in the mobile home park development used for conducting the business operation may contain two (2) stories with a maximum height of thirty-five (35) feet.
- (14) Lighting: All lighting shall conform to the requirements of Section 7.14.  
**REVISED BY AMENDMENT 175B)**
- (15) Heating: All above-ground fuel tanks shall be suitably screened.
- (16) Mobile Home Unit Sales:
  - (a) The business of selling new and/or used mobile homes as a commercial operation in connection with the operation of a mobile home development is prohibited.
  - (b) New or used mobile homes located on lots within the mobile home park may be sold by a licensed dealer and/or broker.
  - (c) This section shall not prohibit the sale of a new or used mobile home by a resident of the mobile home development provided the development permits the sale.
- (17) Occupancy: No completed mobile home unit shall be occupied until a park license covering the occupied site has been issued by the State of Michigan, Department of Commerce.

**Section 8.3 Planned Unit Developments: (REVISED BY AMENDMENT 151)**

**Section 8.3.1 Authorization**: It is the purpose of this Section to encourage more imaginative and livable housing environments within the Planned Unit Development Districts and Residential Districts and to encourage the retention of agricultural land in active production within the Agricultural Zoning District through a planned reduction of the individual lot area requirements for each district, providing the overall density requirements for each district remain the same. Such reduction of lot area requirements shall only be permitted when a land owner, or group of owners acting jointly, can plan and develop a project as an entity and thereby qualify for regulation of that project as one land use unit, rather than an aggregation of individual buildings located on separate, unrelated lots. Under these conditions, a special use permit may be issued for the construction and occupancy of a planned unit development providing the standard, procedures, and requirements set forth in this Section can be complied with.

**Section 8.3.2 Objectives**: The following objectives shall be considered in reviewing any application for a special use permit for planned unit development.

- (1) To provide a more desirable living environment by preserving the natural character of open fields, stand of trees, steep slopes, brooks, ponds, lake shore, hills, and similar natural assets.
- (2) To provide open space options.
- (3) To encourage developers to use a more creative and imaginative approach in the development of residential areas.
- (4) To provide for more efficient and aesthetic use of open areas by allowing the developer to reduce development costs through the by-passing of natural obstacles in the residential project.
- (5) To encourage variety in the physical development pattern of the Township by providing a mixture of housing types.
- (6) To provide for the retention of farmland by locating the allowed number of housing units on the agricultural parcels of land in clusters which are suitable for residential use and keep the remaining agricultural land in production or fallow and available for production.

Section 8.3.3 Qualifying Conditions: Any application for a special use permit shall meet the following conditions to qualify for consideration as planned unit development

- (1) The planned unit development project shall not be less than twenty (20) acres in area, shall be under the control of one owner or group of owners, and shall be capable of being planned and developed as one integral unit. PROVIDED that the project acreage requirement may be reduced by the Township Board if the Board determines that the proposed use is a suitable and reasonable use of the land.
- (2) The planned unit development project shall be located within a Residential or Agricultural District, or a combination of the above Districts. Individual planned unit developments may include land in more than one zone district in which event the total density of the project may equal but not exceed the combined total allowed density for each district calculated separately.
- (3) Water and waste disposal shall comply with the Township Master Plan and be approved by Grand Traverse County or State of Michigan requirements. It is recognized that joining water and sewer ventures with contiguous or nearby land owners may prove to be expedient.
- (4) The proposed density of the planned unit development shall be no greater than if the project were developed with the lot area requirements of the particular zone district or districts in which it is located subject to the provisions of Section 8.1. except as provided by Section 8.3.5 (1). **(REVISED BY AMENDMENT 168)**
- (5) Open space shall be provided according to Section 8.3.6.
- (6) For purposes of this Section 8.3, Open Space does not include building

envelopes, parking lots and roads (roadbed width plus two (2) foot shoulders on each side).

- (7) The proposed planned unit development shall meet all of the standards and requirements outlined in this Section 8.3 and also Section 8.1. and Article VII.

Section 8.3.4 Uses that May be Permitted: The following uses of land and structures may be permitted within planned unit developments:

- (1) Single family dwellings.
- (2) Two-family dwellings.
- (3) Group housing, row houses, garden apartments, or other similar housing types which can be defined as single-family dwelling with no side yards between adjacent dwelling units, Provided that there shall be no more than eight (8) dwelling units in any contiguous group.
- (4) Open space according to Section 8.3.6 Provided that only the following land uses may be set aside as common land for open space or recreation use under the provisions of this Section:
  - (a) Private recreational facilities (but not golf courses) such as pools, or other recreational facilities which are limited to the use of the owners or occupants of the lots located within the planned unit development.
  - (b) Historic building sites or historical sites, parks and parkway areas, ornamental parks, extensive areas with tree cover, low lands along streams or areas of rough terrain when such areas have natural features worthy of scenic preservation.
  - (c) Commonly owned agricultural lands.
- (5) Signs as allowed by Section 7.11.
- (6) Deed restricted Agricultural lands.
- (7) Garages and accessory buildings and uses exclusively for the use of residents of the planned unit development and for the proper maintenance thereof.

Section 8.3.5 Lot Size Variation Procedure: The lot area for Planned Unit Developments within Residential and Agricultural Districts may be reduced from those sizes required by the applicable zoning district within which said development is located by compliance with the following procedures:

- (1) Site Acreage Computation: The net acreage proposed for a planned unit development shall be computed to determine the total land area available for development into lots under the minimum lot size requirements of the applicable zoning district in which the proposed planned unit development is located.
  - (a) Lands below the Ordinary High Water Mark shall not be considered as part of the net acreage.
  - (b) Street rights-of-way shall be included in net acreage provided the property legal description includes the right-of-way. **(REVISED BY**

**AMENDMENT 158)**

- (2) Maximum Number of Lots and Dwelling Units: After the net acreage has been determined by the above procedure, the maximum number of lots and/or dwelling units that may be approved within a planned unit development shall be computed by subtracting from the net acreage a fixed percentage of said total for street right-of-way purposes, and dividing the remainder by the minimum lot area requirement of the zoning district in which the planned unit development is located.
  - (a) The fixed percentages for street right-of-way purposes to be subtracted from the net acreage shall be fifteen (15) percent for the R-1A and R-1B residential districts, twenty (20) percent for the R-1C district and thirty (30) percent for multiple family development in the R-1D district. These percentages shall apply regardless of the amount of land actually required for street right-of-way.
  - (b) Under this procedure, individual lots may be reduced in area below the minimum lot size required by the zone district in which the planned unit development is located, PROVIDED that the total number of dwelling units and/or lots created within the development is not more than the maximum number that would be allowed if the project were developed under the minimum lot area requirements of the applicable zone district or districts in which it is located. Units may be distributed without regard to district boundaries.
- (3) Permissive Building Envelope: Building Envelope shall be as shown on the Site Plan and not included as open space.
- (4) Permissive Minimum Lot Area: Minimum Lot Area shall be as determined by the Township Board and shown on the Site Plan.
- (5) Maximum Permissive Building Height: 2.5 stories but not exceeding 35 feet. Accessory buildings shall not exceed a height of 15 feet. Provided that the height of agricultural buildings may be increased pursuant to Section 7.3.3 Permitted Exceptions, Agricultural Districts.

Section 8.3.6 Open Space: The Township Board shall utilize one of the following four options for dedication of the provided open space:

- (1) Open Space Dedicated for Private Use: A residential planned unit development with a minimum of 65% of the net acreage kept as open space and owned by the Home Owners Association or Condominium Association. That open space land shall be set aside as common land for the sole benefit, use and enjoyment of present and future lot or home owners within the development.



- (a) Such open space shall be conveyed by proper legal procedures from the project owner or owners to a home owners association or other similar non-profit organization. **(REVISED BY AMENDMENT 170)**
  - (b) Documents providing for the maintenance of said land and any buildings thereon to assure that open space land remains open shall be provided to the Township Board for its approval.
  - (c) The access and characteristics of the open space land are such that it will be readily available and desirable for the use intended.
- (2) Open Space Dedicated for Public Use: A Residential Planned Unit Development with a minimum of 10% of the net acreage dedicated to the Township. That open space land shall be dedicated to the Township for park or recreational purposes by the project owner or owners provided that the Township Board makes the following determinations:
  - (a) The location and extent of said land is not in conflict with the Master Plan of Peninsula Township.
  - (b) The access to and the characteristics of the open space land is such that it will be readily available to and desirable for the use intended.
- (3) Open Space Dedicated for Deed Restricted Agricultural Land: A Planned Unit Development with a minimum of 65% of the net acreage as deed restricted agricultural land. That open space shall be retained in agricultural use as specified on the site plan with the following conditions:
  - (a) The Land shall be used exclusively for farming purposes.
  - (b) A conservation easement shall be granted to Peninsula Township that restricts uses to those that are allowed on deed restricted agricultural land subject to conservation easements purchased by Peninsula Township pursuant to the Purchase of Development Rights Ordinance No. 23.
  - (c) A farmstead parcel consisting of a residence for the owner or operator of the farm along with any or all of the following outbuildings may be shown on the site plan if approved by the Township Board:
    - 1. Barns existing or proposed for uses necessary for agricultural production.
    - 2. Outbuildings existing or proposed for storage of machinery and equipment used for agricultural production.If a farmstead is shown on the site plan it shall be counted as one of the allowed dwelling units in the Planned unit development.
  - (d) The deed restricted agricultural land may be sold separately from the dwelling parcels.
- (4) Open Space Apportioned Between Private Use and Deed Restricted Agricultural Land: The Township Board may approve open space apportioned between Private Use and Deed Restricted Agricultural Land described in (1) and (3) above provided, that in addition to the provisions of (1) and (3) above, the Deed Restricted Agricultural Land portion:
  - (a) Shall be a minimum of five acres.

