



# Memo

**To:** Acme Township Planning Commission  
**From:** Patrick Kilkenny, Planner and Deputy Zoning Administrator  
**Date:** 12/19/2011  
**Re:** Requested Zoning Ordinance Amendment OXX – Addition of “Barn functions” to “Uses Permitted by Special Use Permit” in the A-1, Agricultural zoning district to the Acme Township Zoning Ordinance

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Initial Planning Commission Discussion: August 22, 2011  
Continued: October 24, 2011 & November 28, 2011

**Applicant:** Robert and Kathleen Garvey  
6377 Deepwater Point  
Williamsburg, MI 49690

**Status of Applicant:** Acme Township residents & property owners

**Request/Project Description:** Amendment to the Acme Township Zoning Ordinance of 2008 by proposing the addition of “barn functions” to the A-1 Agricultural zoning district to Uses Permitted by Special Use Permit and the addition of a definition for “barn functions.”

**Attachments:** Zoning Ordinance Sections 6.11 & 9.25

**Project Description:**

The applicant is requesting an amendment to the Acme Township Zoning Ordinance to include “barn functions” as a Use Permitted by Special Use Permit in the A-1, Agricultural zoning district. The applicant currently owns a 40 acre parcel of property on the northern most end of Lautner Road in Acme Township. The property contains a residence, barn, horse pasture, manmade trout pond, a section of Yuba Creek, regulated wetland areas, chickens, and other agricultural features.

The applicant’s barn has been used for events such as fundraiser parties, and most recently, a wedding. The aforementioned uses are currently in violation of the Acme Township Zoning Ordinance, as defined in the A-1 Agricultural zoning district.

The applicant’s barn was moved from a property originally located at the corner of M-72 and Lautner Road. The barn was subsequently donated to the applicant and was ultimately reconstructed on the

applicant's property at 4790 Lautner Road. The barn's reconstruction included many structural, cosmetic and safety updates including but not limited to; a new foundation, basement, siding, floor, roof, landscaping, décor, etc.

The barn's reconstruction has been well publicized throughout the community and requests to hold a multitude of events such as weddings, parties, and fundraisers have been sent to the property owner/applicant. Please see attached correspondence from the applicant.

Kurt Schindler, from the Michigan State University Extension, provided guidance via email to the applicant regarding "barn weddings" and informed the applicant that local regulation (zoning ordinance) would apply to "barn weddings" if allowable. As mentioned previously, the zoning ordinance does not currently allow "barn events" or any similar use in the A-1, Agricultural zoning district by right or with a special use permit.

**Relevant Sections of Zoning Ordinance** [excerpts below – see attached for full ATZO sections]:

**6.11 A-1: AGRICULTURAL DISTRICT**

**6.11.1 INTENT AND PURPOSE:**

This District is intended to preserve, enhance, and stabilize areas within the Township which are presently used predominantly for farming purposes or areas which, because of their soil, drainage, or natural flora characteristics, should be preserved for low intensity land uses. It is the further purpose of this District to promote the protection of the existing natural environment, and to preserve the essential characteristics and economical value of these areas as agricultural lands. Agricultural District areas may be subject to noise, chemical spray and other hazards which might normally disrupt a residential environment. It is explicitly the purpose of this zone, therefore, to preserve a suitable working environment for farming operations without conflict with residential and other uses.

**9.25 WINERIES**

**9.25.1 STATEMENT OF INTENT:**

It is the intent of this section to promote local agriculture production by allowing construction of a winery with tasting room and retail sale of winery products in the agricultural district subject to this Ordinance. It is also the intent of this Section to encourage the growing of wine fruit and production of wine as an integral component of the rural and agricultural ambiance of Acme Township, and to maintain the viability of fruit farming through value added processing and direct sales of wine and wine related beverages made from locally grown fruit. This section is intended to allow for additional value-added agricultural business in an attempt to further the Township's goals of preserving the rural character by protecting open spaces, reducing the residential density in the agricultural district and maintaining large contiguous parcels in active agricultural use.

**9.25.6 ADDITIONAL CONDITIONAL USES**

**9.25.6(b)**

Special Events associated with the promotion of wine usage and education may be permitted on the winery parcel after receiving approval from the Township Board and shall be considered secondary to the winery function. The Township Board may impose reasonable conditions on the applicant including requiring that the applicant provide

written evidence of insurance, in amounts that are deemed reasonable by the Township Board or the Township attorney, naming Acme Township as an additional insured.

**Attached for review: Solon Township, Michigan – Ag-Tourism Zoning Provision**

The Solon Township Ag-Tourism Zoning Provision was referenced by the applicant and Brian Bourdages, Farmland Protection Specialist – Grand Traverse Land Conservancy, to be reviewed by the Planning Commission as an example of how Agri-Tourism is addressed and regulated in other local communities.

The Solon Provision does not include the level of detail that the Planning Commission expressed should be required in Acme Township, however, the Provision does provide for similar “Special Events” in Solon Township. The Solon Provision echoes similar sentiment to the Acme Township Planning Commission stating to “maintain and promote agriculture and its related activities.” Similarly, the Solon Provision allows for “non-agriculturally related uses” to be permitted by Site Plan Review/Special Land Use. It should also be noted that Solon Township differs from Acme Township in many ways, such as: population density, traffic volume, agricultural area, commercial area, natural features, demographics, etc.

**Staff Discussion (continued from October 24, 2011):**

This is a zoning ordinance amendment request, and as such there is no site plan for you to review and consider. A zoning designation decision should be made based on whether or not it is appropriate to the community and its master land use planning for a piece of property to potentially be available to any and all uses allowed with the proposed zoning ordinance amendment. Such decisions should not be based on presentation of a particular future use concept that may or may not come to pass. It should be made based on the township’s established master plan, future land use plan, potential impacts on or availability of infrastructure, potential impacts to the natural environment, and the land use needs of the community.

