

**CITY OF MT. MORRIS
PLANNING COMMISSION
AGENDA
August 21, 2017
6:30 p.m.**

1. **MEETING CALLED TO ORDER:** Chairman Marc Middleton.
2. **ROLL CALL**
3. **APPROVAL OF MINUTES:** Approval of July 17, 2017 meeting minutes.
4. **COMMUNICATIONS:**
5. **PUBLIC COMMENT:**
6. **OLD BUSINESS:**
 - a. **None.**
7. **NEW BUSINESS:**
 - a. **Fowl Ordinance.**
8. **PUBLIC COMMENT:**
9. **UPDATES:**
10. **PLANNING COMMISSION COMMENTS:**
11. **ADJOURNMENT:**

**PLEASE BE COURTEOUS TO OTHERS
TURN OFF ALL CELL PHONES AND ELECTRONIC DEVICES PRIOR TO THE MEETING.**

Planning Commission
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Page Two.

Chairman Marc Middleton discussed making changes to Section 2. (b) 2. Omitting “and the maximum width shall not exceed 90 percent of the width of the wall or business fence to which said sign is attached”.

PUBLIC COMMENT:

None.

UPDATES:

Mayor Duane Dunckel discussed with the Planning Commission about being in contact with Consumers, about placing a Solar Garden on the vacant land owned by the city.

Planning Commission was all in agreement with going forward with this and are willing to look at rezoning the property to make this happen.

PLANNING COMMISSION COMMENTS:

Mike Clark discussed it being time to change, and revitalizing the city.

Lillian Bigelow discussed hearing a rooster on Beach Street, and status of fire damaged house on Washington Street.

Marc Gauze discussed Planning and Zoning Course information he received.

Chairman Marc Middleton discussed positivity sparking creativity.

ADJOURNMENT:

With no further business, the meeting was adjourned at **7:30 p.m.**

Lillian Bigelow, Secretary

Kristina Somers, City Clerk

ARTICLE I. IN GENERAL**Sec. 10-1. Keeping certain animals prohibited.**

It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the city:

- (1) Any warmblooded, carnivorous or omnivorous, wild or exotic animals, dangerous or undomesticated animals which are not of a species customarily used as an ordinary household pet, but one which would ordinarily be confined in a zoo, or one which would ordinarily be found in the wilderness of this or any other country, or one which otherwise causes a reasonable person to be fearful of bodily harm or property damage (including, but not limited to nonhuman primates, raccoons, skunks, foxes, fowl, and wild and exotic cats; but excluding ferrets and small rodents of varieties used for laboratory purposes).
- (2) Any animal having a poisonous bite.
(Ord. No. 292, § 1, 10-12-87)

Sec. 10-2. Running at large.

It shall be unlawful for any person being the owner of or in possession of any dogs, domestic fowls, horses, cattle, swine, sheep or other animal to permit it to run at large within the city, upon any street, alley, lane or public place in the city or upon the lands or property of any person other than the owner or person in possession of the fowl or animal.
(Ord. No. 273, § 34, 8-12-85)

Sec. 10-3. Manure piles.

It shall be unlawful for any person to keep a manure pile in the city within 200 feet of any building or structure used as a place for human habitation, except the place used for human habitation by the owner or person in possession of the manure pile.
(Ord. No. 273, § 35, 8-12-85)

Sec. 10-4. Sanitary nuisances.

It shall be unlawful for any person within the city to collect or confine any horse, cattle, sheep, hogs, fowl or to confine other domestic animals in pens, stables, coops or otherwise so as to become offensive to his neighbor, or for any person to keep or use a hog pen, stable, hen coop or other enclosure used for confining any domestic animals adjoining to or abutting any lot or parcel of land on which any person resides, or so near to or in such a position that any of the contents of such pen, stable, hen coop or other enclosure, used for the purposes above specified, may be discharged on such lot or parcel of land. The accumulation of such stables, pens, coops or other similar enclosures not prohibited in this chapter, shall be removed therefrom and from the lot or parcel of land on which it is located at least once each week

during the months of March, April, May, June, July, August, September, October and November, and the contents of such places shall be placed in tightly covered boxes or pits or other suitable container or repository.

(Ord. No. 273, § 32, 8-12-85)

Secs. 10-5—10-25. Reserved.

ARTICLE II. DOGS

DIVISION 1. GENERALLY

Sec. 10-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Owner, when applied to the proprietorship of a dog, means every person having a right of property in the dog, and every person who permits the dog to remain in or about the premises occupied by him.