- (b) Shall be viable farmland as determined by the Township Board.
- (c) Irrespective of (3) above; no buildings shall be allowed.

Section 8.3.7 Maximum Percentage of Lot Area Covered by All Structures:

- (1) The maximum percent of lot area covered by all structures shall not exceed fifteen (15) percent of net acreage.
- (2) A Building Envelope within which structures may be located shall be shown on the site plan for all existing or future structures.
- (3) The maximum number of square feet to be covered by all structures for each building envelope shall be shown on the site plan or attached to it.

Section 8.3.8 Affidavit: The applicant shall record an affidavit with the register of deeds containing the legal description of the entire project, specifying the date of approval of the special use permit, and declaring that all future development of the planned unit development property has been authorized and required to be carried out in accordance with the approved special use permit unless an amendment thereto is duly adopted by the Township upon the request and/or approval of the applicant, or applicant's transferee and/or assigns.

Section 8.4 Recreational Unit Parks (REVISED BY AMENDMENT 114H)

Section 8.4.1 Intent and Purpose: To provide for the rental of spaces for Recreational Units in a Recreational Unit Park. Recreational Unit Parks are normally operated on a seasonal basis, however limited winter operations are also customary. The Recreational Unit Park shall be subject to the procedures and requirements in Section 8. 1. This type of park is a "Destination Type" of park where lots can be rented for more than a few days and renters are there to enjoy the natural character of the Township. Buffers are required to protect permanent residents of the area from the nuisance aspects associated with the transient use of Recreational Unit Parks, such as increased traffic and noise. Recreational Unit Parks are for temporary use and are not intended for permanent occupancy.

Section 8.4.2 Site Development Requirements: Site developments shall comply with the provisions of Act 171 of the Public Acts of 1970, as amended (An Act to license and regulate campgrounds), and also with the following, viz:

- (1) A Recreational Unit Park shall have a minimum of three hundred thirty (330) feet of frontage on a county road or state highway.
- (2) The Recreational Unit Park shall provide a two hundred (200) foot setback from all property lines for structures and Recreational Unit sites. Not less than three staggered rows of evergreen trees shall be planted and maintained within fifty (50) feet of the property lines, and, in addition, within the two hundred (200) foot setback, a mixture of deciduous and evergreen trees shall be planted to block views of the development from adjacent properties and to reduce noise.



- (3) The entrance road and interior roads shall meet either Peninsula Township Private Roads Standards or County Road standards and the Commercial Driveway Entrance requirements of the County Road Commission or State Department of Transportation.
- (4) Recreational Unit Park entrances and exits shall not be through a subdivision or condominium.
- (5) There shall be either: a) two separate road entrances connecting a continuous interior road; or b) one entrance and a loop road beginning within one hundred (100) feet of the public road serving the park.
- (6) The minimum parcel size for a Recreational Unit Park shall be twenty (20) acres.
- (7) The maximum number of sites shall be two hundred (200).
- (8) Spaces in a Recreational Unit Park shall be rented by the day or week only and no recreational unit or occupant of such space shall remain in the same park for a period of more than thirty (30) days in a six month period.
- (9) No motorized off-road vehicles, water craft, or snowmobiles shall be rented or used on the property.
- (10) Winter operations are permitted provided that all utilities, including central toilet and shower facilities, are provided during winter operations.
- (11) No bottled gas sales are allowed on the premises.
- (12) A plan for emergencies and fire protection shall be submitted with the application. The emergency and fire protection plan shall be reviewed by the Township Fire Chief and the Chief's comments submitted during Township review. The plan shall include the following information, at a minimum:
  - (a) Fire/Emergency Equipment access to each recreational unit site.
  - (b) Emergency access to the Management facility.
  - (c) Water storage tank on site or alternate water source to supply water for fire fighting.
  - (d) Fire rings provided on all recreational unit sites where campfires are to be allowed.
  - (e) Emergency telephone service is provided in a visible, convenient location.
- (13) All outdoor activities shall be limited to passive uses such as hiking, cross county skiing, volleyball and horse shoes.
- (14) If shared access is provided, each site having shared access privileges shall be considered as a separate family under the shared access provisions of this Ordinance.

Section 8.4.3 Site Development Standards: The Recreational Unit Park shall meet the following site design standards:

- (1) The Recreational Unit Park shall be fenced with a minimum six (6) foot high chain link fence, or as determined by the Township Board. The fence does not have to be on the perimeter of the Park, but does have to enclose areas that are used by sites or for recreational use, such as trails.
- (2) All utilities shall be placed underground.
- (3) A sewage dumping station shall be provided and shall be subject to the review and approval of the Grand Traverse County Health Department, however it shall not be located closer than (50) feet from the management building.
- (4) Electricity and drinking water shall be provided to each recreational unit site.
- (5) The minimum space dimensions per unit are:
  - (a) Width - thirty (30) feet
  - (b) Depth - sixty (60) feet
  - (c) These dimensions shall be increased as necessary to accommodate larger vehicles so that there is no less than eight feet between a tent or trailer and the perimeter of the rental space. This eight foot area (16 feet between recreational units) shall be planted with shrubs and a minimum of two trees per lot line.
- (6) Parking spaces for recreational units other than tents shall either be paved or covered with a minimum of 4" of packed stone.
- (7) Each site shall have a parking space for at least one vehicle other than the recreational unit.
- (8) Each recreational unit site shall be numbered, with numbers shown on the site so as to be readily available to emergency personnel.
- (9) All lighting shall conform to the requirements of Section 7.14. **(REVISED BY AMENDMENT 175B)**
- (10) An Entrance Way Sign is allowed and shall comply with Section 7.11 - Signs.
- (11) Parking for the headquarters building shall comply with Section 7.6 - Off Street Parking and Loading Regulations.

Section 8.4.4 Support Uses:

- (1) One headquarters building may be allowed on the premises, and may contain the following uses:
  - (a) Management headquarters, (including a Manager's Residence provided it meets the existing residential size requirements of the Zoning Ordinance).
  - (b) Laundry facilities.
  - (c) Vending machines are allowed, but not a Convenience store.
  - (d) Indoor recreation area.
  - (e) Swimming pool.

- (2) A central toilet/shower facility shall be provided for the use of recreational unit park registered guests only. The facility may be included in the headquarters building or in a separate structure(s).
- (3) Limitations on support uses and support use buildings:
  - (a) Support use buildings and the parking area primarily related to their operations shall not occupy more than one-tenth of one (0.1) percent of the area of the park.
  - (b) Uses shall be restricted to occupants of the recreational unit sites.
  - (c) Support use buildings shall present no visible evidence of their commercial character which would attract customers other than occupants of the park.
  - (d) Support use buildings shall be screened from view of a public road or any adjacent residential district.

Section 8.4.5 Accessory Uses:

- (1) Uses and structures customarily incidental to the operation of a Recreational Unit Park may be allowed at the discretion of the Township Board as accessory uses.
- (2) An indoor or outdoor swimming pool may be allowed.

Section 8.4.6 Development and Site Plan Requirements:

- (1) Name, address and telephone number of applicant.
- (2) Interest of the applicant in the proposed Recreational Unit Park.
- (3) Location, address and legal description of the entire proposed Recreational Unit Park.
- (4) Existing zoning of subject property and all adjacent properties.
- (5) Complete engineering plans and specifications of the proposed Recreational Unit Park showing:
  - (a) The area and dimensions of the entire tract of land;
  - (b) The land uses occupying the adjacent properties;
  - (c) The number, size and location of the proposed vehicle sites and other parking areas;
  - (d) The location, right-of-way, surfaced roadway width, and the surfacing material of roadways and walkways;
  - (e) The proposed interior vehicular and pedestrian circulation patterns;
  - (f) The location of buildings, sanitary stations, and any other existing or proposed structures;
  - (g) The location of water and sewer lines and riser pipes;
  - (h) Plans and specifications of the water supply, sewage disposal and refuse facilities;
  - (i) Plans and specifications of all buildings constructed or to be constructed within the Recreational Unit Park;
  - (j) The locations and details of lighting, electric, and gas systems;
  - (k) The location of all drainage easements to comply with County Drain

- Commission requirements; and
  - (1) Solid waste disposal plan.
- (6) Where a Recreational Unit Park development is proposed for construction in a series of stages, a master plan for the development of the entire tract of land shall be submitted along with the detailed plans and specifications for the initial stage, as well as concepts for any subsequent stages.

Section 8.5 Food Processing Plants in A-1 Districts:

Section 8.5.1 Authorization: The Township Board may authorize the construction, maintenance and operation in the Agricultural District of food processing plants related to local agricultural production, by the issuance of a special use permit, subject to the procedures and requirements of Section 8.1 and provided that it has been demonstrated that the operation will not create any nuisance which will be detrimental to the health, safety and welfare of Township residents or adversely affect adjoining property owners.