The Planning Commission determined at both the August 22, 2011 and October 24, 2011 meetings that the zoning ordinance amendment request was viable and warranted further research by staff. The Planning Commission noted that the request did not apply to the only the applicant and “barn functions” but instead to the entire A-1 zoning district and various “special events”. The Commission tasked Staff with the development of language that outlines options for definitions and zoning ordinance sections associated with the potential inclusion of “special events” in the A1, Agricultural zoning district. Staff researched other local zoning ordinances as well as the Right to Farm Act and associated GAAMP requirements and suggestions. Staff also studied the language in our current zoning ordinance, specifically, the “special events” allowed in Section 9.25.6 Additional Conditional Uses (Wineries).

The Planning Commission reviewed the Staff’s example language provided in the staff report at the October 24, 2011 meeting and ultimately made the decision to task staff with the development of a draft “Special Events” ordinance for the A-1, Agricultural zoning district. Staff addressed the Commission’s comments and concerns expressed during the discussion at the October 24, 2011 meeting and drafted language to be further reviewed by the Commission prior to inclusion in the Acme Township Zoning Ordinance.

The Planning Commission indicated that the Special Events language in the October 24, 2011 staff report was overly restrictive in certain areas with regard to general "Special Events" in the A-1 district and also expressed interest in an ordinance that provided similar but less limiting language to be included in the zoning ordinance amendment. Commissioner and public comments and concerns at the October 24, 2011 and November 28, 2011 meetings included:

- Addressing food preparation on or off-site, including temporary food preparation facilities
- Would the Special Events section of the Wineries ordinance be removed and replaced with the amended ordinance?
- What should be the allowable hours of operation?
- A definition of "negatively impacting" is needed
- Concerns for neighboring properties regarding noise and other disturbances from Special Events
- The Commission would like to hear from farmers regarding their potential concerns with the new ordinance language
- Concern that the A-1 district is primarily used for agricultural production and the Township should be careful that ordinance amendments will promote and not interfere with agricultural activities
- How would an appropriate amount of liability insurance be established?
- Is the term "non-profit" intended to be used in the ordinance
- What guidance can be used to evaluate the appropriate number of people allowed to be hosted?
- How would sound impacts be measured appropriately?
- Who would maintain the special events log?

Please review the ordinance amendment language provided below. The text is intended to provide an outline for a "Special Events" ordinance to potentially be included in the A-1 district which can be modified to accommodate the Planning Commission's suggestions as well as associated public comment.

Please note: text below that has been changed from its original format at the October 24<sup>th</sup> Planning Commission meeting is shown in ~~strikethrough~~ text and the amended language immediately follows in **bold red** text. **Highlighted** text and associated subsections require further review by the Planning Commission with regard to detailed regulations within the ordinance amendment.

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#### **Special Events - A-1, Agricultural Zoning District - Authorized by SUP**

~~Special Events may be permitted in the A-1, Agricultural Zoning District after receiving approval from the Township Board. The Township Board may impose reasonable conditions on the applicant including requiring that the applicant provide written evidence of insurance in amounts that are deemed reasonable by the Township Board or the Township attorney, naming Acme Township as an additional insured. Special Events are subject to the following standards:~~

**Special Events may be permitted in the A-1, Agricultural Zoning District after receiving approval from the Planning Commission and Township Board. Special Events are subject to the following standards:**

**Special Events: Activities not directly related to agricultural or wine production, including but not limited to: wine appreciation/education seminars, non-profit benefit functions, weddings, wine and catered food events, seasonal natural events (i.e. mushroom hunts), harvest festivals, public gatherings and agricultural research.**

**Special Events: Activities directly related to agricultural land use, including but not limited to: education seminars, for-profit and non-profit functions, weddings, catered food events, seasonal natural events (i.e. mushroom hunts), harvest festivals, public gatherings, and agricultural research.**

1. **The main Special Event structure or area shall be located on a parcel of no less than 40 acres and occupy no more than 4,000 square feet of floor area; floor area excludes parking area.**
2. **Only one Special Event may be held on the parcel on any given day.**
3. **Off-street parking areas shall meet the following additional standards:**
  - i. **All off-street parking areas shall be set back 40 feet from all lot lines.**
  - ii. **All exterior lighting shall conform with the current requirements of Section 7.5.4b6. Exterior lighting shall only be in use during the hours of operation permitted by item 5 below.**
  - iii. **All light poles shall be no taller than 20 feet in height.**
  - iv. **All exterior light and lighting fixtures shall be subject to review and approval by Acme Township.**
  - v. **Parking areas associated with special events may consist of gravel or another pervious surface, provided it meets the approval of the Township Board.**
4. **The property owner/manager must have a written statement from the County Health Department indicating the maximum number of persons that can be accommodated with existing toilet facilities. If allowed by the Township Board, portable toilets may be used for special occasions to accommodate guests exceeding the aforementioned number. Any temporary restroom facilities must be removed within two business days of the Special Event.**
5. **Agricultural activities may be performed at any hour required in accordance with the Michigan Right to Farm Act. Retail sales and tours must observe the following hours of operation:**