Reasonable control means keeping a dog on a suitable leash, which leash shall be not more than eight feet in length, which leash shall be securely affixed to the dog and in the possession of the owner or custodian or some other person with the permission of the owner or custodian, in cases other than while upon private property (owned by the owner or custodian or, if the private property is not owned by the owner or custodian, with the express permission of the owner of the property), or unless the dog is confined in a closed automobile or shipping receptacle.

(Ord. No. 207, § 1, 4-3-78)

Cross reference—Definitions generally, § 1-2.

Sec. 10-27. Barking or dangerous dogs.

No person shall keep or harbor a dog which by loud or frequent or habitual barking, yelping or howling shall cause a serious annoyance to the neighborhood, or the people passing to and fro upon the street. Yards and/or exercise dog runs shall be kept free of dog droppings and uneaten food, and maintained in a sanitary manner so as not to be a nuisance because of odor or attraction of flies and vermin. No person shall own or harbor a dog that has been bitten by any animal known to be afflicted with rabies. Any person who shall have in his possession a dog which has contracted or is suspected of having contracted rabies or which has been bitten by any animal known to have been afflicted with rabies shall upon demand of the health officer, or any police officer of the city, produce and surrender the dog to the health department or police department of the city to be held for observation and/or treatment; provided, that with the approval of the health department any such dog may be surrendered to a registered veterinarian, or to any approved nonprofit corporation organized for the purpose of sheltering

ARTICLE I. - IN GENERAL

Sec. 5-1. - Squirrels and wild birds.

- (a) It shall be unlawful for any person to pursue, injure, capture, kill or destroy or attempt to injure, capture, kill or destroy any squirrel or wild bird within the city, except where hunting is permitted.
- (b) It shall be unlawful for any person to rob, tear down, injure or destroy the nest of any wild bird within the city.
- (c) The provisions of this section shall not apply to English sparrows, starlings, or the nests thereof.
- (d) Failure to comply this section shall constitute a violation of this section. Every day on which a violation exists shall constitute a separate violation and a separate offense.
- (e) Violation of this section shall be a civil infraction violation, subject to the fines and penalties set forth in the City of Fenton Code of Ordinances.

(Code 1967, § 3-201; Ord. No. 2012-664, § 2, 4-9-12)

Sec. 5-2. - Cruelty to animals prohibited.

No person shall cruelly whip, beat, maltreat, or in any manner torture any animal in the city, whether such animal is owned by himself or another.

(Code 1967, § 3-202)

State Law reference— Cruelty to animals, MCL 750.50 et seq., MSA 28.245 et seq.

Sec. 5-3. - Running at large of livestock and poultry prohibited.

- (a) No person being the owner of, in possession of, or having control of any livestock or poultry shall permit such to run at large upon any alley, street, park or other public place in the city, or upon the land or property of any other person, except as set forth in subsection (b) of this section.
- (b) Any person residing in a detached single-family structure in a single-family residential district in the city may keep hen chickens in compliance with the following standards:
 - (1) A maximum of three chickens are permitted for personal use only and not for any business or commercial use;
 - (2) Roosters are prohibited;
 - (3) Slaughtering is prohibited;
 - (4) Chickens shall be provided, and remain within, at all times, a fully enclosed coop and fenced enclosure, with a maximum area of 300 square feet for both, meeting the standards of section 36-2.09, fences and walls, of this Code;
 - (5) The following coop requirements must be met:

- a. Minimum size of four square feet per chicken;
 - b. Must be fully enclosed, except for the opening leading to additional fenced area (if included) and constructed so as to prevent rats, mice, or other rodents or vermin from being harbored underneath or within the walls of the structure or enclosure;
 - c. Must be clean, dry, odor-free and kept in a neat and sanitary condition and in compliance with all city ordinances;
 - d. The coop may not be located within any side or front yard and may not be any closer than 25 feet from any dwelling on a neighboring property or ten feet from any property line; and
 - e. The structure is subject to standards of Section 36-2.01, Accessory buildings, structures and uses, of this Code except setbacks and maximum size, which shall meet those identified above.
- (6) A sketch plan must be submitted which indicates the location of the coop, along with any associated fencing, all dimensions and the setbacks from the property lines;
- (7) A permit must be obtained annually from the city to ensure continued compliance with the above standards. A permit is valid for only one year and creates no vested right to continue the use or coop. Upon expiration of a permit that is then not renewed or upon rescission, amendment, or revocation of the terms of this subsection (b) of this section 5-3 such that the keeping of chickens allowed by this section 5-3 are no longer permitted, any such activity authorized by this section 5-3 shall no longer be permitted. Failure to remain in compliance with these standards may result in the withdrawal of said permit;
- (8) Notwithstanding the issuance of a permit by the city, private restrictions on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include but are not limited to deed restrictions, condominium master deed restrictions, neighborhood association by-laws, and covenant deeds. A permit issued to a person whose property is subject to private restrictions that prohibit the keeping of chickens is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.