Section 8.5.2 Required Information: The following information shall be submitted as a basis for judging the suitability of the proposed operation:

- (1) A site plan of the property showing the location of all present and proposed buildings, drives, parking areas, waste disposal fields, landscaping, plant materials, screening fences or walls, and other construction features which shall be proposed.
- (2) A description of the operations proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, fire or safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation.
- (3) Engineering and Architectural Plans for:
  - (a) The treatment and disposal of sewage and industrial waste or unusable by-products.
  - (b) The proposed handling of any excess traffic congestion, noise, glare, air pollution, water pollution, fire or safety hazards, or emission of potentially harmful or obnoxious matter or radiation.
- (4) The proposed number of shifts to be worked and the maximum number of employees on each shift.

Section 8.6 Institutional Structures and Uses in the Residential and Agricultural Districts:

Section 8.6.1 Authorization: The Township Board may authorize the construction, maintenance and operation in any Residential or Agricultural district of certain institutional uses specified in this Section by the issuance of a special use permit, PROVIDED compliance is had with procedures and requirements in Section 8.1. Such institutional uses are limited to the following, viz:

- (1) Religious Institutions: Churches or similar places of worship, including child care centers or day care centers, convents, parsonages and parish houses, and other housing for clergy.
- (2) Educational and Social Institutions: Public and private schools, including child care centers or day care centers, auditoriums and other places of assembly, and centers for social activities. Provided private schools, child and day care centers within the residential and agricultural zone district meet the following requirements:
  - (a) Such uses shall be duly licensed by the State Department of Social Services.
  - (b) Fencing of outdoor play areas may be required should it be determined that conditions exist in the immediate vicinity which could be hazardous to the user children, or if the public hearing on the application for a special use permit indicates objectionable trespass could occur onto neighboring properties by the user children.
  - (c) The minimum lot size shall be one (1) acre.
  - (d) A special use permit for this purpose shall be good for the period of one (1) year. The zoning Administrator may renew the permit annually unless in receipt of written complaints regarding the land use, in which event the applicant must repeat the original procedure for approval.
- (3) Public Buildings and Service Installations: Publicly owned and operated buildings and public utility buildings and structures, transformer stations and substations, radio, television and micro-wave towers, and gas regulator stations. Personal Wireless Communications towers and facilities shall not be considered Public Buildings or Service Installations for purposes of this Ordinance.  
**(REVISED BY AMENDMENT 118C)**
- (4) Mission Point Lighthouse and Lighthouse Park: **(ADDED BY AMENDMENT 180)** Retail sales shall be allowed in a gift shop located within the existing Mission Point Lighthouse, provided:
  - (a) Items sold shall be limited to merchandise relating to the Mission Point Lighthouse, Michigan lighthouses, and local history. Examples include items such as light house replicas, hats, t-shirts or sweatshirts, coffee

- mugs, pencils, pins, pens, prints, books, calendars, lapel pin, magnets, puzzles, patches, ornaments and bookmarks with lighthouse logos.
- (b) The Township Board may authorize the sale of other items related to the lighthouse park.
- (c) Net proceeds from the gift shop shall be placed in a designated fund to be used for operation and maintenance of the Mission Point Lighthouse and Lighthouse Park.
- (d) No general funds may be used for the operation of the gift shop.

#### Section 8.7 Miscellaneous Special Uses:

Section 8.7.1 Authorization: Because of particular functional and other inherent characteristics, certain land and structure uses have a high potential of being injurious to surrounding properties by depreciating the quality and value of such property. Many of these uses may also be injurious to the Township as a whole unless they are controlled by minimum standards of construction and operation. It is the intent of this Section to provide a framework of regulatory standards which can be utilized by the Township Board as a basis for approving or disapproving certain special uses which may be permitted by the issuance of a special use permit within the particular zone districts cited.

Section 8.7.2 Special Uses that May be Permitted: The following land and structure uses may be permitted within the particular zone districts cited, PROVIDED that requirements specified in Section 8.1 and the applicable specified conditions established herein can be complied with:

- (1) Incinerators and sanitary fills within the A-1 agricultural zone district.
- (2) Sewage treatment and disposal installations within any zone district.
- (3) Special Open Space uses, such as public beaches, bath houses, recreational camps, and other open space uses operated for profit within any agricultural zone district.
- (4) Golf Courses and Country Clubs.
- (5) Airports or airfields, within the agricultural zone district.
- (6) Marinas in C-1 District.
- (7) Warehousing and light industrial in the Agricultural District.
- (8) Wind Energy Conversion Systems.
- (9) Bed and Breakfast Establishments within the residential and agricultural zone districts.
- (10) Adult Foster Care Facilities in the Agricultural District:
- (11) Winery-Chateau in the Agricultural District.

(12) Wireless Telecommunication Antenna Towers

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

Section 8.7.3 Site Development Requirements: A special use permit shall not be issued for the occupancy or use of a structure or parcel of land, or for the erection, reconstruction or alteration of a structure unless complying with the following site development requirements.

Without limiting the powers of the Township Board in any other Section of this Ordinance, the Township Board shall have the authority to revoke any special use permit when, after reasonable warning, the operator of any use permitted under this Section fail to comply with any of the requirements stipulated. In addition, the Township Board may, to prevent injury or damage to adjoining properties which may impair public health, welfare or safety, require additional conditions and safeguards:

(1) Incinerators and Sanitary Fills:

- (a) All uses shall be established and maintained in accordance with all applicable State of Michigan statutes and requirements of the Health Department.
- (b) All uses shall be enclosed by a fence six (6) feet or more in height for the entire periphery of the property.
- (c) All areas within any single development shall be rehabilitated progressively as they are worked out or abandoned so that they shall be in a condition of being entirely lacking in hazards, inconspicuous, and blended with the general surrounding ground form.
- (d) The Planning Commission shall establish routes for truck movement in and out of the development in order to minimize the wear on public roads, to minimize traffic hazards, and to prevent encroachment of traffic, or the by-products of traffic (such as dust and noise), upon adjacent properties.
- (e) All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property and individual, or to the community in general.

(2) Sewage Treatment and Disposal Installations:

- (a) All uses shall be established and maintained in accordance with all applicable State of Michigan statutes.
- (b) All operations shall be completely enclosed by a wire link fence not less than six (6) feet high.
- (c) All operations and structures shall be surrounded on all sides by a transition strip at least two hundred (200) feet in width within which grass, plant materials and structural screens shall be placed on to minimize the appearance and odors of the installation. The township Board shall approve all treatment of transition strips.

(3) Special Open Space Uses:

- (a) The proposed site shall be at least two (2) acres in area.



- (b) The proposed site shall have at least one (1) property line abutting a major or secondary thoroughfare. All ingress and egress to the site shall be directly from said thoroughfares.
- (c) All buildings and structures shall be set back at least two hundred (200) feet from any property or street line. Whenever the installation abuts upon property within a residential district, this two hundred (200) foot setback shall be landscaped with trees, grass, and structural screens of a type approved by the Township Board to effectively screen the installation from surrounding residential properties.
- (d) No more than twenty-five (25%) percent of the gross site shall be covered by buildings.

(4) Golf Courses and Country Clubs

Other than golf driving ranges and miniature golf courses, subject to the following conditions:

- (a) The site area shall be Seventy-five(75) acres or more per each nine holes of a golf course and shall be so designed as to provide all ingress and egress directly onto or from a county primary roadway or state trunk line.
- (b) A site plan of the proposed development shall be submitted. Such site plan shall indicate the location of service roads, entrances, driveways, and parking areas and shall be so designed in relationship to the major arterial that pedestrian and vehicular traffic safety is encouraged.
- (c) Development features shall be shown on said site plans, including the principal and accessory buildings, structures, and parking areas, and shall be so located as to minimize any possible adverse effects upon adjacent property; all principal or accessory buildings and parking areas shall be not less than two hundred (200) feet from any property line of abutting residentially-zoned lands.
- (d) Whenever a swimming pool is to be provided, said pool shall be located at least one hundred (100) feet from abutting residentially-zoned property lines and shall be provided with a protective fence six (6) feet in height, and entry shall be by means of a controlled gate.

(5) Marinas in C-1 District:

- (a) All sites shall be located on a major thoroughfare, as classified on the Comprehensive Development Plan of Peninsula Township, and all ingress and egress to the site shall be from said thoroughfare.
- (b) All points of entrance or exit for motor vehicles shall be located no closer than two hundred (200) feet from the intersection of any two (2) streets or highways.
- (c) Whenever any use permitted herein abuts property within any Residential District, a transition strip at least two hundred (200) feet in width shall be provided between all operations and structures, including fences, and the residential property. Plant materials, grass, and structural screens or fences of a type approved by the Township Board shall be placed within said transition strip.
- (d) A minimum yard of one hundred (100) feet shall separate all uses and operations permitted herein, including fences, from any public street or



highway used for access or exit purposes. This yard shall be landscaped in accordance with plans approved by the Township Board.

(6) Bed and Breakfast Establishments:

(a) Statement of Intent: It is the intent of this subsection to establish reasonable standards for Bed and Breakfast Establishments to assure that:

1. The property is suitable for transient lodging facilities.
2. The use is compatible with other uses in the residential and agricultural districts.
3. Residential and agricultural lands shall not be subject to increased trespass.
4. The impact of the establishment is no greater than that of a private home with house guests.

