

For your consideration, the Small Growers and Producers Subcommittee of the Agricultural Advisory Committee submits the following proposed ordinance language for the Agricultural Section of the Peninsula Township Zoning Ordinance.

The Subcommittee's goal is straightforward: the long-term preservation of farmland on Old Mission Peninsula depends on acknowledging that the future of farming is evolving. Available data and regional trends demonstrate that small-scale, experiential, and direct-to-consumer agricultural operations are increasingly central to agricultural viability. Removing unnecessary barriers for new entrants, while providing a clear and proportional pathway for small growers to expand over time, is essential to preserving active farmland and sustaining the local agricultural economy.

The intent of this document is not only to **modernize and clarify agricultural land-use regulations**, but also to produce a framework that is **clear, legally defensible, and understandable to voters**. This proposal prioritizes the elimination of ambiguity, alignment with applicable state and federal law, and the creation of scalable standards that support agricultural vitality without encouraging unchecked development or sprawl. While not a comprehensive ordinance for the Agricultural District, this document serves as a practical starting point for modernizing existing regulations through actionable provisions that may be adopted immediately.

The Subcommittee's core focus included the following objectives:

- **Define agricultural uses by right**, particularly with respect to tasting rooms, on-farm processing, and limited retail, in order to reduce administrative burden and regulatory uncertainty.
- **Acknowledge the role of agriculture-related tourism** as a necessary component of farm viability, while maintaining the rural character and working-landscape identity of Old Mission Peninsula.
- **Eliminate subjective terminology** by replacing terms such as "view lot," "appropriate," or "compatible" with quantifiable, performance-based standards.
- **Reduce future legal exposure** by clearly identifying where local regulatory authority ends and higher jurisdictional authority begins.
- **Clearly distinguish agricultural practices and facilities protected** under the Michigan Right to Farm Act and applicable Generally Accepted Agricultural and Management Practices (GAAMPs) from activities that fall outside those protections.

The Subcommittee thanks the Agricultural Advisory Committee for its patience, and ongoing member collaboration throughout this process. We are proud to present a document we believe is fair, carefully considered, and inclusive of the diverse growers and agricultural operations that make Old Mission Peninsula unique.

DEFINITIONS

AGRICULTURE The act or business of cultivating, tilling, or otherwise using land and soil for the production of crops or livestock for human or animal use. Agriculture includes, but is not limited to, farming, grazing, pasturage, horticulture, floriculture, viticulture, aquaculture, and animal or poultry husbandry.

ACCESSORY BUILDING A subordinate structure that is incidental to, and reasonably necessary, for the operation of a farm. An accessory farm building supports the principal agricultural use of the property and may include, but is not limited to, barns, equipment or implement sheds, storage structures, greenhouses, hoop houses, farm stands, or similar buildings used for the housing of livestock, storage of crops or machinery, processing or handling of farm products, or other activities directly related to the commercial production of agricultural goods. Accessory farm buildings may not be for residential use and are located on the same parcel as the principal farm operation. New or existing buildings should not preclude a new farmer from utilizing existing structures.

AGRICULTURAL PRODUCTS Agricultural Products include those plants and animals useful to human beings produced by agriculture and include, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan Department of Agriculture and Rural Development.

AGRICULTURALLY RELATED PRODUCTS Items sold at a farm market to attract customers and promote the sale of agricultural products. Such items include, but are not limited to, all agriculture products, baked goods, ice cream and ice cream based desserts and beverages, jams, gift items, food stuffs, clothing and other items promoting the farm and agriculture in Michigan, and value-added agriculture products and on-site production.

AGRITOURISM An activity conducted on a working farm or agricultural property that is intended to involve members of the public. Agritourism activities, including but not limited to, U-pick operations, harvest festivals, farm tours, educational workshops, experiences utilizing on-site farm products including processed products, on-farm sales, roadside stands, farm markets, farmers markets, farm-to-table gatherings, cooking classes using farm products, corn mazes, hay rides, nightly rental farm stays, classes and tours, horseback riding, small farm animal

**Proposed Ordinance Amendments
Peninsula Township: Agricultural District
January 2026**

meet-and-greets, wildlife viewing, farmland art and photography, and food or beverage service related to on-site products including processed products.¹

BREWERY, DISTILLERY A facility licensed by the Michigan Liquor Control Commission and the TTB for the manufacture of, beer or distilled spirits from fruit, grain or other agricultural products. A brewery, distillery may include buildings and structures used for the crushing, fermenting, aging, blending, bottling, storage, and distribution of finished product. A brewery, distillery may include, by right, a tasting room as an accessory use, subject to permit approval by the Township and the Michigan Liquor Control Commission. The tasting room shall be incidental and subordinate to the principal agricultural use.

COTTAGE FOOD OPERATION A home-based food business permitted under the Michigan Cottage Food Law, Public Act 113 of 2010, as amended, that prepares and sells non-potentially hazardous food products from a residential kitchen directly to consumers. Cottage food operations do not require a state food license and are limited to the sale of approved products through direct-to-consumer channels, including but not limited to farm markets, farm stands, roadside stands, internet, mail-order, and third-party delivery sales.²

FARM A parcel of land used, whether as a principal or accessory use, for the commercial production of farm products. A Farm includes a farm operation conducted in compliance with the Generally Accepted Agricultural and Management Practices (GAAMPs), and encompasses land, plants, animals, buildings, structures (including ponds used for agricultural or aquacultural purposes), machinery, equipment, and all other appurtenances necessary for the commercial production of farm products.

FARM MARKET A Farm Market is part of a farm operation where transactions between operator and customers take place seasonally or year-round. A farm market may include, but is not limited to, a farm stand, u-pick operation, CSA distribution site, tasting room, tasting kitchen, where agricultural products produced on the affiliated farm are sold to the public.

FARM OPERATION All activities necessary for the commercial production, harvesting, storage, and marketing of farm products. This includes selling produce at roadside stands or farm markets; generating normal farm-related noise, odors, dust, and other conditions; operating farm machinery and equipment; preparing fields, planting, and spraying; applying fertilizers and pesticides; using alternative pest management techniques; caring for and managing livestock;

¹ As adopted by the Agricultural Advisory Committee in September 2025.

² Michigan Cottage Food Law, Public Act 113 of 2010

**Proposed Ordinance Amendments
Peninsula Township: Agricultural District
January 2026**

handling and applying manure or other agricultural by-products; shifting between different types of farm activities; and employing labor needed to carry out these functions.³

FARM STAY A paid, overnight guest accommodation on a farm for the purpose of participating in educational, recreational, or social activities on the farm that feature agricultural practices or qualifying products, or both. A farm stay includes the option and focus for guests to participate in such activities. Farm Stay accommodations may include: guest rooms within the primary dwelling, guest dwellings on the subject property, campsites on the subject property meeting the requirements of the State Campground Division. Farm Stays may also include meals for guests. The owner, or tenant farmer, must reside on the property.

GROSS ACREAGE The total area of a parcel of land as shown on the most recent recorded deed or survey, measured to the exterior property lines, and on which all building size, coverage, density, and related zoning calculations shall be based, exclusive of any public rights-of-way but inclusive of all other land area, regardless of topography, wetlands, floodplains, or other physical constraints.

NON-AGRUCULTURAL-RELATED PRODUCTS Those items not connected to farming or the farm operation, such as novelty t-shirts or other clothing, crafts, knick-knacks imported from other states or countries.

PROCESSING The handling, transformation, preservation, packaging, or preparation of agricultural products produced on an affiliated farm intended for direct-to-consumer or wholesale sales. Processing may include, but is not limited to, packing, washing, cleaning, sorting, pitting, pressing, fermenting, distilling, packaging, cutting, cooling, curing, storage, canning, drying, freezing, or otherwise preparing an agricultural product for market. On-farm processing is an accessory and subordinate activity intended to support agricultural production and direct marketing.⁴

STRUCTURE Any man-made object or improvement that is constructed, erected, placed, or installed on land and that requires, or would ordinarily require, a building permit or other construction approval under applicable state or local codes, including but not limited to buildings, building additions, decks, platforms, pavilions, roofs, walls, tents, canopies, containers, or similar facilities, whether permanent or temporary, and whether enclosed or unenclosed.

TASTING ROOM A licensed area located on the premises of a manufacturer (e.g., winery, brewery, cidery, distillery) where alcoholic beverages produced by that manufacturer may be

³ Michigan Right to Farm Act, Act 93 of 1981, 'Farm Operation definition'

⁴ Michigan Agricultural Processing Act 381 of 1998.

**Proposed Ordinance Amendments
Peninsula Township: Agricultural District
January 2026**

sampled, tasted, and sold for on-premises consumption, subject to state license type and rule limitations. A tasting room is an accessory use for the purposes of direct-to-consumer marketing of products produced on the farm or at the facility and shall be subject to the same regulations for Farm Markets.

VALUE-ADDED AGRICULTURAL PRODUCT A farm product that has been enhanced or improved, on or by the Farm Operator, to make the product more attractive or readily usable to the buyer. Such enhancement or improvement may include processing, addition of other ingredients, transformation, or packaging.

U-PICK A fruit or vegetable-growing farm that provides the opportunity for customers to pick their own fruits or vegetables directly from that farm.

USE BY RIGHT A land use that is permitted outright in a zoning district and may be established, conducted, and continued without discretionary review, special land use approval, or public hearing, provided the use complies with the applicable standards and requirements of this ordinance and all other relevant local, state, and federal regulations.

WINERY, CIDERY A facility licensed by the Michigan Liquor Control Commission (MLCC) and the TTB for the manufacture of wine or cider. A winery/cidery may include buildings and structures used for the crushing, fermenting, aging, blending, bottling, storage, and distribution of wine or cider. A winery/ cidery may include, by right, a tasting room as an accessory use, subject to permit approval by the Township and the Michigan Liquor Control Commission. The tasting room shall be incidental and subordinate to the principal agricultural and wine production use.

SECTION A-1 DISTRICT: AGRICULTURAL

PURPOSE

The agricultural district is characterized by parcels of farmland interspersed with rural residential properties. The purpose of this ordinance is to establish a clear and comprehensive regulatory framework that supports the continued viability of agriculture within Peninsula Township. These provisions are intended to enable farms to diversify operations, participate in agritourism opportunities, and maintain economic stability while preserving farmland, protecting the Township's rural landscape, and ensuring that agriculture remains a central and enduring component of the Township's identity and economy.

USES PERMITTED BY RIGHT

GENERAL USES

General and specialized agricultural uses and normal farm operations, as defined by the current Michigan Right to Farm Act and current GAAMPs, are permitted by right. Such uses include the raising, growing, and production of crops, livestock, poultry, bees, fish, and other farm animals, and the production of agricultural products and foodstuffs. Buildings and structures may be erected and used by right for normal farm operations, including the storage, preservation, processing, collection, and distribution of agricultural products.

1. SALE OF PRODUCTS

The sale of agricultural products grown or produced on the parcel, including direct-to-consumer and farm-to-processor sales, as well as value-added agricultural products produced on site.

2. FARM MARKET

As defined above and in compliance with the following⁵.

a. Form and Structure

A farm market may operate within a permanent or temporary structure, including a building or tent, or as a designated outdoor area where direct transactions occur between a farmer and consumers.