(Code 1967, § 3-203; Ord. No. 2012-664, § 3, 4-9-12; Ord. No. 671, § 1, 9-10-12)

State Law reference— Regulation of animals running at large, MCL 433.11 et seq., MSA 18.789(1) et seq.; livestock running at large, MCL 433.51 et seq., MSA 18.801 et seq.

Sec. 5-4. - Keeping regulations.

- (a) Any person being the owner of, in possession of, or in control of any horse, cow, goat, rabbit, poultry, or any other domesticated animal shall provide and maintain a yard, pen, shelter or building for the confinement of such animals and poultry, and shall keep such within the confines of the yard, pen, shelter or building. No yard, pen, shelter or building shall be provided or maintained which does not humanely provide adequate space to animals or poultry so confined. Such enclosures shall provide not less than 1,500 square footage of ground for a horse, cow or goat, and not less than 25 square footage for rabbits or poultry.

- (b) No person shall keep or harbor any animal other than provided in subsection (a) hereof, except that nothing herein shall prevent a person from keeping household pets under applicable provisions governing same.
- (c) All parts of any yard, pen, shelter or building provided and maintained as hereinbefore provided shall be not less than 200 feet from any building used for dwelling purposes.

(Code 1967, § 3-204)

Sec. 5-5. - Sanitary requirements.

Any person being the owner of, in possession of, or having control of any animal or poultry shall keep the yard, pen, shelter or building provided and maintained for the confinement of such animal or poultry, or used for the housing of such animal or poultry, clean, by removing from the premises all manure and waste matter from which odors may arise or may act as vermin harborage, at least once each day.

(Code 1967, § 3-205)

Sec. 5-6. - Coloring poultry prohibited.

- (a) It shall be unlawful for any person to artificially color, dye, spray or paint any bird or fowl, or sell, offer for sale, or otherwise dispose of any such colored bird or fowl.
- (b) Whenever the provisions of this section require or prohibit an act, failure to comply with such provisions shall constitute a violation of this chapter. Every day on which a violation exists shall constitute a separate violation and a separate offense.
- (c) Violation of this section shall be a civil infraction violation, subject to the fines and penalties set forth in the City of Fenton Code of Ordinances.

(Code 1967, § 3-206; Ord. No. 2012-664, § 4, 4-9-12)

State Law reference— Injuring fowl or game, MCL 752.91, MSA 12.482(1).

Sec. 5-7. - Poisonous substances prohibited.

It shall be unlawful to throw or deposit poisoned meat, or any poison or harmful substance, in any street, alley or public place, or in any private premises within the city, for the purpose of destroying any dog, bird, fowl or other animal.

(Code 1967, § 3-207)

State Law reference— Poisoning of animals, MCL 750.437, MSA 28.692.

Sec. 5-8. - Proper feeding required.

It shall be unlawful to feed any animal unwholesome or unsuitable food, or unclean water to drink, which is likely to cause or produce disease in the animal.

(Code 1967, § 3-208)

State Law reference— Commercial feed law, MCL 287.521 et seq., MSA 12.503(21) et seq.; feeding animals putrid or unwholesome foods, MCL 750.467, MSA 28.735.

Secs. 5-9—5-20. - Reserved.

ORDINANCE NO. 1624

AN ORDINANCE TO AMEND THE ORDINANCE CODE OF THE CITY OF HOLLAND, BEING ORDINANCE NO. 1624 OF THE CITY OF HOLLAND, BY ADDING SECTIONS 4-3(d) and (e) OF CHAPTER 4 OF SAID CODE.

THE CITY OF HOLLAND ORDAINS:

That the Ordinance Code of the City of Holland, Michigan, is hereby amended by amending Sections 4-3 to read as follows:

Section 4-3. - Keeping or housing—Generally.

No person shall keep or house any animal or honey bees within the city except dogs, cats, canaries or other animals or birds which are commonly kept and housed inside dwellings as domestic, household pets, except that:

(a) No person shall keep or house more than two (2) dogs per residential dwelling unit which have attained four (4) months of age.

(b) A person shall be permitted to keep or house cows, horses, mules or fowl if such animals shall be kept or housed not less than one hundred twenty-five (125) feet from any dwelling of any person other than the one upon whose premises they are kept or housed and such animals or fowl are kept or housed on premises used or occupied as one parcel of land regularly devoted to, or zoned for, agricultural purposes and consisting of not less than four (4) acres.

