

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.