⁵ As defined by GAAMPs Farm Market, 2026

**Proposed Ordinance Amendments
Peninsula Township: Agricultural District
January 2026**

b. Setbacks

Any farm stand or farm market structure exceeding one hundred twenty (120) square feet in floor area shall be setback a minimum of one hundred sixty-five feet (165') from all non-farm residences.

c. Products Offered for Sale

A farm market may sell fresh agricultural products and processed or value-added agricultural products. At least 50 percent of the farm products offered must be produced on and by the affiliated farm measured by retail floor space during peak production season, or 50 percent of the average gross sales for up to the previous five years or as outlined in a business plan. Processed products will be considered as produced on and by the farm if at least 50 percent of the product's primary or namesake ingredient was produced on and by the farm, such as apples used in apple pie, maple sap in maple syrup, cherries in cherry jam, etc.

d. Retail and finished spaces for the public

The aggregate area of all structures as defined above used for sampling, sales, tasting, retail, or other similar public-facing activities shall not occupy more than two percent (2%) of the gross parcel area. Where the aggregate area of buildings or structures used for these purposes exceeds two percent (2%) of the gross parcel area, such use may be subject to a site-plan review of physical impacts to infrastructure in accordance with the procedures and standards set forth in this ordinance. To encourage the use of existing structures, this (2%) allowance shall not apply to existing nonconforming structures or uses, which shall remain subject to all applicable provisions of this ordinance.

e. Ownership and Location

The farm market shall be located on property owned or controlled by the producer of the products offered for sale, including property held under lease.

f. Tastings

Tastings incidental to the sale of farm products are permitted where otherwise allowed by state law.

g. Signage

A minimum of one (1) sign shall be permitted shall in accordance with Section_____.

3. INCIDENTAL FARM ENGAGEMENT AND AGRITOURISM ACTIVITIES

Low-intensity, customary farm engagement and agritourism activities that generate minimal off-site impacts may occur as accessory uses in conjunction with the agricultural uses permitted in Sections 1 through 2 above. Such activities are intended to support and promote the sale of farm products and shall maintain the general agricultural character of the farm.⁶

a. Permitted Activities

Incidental farm engagement and agritourism activities may include, but are not limited to:

- i. Guided farm tours and farm walks
- ii. School visits and educational programming
- iii. Hayrides
- iv. Seasonal demonstrations
- v. Corn mazes and pumpkin patches with associated activities
- vi. Instructional classes or workshops with on-site demonstrations

b. Relationship to Agricultural Production

All activities permitted under this section shall be clearly accessory and subordinate to active agricultural production and shall not displace farming as the principal use of the parcel.

c. Kitchens and Processing Facilities

Kitchens and processing facilities used in conjunction with incidental agritourism activities may be utilized for the preparation, cooking, processing, or preservation of agricultural products produced on the affiliated farm. Products prepared or processed under this subsection may be sold on-site or through other lawful distribution channels.

d. Operational Standards

Incidental farm engagement and agritourism activities shall comply with the following standards:

i. Sound

All sound and noise generated by activities shall comply with Section _____.

⁶ As defined under GAAMPs Farm Market definition of 'marketing' activities.

**Proposed Ordinance Amendments
Peninsula Township: Agricultural District
January 2026**

- ii. **Parking**
All parking shall be accommodated on-site in a manner that minimizes impacts to neighboring properties and public roads.
- iii. **Hours of Operation**
Activities shall be limited to daylight hours or customary farm operating hours.

4. ON-FARM PROCESSING

On-farm processing shall be permitted by right as an accessory use to a principal agricultural use or normal farm operation within the Agricultural District for parcels with gross acreage of at least five (5) acres.

a. Processing Activities

Activities may include, but are not limited to:

- i. Cleaning, washing, grading, sorting, and packing of agricultural products.
- ii. Cold storage, dry storage, and controlled-atmosphere storage.
- iii. Preservation activities such as freezing, drying, curing, fermenting, aging, or barreling.
- iv. Processing of agricultural products into value-added products, including baked goods, preserves, cider, wine, vinegar, cheese, syrups, sauces, beer, distilled spirits, and similar products.
- v. Preparation of agricultural and value-added products for direct-to-consumer sale, wholesale distribution, or off-site retail sale, where otherwise lawful.

b. Structures and Facilities

- i. Buildings or portions of buildings used for on-farm processing may be permanent or temporary and may include barns, sheds, outbuildings, farmhouses, or purpose-built processing structures.
- ii. Structures used for on-farm processing shall remain accessory and subordinate to the principal agricultural use of the parcel.
- iii. Set backs for the processing facility shall be 200 feet from a residential or dwelling unit on an adjacent property.
- iv. Processing activities may be conducted seven days a week, 24-hours per day as needed. The operator must comply with all Federal, State, and local laws and regulations applicable to the type of processing facility proposed and obtain and or comply with all permit, license, approval, and operational requirements.

**Proposed Ordinance Amendments
Peninsula Township: Agricultural District
January 2026**

5. ~~FARM STAY~~

~~As defined above, Farm Stays shall be permitted by right as an accessory use to a principal agricultural use or normal farm operation within the Agricultural District for parcels with gross acreage of at least five (5) acres in compliance with the following.~~

a. ~~Guest Room Limitations~~

~~A maximum of three (3) guest rooms shall be permitted for each five (5) acres of parcel area. A site review may be necessary for more than (9) rooms.~~

b. ~~Location and Structures~~

~~A Farm Stay may include lodging within an existing dwelling, farmhouse, or agricultural structure converted for overnight accommodation, or within detached accessory structures approved for such use, provided that the primary use of the parcel remains agricultural and all structures meet required setbacks, local, and state regulations.~~

c. ~~Food Service~~

~~A Farm Stay may serve food only to registered guests. Meals may be served at any time, provided that the cost of food is included in the lodging price. A Farm Stay shall maintain any food service permits required by the applicable health department or regulatory authority.~~

d. ~~Events and Non-Agricultural Activities~~

~~Non-agricultural activities or special events involving individuals other than registered guests are not permitted.~~

e. ~~Use Limitations~~

~~A Farm Stay shall offer temporary lodging only up to a maximum of (10) days, and shall not permit permanent residency. A Farm Stay shall not operate as a hotel, motel, or stand-alone short-term rental unrelated to agricultural use.~~

USES REQUIRING ADMINISTRATIVE APPROVAL

1. SPECIAL EVENTS AND ACTIVITIES

Special events and activities not directly related to the production, harvesting, processing, or sale of agricultural products grown on the parcel, and which attract members of the public primarily for events, gatherings, or entertainment.

a. Applicability

Special events and activities regulated under this section may occur in conjunction with a licensed winery, cidery, brewery, distillery tasting room, or farm market, where otherwise permitted. Such activities are distinct from accessory farm-based marketing and agritourism uses and may require additional review due to their scale and intensity.

b. Activities Subject to Review

Activities subject to this section that are non-agricultural include, but are not limited to:

- i. Weddings, receptions, and private celebrations
- ii. Corporate retreats and special events
- iii. Concerts or events with amplified entertainment
- iv. Ticketed or large-scale harvest festivals not directly tied to on-site crop sales
- v. Event venues or multipurpose gathering facilities

c. Review and Approval

Special events and activities shall be subject to:

- i. Abbreviated site plan review by the Zoning Administrator.
- ii. Events that exceed thresholds established in this section or that generate significant off-site impacts may be required to obtain Special Land Use approval.

d. Licensing and Regulatory Compliance

All special events and activities shall be conducted in compliance with applicable local, state, and federal licensing and permitting requirements, including those related to alcohol service, food service, and public gatherings.

e. Parking and Traffic Management

- i. All parking shall be provided on-site.

**Proposed Ordinance Amendments
Peninsula Township: Agricultural District
January 2026**

- ii. Parking on any state, county, or private road is prohibited.
 - iii. Parked vehicles shall not obstruct fire lanes or emergency access routes.
- f. **Occupancy and Attendance**

Attendance shall be limited based on contiguous parcel size, calculated at twenty-five (25) attendees per five (5) acres, not to exceed two hundred (200) attendees. Attendance shall also comply with the maximum occupant load permitted under applicable building, fire, and safety codes, or as determined by the appropriate regulatory authority.
- g. **Sanitation Facilities**

Sanitary facilities shall be provided as required by the applicable construction code or appropriate regulatory agency. Additional portable restroom facilities shall be provided when attendance exceeds the capacity of existing permanent facilities.
- h. **Hours of Operation**
 - i. Indoor events and activities may extend beyond posted operating hours.
 - ii. Outdoor events and activities may extend beyond posted operating hours not to exceed 10:00 p.m.
- i. **Sound, Music, and Amplification**

Sound, music, and amplification shall comply with Section ____ .
- j. **Event Record Reporting**

The operator shall maintain a log of special events, including the date, type of event, and number of attendees, and shall make such records available upon request by the Zoning Administrator within (3) business days of such a request. The operator shall also provide a current contact phone number for the on-site event manager to enforcement officers, the Zoning Administrator, and neighboring property owners upon request.
- k. **Lighting**

Exterior lighting shall comply with Section ____ of this Ordinance (Outdoor Lighting Standards) and shall be designed to minimize glare and light spillover onto adjacent properties.

MICHIGAN RIGHT TO FARM ACT

Act 93 of 1981

AN ACT to define certain farm uses, operations, practices, and products; to provide certain disclosures; to provide for circumstances under which a farm shall not be found to be a public or private nuisance; to provide for certain powers and duties for certain state agencies and departments; and to provide for certain remedies for certain persons.

History: 1981, Act 93, Imd. Eff. July 11, 1981 ;-- Am. 1995, Act 94, Eff. Sept. 30, 1995

The People of the State of Michigan enact:

286.471 Short title.

Sec. 1.

This act shall be known and may be cited as the "Michigan right to farm act".

History: 1981, Act 93, Imd. Eff. July 11, 1981

286.472 Definitions.

Sec. 2.

As used in this act:

- (a) "Farm" means the land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.
- (b) "Farm operation" means the operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, and includes, but is not limited to:
 - (i) Marketing produce at roadside stands or farm markets.
 - (ii) The generation of noise, odors, dust, fumes, and other associated conditions.
 - (iii) The operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway as authorized by the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.
 - (iv) Field preparation and ground and aerial seeding and spraying.
 - (v) The application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides.
 - (vi) Use of alternative pest management techniques.
 - (vii) The fencing, feeding, watering, sheltering, transportation, treatment, use, handling and care of farm animals.
 - (viii) The management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes.
 - (ix) The conversion from a farm operation activity to other farm operation activities.
 - (x) The employment and use of labor.
- (c) "Farm product" means those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan commission of agriculture.

(d) "Generally accepted agricultural and management practices" means those practices as defined by the Michigan commission of agriculture. The commission shall give due consideration to available Michigan department of agriculture information and written recommendations from the Michigan state university college of agriculture and natural resources extension and the agricultural experiment station in cooperation with the United States department of agriculture natural resources conservation service and the consolidated farm service agency, the Michigan department of natural resources, and other professional and industry organizations.

(e) "Person" means an individual, corporation, partnership, association, or other legal entity.

History: 1981, Act 93, Imd. Eff. July 11, 1981 ;-- Am. 1987, Act 240, Imd. Eff. Dec. 28, 1987 ;-- Am. 1995, Act 94, Eff. Sept. 30, 1995

286.473 Farm or farm operation as public or private nuisance; review and revision of practices; finding; conditions.

Sec. 3.

(1) A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation alleged to be a nuisance conforms to generally accepted agricultural and management practices according to policy determined by the Michigan commission of agriculture. Generally accepted agricultural and management practices shall be reviewed annually by the Michigan commission of agriculture and revised as considered necessary.

(2) A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation existed before a change in the land use or occupancy of land within 1 mile of the boundaries of the farm land, and if before that change in land use or occupancy of land, the farm or farm operation would not have been a nuisance.

(3) A farm or farm operation that is in conformance with subsection (1) shall not be found to be a public or private nuisance as a result of any of the following:

- (a) A change in ownership or size.
- (b) Temporary cessation or interruption of farming.
- (c) Enrollment in governmental programs.
- (d) Adoption of new technology.
- (e) A change in type of farm product being produced.

History: 1981, Act 93, Imd. Eff. July 11, 1981 ;-- Am. 1987, Act 240, Imd. Eff. Dec. 28, 1987 ;-- Am. 1995, Act 94, Eff. Sept. 30, 1995

286.473a Repealed. 1999, Act 261, Eff. Mar. 10, 2000.