(b) The following requirements for Bed and Breakfast establishments together with any other applicable requirements of this Ordinance shall be complied with:

1. The minimum lot size shall be one (1) acre.
2. Off-street parking shall be provided in accordance with Sections 7.6.3 and 7.6.4 of this Ordinance.
3. The residence shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
4. The residence shall have at least two (2) exits to the outdoors.
5. No more than three (3) sleeping rooms in the residence may be used for rental purposes.
6. Not more than eight (8) overnight guests may be accommodated at any time.
7. The rooms utilized for sleeping shall be a part of a dwelling that has received an occupancy permit prior to the application for a Bed and Breakfast Special Use Permit. **(REVISED BY AMENDMENT 143)**
8. The rental sleeping rooms shall have a minimum size of one hundred (100) square feet for each two occupants with an additional thirty (30) square feet for each occupant to a maximum of four (4) occupants per room.
9. Proof of evaluation of the well and septic system by the Health Department and conformance to that agency's requirements shall be supplied by owner/occupant.
10. The Township Board shall require that a floor plan drawn to an architectural scale of not less than 1/8" = 1 foot be on file with the Fire Department.
11. Each owner/operator of a Bed and Breakfast Establishment shall keep a guest registry which shall be available for inspecting by the Zoning Administrator, and police and fire officials at any time.
12. The length of stay for each guest shall not exceed seven (7) days within any thirty (30) day period.
13. In the event that the Township Board determines that noise generation may be disturbing to neighbors, or that the location of

the establishment is in an area where trespass onto adjacent properties is likely to occur, then the Township Board may require that fencing and/or a planting buffer be constructed and maintained.

14. Rental of snowmobiles, ATVs or similar vehicles, boats and other marine equipment, in conjunction with the operation of the establishment shall be prohibited.
15. A special use permit shall not be granted if the essential character of a lot or structure within a residential or agricultural district, in terms of use, traffic generation or appearance will be changed substantially by the occurrence of the bed and breakfast use.
16. Breakfasts shall be the only meals served to transient tenants.  
**(ADDED BY AMENDMENT 136)**

(7) Warehousing and light industrial:

(a) Uses allowed: **(REVISED BY AMD 131)**

1. Printing and publishing establishments.
2. Small contractors' establishment having no outdoor storage of materials or equipment.
3. Wholesale and limited retail activities related to on-site warehousing. High volume retail sales normally accommodated in the other retail districts would not be allowed.
4. Research facilities, provided there is no use of radioactive, toxic, or explosive materials.
5. Computer operations.
6. Small warehousing structures such as controlled atmosphere apple storage or storage for food products processed in a food processing plant located on the farm, provided that the storage structures shall only be used for agricultural products grown on Old Mission Peninsula. **(REVISED BY AMENDMENT 131)**
7. Light manufacturing operations employing twenty-five (25) or less.

(b) Enclosed Buildings: Activities in this District shall be carried on in completely enclosed buildings.

(c) Noise emanating from a use in this District shall not exceed sixty (60) decibels at any property line.

(d) Uses in this District shall conform to the following standards:

1. Emit no obnoxious, toxic, or corrosive fumes or gases which are deleterious to the public health, safety or general welfare; except for those produced by internal combustion engines under designed operating conditions.
2. Emit no smoke, odorous gases or other odorous matter in such quantities as to be offensive at or beyond any boundary of the use of the parcel.
3. Produce no heat or glare humanly perceptible at or beyond the lot boundaries.

4. Produce no physical vibrations humanly perceptible beyond the lot boundaries.
  5. Shall be compatible with and in the best interest of farming uses either in general or on specific contiguous lands.
- (e) Supporting Evidence Required: In all instances in which the Planning Commission or the Town Board considers the ability of a proposed use to meet all the requirements of this Section to be reasonably doubtful, it will be incumbent upon the proponent to furnish adequate evidence in support of his application. If such evidence is not presented, the land use permit shall not be issued.
- (8) Wind Energy Conversion Systems:
- (a) WECS shall be allowed in all zoning districts.
  - (b) In addition to the requirements of Section 8.1, the site plan of the property shall show the location of overhead electrical transmission or distribution lines, whether utilized or not, and the location of the WECS with its specific dimensions, including the entire area through which the rotor(s) may pass, the location of any guy wires or other support devices, and the location of all occupied dwelling units within 300 feet of the WECS.
  - (c) Each special use permit application shall be accompanied by a complete set (either the original or an accurately reproduced copy) of the manufacturer's instructions which shall, at a minimum, include the following:
    1. A standard foundation and anchor design or specifications for normal soil conditions; and
    2. A detailed parts list; and
    3. Clearly written detailed instructions for the assembly, installation, check out, operation and maintenance of the WECS on site; and
    4. The list of warning documents required by Section 8.7.3(h) herein; and
    5. Grounding and lighting procedures protection which follow the National Electrical Code, Articles 250 (Grounding) and 280 (Lightning Arresters); and
    6. Underwriters label, where appropriate; and
    7. Proof of insurance.
  - (d) Electromagnetic Interference: The entire WECS (including turbines, alternators, generators, and interconnect systems) shall be filtered and/or shielded to prevent the emission of generated radio frequency energy which would cause any interference with radio, and/or television broadcasting or reception, and shall comply with Federal Communication Rules, 47 CFR, parts 15 (including sub parts A and F) and 18 (including sub-parts A, D and H).

- (e) Noise: The maximum level of noise permitted to be generated by any WECS shall be fifty (50) decibels, as measured on the DBA scale, measured at the property line nearest the WECS.
- (f) Setbacks: No WECS shall be erected such that any portion of the tower or turbine is closer to utility lines and/or property lines than the total distance of the height of the tower and rotor combined.
- (g) Height: The maximum allowable height, including rotor blade length of horizontal wind turbines, of any WECS shall be one hundred (100) feet, unless otherwise prohibited by State of Federal statutes or regulations or granted a variance by the Board of Appeals.
- (h) Labeling:
  - 1. The following information shall be provided on labels attached to the WECS tower subsystem in a visible, easily accessible location:
    - i. Equipment weight of the tower subsystem;
    - ii. Manufacturer's name and address;
    - iii. Model number;
    - iv. Serial number;
    - v. The following tower warning label or equivalent warning: Installation and Maintenance of This Product Near Power Lines is a Danger. For Your Safety Follow the Installation and Maintenance Instructions.
    - vi. The survival wind speed in miles per hour and meters per second.
    - vii. Name of installer.
    - viii. Name of person responsible for maintenance.
    - ix. Emergency telephone number in force for G and H above.
  - 2. The following information shall be provided on labels attached to the WECS power conversion subsystem in a visible, easily accessible location:
    - i. Maximum power input (KW); rated voltage (volts) and rated current output (amperes) of the generator, alternator, etc.;
    - ii. Manufacturer's name and address;
    - iii. Model number;
    - iv. Serial number;
    - v. Emergency and normal shutdown procedures;
    - vi. Underwriters label where appropriate.
- (i) Ground Clearance: For both horizontal and vertical axis turbines, and WECS rotor shall be located on the tower or support such that the minimum blade clearance above ground level is 20 feet.
- (j) Accessibility: Towers shall be designed and constructed in such a manner that climbing devices are only accessible with a separate ladder to a height of 12 feet.

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

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



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

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

1. Intent

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

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

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



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

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

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

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

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

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

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

8. Additional Conditions

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

(11) Wireless Telecommunication Antenna Towers over 40 feet in height shall be subject to the Provisions of Section 8.1 in addition to the following standards:

- (a) All tower, structure locations and design approvals for towers in excess of forty (40) feet shall require a Special Use Permit subject to the provisions of Section 8.1 of this Ordinance and this section.

- (b) Standards for approval shall include the following in addition to the standards of Section 8.1.
1. In order to maximize the efficiency of the provision of telecommunication services, while also minimizing the impact of such facilities on Peninsula Township, co-location, or the provision of more than one antenna on a single tower may be allowed and/or required by the Township Board.
    - a. The Applicant shall be required to provide information regarding the feasibility of co-location at proposed sites. Factors to be considered in determining feasibility of co-sharing include available space on existing towers, the tower owner's ability to lease space, the tower's structural capacity, radio frequency interference, geographic service area requirements, mechanical or electrical incompatibilities, the comparative costs of co-location and new construction, and any FCC limitations on tower sharing.
    - b. The applicant shall be required to send a certified mail announcement to all other tower users in the area, stating their citing needs and/or sharing capabilities in an effort to encourage tower sharing. The applicant shall not be denied or deny space on a tower unless mechanical, structural, or regulatory factors prevent them from sharing.
    - c. Further the applicant may be required to provide a letter of intent to lease excess space on a facility and commit itself to:
      - i. Respond to any requests for information from another potential shared use applicant;
      - ii. negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically practicable, and;
      - iii. make no more than a reasonable charge for a shared use lease.
  2. Tower height may be no more than required according to engineering requirements for a specific site or the technical capabilities of the antennas being mounted. The applicant shall provide funds to the Township determined by the Township Board to be sufficient to acquire an independent technical and engineering evaluation of the need for any tower in excess of 40 feet.

Where the independent evaluation shows that service can be provided by a forty foot or lower tower, no tower in excess of forty (40) feet shall be allowed.
  3. The tower and its accessory buildings shall be fenced with no less than a six foot safety fence with a locked gate.