- i. Daylight Savings Time: 9:00 a.m. to 9:00 p.m.
  - ii. Standard Time: 9:00 a.m. to 7:00 p.m.
- ~~6. Special Events may take place between the hours of 9:00 a.m. and 10:00 p.m. Sunday through Thursday and between 9:00 a.m. and 11:00 p.m. Friday through Saturday.~~
- 6. Special Events may take place between the hours of XX:00 a.m. and XX:00 p.m. Sunday through Thursday and between XX:00 a.m. and XX:00 p.m. Friday through Saturday.**
- ~~7. With the exception of hors d'oeuvres, snacks, or products regularly produced on the premises, food provided for the event must be prepared off site.~~
- 7. Food provided for the event must be prepared off site with the exception that temporary food preparation facilities, such as grills, portable stoves, ovens, burners, etc., may be allowed to finish preparation on site. No permanent food preparation/kitchen facilities are allowed for the special event structure or building.**
- 8. Any music or entertainment provided for the Special Event must be for background purposes and not a featured item of the event. Sound amplifiers may be permitted as determined by the Township Board. The Board, in its review of any Special Event, may require that the noise levels be monitored and limited if necessary.**
- 9. An "Event Plan" for Special Events containing the following information shall be submitted and must be approved by the Township Board upon review by the Planning Commission as a part of the initial Special Use Permit:**
- i. Plan drawn to an appropriate scale for effective interpretation.
  - ii. Property boundaries, onsite parking areas, and access roads.
  - iii. Existing uses on adjacent properties and distance of dwellings within 500 feet of the property boundary.
  - iv. Maximum number of Special Events to be conducted per calendar year.
  - v. Existing and proposed structures with maximum capacity of each building where guests have access as established by the Fire Marshal.
  - vi. Location of any temporary toilet facilities that may be required.
  - ~~vii. A written description of the planned Special Events providing type of gathering such as wine appreciation, education seminar, wine and catered food event, vineyard harvest festival, non-profit benefit, wedding, seasonal natural event and/or agricultural research and demonstration project.~~

- vii. **A written description of the planned Special Events providing type of gathering such as education seminars, for-profit and non-profit functions, weddings, catered food events, seasonal natural events (i.e. mushroom hunts), harvest festivals, public gatherings, and agricultural research.**
  - viii. **Maximum number of guests for any event.**
  - ix. **The property owner /manager will maintain a log of the Special Events occurring on the property including dates, group identity, times, and number of guests.**
  - x. **The location and amount of time prior to an event for erection of temporary structures which are allowed and time for removal after the event.**
  - xi. **The property owner/manager shall submit an events calendar to the Planning Commission once per calendar year. The submitted calendar shall be reviewed at a public hearing only if the originally approved maximum number of events per year has generated nuisance complaints from area residents and/or property owners.**
- 10. Standards for Review: The Planning Commission shall review the Event Plan for conformance with the standards of the zoning district in which located and shall verify that the following standards have been satisfied:**
- i. **One accessory building, to the main Special Event facility, may be erected for Special Events. The maximum size of the building shall be as determined according to item vii below.**
  - ii. **No outdoor Special Events shall be permitted, except as may be permitted according to item vii below.**
  - iii. **Any building to be used for Special Events shall be located at least 100 feet from any property line and at least 200 feet from any pre-existing neighboring residence.**
  - iv. **The number of people allowed to attend Special Events shall be limited to the number of people allowed to occupy the structure as regulated by the Fire Marshall, except as may be permitted according to item vii below.**
  - v. **Adequate parking shall be required per Section 7.5.3. Exceptions for Special Events, with respect to the surfacing and lighting, may be permitted by the Township Board.**
  - vi. **Additional conditions for vegetative screening, lighting, odor control, dust control, noise control, traffic, trespass, hours of operation or other impacts may be required by the Township Board upon recommendation by the**

Planning Commission to mitigate potential impacts on neighboring properties.

- vii. Additional retail or Special Event building size may be allowed according to the following conditions:
- ~~a. For each additional and contiguous ten acres provided above the minimum parcel size, an additional 1,000 square feet of building may be allowed.~~
  - a. For each additional and contiguous ten acres of agriculturally used/operated land provided above the minimum parcel size, an additional 1,000 square feet of building may be allowed.**
  - b. For each additional 100 feet the buildings and parking areas are set back from the property line above the minimum setback, an additional 500 square feet of building may be allowed.**
  - c. If 50 percent or more of the property is permanently protected via a conservation easement, an additional 1,000 square feet of building may be allowed.**
  - d. For each additional ten percent of the total property that is protected above the fifty in item c. above, an additional 250 square feet building may be allowed.**
  - ~~e. Allowance for outdoor events may be considered provided they will not negatively impact neighboring properties. Any and all outdoor events and Special Events shall be considered and may be approved as part of the Event Plan.~~
  - e. Allowance for outdoor events may be considered provided they will not negatively impact neighboring properties. Negative impacts include but are not limited to, environment, noise, odor, traffic, dust, lighting, trespassing, etc. Any and all outdoor events and Special Events shall be considered and may be approved as part of the Event Plan.**
11. Any Special Events other than those included in the original approval must have additional review by the Planning Commission. The scope of the additional review will be determined by the Commission at a preliminary or public hearing with final approval to be granted by the Township Board in the form of a Special Use Permit (SUP) amendment.

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The above is an example of prospective ordinance amendment language from Staff. The language provided is preliminary, and is therefore meant to be discussed thoroughly with the



Planning Commission and legal counsel, and is intended to initiate the development of language best suited for a potential zoning ordinance amendment.

Staff review and questions of the above **Highlighted** text and associated subsections:

- **Ordinance Title** - Should Special Events be an allowable use by right or allowed by special use permit in the A-1 district? If allowed by right, insert as section 6.11.2q - if allowed by SUP, insert as section 6.11.3x
- **"Special Events" Definition** - Should all Special Events be reviewed and approved by the Planning Commission and Township Board? If so, what about timing of events (last minute events, etc.)? Will all amendments to Special Events require review and approval from both the Planning Commission and Board or does Staff have the right to approve?
- **Section 1** - What, if any, is an appropriate amount of acreage for the Township to require for the use of Special Events? Floor area/Square footage?
- **Section 5** - Should the parcel be required to have a valid and functioning agricultural operation? If so, what are the standards? What are the hours of operation for retail sales?
- **Section 6** - What are appropriate hours of operation for Special Events? What days of the week?
- **Section 8** - Should music be allowed as a featured function of Special Events? Would concerts and music festivals be allowed? How should/could noise levels be monitored? Should the Township attempt to monitor noise or use complaints and police power as is currently done?
- **Section 9** - Should an event plan be required? If so, what would be required to be included in the event plan?
- **Section 9** - Should the Township set a maximum number of guests? If the event is inside, fire code could be used. If the event is outside/open air, how should the maximum number of guests be calculated?
- **Section 9** - Should the property owner be required to maintain a log? If so, what would be included in the log? Would a log be required for an individual event?
- **Section 9** - Should an event calendar be submitted and reviewed annually? If so, what should be required in the calendar? Who reviews? What if changes need to be made?
- **Section 10** - Should outdoor events be allowed? If so, how will the allowable space be calculated?
- **Section 10** - Should retail space be allowed? If so, where?
- **Section 10** - Should additional special event or retail space be provided if the property is agriculturally used, provides additional setbacks, is protected via conservation easement, etc.? If so, how much additional space would be allowed?
- **Section 10** - How is the term "Negative(ly) impact(ed)" defined?
- **Section 11** - Should the Planning Commission review each special event approval and/or amendment or can Staff review certain approvals and/or amendments? If staff can review and approve, how is it defined? Where in the ordinance would it be defined?