Compiler's Notes: The repealed section pertained to complaints generally.

286.473b Recovery of costs and expenses.

Sec. 3b.

In any nuisance action brought in which a farm or farm operation is alleged to be a nuisance, if the defendant farm or farm operation prevails, the farm or farm operation may recover from the plaintiff the actual amount of costs and expenses determined by the court to have been reasonably incurred by the farm or farm operation in connection with the defense of the action, together with reasonable and actual attorney fees.

History: Add. 1995, Act 94, Eff. Sept. 30, 1995

286.473c Property subject to disclosure; contents of statement.

Sec. 3c.

(1) Certain real property is subject to those disclosures described in section 7 of the seller disclosure act, Act No. 92 of the Public Acts of 1993, being section 565.957 of the Michigan Compiled Laws. A seller of real property located within 1 mile of the property boundary of a farm or farm operation may voluntarily make available to the buyer the following statement: "This notice is to inform prospective residents that the real property they are about to acquire lies within 1 mile of the property boundary of a farm or farm operation. Generally accepted agricultural and management practices may be utilized by the farm or farm operation and may generate usual and ordinary noise, dust, odors, and other associated conditions, and these practices are protected by the Michigan right to farm act."

(2) Certain subdivided land is subject to those disclosures described in section 8 of the land sales act, Act No. 286 of the Public Acts of 1972, being section 565.808 of the Michigan Compiled Laws.

History: Add. 1995, Act 94, Eff. Sept. 30, 1995

286.474 Investigation of complaints involving farm or farm operation; memorandum of understanding; generally accepted agricultural and management practices; unverified complaints; applicability of other statutes; preemption of local ordinance, regulation, or resolution; ordinance proposed by local unit of government; generally accepted agricultural and management practices for site selection and odor controls at new or expanding animal livestock facilities; advisory committee; manure management plan; duties of department; definitions.

Sec. 4.

(1) Subject to subsection (2), the director shall investigate all complaints involving a farm or farm operation, including, but not limited to, complaints involving the use of manure and other nutrients, agricultural waste products, dust, noise, odor, fumes, air pollution, surface water or groundwater pollution, food and agricultural processing by-products, care of farm animals, and pest infestations. Within 7 business days of receipt of the complaint, the director shall conduct an on-site inspection of the farm or farm operation. The director shall notify, in writing, the city, village, or township and the county in which the farm or farm operation is located of the complaint.

(2) The commission and the director shall enter into a memorandum of understanding with the director of the department of environmental quality. The investigation and resolution of environmental complaints concerning farms or farm operations must be conducted in accordance with the memorandum of understanding. However, the director shall notify the department of environmental quality of any potential violation of the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, or a rule promulgated under that act. Activities at a farm or farm operation are subject to applicable provisions of the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, and the rules promulgated under that act. The commission and the director shall develop procedures for the investigation and resolution for other farm-related complaints.

(3) If the director finds upon investigation under subsection (1) that the person responsible for a farm or farm operation is using generally accepted agricultural and management practices, the director shall notify, in writing, that person, the complainant, and the city, village, or township and the county in which the farm or farm operation is located of this finding. If the director identifies that the source or potential sources of the problem were caused by the use of other than generally accepted agricultural and management practices, the director shall advise the person responsible for the farm or farm operation that necessary changes should be made to resolve or abate the problem and to conform with generally accepted agricultural and management practices and that if those changes cannot be implemented within 30 days, the person responsible for the farm or farm operation shall submit to the director an implementation plan including a schedule for completion of the necessary changes. When the director conducts a follow-up on-site inspection to verify whether those changes have been implemented, the director shall notify, in writing, the city, village, or township and the county in which the farm or farm operation is located of the time and date of the follow-up on-site inspection and shall allow a representative of the city, village, or township and the county to be present during the follow-up on-site inspection. If the changes have been implemented, the director shall notify, in writing, the person responsible for the farm or farm operation, the complainant, and the city,

village, or township and the county in which the farm or farm operation is located of this determination. If the changes have not been implemented, the director shall notify, in writing, the complainant and the city, village, or township and the county in which the farm or farm operation is located that the changes have not been implemented and whether a plan for implementation has been submitted. Upon request, the director shall provide a copy of the implementation plan to the city, village, or township and the county in which the farm or farm operation is located.

(4) A complainant who brings more than 3 unverified complaints against the same farm or farm operation within 3 years may be ordered, by the director, to pay to the department the full costs of investigation of any fourth or subsequent unverified complaint against the same farm or farm operation. As used in this subsection, "unverified complaint" means a complaint in response to which the director determines that the farm or farm operation is using generally accepted agricultural and management practices.

(5) Except as provided in subsection (6), this act does not affect the application of state statutes and federal statutes.

(6) Beginning June 1, 2000, except as otherwise provided in this section, it is the express legislative intent that this act preempt any local ordinance, regulation, or resolution that purports to extend or revise in any manner the provisions of this act or generally accepted agricultural and management practices developed under this act. Except as otherwise provided in this section, a local unit of government shall not enact, maintain, or enforce an ordinance, regulation, or resolution that conflicts in any manner with this act or generally accepted agricultural and management practices developed under this act.

(7) A local unit of government may submit to the director a proposed ordinance prescribing standards different from those contained in generally accepted agricultural and management practices if adverse effects on the environment or public health will exist within the local unit of government. A proposed ordinance under this subsection must not conflict with existing state laws or federal laws. At least 45 days prior to enactment of the proposed ordinance, the local unit of government shall submit a copy of the proposed ordinance to the director. Upon receipt of the proposed ordinance, the director shall hold a public meeting in that local unit of government to review the proposed ordinance. In conducting its review, the director shall consult with the departments of environmental quality and health and human services and shall consider any recommendations of the county health department of the county where the adverse effects on the environment or public health will allegedly exist. Within 30 days after the public meeting, the director shall make a recommendation to the commission on whether the ordinance should be approved. An ordinance enacted under this subsection must not be enforced by a local unit of government until approved by the commission.

(8) By May 1, 2000, the commission shall issue proposed generally accepted agricultural and management practices for site selection and odor controls at new and expanding animal livestock facilities. The commission shall adopt such generally accepted agricultural and management practices by June 1, 2000. In developing these generally accepted agricultural and management practices, the commission shall do both of the following:

(a) Establish an advisory committee to provide recommendations to the commission. The advisory committee must include the entities listed in section 2(d), 2 individuals representing townships, 1 individual representing counties, and 2 individuals representing agricultural industry organizations.

(b) For the generally accepted agricultural and management practices for site selection, consider groundwater protection, soil permeability, and other factors determined necessary or appropriate by the commission.

(9) If generally accepted agricultural and management practices require the person responsible for the operation of a farm or farm operation to prepare a manure management plan, the person responsible for the operation of the farm or farm operation shall provide a copy of that manure management plan to the city, village, or township or the county in which the farm or farm operation is located, upon request. A manure management plan provided under this subsection is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) The department shall do both of the following:

(a) Make available on the department's website current generally accepted agricultural and management practices.

(b) Establish a toll-free telephone number for receipt of information on noncompliance with generally accepted agricultural and management practices.

(11) As used in this section:

(a) "Adverse effects on the environment or public health" means any unreasonable risk to human beings or the environment, based on scientific evidence and taking into account the economic, social, and environmental costs and benefits and specific populations whose health may be adversely affected.

(b) "Commission" means the commission of agriculture and rural development.

(c) "Department" means the department of agriculture and rural development.

(d) "Director" means the director of the department or his or her designee.

History: 1981, Act 93, Imd. Eff. July 11, 1981 ;-- Am. 1995, Act 94, Eff. Sept. 30, 1995 ;-- Am. 1999, Act 261, Eff. Mar. 10, 2000 ;-- Am. 2018, Act 292, Eff. Sept. 27, 2018



Generally Accepted Agricultural and Management Practices for Farm Markets

2026

Michigan Commission of Agriculture
& Rural Development
P.O. BOX 30017
Lansing, MI 48909



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

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

For non-emergency questions or concerns regarding the Michigan Right to Farm Act, or items concerning a farm operation, please contact the:

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

Table of Contents

PREFACE.....	iii
INTRODUCTION	1
DEFINITIONS.....	2
PHYSICAL CHARACTERISTICS OF A FARM MARKET	3
Location	3
Buildings	3
Parking and Driveways	3
Vehicle Ingress and Egress	3
Signage	3
APPENDICES	4
REFERENCES	6
ADVISORY COMMITTEE	7

PREFACE

The Michigan legislature passed into law the Michigan Right to Farm Act (Act 93 of 1981, as amended) which requires the establishment of Generally Accepted Agricultural and Management Practices (GAAMPs). These practices are written to provide uniform, statewide standards and acceptable management practices based on sound science.

These practices can serve producers in the various sectors of the industry to compare or improve their own managerial routines. New scientific discoveries and changing economic conditions may require necessary revision of the practices.

The GAAMPs that have been developed are as follows:

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

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

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

INTRODUCTION

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

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

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

DEFINITIONS

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

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

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

Farm Market – A farm market is a year-round or seasonal location where transactions and marketing activities between farm market operators and customers take place.

A farm market may be a physical structure such as a building or tent, or simply an area where a transaction between a customer and a farmer is made. The farm market does not have to be a physical structure. The farm market must be located on property owned or controlled (e.g., leased) by the producer of the products offered for sale on the market. Fresh products as well as processed products may be sold at the farm market. At least 50 percent of the farm products offered must be produced on and by the affiliated farm measured by retail floor space during peak production season, or 50 percent of the average gross sales for up to the previous five years or as outlined in a business plan. Processed products will be considered as produced on and by the farm if at least 50 percent of the product’s primary or namesake ingredient was produced on and by the farm, such as apples used in apple pie, maple sap in maple syrup, strawberries in strawberry jam, etc.

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

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

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

drying, freezing, or otherwise preparing the product for sale.

PHYSICAL CHARACTERISTICS OF A FARM MARKET

Location

A new or expanding farm market that is greater than 120 square feet must meet a minimum setback of 165 feet from all non-farm residences.

New or expanding farm markets are not authorized under this GAAMP on platted lots within a subdivision created under the Michigan Land Division Act (Act 288 of 1967, MCL 560.101, *et seq.*) or preceding statutes and on condominium units within a condominium (sometimes referred to as “site-condos”) created under the Michigan Condominium Act (Act 59 of 1978, MCL 559.101, *et seq.*). However, farm markets are permitted in such areas if authorized by association rules or pursuant to a local ordinance designed for that purpose, unless prohibited by association rules.

A farm market should have a written site plan for potential Michigan Department of Agriculture and Rural Development (MDARD) review that preempts local government regulations.

Buildings

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

Parking and Driveways

Parking and driveway surfaces may be paved, vegetative, ground, gravel, or other unpaved material.

Vehicle Ingress and Egress

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

Signage

A minimum of one roadside sign is allowed.

For further information concerning this GAAMP you may contact MDARD or Michigan State University Extension.

APPENDICES

Appendix A: Considerations for Farm Markets

Statement of Intent

Appendix A is explicitly intended as a reference for informational and educational purposes only. Information contained in Appendix A is not intended to be utilized by Michigan Department of Agriculture and Rural Development (MDARD) Right to Farm Program as part of any Generally Accepted Agricultural and Management Practices (GAAMPs) conformance determination process.

GAAMPs Conformance and Other Regulatory Permits

Depending on the nature and location of a GAAMPs conformant farm market operation, other local, state and/or federal regulations may still apply. It is the responsibility of the farm market owner or their representative acting on the owner's behalf to contact the appropriate regulatory authorities to determine if additional permits for compliance are required prior to beginning any activity or construction.

MDARD Right to Farm Program does not have authority to determine applicability of, or compliance with, any regulation other than conformance to the management practices described within the GAAMPs.