4. The entire facility must be aesthetically and architecturally compatible with its environment.
  - a. The use of compatible materials such as wood, brick, or stucco is required for associated support buildings, which shall be designed to architecturally match the exterior of residential structures within the neighborhood.
  - b. In no case will metal exteriors be allowed for accessory buildings.
  - c. All connecting wires from towers to accessory buildings shall be underground.
  - d. All electrical and other service wires to the facility shall be underground.
  - e. The towers itself must be of monopole design, there shall be no guyed or lattice towers.
  - f. The Township Board may require landscape screening of the service building and fencing.
  - g. Lighting shall be limited to that which is absolutely necessary and required by appropriate agency and in addition:
    - i. Shall conform to the requirements of Section 7.14. and
    - ii. Strobe lights shall not be allowed. **(Revised by Amendment 175B)**
  - h. The Township Board may, at its sole discretion, require that the tower be camouflaged to be less obtrusive.
5. The maximum time which an unused tower of over forty feet may stand is twelve (12) months. The applicant or owner is responsible for the removal of an unused tower. Failure to do so shall be sufficient for the Township to remove the structure according to the provisions under the Dangerous Buildings Ordinance adopted by the Township.
6. Applications shall include the following in addition to any other specific requirements under Section 8.1.
  - a. Evidence of ownership of the property on which the facility is to be placed.
  - b. Name and address of the proposed owner and/or operator of the site.
  - c. Engineering requirements for the service to be provided at the site.
  - d. Name and address, including phone number of the person responsible for determining feasibility of co-location as provided in this section.
  - e. Site plan showing location of all proposed and existing structures on the property.
  - f. Preliminary design of all proposed structures.

- g. Name and address of all adjacent property owners within 300 feet of the property.
- h. Registered Engineer's certification of the design and safety of the proposed tower to withstand winds of 100 miles per hour.

(12) Remote Winery Tasting Rooms:

- (a) Statement of Intent: It is the intent of this subsection to allow wine tasting in a tasting room that is not on the same property as the winery with which is associated and to establish reasonable standards for the use.
- (b) There shall be a minimum parcel size of five (5) acres.
- (c) The five acre parcel shall not have another use such as housing, but may have grapes or other farm crops.
- (d) The building used for the wine tasting, shall be in keeping with the neighborhood character. Preliminary building elevations shall be submitted to the Planning Commission. The Planning Commission shall base its decision on structures within one-half mile of the proposed structure and shall consider roof type, pitch, color and also siding type and color.
- (e) The tasting room and the parcel shall be under the same single ownership, and in addition, 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. **(REVISED BY AMENDMENT 121)**
- (f) The Wine Tasting Room must be managed by a Peninsula Township Winery.
- (g) Tasting of wine produced at the winery shall be the only wine tasted in the Tasting Room. **(REVISED BY AMENDMENT 181)**
- (h) Sales of wine by the bottle produced at the winery are allowed for off-premises consumption. Sales of wine by the glass is allowed pursuant to the minimum requirements of the Michigan Liquor Control Commission rules and related Michigan Department of Agriculture permits regarding the sales of limited food items for on-premises consumption. The Liquor Control Commission and the Michigan Department of Agriculture shall control licenses and compliance. **(REVISED BY AMENDMENT 181)**
- (i) 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, embroidery, monogramming, decals or other means of permanence. Such logo shall be a 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.
- (j) Retail sale of packaged food items allowed in addition to bottled wine are those which contain wine or fruit produced in Peninsula Township. Such



food items shall be produced in a licensed food establishment and properly labeled including the winery logo as the dominant logo. Such food items shall be intended for off premise consumption. Such allowed packaged food items may include mustard, vinegar, non-carbonated beverages, etc.

- (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.  
**(REVISED BY AMENDMENT 120B ) (REVISED BY AMENDMENT 121)**

#### Section 8.8 GASOLINE SERVICE STATIONS:

Section 8.8.1 Statement of Intent: Facilities to serve motor vehicles are of considerable importance within areas such as Peninsula Township where the basic mode of transportation is the automobile. It is the intent of this Section to exercise a measure of control over service station buildings and their sites, and to establish a basic set of standards which will minimize traffic congestion noise, glare, and safety hazards which are inherent in service station activity. This ordinance requires conformation to these standards before a building permit may be issued for a gasoline service station within the Commercial District; and, in addition, requires the issuance of a special use permit within C-I Districts which complies with the requirements of this Section.

#### Section 8.8.2 Uses that may be Permitted:

- (1) Gasoline Service Stations, as defined in Article III, PROVIDED such accessory uses and services are conducted within a completely enclosed building.

Section 8.8.3 Site Development Requirements: The following requirements for site development together with any other applicable requirements of this Ordinance shall be complied with:

- (1) Minimum Site Size: Twenty thousand (20,000) square feet with a minimum width of one hundred fifty (150) feet.
- (2) Site Location: The proposed site shall have at least one (1) property line on a major thoroughfare as classified on the Comprehensive Development Plan for Peninsula Township.
- (3) Building Setback: The service station building, or buildings, shall be set back forty (40) feet from all street right-of-way lines and shall not be located closer than twenty-five (25) feet to any property line in a residential district.
- (4) Access Drives: No more than two (2) driveway approaches shall be permitted directly from any major thoroughfare nor more than one (1) driveway approach from any other public street.
- (a) Driveway approach widths shall not exceed thirty-five (35) feet measured at the property line.



- (b) Driveways shall be located as far from street intersections as practicable, but no less than fifty (50) feet.
  - (c) No driveway or curb cut for a driveway shall be located within ten (10) feet of an adjoining property line.
  - (d) Any two (2) driveways giving access to a single street shall be separated by an island with a minimum dimension of twenty (20) feet.
- (5) Lighting: All lighting shall conform to the requirements of Section 7.14.  
**(REVISED BY AMENDMENT 175B)**
- (6) Signs as allowed by Section 7.11.
- (7) Off-Street Parking: As provided in Article VII, Section 7.6.

## Section 8.9 MOBILE HOMES IN RESIDENTIAL DISTRICTS

Section 8.9.1 Statement of Intent: It is the purpose of this section to establish reasonable requirements for mobile homes located outside of licensed mobile home parks and the A-1 District to assure that the mobile home, when located upon the particular site, would compare favorably to other housing in such things as aesthetics, insulation, adequacy of plumbing, size of living space, protection from wind storm damage, quality of manufacture, a solid foundation under the same, obscurity of the wheels and chassis and a community standard size lot.

Section 8.9.2 Zones in Which Mobile Homes are Permitted: Mobile homes as defined in Section 3.2 shall be permitted subject to the provisions and requirements hereafter set forth in the following zones, viz: R-1A; R-1A, PUD; R-1B; R-1B, PUD; R-1C, PUD; R-1D, PUD.

### Section 8.9.3 Qualifying Conditions:

- (1) Each mobile home shall bear a label required by Section 3282.362(c)(2) of the Federal Mobile Home Procedural and Enforcement Regulation. Mobile homes shall meet the requirements of the Mobile Home Construction and Safety Standards Act (24 CFR part 3280) and bear a HUD label so indicating.
- (2) Each mobile home shall be installed pursuant to the manufacturer's setup instruction and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.
- (3) Within ten (10) days following installation, all towing mechanism shall be removed from each mobile home. No mobile home shall have any exposed undercarriage or chassis.
- (4) Each mobile home shall have a permanent perimeter wall of conventional building materials which shall prevent the entrance of rodents, control heat loss and contribute to aesthetic compatibility with surrounding structures.

- (5) Each mobile home shall have within the perimeter wall a full or partial basement; any space not occupied by a basement shall have a full concrete slab which may be used as a crawl space for storage purposes.
- (6) All construction and all plumbing, electrical apparatus and insulation within and connected to each mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, as from time to time amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- (7) Exterior Finish; Light Reflection: Any materials that are generally acceptable for housing built on the site may be used for exterior finish if applied in such a manner as to be similar in appearance; provided, however, that reflection from such exterior shall not be greater than from siding coated with clean, white, gloss, exterior enamel.
- (8) Minimum Width: The minimum elevational width shall be 24 feet.
- (9) Each mobile dwelling shall be aesthetically compatible in design and appearance with other residences in the adjacent area as defined in Section 3.2, particularly with regard to foundation treatment, siding and roofing materials and perimeter walls. Compatible materials such as siding, screen walls, etc. may be added to assure aesthetic compatibility with other structures.
- (10) The compatibility of design and appearance shall be determined by the Peninsula Township Planning Commission and Township Board. The Planning Commission and Township Board shall base their decision on the character, design and appearance of residential dwellings in adjacent areas of the Township.
- (11) Aesthetic Compatibility Checklist: The Peninsula Township Planning Commission and Township Board shall use a checklist to determine the compatibility of a proposed mobile home with conventional structures in coterminous areas. The township Clerk shall furnish copy of the blank form of checklist without charge upon request.

#### Section 8.10 HOTEL, MOTEL, TOURIST COURTS IN THE C-1 COMMERCIAL DISTRICT

Section 8.10.1 Statement of Intent: It is the purpose of this section to establish reasonable requirements for transient lodging facilities exclusive of bed and breakfast establishments in the C-1, Commercial District. It is intended that those regulations will provide for such facilities in the Township that are appropriate in scale and location so as to not create undue traffic congestion, noise or other interference with the predominantly rural and residential character of the Township.