The Planning Commission stated at the October 24, 2011 meeting; the A-1, Agricultural zoning district is currently primarily used for agricultural production and the Township should be careful that ordinance amendments will promote, and not interfere with agricultural activities. Agricultural tourism or agri-tourism is a growing business trend throughout the local area and beyond. Careful consideration should be given to the current owners and operators within the A-1, Agricultural zoning district prior to allowing uses beyond what currently exists within the district.

If the Staff developed language, or a subsequent version thereof, is to be adopted by the Planning Commission, Staff recommends that the Planning Commission also decide whether or not to include the "Special Events" into the A-1, Agricultural zoning district as a "Use Permitted by Right" or by "Special Use Permit."

- **Staff Note:** It is Staff's opinion that a "one off" type of license should be developed within Acme Township to provide an opportunity for property owners in any zoning district to apply for short term and/or low impact "Special Events." The license would be issued at the Township Staff level, similar to Land Use and Sign permits, and would include a nominal fee. The events licenses would be controlled by police power, similar to other Township ordinances and permits and would not require Planning Commission or Township Board approval.
  - Example: A Township resident may be interested in holding a car show for a single day, on their property. The resident would come to the Township Hall, complete and application, pay a nominal fee, and the event would then be controlled by police power. Issues such as noise, odor, trespassing, etc. would be forwarded to the police and dealt with on a policing level.

To assist the Planning Commission in determining whether the requested zoning ordinance amendment is further warranted, if and when a public hearing is set, staff will provide information to assist the Commission's review and deliberation. The resulting report will be provided to both the Commission and applicant as far in advance of the scheduled meeting as possible.

**Potential Courses of Action:**

Staff recommends that the zoning ordinance amendment discussion be continued at the next regular meeting of the Acme Township Planning Commission. Due to the ongoing Staff and Commissioners comments/concerns, and potentially complicated nature of the amendment; Staff believes that further development of the "Special Events" ordinance language is needed prior to scheduling a public hearing.

Or

Move to deny the request for the zoning ordinance amendment, providing findings of fact from tonight's meeting.

Or

Table the discussion for a later meeting.

## ARTICLE XXV AG-TOURISM

The intent of this zoning provision is to promote and maintain local farming while allowing flexibility in the ever changing traditional farms' purpose. The activities that are described have become necessary for the sustainability of certain farms in Solon Township. The goals of these provisions are to maintain and promote agriculture and its related activities. Agricultural tourism can preserve open space and farmland, maintains both an agricultural heritage and rural character, and promotes community benefits. These benefits include having fresh local produce for sale, working classrooms for school children, and urban residents' education to increase positive growing businesses that contribute to the general economic conditions and cycle of the Township and area.

The purpose of these provisions are to provide a list of permitted activities conducted under an agricultural tourism operation, a list of activities that need a conditional permit to guide and regulate agricultural tourism businesses on agriculturally zoned land, and to provide for a clear understanding of the expectations for agricultural tourism business operators, local residents, along with other businesses and local officials.

### SECTION 25.01 PERMITTED USES BY RIGHT

1. General and specialized farming of agricultural products and agricultural activities, including the raising or growing of crops, livestock, poultry, bees and other farm animals, products and foodstuffs. Any building or structure may be located thereon and used for the day-to-day operation of such activities, for the storage or preservation of said crops or animals, products and collection, distribution, or processing, and for the incidental sale of crops, products and foodstuffs raised or grown on said parcel or in said building or structure.
2. Storage, retail or wholesale marketing, or processing of agricultural products into a value-added agricultural product is a permitted use in a farming operation if more than 50 percent of the stored, processed, or merchandised products are produced by the farm operator.
3. Direct marketing of produce in a roadside stand no greater than (100) one hundred square feet in building area.
4. Seasonal U-pick fruits and vegetable operations.
5. Seasonal outdoor mazes of agricultural origin such as straw bales or corn.
6. Processing any fruits/produce.
7. Uses 3 through 7 listed above may include any or all of the following ancillary agriculturally related uses and some non-agriculturally related uses so long as the general agricultural character of the farm is maintained and the income from these activities represents less than fifty (50) percent of the gross receipts from the farm.
  - a. Value-added agricultural products or activities such as education tours or processing facilities, etc.
  - b. Bakeries selling baked goods containing produce grown primarily on site.
  - c. Playgrounds or equipment typical of a school playground, such as slides, swings, etc. (not including motorized vehicles or rides).
  - d. Petting farms, animal display, and pony rides.
  - e. Wagon, sleigh and hayrides.
  - f. Nature trails.
  - g. Open air or covered picnic area with restrooms.
  - h. Educational classes, lectures, seminars.
  - i. Historical agricultural exhibits.