Non-Farm Product Sales, Processing and Miscellaneous Activities

Michigan Right to Farm Act provides nuisance protection for farms and farm operations in conformance with GAAMPs including the production of farm products and the marketing and sales of farm products at farm markets. This protection may not extend to sales of non-farm products (e.g., hats, t-shirts, jewelry, etc.), on-site processing of farm products (e.g., baking pies, brewing hard cider, etc.) or other on-farm activities (e.g., wedding or event barns, bed and breakfast/lodging, restaurants, glamping, etc.). A GAAMPs-conformant farm market operation may still be subject to other local, state and/or federal regulations (see "*GAAMPs Conformance and Other Regulatory Permits*" above).

Signage

Farm Markets GAAMPs allow for a minimum of one roadside sign; however, this sign (and any additional signs, if permitted) may be subject to other local ordinance requirements (e.g., setbacks, lighting, height, and size)

Agritourism

'Agritourism' currently has no legal definition or recognition in Michigan law. Activities commonly identified as, and/or associated with, agritourism may or may not comply with GAAMPs. These activities must be assessed on a case-by-case basis and may be subject to additional local, state

and/or federal regulations (see “*GAAMPs Conformance and Other Regulatory Permits*” above).

Resources

There are many professional resources available to assist farmers, government officials and others navigating Michigan’s Right to Farm Act and GAAMP-related issues. Resources include, but are not limited to, MDARD Right to Farm Program, Michigan State University Extension, Michigan Townships Association, Michigan Farm Bureau, and Michigan Agritourism Association.

REFERENCES

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

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

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

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

<https://www.michigan.gov/mdot/about/regions> (Accessed 7.26.2022).

ADVISORY COMMITTEE

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

Ryan Coffey Hoag - Chair
MSU Extension
4747 W. 48th Street, Suite
107 Fremont, MI 49412
231-924-9677
coffeyry@msu.edu

Robert Beckon
Michigan Dept. of Transportation
517-335-2211
beckonr2@michigan.gov

John Behrens
Farmhaus Cider
5025 Stanton Street
Hudsonville, MI 49426
616-723-7087 – Cell
john@farmhauscider.com

Janice Benson, Ex. Dir.
Michigan Agritourism Assoc.
P.O. Box 303
Traverse City, MI 49685
616-952-1151
executivedirector@michiganfarmfun.com

Violet Currier
Michigan Dept. of Agriculture
and Rural Development
Food Safety and Inspection
Program
Northwest Region
231-384-1874

Jeanne Hausler
MDARD
Food and Dairy Communications
P.O. Box 30017
Lansing, MI 48909
517-256-8614
hauslerj@michigan.gov

Matt Kapp
Michigan Farm Bureau
Government Relations Specialist
7373 West Saginaw Highway
Lansing, MI 48917
517-679-5338
mkapp@michfb.com

Vikki Papesh
Walnut Hill Farm
54180 Dequindre Road
Shelby Chtr. Township, MI
48316
farmer@walnuthillfarmmi.com

Garrett Ziegler
MSU Extension
109 Logan Street SW, Suit B102
Grand Rapids, MI 49503
814-777-3562
zieglerg@msu.edu

Allan Robinette
Robinette's Apple Haus and
Winery
3142 4 Mile Rd. NE
Grand Rapids, MI 49505
616-304-9068
allan@robinettes.com

Catherine A. Mullhaupt
Staff Attorney
Member Information Services
Michigan Township Association
517-321-6467
catherine@michigantownships.org

Jenn Cram, ACIP
Associate Planner
Beckett and Raeder, Inc.
jcram@briaz.com

MDARD Facilitators

Erica Rogers
Right to Farm Program Manager
Michigan Dept. of Agriculture
and Rural Development
P.O. Box 30017
Lansing, MI 48909
C: 517-245-5488
517-335-3329 - FAX
RogersE5@michigan.gov

Kyle McCarty
Michigan Dept. of Agriculture
and Rural Development
P.O. Box 30017
Lansing, MI 48909
C: 517-285-2506
MccartyK@michigan.gov

MICHIGAN AGRICULTURAL PROCESSING ACT

Act 381 of 1998

AN ACT to define certain fruit, vegetable, dairy product, meat, and grain processing uses and practices; to provide for circumstances under which a processing operation is not considered to be a public or private nuisance; to provide for certain powers and duties for certain state agencies and departments; and to provide for certain remedies for certain persons.

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998 ;-- Am. 2005, Act 282, Imd. Eff. Dec. 19, 2005

The People of the State of Michigan enact:

289.821 Short title.

Sec. 1.

This act shall be known and may be cited as the "Michigan agricultural processing act".

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998

289.822 Definitions.

Sec. 2.

As used in this act:

(a) "Dairy product" means all of the following:

(i) Dairy product as that term is defined in section 12 of the manufacturing milk law of 2001, 2001 PA 267, MCL 288.572.

(ii) Milk product as that term is defined in section 4 of the grade A milk law of 2001, 2001 PA 266, MCL 288.474.

(b) "Fruit and vegetable product" means those plant items used by human beings for human food consumption including, but not limited to, field crops, root crops, berries, herbs, fruits, vegetables, flowers, seeds, grasses, tree products, mushrooms, and other similar products, or any other fruit and vegetable product processed for human consumption as determined by the Michigan commission of agriculture.

(c) "Generally accepted fruit, vegetable, dairy product, meat, and grain processing practices" means those practices as defined by the Michigan commission of agriculture. The Michigan commission of agriculture shall give due consideration to available Michigan department of agriculture information and written recommendations from the Michigan state university college of agriculture and natural resources extension and the agricultural experiment station in cooperation with the United States department of agriculture, the United States food and drug administration, the Michigan department of environmental quality, and other professional and industry organizations.

(d) "Grain" means dry edible beans, soy beans, small grains, cereal grains, corn, grass seeds, hay, and legume seeds in a raw or natural state.

(e) "Person" means an individual, corporation, partnership, association, limited liability company, or other legal entity.

(f) "Processing" means the commercial processing or handling of fruit, vegetable, dairy, meat, and grain products for human food consumption and animal feed including, but not limited to, the following:

(i) The generation of noise, odors, waste water, dust, fumes, and other associated conditions.

(ii) The operation of machinery and equipment necessary for a processing operation including, but not limited to, irrigation and drainage systems and pumps and the movement of vehicles, machinery, equipment, and fruit and vegetable products, dairy products, meat, and grain products and associated inputs necessary for fruit and vegetable, dairy, and grain, food, meat, or feed processing operations on the roadway as authorized by the

Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(iii) The management, storage, transport, utilization, and land application of fruit, vegetable, dairy product, meat, and grain processing by-products consistent with generally accepted agricultural and management practices as established under the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

(iv) The conversion from 1 processing operation activity to another processing operation activity.

(v) The employment and use of labor engaged in a processing operation.

(g) "Processing operation" means the operation and management of a business engaged in processing.

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998 ;-- Am. 2005, Act 282, Imd. Eff. Dec. 19, 2005

289.823 Processing operation as public or private nuisance.

Sec. 3.

(1) A processing operation shall not be found to be a public or private nuisance if the processing operation alleged to be a nuisance conforms to generally accepted fruit, vegetable, dairy product, meat, and grain processing practices as determined by the Michigan commission of agriculture. The Michigan commission of agriculture shall annually review and revise, as determined necessary, the generally accepted fruit, vegetable, dairy product, meat, and grain processing practices.

(2) Until the Michigan commission of agriculture establishes the generally accepted fruit, vegetable, dairy product, meat, and grain processing practices, a processing operation shall not be found to be a public or private nuisance in an action brought in a court of competent jurisdiction if the director of the department of agriculture has determined that the processing operation is in compliance with this act as described in section 4(3).

(3) A processing operation shall not be found to be a public or private nuisance if the processing operation existed before a change in the use or occupancy of land within 1 mile of the boundaries of the land upon which the processing operation is located and, before that change in use or occupancy of land, the processing operation would not have been found to be a nuisance. The determination of the circumstances described in this subsection or subsection (1) or (2) is considered to be a finding as a matter of law and creates a rebuttable presumption that the processing operation is operating under generally accepted practices or that the processing operation is not a public or private nuisance.

(4) A processing operation that is in conformance with subsection (1) or (2) shall not be found to be a public or private nuisance as a result of any of the following:

(a) A change in ownership or size.

(b) Temporary cessation or interruption of processing.

(c) Adoption of new technology.

(d) A change in type of fruit, vegetable, dairy, meat, or grain product being processed.

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998 ;-- Am. 2005, Act 282, Imd. Eff. Dec. 19, 2005

289.824 Nuisance complaints; exhaustion of administrative remedies; investigation; memorandum of understanding with department of environmental quality; resolution; notice of finding; determination; costs; "unverified nuisance complaint" defined.

Sec. 4.

(1) The Michigan commission of agriculture shall request the director of the Michigan department of agriculture or his or her designee to investigate all nuisance complaints under this act involving a processing operation. If a person is granted a determination by the director of the department of agriculture under this act, the person is considered to have exhausted his or her administrative remedies with regard to that matter. A court shall not proceed with an action for nuisance brought against a processing operation until it finds that the complainant exhausted all administrative remedies.

(2) The Michigan commission of agriculture and the director of the Michigan department of agriculture may enter into a memorandum of understanding with the Michigan department of environmental quality. The

investigation and resolution of nuisance complaints shall be conducted pursuant to the memorandum of understanding. In the case where no generally accepted fruit, vegetable, dairy product, meat, and grain processing practices have been established, any nuisance complaint received by either the department of environmental quality or the department of agriculture shall be resolved under section 3 in the following manner:

(a) The department of environmental quality shall assess compliance of an operation or practice with the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, and shall conduct an inspection within 10 working days of receipt of the complaint.

(b) The department of agriculture shall assess the processing operation or practice under federal good manufacturing practices as adopted under the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111, and shall conduct an inspection within 10 working days of receipt of the complaint.

(3) Based upon the determinations made in subsection (2), the department of agriculture shall make a finding as to whether a processing operation is in compliance with this act.

(4) If the director of the Michigan department of agriculture or his or her designee finds upon investigation that the person responsible for the processing operation is using generally accepted fruit, vegetable, dairy product, meat, and grain processing practices or otherwise in compliance with law as described in section 3(2), the director of the Michigan department of agriculture or his or her designee shall notify that person and the complainant of this finding in writing. If the director of the Michigan department of agriculture or his or her designee identifies the source or potential sources of the problem caused by the use of other than generally accepted fruit, vegetable, dairy product, meat, and grain processing practices or other than compliance with law as described in section 3(2), the director of the Michigan department of agriculture or his or her designee shall advise the person responsible for the processing operation that necessary changes should be made to resolve or abate the problem and to conform with generally accepted fruit, vegetable, dairy product, meat, and grain processing practices or with applicable law as described in section 3(2). The director of the Michigan department of agriculture or his or her designee shall determine if those changes are implemented and shall notify the person responsible for the processing operation and the complainant of this determination in writing.

(5) A complainant who brings more than 3 unverified nuisance complaints against the same processing operation within 3 years may be ordered by the director of the Michigan department of agriculture to pay to the Michigan department of agriculture the full costs of investigation of any fourth or subsequent unverified nuisance complaint against the same processing operation. As used in this subsection, "unverified nuisance complaint" means a nuisance complaint in which the director of the department of agriculture or his or her designee determines that the processing operation is using generally accepted fruit, vegetable, dairy product, meat, and grain processing practices.

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998 ;-- Am. 2005, Act 283, Imd. Eff. Dec. 19, 2005

289.825 Applicability of state and federal statutes.

Sec. 5.

(1) This act does not affect the application of state statutes and federal statutes.

(2) For purposes of this section, "state statutes" includes, but is not limited to, any of the following:

(a) The county zoning act, 1943 PA 183, MCL 125.201 to 125.240.

(b) The township zoning act, 1943 PA 184, MCL 125.271 to 125.310.

(c) The city and village zoning act, 1921 PA 207, MCL 125.581 to 125.600.