#### Section 8.10.2 Qualifying Conditions:

- (1) Minimum Floor Area: Each guest room shall contain not less than two hundred fifty (250) square feet of floor area.
- (2) The maximum number of guests per unit shall not exceed five (5) persons.
- (3) Minimum Lot Area: The minimum lot size shall be five (5) acres with a minimum width of three hundred (300) feet.
- (4) Maximum Lot Coverage: All buildings, including accessory buildings, shall not occupy more than ten percent (10%) of the net area within property lines.
- (5) Minimum Yard Dimensions: All buildings shall set back no less than one hundred fifty (150) feet from any street line, and no less than sixty (60) feet from any side or rear property line.
- (6) Maximum Building Height: The maximum building height shall be two (2) stories, but not to exceed twenty-eight (28) feet.
- (7) Site Screening: The site may be closed by open structure wood or wire fences along any yard line, but shall not exceed six (6) feet in height. Shrubs and/or trees may be used to screen alone or in combination with structural screens. No screening shall in any way impair safe vertical or horizontal site distance for any moving vehicle. Screening at least four (4) feet high shall be erected to prevent headlight glare from shining on adjacent residential or agricultural property. No screening shall be closer than seventy-five (75) feet to any street line, except for headlight screening which shall not be closer than thirty (30) feet.
- (8) Lighting. All lighting shall conform to the requirements of Section 7.14.  
**(REVISED BY AMENDMENT 175B)**
- (9) Accessory Uses: Uses such as swimming pools and other outdoor recreational uses, meeting rooms, restaurants, taverns or bars, and a caretaker's or proprietor's residence shall be permitted provided that these uses are located on the same site as the principal use to which they are accessory. Appropriate permits shall have been obtained from regulating County or State agencies.
- (10) Well and Septic System: Proof of evaluation of the well and septic system by the Health Department and conformance to that agency's requirements shall be supplied by owner.
- (11) Fire Safety:
  - (a) All transient lodging facilities shall conform to the Michigan State Construction Code sections regarding fire safety.
  - (b) An on-site water supply shall be available and meet the requirements of the Peninsula Township Fire Department.
  - (c) A floor plan drawn to an architectural scale of not less than 1/8" = 1 foot shall be on file with the Fire Department.

- (d) Each operator of a transient lodging facility shall keep a quest registry which shall be available for inspection by the Zoning Administrator and police and fire officials at any time.
  - (e) Master keys for all rooms shall be available at all times.
- (12) Fencing or Planting Buffer: In the event that the Township Board determines that noise generation may be disturbing to neighbors, or that the location of the establishment is in an area where trespass onto adjacent properties is likely to occur, then the Township Board may require that fencing and/or a planting buffer be constructed and maintained.
- (13) Rental of Recreational Equipment: Rental of snowmobiles, ATVs or similar vehicles, boats and other marine equipment, in conjunction with the operation of the establishment shall be prohibited.
- (14) Activities and Outdoor Gatherings: Activities made available to guests shall be on the lot used for the facility or on lands under the direct control of the operator either by ownership or lease. Outdoor gatherings of guests or other individuals shall be carried on in such a manner and at such hours as to not be disruptive to neighboring properties.
- (15) Density of Development: The maximum number of rental units which may be developed at any single location shall be twenty (20). Accessory uses shall be as approved as a part of the special use permit approval process.
- (16) Additional Requirements: Such developments shall meet the requirements of Section 7.7.1 Buffer and Section 7.7.2 Fencing Certain Agricultural Lands.  
**(REVISED BY AMENDMENT 137B)**

## ARTICLE IX

### REQUEST FOR AMENDMENT

Section 9.1 Request and Meeting: Any person affected by this Ordinance may submit a request in writing to the Secretary of the Township Zoning Board asking that consideration be given to a specific amendment to this Ordinance in the particulars set forth in the request. The Zoning Board shall thereafter hold a meeting to consider said petition and shall notify the petitioner of the time and place of such meeting not less than ten (10) days prior thereto.

ARTICLE X  
SEPARABILITY

Section 10.1 Validity: If any clause, sentence, sub-sentence, paragraph, section or part of this Ordinance be adjudged by any court of competent jurisdiction to be invalid such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, sub-sentence, paragraph, section or part thereof directly involved in the controversy in which said judgement shall have been rendered.

ARTICLE XI  
VIOLATIONS

Section 11.1 Penalties: Any person who shall violate any provision of this Ordinance in any particular, or who fails to comply with any of the regulatory measures or conditions of the Board of Appeals adopted pursuant hereto, shall, upon conviction thereof, be fined not to exceed \$100.00 or may be imprisoned not to exceed ninety (90) days, or may be both fined and imprisoned in the discretion of the Court, and each day such violation continues shall be deemed a separate offense.

Section 11.2 Nuisance per se: Uses of land, dwellings, buildings or structures, including tents and trailer coaches used, erected, altered, razed or converted in violation of any provision of this Ordinance or the regulatory measures or conditions of the Board of Appeals adopted pursuant hereto are hereby declared to be nuisances per se.

ARTICLE XII  
EFFECTIVE DATE

Section 12.1 Effective Date: This amendment No. 6 to the Peninsula Township Zoning Ordinance shall take immediate effect upon passage by the Township Board.

RAYMOND W. CARROLL, SUPERVISOR  
HARRY W. HELLER, Clerk

Adopted by Township Board on  
June 5, 1972

ORDINANCE AMENDMENTS

Revised by amendment 86A and 86B - Adopted by the Township Board on August 13, 1991. Sections 3.2, 6.7.2 (8)

Revised by amendment 88A,B - Adopted by the Township Board on November 12, 1991. Sections 3.2, New Section 7.10

Revised by amendment 89A,B,C - Adopted by the Township Board on July 9, 1991. Sections 3.2, 8.9.3, 6.7.2 (3)

Revised by amendment 90 - Adopted by the Township Board on July 9, 1991. Sections 3.2, 6.7.2 (10)(11)

Revised by amendment 91 - Adopted by the Township Board on June 9, 1992. Sections 6.8.1, 7.7, 7.7.1, 7.7.1.1, 7.7.1.2, 7.7.1.3, 7.7.1.4.

Revised by amendment 92A,B,C,D,E,F,G,H - Adopted by the Township Board on November 12, 1991. Section 6.9.

Revised by amendment 93A,B,C,D,E,F,G,H - Adopted by the Township Board on January 14, 1992. Sections 8.3.1, 8.3.2, 8.3.3, 8.3.4, 8.3.5, 8.3.6.

Revised by amendment 94A,B,C - Adopted by the Township Board on April 14, 1992. Sections 8.3.2 (6), 8.3.3 (3)(5), 8.3.5 (4)

Revised by amendment 95 - Adopted by the Township Board on April 14, 1992. Section 6.7.2 (8).

Revised by amendment 96A,B,C,D - Adopted by the Township Board on April 14, 1992. Sections 8.1.2 (3)f, 8.1.2 (4), 8.1.2 (5), 8.1.2 (6), 8.3.7.

Revised by amendment 98A,B,C,D,E - Adopted by the Township Board on July 14, 1992. Sections 3.2, 8.3.4 (4), 8.3.4 (7), 8.3.6, 7.4.7 (3).

Amendment 99 ABC to create winery use was not approved.

Revised by amendment 100A,B,C,D,E,F,G,H,I,J,K,L,M,O,- Adopted by the Township Board on August 10, 1993. Sections 3.2, 7.2.2, 7.11, 8.7.3(7)(b), 6.2.3(2)(f), 6.6.3(4), 6.6A.3(4), 6.7.2(8), 6.7.3, 8.3.4(5), 8.7.2, 8.7.3, 8.8.3(6).

Amendment 101 to increase size of billboards was not approved.

Amendment 102 to increase minimum water frontage required for shared access was not approved.

Map revised by Amendment 103 - Adopted by the Township Board on August 10, 1993.

Map revised by Amendment 104 - R-1C to C-1 Parcel #28-11-235-042-00 Adopted by the Township Board on September 13, 1994. Effective 10/19/94

Map revised by Amendment 105 - C-2 Commercial to Agriculture A-1 Underwood Farm Market. Adopted by the Township Board on January 10, 1995. Effective 2/20/95.

Amendment 106 A,B,C - Adopted by the Township Board on January 10, 1995. Sections 6.1.1, 6.6, 6.8. Effective 2/20/95

Amendment 107A,B,C,D,E and G. - Adopted by the Township Board on October 10, 1995. Sections 7.10.2, 7.10.4, 7.10.9, 6.8.1, 3.2, 7.11.3. Effective 11/17/95

Amendment 108 - Adopted by the Township Board on December 12, 1995. Sections 6.8.1 (f). Effective 1/21/96

Amendment 109 - keyholing was adopted by the Township Board on March 10, 1998. Sections 3.2, 6.2.2, 7.4.2,

Amendment 110 to add communications antennae was not approved.

Amendment 111 to revise home occupations was not approved.

Amendment 112 to amend winery-chateau section withdrawn.

Amendment 113A,B - Adopted by the Township Board on May 13, 1997. Sections 3.2, 5.7.4(2)(c).

Amendment 114A,B,C,D,E,F,G,H. Adopted by the Township Board on July 8, 1997 Sections 3.2, 6.7.3(3), 7.6.3, 7.6.4, 8.4, Effective 8/28/97

Amendment 114A,B,C,D,E,F,G,H. (Revised) Adopted by the Township Board on March 10, 1998 Sections 3.2, 6.7.3(3), 7.6.3, 7.6.4, 8.4.

Amendment 115 Fences. Denied by Township Board on July 14, 1998.

Map revised by Amendment 116 - A-1 to R-1A. Adopted by the Township Board on September 9, 1997.

Revised by Amendment 117A,B - Adopted by the Township Board on September 9, 1997. Section 6.7.5., 6.8.1.

Revised by Amendment 118A,B,C,D - Adopted by the Township Board on September 9, 1997. Sections 5.8, 7.12, 8.6.1(3), 8.7.2, 8.7.3(11).