## **SECTION 25.02 SPECIAL LAND USES**

The following uses are permitted in this district upon Development Site Plan Review approval by the Planning Commission in accordance with Article XXIV and are subject to a Public Notice and subsequent Public Hearing. The necessary conditions for approval of any of these uses shall be a demonstrated need for the use and the placement of the facility in a manner which least affects the productive agricultural land of the site or the surrounding properties:

1. Bed and Breakfast.
2. Direct marketing of produce, farm retail market, on-farm market or roadside stand if the sales area is greater than one hundred (100) square feet in building area.
3. Restaurant operations related to the agricultural use on the site.
4. Non-agriculturally related uses listed as permitted uses in the zone but which include any of the following ancillary uses requiring a special use permit.
  - a. Small-scale entertainment (e.g., music concert, carshow, art fair).
  - b. Family oriented animated barns (e.g., fun houses, haunted houses, or similar).
  - c. Organized meeting space for use by weddings, birthday parties, and corporate events.
  - d. Designated, permanent parking for more than 10 vehicles.
5. Cider mills, wineries, or distilleries selling product in a tasting room shall be derived from crops grown at least fifty percent (50%) in Leelanau County for at least three (3) of the immediately preceding five (5) years. A temporary waiver may be granted by the Zoning Administrator or if special circumstances exist, such as frost, drought, or any other unusual conditions which may be deemed appropriate for a waiver by the Zoning Administrator.
6. Commercial kitchen facilities, processing/cooking items for sale, including gift shops for the sale of agricultural products and agriculturally related products.

## **SECTION 25.03 PARKING**

1. For agricultural tourism and seasonal agriculturally related uses, one space for each (100) one hundred square feet of retail area and one space for every five (5) patrons of outdoor related activities such as agricultural mazes, petting farms, outdoor play equipment, etc.
2. For uses permitted by right under the agricultural district, parking facilities may be located on a grass or gravel area for seasonal uses such as road side stands, u-pick operations and agricultural mazes. All parking areas shall be defined by either gravel, cut lawn, or other visible marking.
3. For uses permitted by special use permit, parking may be either gravel or paved as determined by the Planning Commission, based on applicant estimates for seasonal parking and the intensity of the use. Overflow parking areas may be required by the Planning Commission to accommodate seasonal peak demand.
4. All parking areas shall be located in such a manner to avoid traffic hazards associated with entering and exiting the public roadway.
5. Parking areas shall not be located in required side and rear parking setback areas. Parking areas must meet all design, landscape screening and setback requirements set forth in this zoning ordinance.

## **SECTION 25.04 SIGNS**

Seasonal signs may be erected for a limited period of time during the year when retailing activities for a particular farm product is available to the public. Any sign approved shall comply with the Solon Township Sign Ordinance.

## **SECTION 25.05 HOURS OF OPERATION**

The hours of operation will be determined on a case by case, and site by site basis.

**SECTION 25.06 ADDITIONAL REQUIREMENTS**

All uses within this section of the zoning ordinance are required to meet Article 24 (Site Plan Review) and any other relevant sections of the Solon Township Zoning Ordinance.

**6.11. A-1: AGRICULTURAL DISTRICT:**

**6.11.1 INTENT AND PURPOSE:** This District is intended to preserve, enhance, and stabilize areas within the Township which are presently used predominantly for farming purposes or areas which, because of their soil, drainage, or natural flora characteristics, should be preserved for low intensity land uses. It is the further purpose of this District to promote the protection of the existing natural environment, and to preserve the essential characteristics and economical value of these areas as agricultural lands. Agricultural District areas may be subject to noise, chemical spray and other hazards which might normally disrupt a residential environment. It is explicitly the purpose of this zone, therefore, to preserve a suitable working environment for farming operations without conflict with residential and other uses.

**6.11.2 USES PERMITTED BY RIGHT:**

- a. Single-family detached dwellings
- b. Open Space Preservation Developments containing only Single-Family Detached Dwellings: Subject to the provisions of Article XI.
- c. State licensed residential facilities
- d. Family child care homes
- e. Field crop and fruit farming, truck gardening, horticulture, aviaries, hatcheries, apiaries, greenhouses, tree nurseries, and similar agricultural enterprises.
- f. Raising and keeping of small animals, such as poultry, rabbits and goats.
- g. Raising and keeping of livestock, such as cattle, hogs, horses, ponies, sheep, and similar livestock upon a lot having an area not less than ten acres.
- h. Cemeteries: public or private.
- i. Tenant house as part of farm property for full-time farm employees associated with the principal use and subject to the same height and setback requirements as the principal dwelling.
- j. Public areas and public parks such as recreation areas, forest preserves, game refuges, and similar public uses of low-intensity character.
- k. Public and private conservation areas and structures for the conservation of water, soils, open space, forest and wildlife resources.
- l. Accessory uses: Customary accessory uses and buildings incidental to the permitted principal use of the premises.
- m. Farmer's Roadside Stands selling products grown by the owner of the property on which the stand is located, PROVIDED that contiguous space for the parking of customers' vehicles is furnished off the public right-of-way at a ratio of one parking space for each fifteen square feet of roadside stand floor area.

- n. Home Occupations in accord with the requirements of Section 7.7.
- o. Riding Horses: keeping of horses for the use of residents of the property PROVIDED the parcel of land shall contain not less than five acres
- p. Manufactured homes, subject to the following requirements:
  - 1. Each home shall bear a label required by Section 3282.362(c)(2) of the Federal Mobile Home Procedural and Enforcement Regulations.
  - 2. Each home shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with any applicable requirements of the Michigan Mobile Home Commission.
  - 3. Within ten days following installation, all towing mechanisms shall be removed from each home. No home shall have any exposed undercarriage or chassis.
  - 4. Each home shall have a permanent perimeter wall of conventional building materials which shall prevent the entrance of rodents, control heat loss and contribute to aesthetic compatibility with surrounding structures.
  - 5. Each home shall have a full concrete slab within the perimeter wall. This space may be used as a crawl space for storage purposes.
  - 6. All construction and all plumbing, electrical apparatus and insulation within and connected to each home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR Section 3280, as from time to time amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
  - 7. Exterior Finish; Light Reflection: Any materials that are generally acceptable for housing built on the site may be used for exterior finish if applied in such a manner as to be similar in appearance, PROVIDED, however, that reflection from such exterior shall not be greater than from siding coated with clean, white, gloss, exterior enamel.
  - 8. Each home shall be aesthetically compatible in design and appearance with other residences in the adjacent area, particularly with regard to foundation treatment, siding and roofing material and perimeter wall. Compatible materials such as siding, screen wall, etc. may be added to assure aesthetic compatibility with other structures.
  - 9. The compatibility of design and appearance shall be determined by the Acme Township Zoning Administrator. The Acme Township Zoning Administrator shall base his or her decision on the character, design and appearance of residential dwellings in adjacent areas of the Township.