(d) The natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998

Act No. 113
Public Acts of 2010
Approved by the Governor
July 12, 2010
Filed with the Secretary of State
July 12, 2010
EFFECTIVE DATE: July 12, 2010

**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010**

Introduced by Rep. Byrnes

ENROLLED HOUSE BILL No. 5837

AN ACT to amend 2000 PA 92, entitled “An act to codify the licensure and regulation of certain persons engaged in processing, manufacturing, production, packing, preparing, repacking, canning, preserving, freezing, fabricating, storing, selling, serving, or offering for sale food or drink for human consumption; to prescribe powers and duties of the department of agriculture; to provide for delegation of certain powers and duties to certain local units of government; to provide exemptions; to regulate the labeling, manufacture, distribution, and sale of food for protection of the consuming public and to prevent fraud and deception by prohibiting the misbranding, adulteration, manufacture, distribution, and sale of foods in violation of this act; to provide standards for food products and food establishments; to provide for enforcement of the act; to provide penalties and remedies for violation of the act; to provide for fees; to provide for promulgation of rules; and to repeal acts and parts of acts,” by amending section 1105 (MCL 289.1105), as amended by 2008 PA 338.

The People of the State of Michigan enact:

Sec. 1105. As used in this act:

(a) “Adulterated” means food to which any of the following apply:

(i) It bears or contains any poisonous or deleterious substance that may render it injurious to health except that, if the substance is not an added substance, the food is not considered adulterated if the quantity of that substance in the food does not ordinarily render it injurious to health.

(ii) It bears or contains any added poisonous or added deleterious substance, other than a substance that is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive considered unsafe within the meaning of subparagraph (v).

(iii) It is a raw agricultural commodity that bears or contains a pesticide chemical considered unsafe within the meaning of subparagraph (v).

(iv) It bears or contains any food additive considered unsafe within the meaning of subparagraph (v) provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under subparagraph (v) and the raw agricultural commodity has been subjected to processing the residue of that pesticide chemical remaining in or on that processed food is, notwithstanding the provisions of subparagraph (v) and this subdivision, not be considered unsafe if that residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and if the concentration of that residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity.

(v) Any added poisonous or deleterious substance, any food additive, and pesticide chemical in or on a raw agricultural commodity, or any color additive is considered unsafe for the purpose of application of this definition, unless there is in effect a federal regulation or exemption from regulation under the federal act, meat inspection act, poultry product inspection act, or other federal acts, or a rule adopted under this act limiting the quantity of the substance, and the use or intended use of the substance, and the use or intended use of the substance conforms to the terms prescribed by the rule.

(vi) It is or contains a new animal drug or conversion product of a new animal drug that is unsafe within the meaning of section 360b of the federal act, 21 USC 360b.

(vii) It consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance or it is otherwise unfit for food.

(viii) It has been produced, prepared, packed, or held under insanitary conditions in which it may have become contaminated with filth or in which it may have been rendered diseased, unwholesome, or injurious to health.

(ix) It is the product of a diseased animal or an animal that has died other than by slaughter or that has been fed uncooked garbage or uncooked offal from a slaughterhouse.

(x) Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

(xi) A valuable constituent has been in whole or in part omitted or abstracted from the food; a substance has been substituted wholly or in part for the food; damage or inferiority has been concealed in any manner; or a substance has been added to the food or mixed or packed with the food so as to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is.

(xii) It is confectionery and has partially or completely imbedded in it any nonnutritive object except in the case of any nonnutritive object if, as provided by rules, the object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health; it bears or contains any alcohol other than alcohol not in excess of 1/2 of 1% by volume derived solely from the use of flavoring extracts; or it bears or contains any nonnutritive substance except a nonnutritive substance such as harmless coloring, harmless flavoring, harmless resinous glaze not in excess of 4/10 of 1%, harmless natural wax not in excess of 4/10 of 1%, harmless natural gum and pectin or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storage of such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of the provisions of this act. For the purpose of avoiding or resolving uncertainty as to the application of this subdivision, the director may issue rules allowing or prohibiting the use of particular nonnutritive substances.

(xiii) It is or bears or contains any color additive that is unsafe within the meaning of subparagraph (v).

(xiv) It has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule or exemption under this act or a regulation or exemption under the federal act.

(xv) It is bottled water that contains a substance at a level higher than allowed under this act.

(b) "Advertisement" means a representation disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of food.

(c) "Agricultural use operation" means a maple syrup production facility or similar food establishment that finishes a raw commodity and is integral to the agricultural production of, and is located at, a farm. An agricultural use operation is not considered a food processing plant or retail processing operation for purposes of personal or real property but must meet those same standards and licensing requirements as prescribed in this act.

(d) "Bed and breakfast" means a private residence that offers sleeping accommodations to transient tenants in 14 or fewer rooms for rent, is the innkeeper's residence in which the innkeeper resides while renting the rooms to transient tenants, and serves breakfasts, or other meals in the case of a bed and breakfast described in section 1107(n)(ii), at no extra cost to its transient tenants. A bed and breakfast is not considered a food service establishment if exempt under section 1107(n)(ii) or (iii).

(e) "Color additive" means a dye, pigment, or other substance made by process of synthesis or similar artifice or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral, or other source, or when added or applied to a food or any part of a food is capable alone or through reaction with other substance of imparting color to the food. Color additive does not include any material that is exempt or hereafter is exempted under the federal act. This subdivision does not apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth of other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest. Color includes black, white, and intermediate grays.

(f) "Contaminated with filth" means contamination applicable to any food not securely protected from dust, dirt, and, as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

(g) "Continental breakfast" means the serving of only non-potentially-hazardous food such as a roll, pastry or doughnut, fruit juice, or hot beverage, but may also include individual portions of milk and other items incidental to those foods.

(h) "Cottage food operation" means a person who produces or packages cottage food products only in a kitchen of that person's primary domestic residence within this state.

(i) "Cottage food product" means a food that is not potentially hazardous food as that term is defined in the food code. Examples of cottage food product include, but are not limited to, jams, jellies, dried fruit, candy, cereal, granola, dry mixes, vinegar, dried herbs, and baked goods that do not require temperature control for safety. Cottage food product does not include all potentially hazardous food regulated under 21 CFR 113 and 114, examples of which include, but are not limited to, meat and poultry products; salsa; milk products; bottled water and other beverages; and home-produced ice products. Cottage food product also does not include canned low-acid fruits or acidified vegetables and other canned foods except for jams, jellies, and preserves as defined in 21 CFR 150.

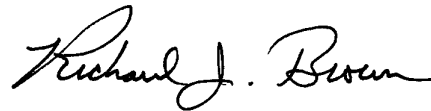
(j) "Critical violation" or "critical item" means a violation of the food code that the director determines is more likely than other violations to contribute to food contamination, illness to humans, or environmental health hazard.

(k) "Domestic residence" means a single-family dwelling or an area within a rental unit where a single person or family actually resides. Domestic residence does not include either of the following:

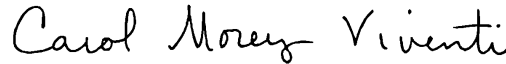
- (i) A group or communal residential setting within any type of structure.
- (ii) An outbuilding, shed, barn, or other similar structure.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5280 of the 95th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

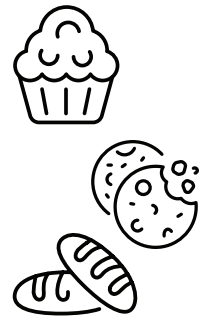
Michigan's Cottage Foods

A Guide for Cottage Food Businesses



What's Allowed: Up to \$25,000 yearly in gross sales of certain foods with no license, registration, or inspection. Cottage foods businesses may advertise online and collect payments in-person or through a pay app.

What's Required: Cottage foods must be made, packaged, and labeled in your primary residence (home). The label is required to include the statement, *"Made in a home kitchen not inspected by the Michigan Department of Agriculture and Rural Development."* Cottage food products must be transferred from producer to consumer in-person by the producer. Mail-orders, shipping, selling to businesses, or having a business sell products for you is not allowed. Only low-risk foods that do not require refrigeration after preparation may be considered for cottage food businesses.



<div>X</div> Cannot Be Cottage Foods	<div>✓</div> May Be Considered for Cottage Foods
<ul style="list-style-type: none"> X Bread with fresh vegetables or chunks of cheese X Custard or cream-based pies X Cakes requiring refrigeration (e.g., cheesecake) X Frosting or glaze made from ingredients requiring refrigeration (e.g., cream cheese frosting) X Freeze-dried products made from temperature-controlled foods (e.g., ice cream, cheesecake) X Tinctures X Other jams/jellies (e.g., vegetable, hot pepper, low/no-sugar) or fruit/vegetable butters X Garlic in oil mixtures X Salad dressings, sauces, or condiments X Cut melon, tomato, or leafy greens products X Fresh pasta X Caramel apples 	<ul style="list-style-type: none"> ✓ Breads, quick breads, muffins, cookies ✓ Pies – shelf-stable ✓ Cakes – cupcakes, birthday, wedding, etc. ✓ Frosting or glaze made with shelf-stable ingredients or from tested recipes ✓ Freeze-dried products from shelf-stable foods (e.g., candy, herbs, some fruits, raw vegetables) ✓ Extracts (e.g., vanilla extract) ✓ Fruit jams or jellies (as defined in 21 CFR part 150) in glass jars ✓ Vinegar and flavored vinegar ✓ Mixes - dry baking, dips, soup, dry herbs, or herbs ✓ Dried pasta with or without egg ✓ Snacks - popcorn, granola, nuts, or chocolate covered pretzels, bananas, strawberries, apple slices, etc. ✓ Roasted coffee beans ✓ Whole and sliced dehydrated fruits or vegetables
<p>See our website for more examples: www.michigan.gov/cottagefood</p>	

These Categories Are NOT Allowed:
<ul style="list-style-type: none"> X Beverages X CBD, cannabis, or foods containing these products X Dairy or dairy products X Dietary supplements X Fish or fish products X Canned fruit or vegetables X Ice or ice products X Meat or meat products X Pet food or treats X Pickled products

Questions?

Visit MDARD's website by scanning the QR code.



Call **800-292-3939** or email MDARD-CottageFood@michigan.gov to connect with a food inspector in your area.

MICHIGAN RIGHT TO FARM ACT

Act 93 of 1981

AN ACT to define certain farm uses, operations, practices, and products; to provide certain disclosures; to provide for circumstances under which a farm shall not be found to be a public or private nuisance; to provide for certain powers and duties for certain state agencies and departments; and to provide for certain remedies for certain persons.

History: 1981, Act 93, Imd. Eff. July 11, 1981 ;-- Am. 1995, Act 94, Eff. Sept. 30, 1995

The People of the State of Michigan enact:

286.471 Short title.

Sec. 1.

This act shall be known and may be cited as the "Michigan right to farm act".

History: 1981, Act 93, Imd. Eff. July 11, 1981

286.472 Definitions.

Sec. 2.

As used in this act:

- (a) "Farm" means the land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.
- (b) "Farm operation" means the operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, and includes, but is not limited to:
 - (i) Marketing produce at roadside stands or farm markets.
 - (ii) The generation of noise, odors, dust, fumes, and other associated conditions.
 - (iii) The operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway as authorized by the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.
 - (iv) Field preparation and ground and aerial seeding and spraying.
 - (v) The application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides.
 - (vi) Use of alternative pest management techniques.
 - (vii) The fencing, feeding, watering, sheltering, transportation, treatment, use, handling and care of farm animals.
 - (viii) The management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes.
 - (ix) The conversion from a farm operation activity to other farm operation activities.
 - (x) The employment and use of labor.
- (c) "Farm product" means those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan commission of agriculture.

(d) "Generally accepted agricultural and management practices" means those practices as defined by the Michigan commission of agriculture. The commission shall give due consideration to available Michigan department of agriculture information and written recommendations from the Michigan state university college of agriculture and natural resources extension and the agricultural experiment station in cooperation with the United States department of agriculture natural resources conservation service and the consolidated farm service agency, the Michigan department of natural resources, and other professional and industry organizations.