Revised by Amendment 119 - Adopted by the Township Board on September 9, 1997. Sections 7.12.2.

Revised by Amendment 120A,B - Adopted by the Township Board on May 12, 1998. Sections 8.7.2, 8.7.3.

Revised by Amendment 121 - Adopted by the Township Board on July 14, 1998. Section 8.7.3(12)(e).

Revised by Amendment 122 - Adopted by the Township Board on July 14, 1998. Section 7.4.2(3)(b).



Map Revised by Amendment 123 - Adopted by the Township Board on April 14, 1999.  
Rezoned R-1A to R-1C in Section 36 T28N;R11West.

Revised by Amendment 124 - Clustering Denied by the Township Board on April 14, 1999.

Revised by Amendment 125A,B,C - Adopted by the Township Board on April 13, 1999.  
Sections 3.2, 6.6.2

Amendment 126 Rezoning request by Farley withdrawn May 9, 1999 prior to the Township Board meeting of June 15, 1999.

Revised by Amendment 127 Revisions to the Winery Chateau Denied by Township Board on July 13, 1999.

Amendment 128 Winery with wine tasting overturned by referendum.

Revised by Amendment 129 Communications Tower revision Adopted by the Township Board October 12, 1999.

Amendment 130 Rezoning request by Matsen withdrawn.

Revised by Amendment 131A, B, C - Adopted by the Township Board on December 12, 2000. Sections 8.7.3(7)a, 8.7.3(7)(a)(6), 6.7.2 (18) Warehousing and Barn Storage.

Amendment 132 - Not sent forward to Township Board by Planning C.

Amendment 133 - Sweeney Rezoning Sent back to P.C. not approved

Amendment 134 - Cluster Development not approved.

Revised by Amendment 135 Adopted by the Township Board on December 11, 2001.  
Section 6.2.3 (2) Home Occupations

Revised by Amendment 136A,B. Adopted by the Township Board on July 10, 2001  
Sections 3.2, 8.7.3(6)(b)16. Bed and Breakfast

Revised by Amendment 137 A,B. Adopted by the Township Board on February 12, 2002. Section 7.7.2. and Section 8.10.2 (16) Agricultural Fencing.

Revised by Amendment 138 Agricultural Buffers Adopted by the Township Board on October 8, 2002. Sections 6.8, 7.2.7, 7.7.1, 7.7.1.1, 7.7.1.2, 7.7.1.3.

Revised by Amendment 139 A,B, Adopted by the Township Board on July 9, 2002.  
Sections 3.2, 6.7.2 Farm Processing Facility

Revised by Amendment 140 Decks Adopted by the Township Board on August 13, 2002 Sections 5.7.3 (4); 6.2.2(2)(d); Add Figure 6-1; Remove Section 6.2.3(3).



Revised by Amendment 141 Guest Activities Adopted by the Township Board on August 10, 2004 Section 8.7.3 (10) to add a new Subsection (u) Guest Activity Uses.

Amendment 142 Country Inn - Not sent forward by the Planning Commission.

Revised by Amendment 143 Bed and Breakfast Adopted by the Township Board on October 8, 2002 Sections 8.7.3(6)(b)7.

Revised by Amendment 144 Landscaping Adopted by the Township Board on February 10, 2003 Section 6.6.3(3).

Amendment 145 Boat Storage DENIED by the Township Board on December 10, 2002.

Revised by Amendment 146 House in Farm Processing Building Adopted by the Township Board on December 10, 2002. Section 6.7.2 (19) new (c).

Revised by Amendment 147 Rezoning Parcel No 28-11-121-075-00 from A-1 to R-1APUD Adopted by the Township Board on April 8, 2003.

Revised by Amendment 148 Rezoning Parcel No 28-11-009-032-00 from A-1 and R-1A to R-1A Adopted by the Township Board on April 8, 2003.

Amendment 149 Rezoning request Parcel 28-11-017-023-10 from A-1 to R-1B Denied by the Township Board April 13, 2004.

Amendment 150 Rezoning Request Parcel 28-11-008-027-00 Withdrawn.

Revised by Amendment 151 Planned Unit Development Adopted by the Township Board 7-13-04 Sections 3.2 and 8.3.

Revised by Amendment 152 Fences, adopted by the Township Board. Section 7.13.

Amendment 153 Rezoning Request 28-11-031-004-05. Diamond LLC - Removed from further consideration by PC on December 21, 2009 - Property was purchased for a Township Park.

Amendment 154 Rezoning request Parcels 28-11-008-016-00; 28-11-008-016-10; 28-11-008-003-00- withdrawn 3/14/2005.

Revised by Amendment 155 Boarding of Livestock - Adopted by the Township Board on February 8, 2005 - Section 3.2 and 6.7.2 (6).

Amendment 156 Mixed Use Planned Unit Development - Pending at Planning Commn.

Amendment 157 Non-Contiguous PUD - Pending at Planning Commission

Revised by Amendment 158 Development Density - Adopted by the Township Board on August 15, 2006. Sections 8.3.5 (1) and Section 3.2.

Revised by Amendment 159A and B Cupolas - Permitted Exceptions. Adopted by the Township Board on August 9, 2005 Section 3.2 and Section 7.3.1

Amendment 160 Road Continuity - returned to PC by Twp Bd.6-14-05 Replaced by Amd 164.

Map revised by Amendment 161 Rezoning 2.76 acre portion of 28-11-018-006-01 from R-1A to A-1 Adopted by Township Board on July 12, 2005.

Revised by Amendment 162A Area for Livestock Adopted by the Township Board August 9, 2005 Section 6.7.2 (6)

Amendment 162B not approved and sent back to the Planning Commission. Pending

Revised by Amendment 163 Accessory Structures in Condominiums - Adopted by the Township Board on April 11, 2006 - New Section 6.9.3.6 and renumber remaining.

Amendment 164 - Road Connections Twp Bd. 8-15-06 DENIED - CLOSED

Amendment 165 - Condominium PUD Pending Planning Commission

Revised by Amendment 166 - Migrant Adopted by the Township Board on August 15, 2006 Section 3.2.

Revised by Amendment 167A and B - Ordinance Enforcement Adopted by the Township Board on May 9, 2006. Section 4.1.2 and Section 4.2.1 - Violations and Penalties.

Revised by Amendment 168 - PUD density clarification - Adopted by the Township Board on May 8, 2007. Section 8.3.3 (4)

Amendment 169 - Definitions - Not recommended by Planning Commission - Closed

Revised by Amendment 170 Regarding building envelopes. Adopted by the Township Board on February 9, 2007. Section 8.3.6 (a)

Revised by Amendment 171A & B. Nonconforming Uses and Structures. Adopted by the Township Board on February 9, 2007. Section 3.2 and Section 7.5

Revised by Amendment 172 Correction to Section 4.1.3 Adopted by the Township Board on February 9, 2007. Section 4.1.3.

Amendment 173 R-1A Labor camp and Roadside Stand - CLOSED NOT RECOMMENDED BY THE PLANNING COMMISSION

Revised by Amendment 174 - Farm Processing Sign - Adopted by the Township Board on April 10, 2007. Section 3.2; Section 6.7.2; Section 7.11.5; Section 7.11.6 and Section 7.11.6 (3).

Revised by Amendment 175A & B - Exterior Lighting Standards Adopted by the Township Board on July 8, 2008 Article 7; Section 6.6.5.3 (12); Section 6.7.2 (19) (b) 10. ; Section 6.9.4.3 ; Section 7.6.4. (2) (f); Section 8.2.3. (14); Section 8.4.3 (9); Section 8.7.3 (10) (l); Section 8.7.3 (11) (b) 4.g.; Section 8.8.3 (5) ; Section 8.10.2 (8); Section 6.2.3 (2) (f); Section 7.11.1 (12); Section 7.11.2 (7).

Revised by Amendment 176A Additions to Non-Conforming Structures; and Amendment 176B - Moving or Replacing Non-Conforming Structure - Adopted by the Township Board on October 9, 2007 - Section 7.5.5 ; Section 7.5.6.

Amendment 177 A, B & C. Detached Residential Garage Standards - Not adopted.

Amendment 178 Planning Act updates - pending

Amendment 179 Farm Processing Facility Start Up Permit - Planning Commission - pending.

Amendment 180 Lighthouse Gift Shop - Adopted by Township Board on March 10, 2009, Section 8.6.

Amendment 181 Sales of Wine by the Glass - Adopted by Township Board on August 11, 2009 Section 3.2 Section 6.7.2 (19) (a); Section 6.7.2 (19) (b) 1.; Section 6.7.2 (19) (b) 2.; Section 8.7.3 (10) (d); Section 8.7.3 (12) (g) and (h)

Amendment 182 Rental of Non-owner Occupied Dwelling - Adopted by Township Board on June 9, 2009 Section 6.2.2 (2)(e).

Amendment 184 Township Property Exempt - Adopted by Township Board on August 11, 2009, Section 7.12.2.