10. To the extent that any of these provisions conflicts with any provision of the Mobile Home Commission Act or its administrative rules as applied to a mobile home in a residential neighborhood, the Mobile Home Commission Act provision will control.

**6.11.3 USES PERMITTED BY SPECIAL USE PERMIT:** The following uses of land and structures may be permitted in by the application for and issuance of a special use permit, subject to Section 9.1.

- a. Campgrounds: Subject also to the requirements of Section 9.4
- b. Institutional Uses: Subject also to the requirements of Section 9.5
- c. Greenhouses and nurseries selling at retail on the premises
- d. Riding Stables and livestock auction yards
- e. Raising of fur bearing animals for profit
- f. Game or hunting preserves operated for profit
- g. Veterinary hospitals, clinics and kennels
- h. Sawmills
- i. Public buildings
- j. Airports and Airfields
- k. Planned Agricultural Units: Subject also to the requirements of Section 9.8.
- l. Special Open Space Uses: Subject also to the requirements of Section 9.16.
- m. Sand or Gravel Pits, Quarries: Subject also to the requirements of Section 9.17.
- n. Farmer's Roadside Market: Subject also to the requirements of Section 9.18.
- o. Food Processing Plants Including Cooling Stations in A-1 Districts: Subject also to the requirements of Section 9.19.
- p. Sewage Treatment and Disposal Installations: Subject also to the requirements of Section 9.15.
- q. Historic Parks: Subject also to the requirements of Section 9.23.
- r. Bed and Breakfast Establishments: Subject also to the requirements of Section 9.24.
- s. Wineries: Subject also to the requirements of Section 9.26
- t. Conversion of a Single-Family Dwelling to a Duplex: Conversion of existing single-family dwellings where such existing single-family dwelling is of



sufficient size to meet minimum floor area requirements of a duplex, and such an expanded capacity is a clear necessity for satisfaction of this particular housing demand, and adequate off-street parking space can be provided.

- u. Single Family Dwelling on Less than Five Acres: A lot with a minimum size of one acre containing a single family dwelling may be created subject to the following requirements:
  1. The single family dwelling existed prior to the enactment of this Ordinance;
  2. The single family dwelling was part of an agricultural use and subsequently, through consolidation of farms or other actions, became no longer necessary as a farm-related residence;
  3. The lands that would otherwise be required to be part of the lot for the single family dwelling would be lost from production should the smaller minimum lot size not be allowed; and
  4. Continue to be actively farmed along with the balance of the farm.
- v. Conservation Development: Subject also to the requirements of Section 9.3.
- w. Structural Appurtenances: As accessory uses, the following kinds of structural appurtenances may be permitted to exceed the height limitations for the principal use: appurtenances to mechanical or structural functions, such as chimney and smoke stacks, water tanks, elevator and stairwell penthouses, ventilators, bulkheads, radio towers, aerials, fire and hose towers and cooling towers. No structural appurtenances permitted hereby shall be used for dwelling purposes.

**6.11.4 RIGHT TO FARM:** As to any specific property on which commercial farm products are produced within the meaning of MCL 286.472(a), if any applicable Generally Accepted Agricultural Management Practice (GAAMP) approved by the Michigan Department of Agriculture conflicts with any provision below, the GAAMP shall control.

## 9.25. WINERIES

### 9.25.1 STATEMENT OF INTENT:

It is the intent of this section to promote local agriculture production by allowing construction of a winery with tasting room and retail sale of winery products in the agricultural district subject to this Ordinance. It is also the intent of this Section to encourage the growing of wine fruit and production of wine as an integral component of the rural and agricultural ambiance of Acme Township, and to maintain the viability of fruit farming through value added processing and direct sales of wine and wine related beverages made from locally grown fruit. This section is intended to allow for additional value-added agricultural business in an attempt to further the Township's goals of preserving the rural character by protecting open spaces, reducing the residential density in the agricultural district and maintaining large contiguous parcels in active agricultural use.

### 9.25.2 OBJECTIVES:

The following objectives shall be considered in reviewing any application for a Winery as defined in this ordinance:

- a. To implement the goals stated in the Acme Township Master Plan
- b. To encourage the continued active agricultural use of large parcels within the rural areas of the township
- c. To reduce the residential density on wineries surrounding existing active farms
- d. To increase the viability of farming by allowing additional value-added opportunities for farmers
- e. To reduce the potential negative impact such a development might have on neighboring residents and farms

### 9.25.3 DEFINITIONS:

- a. Winery parcel: A parcel of land within Acme Township not less than 20 acres in size on which a winery is located.
- b. Wine: The product made by the normal alcoholic fermentation of the juice of grapes or any other fruit or agricultural product with the usual cellar treatment, and containing not more than 21% of alcohol by volume, including fermented fruit juices other than grapes, honey, rhubarb etc., and mixed wine drinks in accordance with 27CFR part 4 as amended.
- c. Wine Related Beverages: Fortified wines, wine brandy, and mixed wine drinks.
- d. Mixed Wine Drink: A drink or similar product containing less than 7% alcohol by volume, consisting of wine and plain, sparkling, carbonated water, and containing any one or more of the following:
  1. Non-alcoholic beverages
  2. Flavoring