(e) "Person" means an individual, corporation, partnership, association, or other legal entity.

History: 1981, Act 93, Imd. Eff. July 11, 1981 ;-- Am. 1987, Act 240, Imd. Eff. Dec. 28, 1987 ;-- Am. 1995, Act 94, Eff. Sept. 30, 1995

286.473 Farm or farm operation as public or private nuisance; review and revision of practices; finding; conditions.

Sec. 3.

(1) A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation alleged to be a nuisance conforms to generally accepted agricultural and management practices according to policy determined by the Michigan commission of agriculture. Generally accepted agricultural and management practices shall be reviewed annually by the Michigan commission of agriculture and revised as considered necessary.

(2) A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation existed before a change in the land use or occupancy of land within 1 mile of the boundaries of the farm land, and if before that change in land use or occupancy of land, the farm or farm operation would not have been a nuisance.

(3) A farm or farm operation that is in conformance with subsection (1) shall not be found to be a public or private nuisance as a result of any of the following:

- (a) A change in ownership or size.
- (b) Temporary cessation or interruption of farming.
- (c) Enrollment in governmental programs.
- (d) Adoption of new technology.
- (e) A change in type of farm product being produced.

History: 1981, Act 93, Imd. Eff. July 11, 1981 ;-- Am. 1987, Act 240, Imd. Eff. Dec. 28, 1987 ;-- Am. 1995, Act 94, Eff. Sept. 30, 1995

286.473a Repealed. 1999, Act 261, Eff. Mar. 10, 2000.

Compiler's Notes: The repealed section pertained to complaints generally.

286.473b Recovery of costs and expenses.

Sec. 3b.

In any nuisance action brought in which a farm or farm operation is alleged to be a nuisance, if the defendant farm or farm operation prevails, the farm or farm operation may recover from the plaintiff the actual amount of costs and expenses determined by the court to have been reasonably incurred by the farm or farm operation in connection with the defense of the action, together with reasonable and actual attorney fees.

History: Add. 1995, Act 94, Eff. Sept. 30, 1995

286.473c Property subject to disclosure; contents of statement.

Sec. 3c.

(1) Certain real property is subject to those disclosures described in section 7 of the seller disclosure act, Act No. 92 of the Public Acts of 1993, being section 565.957 of the Michigan Compiled Laws. A seller of real property located within 1 mile of the property boundary of a farm or farm operation may voluntarily make available to the buyer the following statement: "This notice is to inform prospective residents that the real property they are about to acquire lies within 1 mile of the property boundary of a farm or farm operation. Generally accepted agricultural and management practices may be utilized by the farm or farm operation and may generate usual and ordinary noise, dust, odors, and other associated conditions, and these practices are protected by the Michigan right to farm act."

(2) Certain subdivided land is subject to those disclosures described in section 8 of the land sales act, Act No. 286 of the Public Acts of 1972, being section 565.808 of the Michigan Compiled Laws.

History: Add. 1995, Act 94, Eff. Sept. 30, 1995

286.474 Investigation of complaints involving farm or farm operation; memorandum of understanding; generally accepted agricultural and management practices; unverified complaints; applicability of other statutes; preemption of local ordinance, regulation, or resolution; ordinance proposed by local unit of government; generally accepted agricultural and management practices for site selection and odor controls at new or expanding animal livestock facilities; advisory committee; manure management plan; duties of department; definitions.

Sec. 4.

(1) Subject to subsection (2), the director shall investigate all complaints involving a farm or farm operation, including, but not limited to, complaints involving the use of manure and other nutrients, agricultural waste products, dust, noise, odor, fumes, air pollution, surface water or groundwater pollution, food and agricultural processing by-products, care of farm animals, and pest infestations. Within 7 business days of receipt of the complaint, the director shall conduct an on-site inspection of the farm or farm operation. The director shall notify, in writing, the city, village, or township and the county in which the farm or farm operation is located of the complaint.

(2) The commission and the director shall enter into a memorandum of understanding with the director of the department of environmental quality. The investigation and resolution of environmental complaints concerning farms or farm operations must be conducted in accordance with the memorandum of understanding. However, the director shall notify the department of environmental quality of any potential violation of the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, or a rule promulgated under that act. Activities at a farm or farm operation are subject to applicable provisions of the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, and the rules promulgated under that act. The commission and the director shall develop procedures for the investigation and resolution for other farm-related complaints.

(3) If the director finds upon investigation under subsection (1) that the person responsible for a farm or farm operation is using generally accepted agricultural and management practices, the director shall notify, in writing, that person, the complainant, and the city, village, or township and the county in which the farm or farm operation is located of this finding. If the director identifies that the source or potential sources of the problem were caused by the use of other than generally accepted agricultural and management practices, the director shall advise the person responsible for the farm or farm operation that necessary changes should be made to resolve or abate the problem and to conform with generally accepted agricultural and management practices and that if those changes cannot be implemented within 30 days, the person responsible for the farm or farm operation shall submit to the director an implementation plan including a schedule for completion of the necessary changes. When the director conducts a follow-up on-site inspection to verify whether those changes have been implemented, the director shall notify, in writing, the city, village, or township and the county in which the farm or farm operation is located of the time and date of the follow-up on-site inspection and shall allow a representative of the city, village, or township and the county to be present during the follow-up on-site inspection. If the changes have been implemented, the director shall notify, in writing, the person responsible for the farm or farm operation, the complainant, and the city,

village, or township and the county in which the farm or farm operation is located of this determination. If the changes have not been implemented, the director shall notify, in writing, the complainant and the city, village, or township and the county in which the farm or farm operation is located that the changes have not been implemented and whether a plan for implementation has been submitted. Upon request, the director shall provide a copy of the implementation plan to the city, village, or township and the county in which the farm or farm operation is located.

(4) A complainant who brings more than 3 unverified complaints against the same farm or farm operation within 3 years may be ordered, by the director, to pay to the department the full costs of investigation of any fourth or subsequent unverified complaint against the same farm or farm operation. As used in this subsection, "unverified complaint" means a complaint in response to which the director determines that the farm or farm operation is using generally accepted agricultural and management practices.

(5) Except as provided in subsection (6), this act does not affect the application of state statutes and federal statutes.

(6) Beginning June 1, 2000, except as otherwise provided in this section, it is the express legislative intent that this act preempt any local ordinance, regulation, or resolution that purports to extend or revise in any manner the provisions of this act or generally accepted agricultural and management practices developed under this act. Except as otherwise provided in this section, a local unit of government shall not enact, maintain, or enforce an ordinance, regulation, or resolution that conflicts in any manner with this act or generally accepted agricultural and management practices developed under this act.

(7) A local unit of government may submit to the director a proposed ordinance prescribing standards different from those contained in generally accepted agricultural and management practices if adverse effects on the environment or public health will exist within the local unit of government. A proposed ordinance under this subsection must not conflict with existing state laws or federal laws. At least 45 days prior to enactment of the proposed ordinance, the local unit of government shall submit a copy of the proposed ordinance to the director. Upon receipt of the proposed ordinance, the director shall hold a public meeting in that local unit of government to review the proposed ordinance. In conducting its review, the director shall consult with the departments of environmental quality and health and human services and shall consider any recommendations of the county health department of the county where the adverse effects on the environment or public health will allegedly exist. Within 30 days after the public meeting, the director shall make a recommendation to the commission on whether the ordinance should be approved. An ordinance enacted under this subsection must not be enforced by a local unit of government until approved by the commission.

(8) By May 1, 2000, the commission shall issue proposed generally accepted agricultural and management practices for site selection and odor controls at new and expanding animal livestock facilities. The commission shall adopt such generally accepted agricultural and management practices by June 1, 2000. In developing these generally accepted agricultural and management practices, the commission shall do both of the following:

(a) Establish an advisory committee to provide recommendations to the commission. The advisory committee must include the entities listed in section 2(d), 2 individuals representing townships, 1 individual representing counties, and 2 individuals representing agricultural industry organizations.

(b) For the generally accepted agricultural and management practices for site selection, consider groundwater protection, soil permeability, and other factors determined necessary or appropriate by the commission.

(9) If generally accepted agricultural and management practices require the person responsible for the operation of a farm or farm operation to prepare a manure management plan, the person responsible for the operation of the farm or farm operation shall provide a copy of that manure management plan to the city, village, or township or the county in which the farm or farm operation is located, upon request. A manure management plan provided under this subsection is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) The department shall do both of the following:

(a) Make available on the department's website current generally accepted agricultural and management practices.

(b) Establish a toll-free telephone number for receipt of information on noncompliance with generally accepted agricultural and management practices.

(11) As used in this section:

(a) "Adverse effects on the environment or public health" means any unreasonable risk to human beings or the environment, based on scientific evidence and taking into account the economic, social, and environmental costs and benefits and specific populations whose health may be adversely affected.

(b) "Commission" means the commission of agriculture and rural development.

(c) "Department" means the department of agriculture and rural development.

(d) "Director" means the director of the department or his or her designee.

History: 1981, Act 93, Imd. Eff. July 11, 1981 ;-- Am. 1995, Act 94, Eff. Sept. 30, 1995 ;-- Am. 1999, Act 261, Eff. Mar. 10, 2000 ;-- Am. 2018, Act 292, Eff. Sept. 27, 2018



Generally Accepted Agricultural and Management Practices for Farm Markets

2026

Michigan Commission of Agriculture
& Rural Development
P.O. BOX 30017
Lansing, MI 48909



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

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

For non-emergency questions or concerns regarding the Michigan Right to Farm Act, or items concerning a farm operation, please contact the:

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

Table of Contents

PREFACE.....	iii
INTRODUCTION	1
DEFINITIONS.....	2
PHYSICAL CHARACTERISTICS OF A FARM MARKET	3
Location	3
Buildings	3
Parking and Driveways	3
Vehicle Ingress and Egress	3
Signage	3
APPENDICES	4
REFERENCES	6
ADVISORY COMMITTEE	7

PREFACE

The Michigan legislature passed into law the Michigan Right to Farm Act (Act 93 of 1981, as amended) which requires the establishment of Generally Accepted Agricultural and Management Practices (GAAMPs). These practices are written to provide uniform, statewide standards and acceptable management practices based on sound science.

These practices can serve producers in the various sectors of the industry to compare or improve their own managerial routines. New scientific discoveries and changing economic conditions may require necessary revision of the practices.

The GAAMPs that have been developed are as follows:

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

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

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

INTRODUCTION

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

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

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

DEFINITIONS

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

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

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

Farm Market – A farm market is a year-round or seasonal location where transactions and marketing activities between farm market operators and customers take place.

A farm market may be a physical structure such as a building or tent, or simply an area where a transaction between a customer and a farmer is made. The farm market does not have to be a physical structure. The farm market must be located on property owned or controlled (e.g., leased) by the producer of the products offered for sale on the market. Fresh products as well as processed products may be sold at the farm market. At least 50 percent of the farm products offered must be produced on and by the affiliated farm measured by retail floor space during peak production season, or 50 percent of the average gross sales for up to the previous five years or as outlined in a business plan. Processed products will be considered as produced on and by the farm if at least 50 percent of the product’s primary or namesake ingredient was produced on and by the farm, such as apples used in apple pie, maple sap in maple syrup, strawberries in strawberry jam, etc.

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

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

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

drying, freezing, or otherwise preparing the product for sale.

PHYSICAL CHARACTERISTICS OF A FARM MARKET

Location

A new or expanding farm market that is greater than 120 square feet must meet a minimum setback of 165 feet from all non-farm residences.