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# **Exhibit Q**



Message

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**From:** Jenna Veiga [jenna@marivineyards.com]  
**Sent:** 12/23/2020 10:35:58 AM  
**To:** Alex Lagina [alex@marivineyards.com]  
**Subject:** Fwd: Mari Vineyard 2018 Harvest Tonnage

----- Forwarded message -----

From: **David Sanger** <[enforcement.peninsulazoning@gmail.com](mailto:enforcement.peninsulazoning@gmail.com)>  
Date: Wed, Apr 3, 2019 at 8:46 AM  
Subject: Re: Mari Vineyard 2018 Harvest Tonnage  
To: Alex Lagina <[alex@marivineyards.com](mailto:alex@marivineyards.com)>  
Cc: Christina Deeren <[zoning@peninsulatownship.com](mailto:zoning@peninsulatownship.com)>, Randy Mielnik <[planner@peninsulatownship.com](mailto:planner@peninsulatownship.com)>, Jenna Veiga <[jenna@marivineyards.com](mailto:jenna@marivineyards.com)>

Alex,

You have questioned if a meeting of a "book club" is a principal use under your Winery Chateau SUP, and is exempt from the requirements for a Guest Activity under the exclusion for "free entertainment (Example - Jazz at Sunset)".

The Ordinance states that "accessory uses" are for registered guests only. Uses for non-registered guests are allowed under the Guest Activities section of the Ordinance. While I agree that "free entertainment" such as music is excluded from a Guest Activity use, the overriding element is the question of the "principal use" or activity.

In the case of "free entertainment", the primary use (or reason for someone to come to the winery) is to taste wine; the free entertainment is secondary.

In the case of a meeting of a "book club", the primary reason to come to the winery is to discuss and review a book; the matter of tasting wine is secondary.

Thus, a meeting of a book club is a use only allowed under the Guest Activity section, and the winery must qualify on the basis of additional use of Old Mission Peninsula grapes plus meet the requirements for promotion of Peninsula Agriculture, with the required reports to the Zoning Administrator in advance of the event.

Please let me know if you would like to discuss this further.

Thank you,

Dave

On Mon, Apr 1, 2019 at 11:09 AM Alex Lagina <[alex@marivineyards.com](mailto:alex@marivineyards.com)> wrote:  
Hi Dave,

Thanks for your email. Yes, this represents entirely Old Mission Peninsula production. We will certainly comply with all notice requirements of events. However for the book "club", as this is free, open to the public

(there is no membership requirement) and occurs only in the tasting room during business hours would this not fall under the category of "free entertainment" under 8.7.3 (10) (u) 1. (d)? To me it seems more like a happy hour / jazz at sunset type thing but I welcome your guidance.

As always, thanks for your continuing help and understanding as we grow into the Guest Activity Uses we didn't have the time/manpower to focus on when we first opened.

I'm out of the office today, but I'll give you a call later this week to set up a time when we can meet in person.

Thanks again!

Alex

On Sat, Mar 30, 2019 at 9:15 AM David Sanger <[enforcement.peninsulazoning@gmail.com](mailto:enforcement.peninsulazoning@gmail.com)> wrote:  
Alex,

Please confirm that this report includes harvest data for Old Mission Peninsula properties only.

Assuming that the answer is "yes", then you are permitted to conduct Guest Activities during 2019 for a maximum of 85 guests per event.

Please abide by the noticing requirements in the Ordinance; that can be a simple email to Christina and me with the date, time, and brief description of the event.

Based on info on your website, the Bigs event, plus the book "club" meetings should be on your report.

Thanks for your cooperation; I am working with all Winery Chateau proprietors this year to be sure that we are fair to each one in complying with the Ordinance.

Please feel free to call on us; I will stop in and would like to meet you.

Dave

On Fri, Mar 29, 2019 at 3:21 PM Alex Lagina <[alex@marivineyards.com](mailto:alex@marivineyards.com)> wrote:

Hi Dave, here's our 2018 harvest report (also sent to Christina, although I understand she's out next week). There was just under a ton of juice in our records that seemed to be erroneously attributed to the wrong vineyard so I'm just omitting that.

Looking forward to meeting you in person next week, have a great weekend!

Mari Vineyards 2018 Harvest Tonnage Report	
Vineyard	Tonnage (T)
Bella Vista	7.695
Grishaw	23.2155
Irish	25.7395
Jamieson	38.0815
McKian	3.122
Neeson	7.9115
Winery-Chateau Property	0 / EXCLUDED

<b>TOTAL</b>	<b>105.765</b>
<b>Guest Activity Use Occupancy (Total/1.25):</b>	<b>85</b>

--  
Alex Lagina

General Manager

**MARI VINEYARDS**  
8175 Center Rd.  
Traverse City, MI 49686  
[\(231\) 938-6116](tel:(231)938-6116) x 102  
[marivineyards.com](http://marivineyards.com)



--  
David K. Sanger  
Ordinance Enforcement Officer  
Peninsula Township Zoning Office  
13235 Center Road  
Traverse City, MI 49686

231-223-7318  
231-216-1212 direct line

--  
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231-216-1212 direct line

--



## Jenna Veiga

Marketing & Events Manager

Mari Vineyards

Preferred Pronouns: She/Her

*Please note that I am not currently working in my office, and therefore unavailable via phone. Reservations for the tasting room are best made via phone by calling the tasting room at 231.938.6116*



231 938 6116



Jenna@marivineyards.com



www.marivineyards.com



8175 Center Road, Traverse City, MI, 49686

**Office hours: Tuesday-Friday, 9am-5pm**



# **Exhibit R**

# Redacted - Attorney-Client Privilege

**From:** David Sanger <[enforcement.peninsulazoning@gmail.com](mailto:enforcement.peninsulazoning@gmail.com)>  
**Date:** March 20, 2019 at 6:14:59 AM PDT  
**To:** Walter Brys <[walterbrys@hotmail.com](mailto:walterbrys@hotmail.com)>  
**Cc:** Christina Deeren <[zoning@peninsulatownship.com](mailto:zoning@peninsulatownship.com)>  
**Subject:** Winemakers Reception Event - April 12

Walter,

I am investigating the advertised Winemakers VIP Reception Event on Friday, April 12 from 6:00PM to 8:00PM. This is advertised as a benefit event for Big Brothers and Big Sisters.

Based on my preliminary investigation, this event appears to be allowed under the Guest Activities section of the Winery-Chateau Ordinance section only, and not as a normal Winery-Chateau Tasting Room activity.

Factors to be considered include:

1. fixed price for entry, rather than sale of wine by the glass (Guest Activity)
2. tasting room will not be open to the public (Guest Activity)
3. meeting of a non-profit group wherein a full course meal is not being served (Guest Activity)
4. Grape production/purchase report must be submitted to Zoning Administrator to determine the maximum number of people allowed per event. (Guest Activity)

It appears that this event would be allowed as a Guest Activity use, requiring that you can furnish proof that Brys Estate grew or purchased Old Mission Appellation grapes last year, in excess of the grapes grown on the minimum 75% acreage for the SUP. The requirement is to grow or buy 1.25 tons additional tons for each person allowed to attend the Guest Activity event.

Christina and I have reviewed this advertised event and request that you work with us to ensure that the event is in compliance with the Ordinance and your SUP.

I suggest that we meet as soon as possible to discuss this advertised event.

Thank you in advance for your cooperation.

Dave

David K. Sanger  
Ordinance Enforcement Officer  
Peninsula Township Zoning Office  
13235 Center Road  
Traverse City, MI 49686

231-223-7318  
231-216-1212 direct line



# **Exhibit S**

<b>Activity</b>	<b>Michigan Law</b>	<b>Winery Chateau</b>	<b>Farm Processing</b>	<b>Remote Winery Tasting Room</b>
Tasting Room	Allowed MCL 436.1113(1)(b)	Allowed Section 8.7.3(10)(d)2	Allowed Section 6.2.7(19)(b)(1)(iv)	Allowed Section 8.7.3(12)(a)
Wine Tastings	Allowed MCL 436.1113(1)(b)	Allowed Section 8.7.3(10)(u)1(d)	Allowed Section 6.2.7(19)(b)(1)	Allowed Section 8.7.3(12)(a)
Sale of Wine by the Glass	Allowed MCL 436.1113(1)(b)	Allowed Section 8.7.3(10)(d)2	Allowed Section 6.2.7(19)(b)(1)(iv)	Allowed Section 8.7.3(12)(h)
Restaurant	Allowed MCL 436.1536(7)(h)	Allowed But not allowed during Guest Activity Uses Section 8.7.3(10)(u)(2)	Not allowed Section 6.2.7(19)(a)	Allowed <sup>1</sup>
Food for On-Premise Consumption	Allowed MCL 436.1536(7)(h)	Allowed Section 8.7.3(10)(d)(2)	Allowed But ordinance states “limited food items.” Section 6.2.7(19)(b)(iv)	Allowed
Food for Off-Premise	Allowed MCL 436.1536(7)(h)	Not allowed Section 8.7.3(10)(d)(2)	Not allowed Section 6.7.2(19)(b)1(iv)	Allowed Section 8.7.3(12)(j)
Catering	Allowed MCL 436.1547	Not allowed Section 8.7.3(10)(u)(5)(i)	Allowed	Allowed
Live music	Allowed MCL 436.1916(11)	Allowed But not allowed for Guest Activity Uses Section 8.7.3(10)(u)5(g)	Allowed	Allowed
Hours of operation from 7:00am – 2:00am, daily	Allowed MCL 436.1403	Allowed for all but Guest Activity Uses Section 8.7.3(10)(u)(5)(b)	Allowed	Allowed
Outdoor Service	Allowed R. 436.1419	Allowed	Allowed	Allowed

<sup>1</sup> An activity listed as “allowed” without a citation to the Winery Ordinances means the Winery Ordinances are silent or do not expressly prohibit the activity.