(c) Other than in the AG Agriculture District, no person shall keep honeybees unless they obtain a honeybee permit and comply with the following conditions:

1. The maximum number of hives permitted per property shall be as follows:
 - a. Two (2) hives for properties with a lot that is not greater than 11,000 square feet in area.
 - b. Four (4) hives for properties with a lot area of greater than 11,000 square feet and not greater than 22,000 square feet in area.
 - c. Five (5) hives for properties with a lot area of greater than 22,000 square feet and not greater than 43,450 square feet in area.
 - d. Eight (8) hives for properties with a lot area of greater than 43,450 square feet (1 acre) in area.
 - e. One additional hive is allowed for each additional acre of land.
2. Each hive shall have a maximum size of 20 cubic feet.
3. A flyway barrier at least six (6) feet in height shall shield any part of a property line that is within twenty-five (25) feet of a hive. The flyway barrier shall consist of a wall, fence, dense vegetation or a combination thereof and it shall be positioned to transect

roam outside of the covered or fenced enclosure if within a fully fenced side and/or rear yard and if supervised by a person in the immediate vicinity of the chickens.

5. All covered enclosures or fenced enclosures shall be located in the rear yard, shall be no closer than 5 feet to any property line of an adjacent property, and shall be located no closer than 25 feet to any residential structure on an adjacent property.

6. The total square footage of any covered enclosure and fenced enclosure shall not exceed 80 square feet and shall be a maximum of eight feet in height.

7. All covered enclosures shall be constructed in such a way as to prevent rats, mice, or other rodents from being harbored underneath or within the walls of the enclosure. The enclosure shall be constructed in a workmanlike manner. The coop and pen must be completely enclosed with a top and/or cover.

8. All feed and other items associated with the keeping of chickens likely to attract rats, mice, or other rodents or vermin shall be secured and protected in sealed containers.

9. Egg laying chickens shall be kept in compliance with the Michigan Department of Agriculture Generally Accepted Agricultural and Management Practices for the Care of Farm Animals, as amended, except as otherwise provided in this section.

10. Applications for original and renewal permits shall be submitted to, and permits shall be issued by, the Department of Community and Neighborhood Services. Permits shall be issued within one week if the applicant demonstrates that it meets all conditions of this section.

11. The applicant shall pay the fee required by the fee resolution periodically adopted by the City Council.

12. An initial permit shall be valid for 3 years from the date of issuance. A renewal permit shall be valid for 2 years from the date of issuance.

13. Applications for a permit, renewals, suspensions and revocations shall be handled in the manner provided in Chapter 17 for licenses.

All other provisions of Chapter 39 shall remain in full force and effect.

ORDINANCE ADOPTION DATE: April 2, 2014

ORDINANCE EFFECTIVE DATE: April 23, 2014

MICHIGAN'S RIGHT TO FARM ACT FAQ

Q: What is the Right to Farm Act?

A: The Right to Farm Act is a state law created in 1981. In the past century, people with limited understanding of farming were moving into rural areas. Typical farming conditions (dust, odors, etc.) and activities on nearby farms were unacceptable to new residents and sometimes nuisance suits were filed against the farmer. The Right to Farm Act was created in response to an increase in complaints and lawsuits. The Act calls for the creation of a set of Generally Accepted Agricultural and Management Practices (GAAMPs) and provides an affirmative defense in nuisance lawsuits brought against the farmer by neighbors when the farmer is conforming to GAAMPs or when the farm existed prior to changes in land use in the areas surrounding the farm.

Q: What is a GAAMP?

A: A GAAMP is a Generally Accepted Agricultural and Management Practice that a farmer may voluntarily adopt and, if the practice is followed, the farmer may use the Right to Farm Act as an affirmative defense in a nuisance lawsuit. The Act gives the Michigan Commission of Agriculture and Rural Development the authority to approve GAAMPs.

The Site Selection & Odor Control for New/Expanding Livestock Facilities GAAMP is the only GAAMP required in statute. The requirement was added in 1999 with the first Site Selection & Odor Control for New/Expanding Livestock Facilities GAAMP approved by the Commission of Agriculture in 2000. At that time, the law was established to protect commercial farms in rural settings from nuisance lawsuits by non-farm residents who might object to farm practices or push for zoning ordinance changes to restrict farms or squeeze farms out.

Q: What changes did the Michigan Commission of Agriculture and Rural Development make to the Site Selection & Odor Control for New/Expanding Livestock Facilities GAAMP?

