



Recent Amendments Give Municipalities More Control Over “Urban” Farming

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Many are familiar with the Michigan Right to Farm Act (“RTFA”), which protects farmers against nuisance actions if their farm complies with the relevant Generally Accepted Agricultural and Management Practices (“GAAMPs”). GAAMPs are voluntary practice standards approved by the Michigan Commission of Agriculture and Rural Development. In recent years, many so-called “urban farmers” – who raise livestock, such as chickens, in primarily residential areas – have also sought protection under the Right to Farm Act, arguing that they are immune from nuisance actions and zoning enforcement actions by municipalities. Urban farming is booming in both metropolitan areas and rural communities.

In April, the Michigan Commission of Agriculture and Rural Development amended the GAAMPs related to site selection (location of farm animals) and created a new “Category 4” for site selection, which covers locations that are primarily residential and don’t allow agricultural uses by right. The revised GAAMPs provide that property is not suitable for livestock if the site is primarily residential (meaning there are 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 if local zoning does not allow agricultural uses by right.

According to the Commission, this amendment means that “urban” farming in a primarily residential area may still be entitled to RTFA protection if farming is permissible under the local zoning ordinance. This change vests greater control in municipalities, who may decide through their zoning ordinance whether to allow livestock in primarily residential areas.

Some farmers who oppose the amendment argue that the Michigan Court of Appeals has long applied the RTFA to all commercial farms, including those zoned residential, and that the revised GAAMPs are contrary to that case law. As of May 14, 2014, nearly 40,000 people

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had signed an online petition urging the Commission to reverse its decision. It is unknown when or whether the Commission will take any action in response to the petition.

If your municipality wishes to revisit its zoning ordinance in light of these critical changes, or if you have questions about the Right to Farm Act or urban farming, please contact one of Foster Swift's municipal attorneys.