November 21, 2025

Via Email and First-Class Mail

Oosterhouse Winery, LLC

C/O Joseph M. Infante

99 Monroe Avenue NW, Suite 1200

Grand Rapids, MI 49503

infante@millercanfield.com

Dear Mr. Infante:

Re: Violations of SUP # 118 occurring at 12011 Center Road, Traverse City, MI 49686.

Peninsula Township (the "Township") has been notified that Oosterhouse Winery, LLC ("Bonobo Winery" or "Bonobo") has advertised or hosted several events and activities that violate the Peninsula Township Noise Ordinance ("PTNO"), the Peninsula Township Zoning Ordinance ("PTZO"), and Bonobo's special use permit ("SUP") #118, as amended. If voluntary compliance with Bonobo's SUPs is not achieved within 30 days, the Planning Commission may initiate a review of SUP #118 and, after a public hearing, the Township Board may revoke SUP #118 and its amendment.

According to the information received by the Township, the following activities have taken place or are planned to take place at the above property (the "Property"):

• A private event on Saturday September 20, 2025, which caused severe noise disturbances which neighbors described as disturbing, obnoxious, and egregious;

• A "Tuscan lunch" prepared by chef Mario Batali on August 23, 2025;

• A private event on Friday September 5, 2025;

• The rental of winery facilities for holiday parties;

• The rental of winery facilities for events which will include food prepared by a "full-service kitchen;" and

• The rental of winery facilities for rehearsal dinners and weddings for the 2026 wedding season.

Bonobo Winery is located within the A-1 Agricultural district and is subject to the regulations of Section 6.7 of the PTZO. The above events are not permitted by any section of

the zoning ordinance for the A-1 Agricultural Zoning District, and we have no record that Bonobo was ever granted guest activity use approval via the Township.

Bonobo is subject to SUP #118, as amended, which includes conditions stipulating Bonobo must remain in compliance with the PTZO. Regarding conditions imposed by SUPs, the PTZO states that the "breach of any condition … shall automatically invalidate the permit granted." PTZO § 8.1.3(2). Further, the "Township Board has the authority to revoke any special use permit when, after reasonable warning, the operator of any use permitted under this Section fail[s] to comply with any of the requirements stipulated." PTZO § 8.7.3. Pursuant to this authority, on September 23, 2025, consensus among the Township Board was to initiate an SUP review before the Peninsula Township Planning Commission of SUP #118 to determine compliance with its conditions and with the requirements imposed by the current PTZO.

This letter serves as the notice required under PTZO Section 8.7.3. **Within 30 days of its receipt of this letter, Bonobo must contact the Township and indicate whether it will voluntarily comply with SUP #118, as amended, and cease offering the above events.**

If voluntary compliance is not achieved within 30 days, the Planning Commission may proceed to schedule a public hearing on the alleged violations and make a recommendation to the Township Board on whether Bonobo's SUPs should be revoked. Following this public hearing, and upon receipt of the Planning Commission's recommendation, the Township Board may make a final determination.

An overview of Bonobo's violations related to the review process is provided below, but not limited to such information to the extent the public hearing record develops additional aspects related to Bonobo's compliance with its SUP and the PTZO.

I. BONOBO'S SEPTEMBER 20, 2025, EVENT VIOLATED THE PENINSULA TOWNSHIP NOISE ORDINANCE

On Saturday September 20, 2025, during an event hosted at Bonobo Winery, the Township received numerous complaints regarding loud and continuous noises emanating from the Property. Neighbors reported hearing amplified music starting around 6:30pm continuing until 9:00pm. The neighbors described the noise as "disturbing," "obnoxious," and "egregious." The Township's Code Enforcement Officer noted that the noises could be heard at least one mile away. After driving to the Property to investigate, the officer noticed a sign stating the winery was closed for a special event. The officer further observed the playing of loud music, amplified instruments, and amplified human voices.

The PTNO states, "No person within the Township shall cause a noise disturbance, which is defined as sound created by human activity with or without the use of any device, which by

reason of its volume, intensity, location, or time of day impairs the health, welfare, or peace of another person of normal human sensibilities." PTNO § 102. The Ordinance further describes a "noise disturbance" as the "playing of any … sound reproduction device, or musical instrument in such a manner or at such volume as to be sufficiently audible to unreasonably annoy or disturb the quiet, comfort, or repose of any persons in the vicinity." PTNO §103(A).

Several people spoke with the Township and detailed the disturbance caused by this event. Based on these facts, there is reasonable cause to believe that a violation of the PTNO occurred at Bonobo Winery on September 20, 2025. It is the understanding of the Township that this event constitutes the third noise violation occurring on the Property. Previous violations were observed on September 30, 2023, and September 13, 2024.

As described below in Section III of this letter, noise violations of this kind also constitute a violation of SUP #118 as amended.

II. BONOBO'S IDENTIFIED EVENTS DO NOT FALL WITHIN THE SCOPE OF ITS PRIOR NON-CONFORMING USE

On May 14, 2013, SUP #118 was issued authorizing the Property to be used as a Winery Chateau. Winery Chateaus were previously listed as a lawful use within the A-1 Agricultural district. On December 13, 2022, the Township passed Amendment 201 which removed Winery Chateau's as an allowable use under the PTZO. Under PTZO Section 7.5.1, uses that were lawful prior to the adoption of the PTZO or its amendments may be continued as a non-conforming use. However, the above-listed events would not be lawful under the pre-Amendment 201 PTZO (the "Former PTZO" or "FPTZO"). As a result, such events would not qualify as a non-conforming use and are in violation of the PTZO.