3. Coloring materials
  4. Fruit juices
  5. Fruit adjuncts
  6. Sugar
  7. Carbon dioxide
  8. Preservatives
- e. Wine-"Brandy": An alcoholic liquor as defined in 27CFR 5.22(D) as amended.
  - f. Wine-"Fortified": Wine with brandy or wine spirits added as permitted by law.
  - g. Wine Fruit: Any product used to make wine, including but not limited to, grapes, honey and rhubarb.
  - h. Winery: A state licensed facility where agricultural fruit production is maintained, juice and agricultural products are processed into wine, stored in bulk, packaged, and sold at retail or wholesale to the public with or without the use of a wine tasting facility. The site and buildings are used principally for the production of wine and wine related beverages.
  - i. Tasting Room: A room in conjunction with a winery where a) tasting of wine, fruit wines, agricultural wines, and nonalcoholic fruit juices takes place at a charge or no charge to the individual; and b) the retail sales of winery products, incidental retail sales of non-food items, products by the bottle for off-premise consumption, and packaged food items are allowed as provided herein.
  - j. Special Events: Activities not directly related to agricultural or wine production and storage of a type frequently associated with wineries, including but not limited to: wine appreciation/education seminars, non-profit benefit functions, weddings, wine and catered food events, seasonal natural events (i.e. mushroom hunts), vineyard harvest festivals and agricultural research.

#### **9.25.4 LICENSING:**

All Wineries shall be licensed by the U.S. Treasury Department, Alcohol and Tobacco Tax and Trade Bureau and the Michigan Liquor Control Commission, and shall be in compliance with the regulations of the Michigan Liquor Control Commission, the Michigan Department of Agriculture, and the Michigan Department of Environmental Quality or their successors.

#### **9.25.5 PARCEL REQUIREMENTS:**

- a. Operation of a winery requires ownership and/or recorded lease of land within Acme Township of 40 acres, whether contiguous or non-contiguous, or contiguous land comprising a quarter-quarter section containing not less than 30 acres or a government lot containing not less than 30 acres. These

minimum requirements shall be exclusive of access easements. If any portion of the winery or winery parcel is leased, the lease must:

1. Be for a term of at least five years
  2. Provide that in the event of any default that Acme Township must also receive notice of the default, and
  3. Be approved by Acme Township's attorney.
  4. In addition, if any such lease is terminated or lapses for any reason, the operation of the winery must immediately cease unless Acme Township approves a subsequent application for a winery.
- b. The winery may include property used for growing wine fruit or other agricultural products.
  - c. The winery parcel may contain one single family dwelling for the exclusive private residential use of the vintner and family. Such use shall not require special use permit approval. If freestanding, the private single family dwelling may utilize a private driveway in addition to and distinct from the winery entrances provided for in Section 9.26.5j below.
  - d. The winery parcel shall maintain a minimum 10% of its acreage in planted crops, with a minimum of two acres producing wine fruit associated with the wine processing facility, maintained pursuant to generally accepted management practices.
  - e. The total land area covered by buildings and structures used for wine processing, storage and sales shall not exceed two percent of the contiguous winery parcel area, provided no individual building shall be larger than 20,000 square feet.
  - f. All winery buildings used for processing, tasting or other public use shall be set back at least 100 feet from any lot line. Accessory farm buildings may be located in compliance with the standards set forth in Section 6.12.1. Existing buildings that do not meet these standards may only be used if approved by the Township Board after consideration by the Planning Commission. Preservation and use of pre-existing buildings possessing historic significance shall be encouraged. Standard parking lot setback requirements must still be met.
  - g. Tasting rooms may be located on a parcel of land other than the winery parcel. Tasting rooms are permitted in Business Zoning Districts, subject to separate special use permit/ approval under Section 9.1 and the requirements of the specific Zoning District in which the tasting room is proposed to be located.
  - h. The winery parcel shall not qualify as land preserved in an undeveloped state for purposes of Section 9.3, Conservation Development, however, the development rights may be sold in accordance with Acme Township or Michigan regulations.

- i. Wineries shall be permitted EITHER one freestanding sign not to exceed sixteen square feet in size OR two freestanding signs not to exceed nine square feet each in size. Such signage shall not be lit. The number of signs shall be limited to one per winery entrance.
- j. Winery parcels shall be permitted no more than two winery entrances from a public right-of-way. Entrances shall be spaced at least 500 feet apart. Necessary permits shall be acquired from the County Road Commission or MDOT for all driveways.

#### 9.25.6 ADDITIONAL CONDITIONAL USES:

The following uses may be permitted in addition to a wine processing facility or customary agricultural practices provided the conditions of Section 9.26.4 and those additional conditions below are met and the Township Board approves such uses by special use permit:

- a. Retail sales and food service are clearly accessory to production of wine. Indoor retail sales and food service areas shall occupy no more than 25% of the floor area devoted to wine processing and storage, or no more than 4,000 square feet, whichever is less.
  - 1. All food provided for sale must be prepared off site, with the exception of hors d'oeuvres, snacks, and products grown by the winery farming operation. A winery may not operate a food service restaurant, with on-site food preparation; however, a winery may sell wine by the glass as provided by the Michigan Liquor Control Commission regulations.
  - 2. The winery may only sell at retail the wines and wine related beverages it produces, snacks, hors d'oeuvres, boxed picnic meals, cheese, jellies and jams, items related to the winery operation such as t-shirts, mugs, bags and other souvenir items bearing the winery logo, provided these sales remain accessory to the winery operation.
- b. Special Events associated with the promotion of wine usage and education may be permitted on the winery parcel after receiving approval from the Township Board and shall be considered secondary to the winery function. The Township Board may impose reasonable conditions on the applicant including requiring that the applicant provide written evidence of insurance, in amounts that are deemed reasonable by the Township Board or the Township attorney, naming Acme Township as an additional insured. Special Events are subject to the following standards:
  - 1. Special Events above and beyond the retail activities as listed in Section 9.26.6a shall occupy no more than 25% of the floor area devoted to wine processing and storage, or no more than 4,000 square feet, whichever is less. Historically significant buildings larger than 25% of the wine processing and storage floor area or 4,000 square feet which were in existence on the winery parcel prior to commencement of the winery use may be permitted to house special events.