New or expanding farm markets are not authorized under this GAAMP on platted lots within a subdivision created under the Michigan Land Division Act (Act 288 of 1967, MCL 560.101, *et seq.*) or preceding statutes and on condominium units within a condominium (sometimes referred to as “site-condos”) created under the Michigan Condominium Act (Act 59 of 1978, MCL 559.101, *et seq.*). However, farm markets are permitted in such areas if authorized by association rules or pursuant to a local ordinance designed for that purpose, unless prohibited by association rules.

A farm market should have a written site plan for potential Michigan Department of Agriculture and Rural Development (MDARD) review that preempts local government regulations.

Buildings

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

Parking and Driveways

Parking and driveway surfaces may be paved, vegetative, ground, gravel, or other unpaved material.

Vehicle Ingress and Egress

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

Signage

A minimum of one roadside sign is allowed.

For further information concerning this GAAMP you may contact MDARD or Michigan State University Extension.

APPENDICES

Appendix A: Considerations for Farm Markets

Statement of Intent

Appendix A is explicitly intended as a reference for informational and educational purposes only. Information contained in Appendix A is not intended to be utilized by Michigan Department of Agriculture and Rural Development (MDARD) Right to Farm Program as part of any Generally Accepted Agricultural and Management Practices (GAAMPs) conformance determination process.

GAAMPs Conformance and Other Regulatory Permits

Depending on the nature and location of a GAAMPs conformant farm market operation, other local, state and/or federal regulations may still apply. It is the responsibility of the farm market owner or their representative acting on the owner's behalf to contact the appropriate regulatory authorities to determine if additional permits for compliance are required prior to beginning any activity or construction.

MDARD Right to Farm Program does not have authority to determine applicability of, or compliance with, any regulation other than conformance to the management practices described within the GAAMPs.

Non-Farm Product Sales, Processing and Miscellaneous Activities

Michigan Right to Farm Act provides nuisance protection for farms and farm operations in conformance with GAAMPs including the production of farm products and the marketing and sales of farm products at farm markets. This protection may not extend to sales of non-farm products (e.g., hats, t-shirts, jewelry, etc.), on-site processing of farm products (e.g., baking pies, brewing hard cider, etc.) or other on-farm activities (e.g., wedding or event barns, bed and breakfast/lodging, restaurants, glamping, etc.). A GAAMPs-conformant farm market operation may still be subject to other local, state and/or federal regulations (see "*GAAMPs Conformance and Other Regulatory Permits*" above).

Signage

Farm Markets GAAMPs allow for a minimum of one roadside sign; however, this sign (and any additional signs, if permitted) may be subject to other local ordinance requirements (e.g., setbacks, lighting, height, and size)

Agritourism

'Agritourism' currently has no legal definition or recognition in Michigan law. Activities commonly identified as, and/or associated with, agritourism may or may not comply with GAAMPs. These activities must be assessed on a case-by-case basis and may be subject to additional local, state

and/or federal regulations (see “*GAAMPs Conformance and Other Regulatory Permits*” above).

Resources

There are many professional resources available to assist farmers, government officials and others navigating Michigan’s Right to Farm Act and GAAMP-related issues. Resources include, but are not limited to, MDARD Right to Farm Program, Michigan State University Extension, Michigan Townships Association, Michigan Farm Bureau, and Michigan Agritourism Association.

REFERENCES

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

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

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

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

<https://www.michigan.gov/mdot/about/regions> (Accessed 7.26.2022).

ADVISORY COMMITTEE

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

Ryan Coffey Hoag - Chair
MSU Extension
4747 W. 48th Street, Suite
107 Fremont, MI 49412
231-924-9677
coffeyry@msu.edu

Robert Beckon
Michigan Dept. of Transportation
517-335-2211
beckonr2@michigan.gov

John Behrens
Farmhaus Cider
5025 Stanton Street
Hudsonville, MI 49426
616-723-7087 – Cell
john@farmhauscider.com

Janice Benson, Ex. Dir.
Michigan Agritourism Assoc.
P.O. Box 303
Traverse City, MI 49685
616-952-1151
executivedirector@michiganfarmfun.com

Violet Currier
Michigan Dept. of Agriculture
and Rural Development
Food Safety and Inspection
Program
Northwest Region
231-384-1874

Jeanne Hausler
MDARD
Food and Dairy Communications
P.O. Box 30017
Lansing, MI 48909
517-256-8614
hauslerj@michigan.gov

Matt Kapp
Michigan Farm Bureau
Government Relations Specialist
7373 West Saginaw Highway
Lansing, MI 48917
517-679-5338
mkapp@michfb.com

Vikki Papesh
Walnut Hill Farm
54180 Dequindre Road
Shelby Chtr. Township, MI
48316
farmer@walnuthillfarmmi.com

Garrett Ziegler
MSU Extension
109 Logan Street SW, Suit B102
Grand Rapids, MI 49503
814-777-3562
zieglerg@msu.edu

Allan Robinette
Robinette's Apple Haus and
Winery
3142 4 Mile Rd. NE
Grand Rapids, MI 49505
616-304-9068
allan@robinettes.com

Catherine A. Mullhaupt
Staff Attorney
Member Information Services
Michigan Township Association
517-321-6467
catherine@michigantownships.org

Jenn Cram, ACIP
Associate Planner
Beckett and Raeder, Inc.
jcram@briaz.com

MDARD Facilitators

Erica Rogers
Right to Farm Program Manager
Michigan Dept. of Agriculture
and Rural Development
P.O. Box 30017
Lansing, MI 48909
C: 517-245-5488
517-335-3329 - FAX
RogersE5@michigan.gov

Kyle McCarty
Michigan Dept. of Agriculture
and Rural Development
P.O. Box 30017
Lansing, MI 48909
C: 517-285-2506
MccartyK@michigan.gov

MICHIGAN AGRICULTURAL PROCESSING ACT

Act 381 of 1998

AN ACT to define certain fruit, vegetable, dairy product, meat, and grain processing uses and practices; to provide for circumstances under which a processing operation is not considered to be a public or private nuisance; to provide for certain powers and duties for certain state agencies and departments; and to provide for certain remedies for certain persons.

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998 ;-- Am. 2005, Act 282, Imd. Eff. Dec. 19, 2005

The People of the State of Michigan enact:

289.821 Short title.

Sec. 1.

This act shall be known and may be cited as the "Michigan agricultural processing act".

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998

289.822 Definitions.

Sec. 2.

As used in this act:

(a) "Dairy product" means all of the following:

(i) Dairy product as that term is defined in section 12 of the manufacturing milk law of 2001, 2001 PA 267, MCL 288.572.

(ii) Milk product as that term is defined in section 4 of the grade A milk law of 2001, 2001 PA 266, MCL 288.474.

(b) "Fruit and vegetable product" means those plant items used by human beings for human food consumption including, but not limited to, field crops, root crops, berries, herbs, fruits, vegetables, flowers, seeds, grasses, tree products, mushrooms, and other similar products, or any other fruit and vegetable product processed for human consumption as determined by the Michigan commission of agriculture.

(c) "Generally accepted fruit, vegetable, dairy product, meat, and grain processing practices" means those practices as defined by the Michigan commission of agriculture. The Michigan commission of agriculture shall give due consideration to available Michigan department of agriculture information and written recommendations from the Michigan state university college of agriculture and natural resources extension and the agricultural experiment station in cooperation with the United States department of agriculture, the United States food and drug administration, the Michigan department of environmental quality, and other professional and industry organizations.

(d) "Grain" means dry edible beans, soy beans, small grains, cereal grains, corn, grass seeds, hay, and legume seeds in a raw or natural state.

(e) "Person" means an individual, corporation, partnership, association, limited liability company, or other legal entity.

(f) "Processing" means the commercial processing or handling of fruit, vegetable, dairy, meat, and grain products for human food consumption and animal feed including, but not limited to, the following:

(i) The generation of noise, odors, waste water, dust, fumes, and other associated conditions.

(ii) The operation of machinery and equipment necessary for a processing operation including, but not limited to, irrigation and drainage systems and pumps and the movement of vehicles, machinery, equipment, and fruit and vegetable products, dairy products, meat, and grain products and associated inputs necessary for fruit and vegetable, dairy, and grain, food, meat, or feed processing operations on the roadway as authorized by the

Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(iii) The management, storage, transport, utilization, and land application of fruit, vegetable, dairy product, meat, and grain processing by-products consistent with generally accepted agricultural and management practices as established under the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

(iv) The conversion from 1 processing operation activity to another processing operation activity.

(v) The employment and use of labor engaged in a processing operation.

(g) "Processing operation" means the operation and management of a business engaged in processing.

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998 ;-- Am. 2005, Act 282, Imd. Eff. Dec. 19, 2005

289.823 Processing operation as public or private nuisance.

Sec. 3.

(1) A processing operation shall not be found to be a public or private nuisance if the processing operation alleged to be a nuisance conforms to generally accepted fruit, vegetable, dairy product, meat, and grain processing practices as determined by the Michigan commission of agriculture. The Michigan commission of agriculture shall annually review and revise, as determined necessary, the generally accepted fruit, vegetable, dairy product, meat, and grain processing practices.

(2) Until the Michigan commission of agriculture establishes the generally accepted fruit, vegetable, dairy product, meat, and grain processing practices, a processing operation shall not be found to be a public or private nuisance in an action brought in a court of competent jurisdiction if the director of the department of agriculture has determined that the processing operation is in compliance with this act as described in section 4(3).

(3) A processing operation shall not be found to be a public or private nuisance if the processing operation existed before a change in the use or occupancy of land within 1 mile of the boundaries of the land upon which the processing operation is located and, before that change in use or occupancy of land, the processing operation would not have been found to be a nuisance. The determination of the circumstances described in this subsection or subsection (1) or (2) is considered to be a finding as a matter of law and creates a rebuttable presumption that the processing operation is operating under generally accepted practices or that the processing operation is not a public or private nuisance.

(4) A processing operation that is in conformance with subsection (1) or (2) shall not be found to be a public or private nuisance as a result of any of the following:

(a) A change in ownership or size.

(b) Temporary cessation or interruption of processing.

(c) Adoption of new technology.

(d) A change in type of fruit, vegetable, dairy, meat, or grain product being processed.

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998 ;-- Am. 2005, Act 282, Imd. Eff. Dec. 19, 2005

289.824 Nuisance complaints; exhaustion of administrative remedies; investigation; memorandum of understanding with department of environmental quality; resolution; notice of finding; determination; costs; "unverified nuisance complaint" defined.

Sec. 4.

(1) The Michigan commission of agriculture shall request the director of the Michigan department of agriculture or his or her designee to investigate all nuisance complaints under this act involving a processing operation. If a person is granted a determination by the director of the department of agriculture under this act, the person is considered to have exhausted his or her administrative remedies with regard to that matter. A court shall not proceed with an action for nuisance brought against a processing operation until it finds that the complainant exhausted all administrative remedies.

(2) The Michigan commission of agriculture and the director of the Michigan department of agriculture may enter into a memorandum of understanding with the Michigan department of environmental quality. The

investigation and resolution of nuisance complaints shall be conducted pursuant to the memorandum of understanding. In the case where no generally accepted fruit, vegetable, dairy product, meat, and grain processing practices have been established, any nuisance complaint received by either the department of environmental quality or the department of agriculture shall be resolved under section 3 in the following manner:

(a) The department of environmental quality shall assess compliance of an operation or practice with the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, and shall conduct an inspection within 10 working days of receipt of the complaint.

(b) The department of agriculture shall assess the processing operation or practice under federal good manufacturing practices as adopted under the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111, and shall conduct an inspection within 10 working days of receipt of the complaint.

(3) Based upon the determinations made in subsection (2), the department of agriculture shall make a finding as to whether a processing operation is in compliance with this act.