Notably, SUP #118 did not authorize Bonobo to engage in renting Bonobo's facilities for many of the events identified above that appear to include meals served from a full-service kitchen. PTZO § 7.5.1. Further, even if Bonobo was approved via special use permit for guest activity uses, which it is not, present events were only made available to Agricultural Related Groups (allowable under the Former PTZO as a Guest Activity Use and under SUP #118 by reference). The federal district court's July 7, 2025 judgment declared all guest activity provisions of the Former PTZO unconstitutional. As a result, the law treats these provisions as if they never existed. Stanton v. Lloyd Hammond Produce Farms, 400 Mich. 135, 144-45; 253 N.W.2d 114 (1977) ("The general rule is that an unconstitutional statute, though having the form and name of law, is, in reality, no law but is wholly void and ineffective for any purpose since unconstitutionality dates from the time of its enactment and not merely from the date of the decision so branding it, an unconstitutional law, in legal

contemplation, is as inoperative as if it had never been passed."). Thus, Bonobo would not be able to rely on the guest activity use provisions of the Former PTZO as a justification of its present events (had it received this approval), nor is the Township relying on such provisions of the Former PTZO given the ruling of the Court.

Moreover, Bonobo's events are also not allowable under the current PTZO. There is no term or provision authorizing such events to take place within the A-1 Agricultural district. Michigan law is clear that, for zoning ordinances, the "absence of a specifically stated use must be regarded as excluding that use." Pittsfield v. Malcolm, 375 Mich. 135, 142-43; 134 N.W.2d 166 (1965). Because facility rentals and full-service meals are absent from the listed uses in the A-1 district or within the Former PTZO winery chateau provisions, those uses are excluded and are not presently allowable.

If Bonobo wishes to use its property in a manner that is not explicitly allowable in the A-1 Agricultural district, it may request the Zoning Board of Appeals clarify whether the desired use is allowable. PTZO § 6.4.1. Bonobo may also request the PTZO be amended. PTZO § 9.1. At present, however, the rental of Bonobo's facilities and the provision of full-service meals is not allowable within the A-1 district. As noted below, violations of the Winery Chateau provisions of the Former PTZO are also considered violations of SUP #118, as amended. Accordingly, Bonobo must cease its engagement in these activities or risk revocation of SUP #118, as amended, or other similar action.

III. BONOBO'S EVENTS ALSO VIOLATE SUP #118, AS AMENDED

SUP #118 describes the limits of authorization for permissible uses and imposes specific conditions that place constraints on Bonobo's allowable land use. The same is true for SUP #118's amendment which was issued in 2014 to accommodate deviations from Bonobo's approved site plan. SUP #118 explicitly stated that the Township Board's approval was conditioned on Bonobo remaining in compliance with PTZO section 8.1.3 (basis for SUP determinations) and FPTZO Section 8.7.3(10) (site development requirements of Winery Chateaus). SUP #118, p 15, ¶ 1-2. Similar conditions are listed in SUP #118's amendment. 1st Amendment, p 14, ¶ c. Thus, Bonobo must remain in compliance with these PTZO and Former PTZO provisions to maintain compliance with their SUPs.

Regarding noise, the Former PTZO required Winery Chateaus to "not create undue … noise, or other conflict with the surrounding properties. FPTZO § 8.7.3(10)(a). Outdoor activities were required to "be conducted at such hours and in such manner as to not be disruptive to neighboring properties." FPTZO § 8.7.3(10)(r). As noted above, Bonobo's September 20, 2025, outdoor event caused undue noise in such a manner as to disrupt neighboring properties. This was the third violation of this kind in as many years. Each of these noise

violations violated Sections 8.7.3(10)(a) and 8.7.3(10)(r) and accordingly, also violated SUP #118, as amended.

Regarding events and the service of food, it appears Bonobo was not authorized to conduct service under its approvals.

IV. LOOKING FORWARD & OPTIONS FOR COMPLIANCE

The events and activities that have taken place or are planned to take place at Bonobo Winery violate the PTZO, SUP #118 as amended, and, on one occasion, also violated the PTNO. It is the intention of the Township to resolve these violations by encouraging Bonobo Winery's voluntary compliance with the PTZO, PTNO, and the conditions of SUP #118 as amended.

Accordingly, we respectfully request that Bonobo contact the Township within 30 days of receiving this letter and inform the Township that it will comply with its permits and the Township ordinances. Failure to do so may result in the Planning Commission initiating an SUP review and, after a public hearing, the Township Board would make a determination as to an appropriate action related to the record developed before the Planning Commission.

If you have any questions or would like further information or discussion about reaching compliance, please contact the undersigned using the contact information below.

Sincerely,

CHRISTOPHER S. PATTERSON MEMBER

Direct: 517.381.3205

cpatterson@fsbrlaw.com

Attachments:

Social Media Posts Advertising events