2. Only one special event may be held on the winery parcel on any given day.
3. Off-street parking areas shall meet the following additional standards:
  - a) All off-street parking areas shall be set back 40 feet from all lot lines.
  - b) All exterior lighting shall conform with the current requirements of Section 7.5.4b6, Off-Street Parking Site Development Requirements. Exterior lighting shall only be in use during the hours of operation permitted by item D below.
  - c) All light poles shall be no taller than 20 feet in height.
  - d) All exterior light and lighting fixtures shall be subject to review and approval by Acme Township.
  - e) Parking areas associated with any banquet hall or public gathering area may consist of gravel or another pervious surface, provided it meets the approval of the Township Board.
  - f) The operator must have a written statement from the County Health Department indicating the maximum number of persons that can be accommodated with existing toilet facilities. If allowed by the Township Board, additional portable toilets may be used for special occasions to accommodate guests exceeding the aforementioned number. Any temporary restroom facilities must be removed within two business days of the special event.
  - g) Wine production and agricultural activities may be performed at any hour required in accordance with the Michigan Right to Farm Act. Retail sales and tours must observe the following hours of operation:
    - i. Daylight Savings Time: 9:00 a.m. to 9:00 p.m.
    - ii. Standard Time: 9:00 a.m. to 7:00 p.m.
  - h) Special events may take place between the hours of 9:00 a.m. and 10:00 p.m. Sunday through Thursday and between 9:00 a.m. and 11:00 p.m. Friday through Saturday.
  - i) With the exception of hors d'oeuvres, snacks, or products regularly produced on the premises, food provided for the activity must be prepared off site.

- j) Any music or entertainment provided for the activity must be for background purposes and not a featured item of the activity. Sound amplifiers may be permitted as determined by the Township Board. The Board, in its review of any special event, may require that the noise levels be monitored and limited if necessary.
- k) An "Activity Plan" for additional winery Special Events containing the following information shall be submitted and must be approved by the Township Board upon review by the Planning Commission as a part of the initial Special Use Permit:
  - i. Plan drawn to an appropriate scale for effective interpretation
  - ii. Property boundaries, onsite parking areas, and access roads
  - iii. Existing uses on adjacent properties and distance of dwellings within 500 feet of the property boundary
  - iv. Maximum number of special events to be conducted per calendar year
  - v. Existing and proposed structures with maximum capacity of each building where guests have access as established by the Fire Marshal
  - vi. Location of any temporary toilet facilities that may be required
  - vii. A written description of the planned Special Events providing type of gathering such as wine appreciation, education seminar, wine and catered food event, vineyard harvest festival, non-profit benefit, wedding, seasonal natural event and/or agricultural research and demonstration project.
  - viii. Maximum number of guests for any activity
  - ix. The Vintner will maintain a log of the Special Events occurring at the winery including dates, group identity, times, and number of guests.
  - x. The location and amount of time prior to an event for erection of temporary structures which are allowed and time for removal after the event
  - xi. The vintner shall submit an events calendar to the Planning Commission once per calendar year. The submitted calendar shall be reviewed at a public hearing only if the originally approved maximum

number of events per year has generated nuisance complaints from area residents and/or property owners.

- l) Standards for Review: The Planning Commission shall review the Activity Plan for conformance with the standards of the zoning district in which located and shall verify that the following standards have been satisfied:
- i. One accessory building may be erected for Special Events as mentioned in Section 9.26.6b. The maximum size of the building shall be as determined in Section 8.26.6b1. Additional square footage may be permitted according to item vii below.
  - ii. No outdoor Special Events shall be permitted, except as may be permitted according to item vii below.
  - iii. Any building to be used for special events shall be located at least 100 feet from any property line and at least 200 feet from any pre-existing neighboring residence.
  - iv. The number of people allowed to attend special events shall be limited to the number of people allowed to occupy the structure as regulated by the Fire Marshall, except as may be permitted according to item vii below.
  - v. Adequate parking shall be required per Section 7.5.3. Exceptions for special events, with respect to the surfacing and lighting, may be permitted by the Township Board.
  - vi. Additional conditions for vegetative screening, lighting, odor control, dust control, noise control, traffic, trespass, hours of operation or other impacts may be required by the Township Board upon recommendation by the Planning Commission to mitigate potential impacts on neighboring properties.
  - vii. Additional retail or special event building size may be allowed according to the following conditions:
    - a. For each additional and contiguous ten acres provided above the minimum parcel size, an additional 1,000 square feet of building may be allowed.
    - b. For each additional 100 feet the buildings and parking areas are set back from the property line above the minimum setback,



- an additional 500 square feet of building may be allowed.
- c. If 50 percent or more of the winery property is permanently protected via a conservation easement, an additional 1,000 square feet of building may be allowed.
  - d. For each additional ten percent of the total property that is protected above the fifty in item c. above, an additional 250 square feet building may be allowed.
  - e. Allowance for outdoor events may be considered provided they will not negatively impact neighboring properties. Any and all outdoor events and special events shall be considered and may be approved as part of the Activity Plan.
- m) Any Special Events other than those included in the original approval must have additional review by the Planning Commission. The scope of the additional review will be determined by the Commission at a preliminary hearing with final approval to be granted by the Township Board in the form of a Special Use Permit (SUP) amendment
- c. Bed and Breakfast Establishments may be permitted in conjunction with a winery within the winery parcel. The standards set forth in Section 9.24 for Bed and Breakfast Establishments shall be met. Special Events structures and Bed and Breakfast structures shall be permitted to co-exist on the same winery parcel. Combined, all such structures shall share the maximum permissible area and other requirements set forth in Section 9.26.5e above.