(4) If the director of the Michigan department of agriculture or his or her designee finds upon investigation that the person responsible for the processing operation is using generally accepted fruit, vegetable, dairy product, meat, and grain processing practices or otherwise in compliance with law as described in section 3(2), the director of the Michigan department of agriculture or his or her designee shall notify that person and the complainant of this finding in writing. If the director of the Michigan department of agriculture or his or her designee identifies the source or potential sources of the problem caused by the use of other than generally accepted fruit, vegetable, dairy product, meat, and grain processing practices or other than compliance with law as described in section 3(2), the director of the Michigan department of agriculture or his or her designee shall advise the person responsible for the processing operation that necessary changes should be made to resolve or abate the problem and to conform with generally accepted fruit, vegetable, dairy product, meat, and grain processing practices or with applicable law as described in section 3(2). The director of the Michigan department of agriculture or his or her designee shall determine if those changes are implemented and shall notify the person responsible for the processing operation and the complainant of this determination in writing.

(5) A complainant who brings more than 3 unverified nuisance complaints against the same processing operation within 3 years may be ordered by the director of the Michigan department of agriculture to pay to the Michigan department of agriculture the full costs of investigation of any fourth or subsequent unverified nuisance complaint against the same processing operation. As used in this subsection, "unverified nuisance complaint" means a nuisance complaint in which the director of the department of agriculture or his or her designee determines that the processing operation is using generally accepted fruit, vegetable, dairy product, meat, and grain processing practices.

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998 ;-- Am. 2005, Act 283, Imd. Eff. Dec. 19, 2005

289.825 Applicability of state and federal statutes.

Sec. 5.

(1) This act does not affect the application of state statutes and federal statutes.

(2) For purposes of this section, "state statutes" includes, but is not limited to, any of the following:

(a) The county zoning act, 1943 PA 183, MCL 125.201 to 125.240.

(b) The township zoning act, 1943 PA 184, MCL 125.271 to 125.310.

(c) The city and village zoning act, 1921 PA 207, MCL 125.581 to 125.600.

(d) The natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998

Act No. 113
Public Acts of 2010
Approved by the Governor
July 12, 2010
Filed with the Secretary of State
July 12, 2010
EFFECTIVE DATE: July 12, 2010

**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010**

Introduced by Rep. Byrnes

ENROLLED HOUSE BILL No. 5837

AN ACT to amend 2000 PA 92, entitled “An act to codify the licensure and regulation of certain persons engaged in processing, manufacturing, production, packing, preparing, repacking, canning, preserving, freezing, fabricating, storing, selling, serving, or offering for sale food or drink for human consumption; to prescribe powers and duties of the department of agriculture; to provide for delegation of certain powers and duties to certain local units of government; to provide exemptions; to regulate the labeling, manufacture, distribution, and sale of food for protection of the consuming public and to prevent fraud and deception by prohibiting the misbranding, adulteration, manufacture, distribution, and sale of foods in violation of this act; to provide standards for food products and food establishments; to provide for enforcement of the act; to provide penalties and remedies for violation of the act; to provide for fees; to provide for promulgation of rules; and to repeal acts and parts of acts,” by amending section 1105 (MCL 289.1105), as amended by 2008 PA 338.

The People of the State of Michigan enact:

Sec. 1105. As used in this act:

(a) “Adulterated” means food to which any of the following apply:

(i) It bears or contains any poisonous or deleterious substance that may render it injurious to health except that, if the substance is not an added substance, the food is not considered adulterated if the quantity of that substance in the food does not ordinarily render it injurious to health.

(ii) It bears or contains any added poisonous or added deleterious substance, other than a substance that is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive considered unsafe within the meaning of subparagraph (v).

(iii) It is a raw agricultural commodity that bears or contains a pesticide chemical considered unsafe within the meaning of subparagraph (v).

(iv) It bears or contains any food additive considered unsafe within the meaning of subparagraph (v) provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under subparagraph (v) and the raw agricultural commodity has been subjected to processing the residue of that pesticide chemical remaining in or on that processed food is, notwithstanding the provisions of subparagraph (v) and this subdivision, not be considered unsafe if that residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and if the concentration of that residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity.

(v) Any added poisonous or deleterious substance, any food additive, and pesticide chemical in or on a raw agricultural commodity, or any color additive is considered unsafe for the purpose of application of this definition, unless there is in effect a federal regulation or exemption from regulation under the federal act, meat inspection act, poultry product inspection act, or other federal acts, or a rule adopted under this act limiting the quantity of the substance, and the use or intended use of the substance, and the use or intended use of the substance conforms to the terms prescribed by the rule.

(vi) It is or contains a new animal drug or conversion product of a new animal drug that is unsafe within the meaning of section 360b of the federal act, 21 USC 360b.

(vii) It consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance or it is otherwise unfit for food.

(viii) It has been produced, prepared, packed, or held under insanitary conditions in which it may have become contaminated with filth or in which it may have been rendered diseased, unwholesome, or injurious to health.

(ix) It is the product of a diseased animal or an animal that has died other than by slaughter or that has been fed uncooked garbage or uncooked offal from a slaughterhouse.

(x) Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

(xi) A valuable constituent has been in whole or in part omitted or abstracted from the food; a substance has been substituted wholly or in part for the food; damage or inferiority has been concealed in any manner; or a substance has been added to the food or mixed or packed with the food so as to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is.

(xii) It is confectionery and has partially or completely imbedded in it any nonnutritive object except in the case of any nonnutritive object if, as provided by rules, the object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health; it bears or contains any alcohol other than alcohol not in excess of 1/2 of 1% by volume derived solely from the use of flavoring extracts; or it bears or contains any nonnutritive substance except a nonnutritive substance such as harmless coloring, harmless flavoring, harmless resinous glaze not in excess of 4/10 of 1%, harmless natural wax not in excess of 4/10 of 1%, harmless natural gum and pectin or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storage of such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of the provisions of this act. For the purpose of avoiding or resolving uncertainty as to the application of this subdivision, the director may issue rules allowing or prohibiting the use of particular nonnutritive substances.

(xiii) It is or bears or contains any color additive that is unsafe within the meaning of subparagraph (v).

(xiv) It has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule or exemption under this act or a regulation or exemption under the federal act.

(xv) It is bottled water that contains a substance at a level higher than allowed under this act.

(b) "Advertisement" means a representation disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of food.

(c) "Agricultural use operation" means a maple syrup production facility or similar food establishment that finishes a raw commodity and is integral to the agricultural production of, and is located at, a farm. An agricultural use operation is not considered a food processing plant or retail processing operation for purposes of personal or real property but must meet those same standards and licensing requirements as prescribed in this act.

(d) "Bed and breakfast" means a private residence that offers sleeping accommodations to transient tenants in 14 or fewer rooms for rent, is the innkeeper's residence in which the innkeeper resides while renting the rooms to transient tenants, and serves breakfasts, or other meals in the case of a bed and breakfast described in section 1107(n)(ii), at no extra cost to its transient tenants. A bed and breakfast is not considered a food service establishment if exempt under section 1107(n)(ii) or (iii).

(e) "Color additive" means a dye, pigment, or other substance made by process of synthesis or similar artifice or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral, or other source, or when added or applied to a food or any part of a food is capable alone or through reaction with other substance of imparting color to the food. Color additive does not include any material that is exempt or hereafter is exempted under the federal act. This subdivision does not apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth of other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest. Color includes black, white, and intermediate grays.

(f) "Contaminated with filth" means contamination applicable to any food not securely protected from dust, dirt, and, as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

(g) "Continental breakfast" means the serving of only non-potentially-hazardous food such as a roll, pastry or doughnut, fruit juice, or hot beverage, but may also include individual portions of milk and other items incidental to those foods.

(h) "Cottage food operation" means a person who produces or packages cottage food products only in a kitchen of that person's primary domestic residence within this state.

(i) "Cottage food product" means a food that is not potentially hazardous food as that term is defined in the food code. Examples of cottage food product include, but are not limited to, jams, jellies, dried fruit, candy, cereal, granola, dry mixes, vinegar, dried herbs, and baked goods that do not require temperature control for safety. Cottage food product does not include all potentially hazardous food regulated under 21 CFR 113 and 114, examples of which include, but are not limited to, meat and poultry products; salsa; milk products; bottled water and other beverages; and home-produced ice products. Cottage food product also does not include canned low-acid fruits or acidified vegetables and other canned foods except for jams, jellies, and preserves as defined in 21 CFR 150.

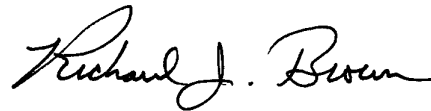
(j) "Critical violation" or "critical item" means a violation of the food code that the director determines is more likely than other violations to contribute to food contamination, illness to humans, or environmental health hazard.

(k) "Domestic residence" means a single-family dwelling or an area within a rental unit where a single person or family actually resides. Domestic residence does not include either of the following:

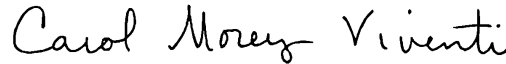
- (i) A group or communal residential setting within any type of structure.
- (ii) An outbuilding, shed, barn, or other similar structure.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5280 of the 95th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

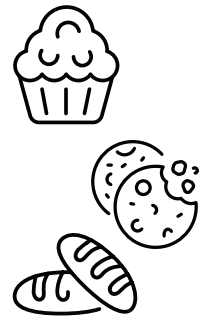
Michigan's Cottage Foods

A Guide for Cottage Food Businesses



What's Allowed: Up to \$25,000 yearly in gross sales of certain foods with no license, registration, or inspection. Cottage foods businesses may advertise online and collect payments in-person or through a pay app.

What's Required: Cottage foods must be made, packaged, and labeled in your primary residence (home). The label is required to include the statement, *"Made in a home kitchen not inspected by the Michigan Department of Agriculture and Rural Development."* Cottage food products must be transferred from producer to consumer in-person by the producer. Mail-orders, shipping, selling to businesses, or having a business sell products for you is not allowed. Only low-risk foods that do not require refrigeration after preparation may be considered for cottage food businesses.



<div>X</div> Cannot Be Cottage Foods	<div>✓</div> May Be Considered for Cottage Foods
<ul style="list-style-type: none"> X Bread with fresh vegetables or chunks of cheese X Custard or cream-based pies X Cakes requiring refrigeration (e.g., cheesecake) X Frosting or glaze made from ingredients requiring refrigeration (e.g., cream cheese frosting) X Freeze-dried products made from temperature-controlled foods (e.g., ice cream, cheesecake) X Tinctures X Other jams/jellies (e.g., vegetable, hot pepper, low/no-sugar) or fruit/vegetable butters X Garlic in oil mixtures X Salad dressings, sauces, or condiments X Cut melon, tomato, or leafy greens products X Fresh pasta X Caramel apples 	<ul style="list-style-type: none"> ✓ Breads, quick breads, muffins, cookies ✓ Pies – shelf-stable ✓ Cakes – cupcakes, birthday, wedding, etc. ✓ Frosting or glaze made with shelf-stable ingredients or from tested recipes ✓ Freeze-dried products from shelf-stable foods (e.g., candy, herbs, some fruits, raw vegetables) ✓ Extracts (e.g., vanilla extract) ✓ Fruit jams or jellies (as defined in 21 CFR part 150) in glass jars ✓ Vinegar and flavored vinegar ✓ Mixes - dry baking, dips, soup, dry herbs, or herbs ✓ Dried pasta with or without egg ✓ Snacks - popcorn, granola, nuts, or chocolate covered pretzels, bananas, strawberries, apple slices, etc. ✓ Roasted coffee beans ✓ Whole and sliced dehydrated fruits or vegetables
<p>See our website for more examples: www.michigan.gov/cottagefood</p>	

These Categories Are NOT Allowed:
<ul style="list-style-type: none"> X Beverages X CBD, cannabis, or foods containing these products X Dairy or dairy products X Dietary supplements X Fish or fish products X Canned fruit or vegetables X Ice or ice products X Meat or meat products X Pet food or treats X Pickled products

Questions?

Visit MDARD's website by scanning the QR code.



Call **800-292-3939** or email MDARD-CottageFood@michigan.gov to connect with a food inspector in your area.