A: In May 2014, the Commission approved the addition of a Category 4 for site selection within the GAAMPs. Category 4 sites, defined by the GAAMPs, are locations that are primarily residential and don't allow agricultural uses by right. Under the Site Selection GAAMP MDARD still will determine whether a site is primarily residential, which by definition are sites with more than 13 non-farm homes within an eighth of a mile of the livestock facility or a non-farm home within 250 feet of the livestock facility.

Q: Why did the Michigan Commission of Agriculture and Rural Development make changes to the Site Selection & Odor Control for New/Expanding Livestock Facilities GAAMP?

A: In recent years, there has been increased interest in having small numbers of livestock in non-rural residential areas. While a number of communities have ordinances allowing for the keeping of livestock in non-rural residential areas, many did not, resulting in increased conflict between municipalities and livestock owners in these primarily residential areas.

The changes clarify those situations when decisions regarding the keeping of farm animals in primarily residential areas should be made by local communities. Sites that are primarily residential – more than 13 non-farm homes within an eighth of a mile of the livestock facility or a non-farm home within 250 feet of the livestock facility – and where zoning does NOT allow agriculture by right are Category 4 sites. For purposes of the Right to Farm Act these areas are not suitable for siting farm animals. However, local communities can decide to allow farm animals under these circumstances. In fact, at least 40 municipalities have ordinances that allow residents to keep backyard poultry and many townships allow for agricultural activity in residential areas.

Q: Do the 2014 changes to the Livestock Siting GAAMP made by the Commission impact people raising food for themselves?

A: No. The Right to Farm Act has always applied and continues to apply to farms which are defined by the Act as 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 (MCL 286.472(a)). However, local communities can decide to allow farm animals under these circumstances. In fact, at least 40 municipalities have ordinances that allow residents to keep backyard poultry and many townships allow for agricultural activity in residential areas.

Q: Do the 2014 changes to the Livestock Siting GAAMP impact agricultural land?

A: No. Owners of land where agricultural activities are allowed will continue to enjoy the same affirmative defense to nuisance lawsuits as they always have, provided they conduct their agricultural activities in conformance with the GAAMPs.

Q: Do the 2014 changes to the Livestock Siting GAAMP impact 4-H animals?

A: Kids with 4-H livestock projects housed on land where agricultural activities are allowed will continue to be exempt from the Site Selection & Odor Control for New/Expanding Livestock Facilities GAAMP unless they keep more than 50 animal units. This has not changed.

Q: Are bees included in the Livestock Siting GAAMP?

A: No. Bees are not considered livestock and are not included in the Site Selection & Odor Control for New/Expanding Livestock Facilities GAAMP. However, bees are included in the Care of Farm Animals GAAMP.

Q: Can local units of government allow farm animals in areas that are not suitable for livestock under the Site Selection GAAMP?

A: Yes. A local unit of government can decide to allow farm animals in those areas that are not suitable for livestock under the Site Selection GAAMP. MDARD supports the expansion of agriculture, whether for personal consumption or for local sale/distribution, as it provides an opportunity for people to be closer to local food sources. The department supports the expansion of urban agriculture and livestock production across the state but has consistently said the expansion of agriculture into urban and suburban settings must be done in a way that makes sense for all community residents, as well as the overall care of farm animals and livestock.

Q: Does the Michigan Department of Agriculture & Rural Development enforce the Right to Farm Act?

A: No. The GAAMPs are a voluntary set of standards which help provide guidelines for using the Right to Farm Act as an affirmative defense in court. Conformance with the GAAMPs is a voluntary action. MDARD has no enforcement authority under the Act. Nuisance protection under the Right to Farm Act is, continues to be, and always has been something that's determined by a judge - not the Commission of Agriculture and Rural Development or MDARD. This has not changed.

Q: Was there public input into the changes to the 2014 Site Selection GAAMP?

A: Yes. The Site Selection committee, chaired by a livestock expert from MSU, worked more than two years on the issue of siting livestock in urban and suburban areas. After the committee made formal recommendations to the Commission of Agriculture and Rural Development, a 16 day public comment period opened and a public input meeting was held to accept public comment. In addition, the Commission took nearly three hours of testimony over the course of three meetings before making a decision. The Commission takes public comment at every meeting.

Q: Does Right to Farm give me the right to farm my land?

No. The Right to Farm Act provides an affirmative defense to nuisance lawsuits. Although the law is called “Right to Farm,” it technically does not give the landowner an entitlement or a “right” to conduct commercial farming on any or all property.