

ARTICLE VII: CONDITIONAL USE PERMITS

Section 701 Intent

- A. Certain land uses require a flexible and equitable procedure for properly accommodating those activities within the community. It should be recognized that the forces that influence decisions regarding the nature, magnitude, and location of such types of land use activities are many and varied depending upon functional characteristics, competitive situations and the availability of land. The use of **Conditional Use Permits** allow the City to provide controllable and reasonable flexibility in requirements for certain kinds of uses, but that will, at the same time, maintain adequate provision for the security of the health, safety, convenience and general welfare of the community's inhabitants. It is the intent to maintain adequate provision for the security of the health, safety and welfare of the inhabitants and uses of the zoning district and adjoining districts.
- B. Provision is made in this Ordinance not only for flexibility in individual district regulations, but also for a more detailed consideration of certain specified activities as each may relate to proposed conditions of location, design, size, operation, intensity of use, generation of traffic movements, concentration of population, processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors. Land and structure uses possessing these particularly unique characteristics are designated as Conditional Uses and may be authorized by the issuance of a **Conditional Use Permit** with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare. Conditional uses are those uses of land which are essentially compatible with the uses permitted in a zoning district, but possess characteristics which require individual review and restriction in order to avoid incompatibility with the character of the surrounding area, public services and facilities and adjacent land uses.
- C. With any exception noted, the procedures for obtaining a permit shall apply to all conditional uses indicated in this Ordinance.

Section 702 Application Procedure

- A. Any person having an interest in a property may file an application for a **Conditional Use Permit** for the zoning district in which the land is situated.
- B. Applications shall be submitted through the **Zoning Administrator** to the **Planning Commission**. Each application shall be signed by the applicant or the property owner and accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover costs of processing the application. No part of any fee shall be refundable.
- C. An application shall consist of:

1. Conditional use application form supplied by the **Zoning Administrator**.
 2. Approved **site plan** as specified in Article VI.
 3. A statement with supporting evidence regarding the required findings specified in Section 704.
- D. A public hearing shall be scheduled with notification as required by Section 1103.

Section 703 Conditions and Approvals

- A. The **Planning Commission** shall approve, approve with conditions, or reject the application within 60 days of the public hearing. The **Planning Commission's** action shall be based upon materials received and testimony recorded at the public hearing. The **Planning Commission** shall set forth the reasons for approval, denial, or modification of the **Conditional Use Permit** application. All conditions shall be clearly specified in writing and be consistent with Sections 704 and 1102.
- B. If the development has not commenced within one year from the date of issuance of the **Conditional Use Permit**, the permit shall automatically expire. Upon request of the applicant, the **Planning Commission** may approve an extension for up to one additional year. Unless otherwise specified by the **Planning Commission**, compliance with the conditions shall occur prior to the issuance of a **zoning compliance permit**.
- C. The **Conditional Use Permit** shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by all subsequent owners.
- D. Where a development has essentially changed in nature, extent or character, the **Planning Commission** shall review the permit in relation to the applicable standards and requirements of the Ordinance. Upon finding that there has been a violation in the conditions of the **Conditional Use Permit** the **Planning Commission** may declare the permit null and void in accordance with Section 705 E.

Section 704 General Standards

- B. The **Planning Commission** shall review the particular facts and circumstances of each proposal in terms of the following standards and shall find adequate evidence showing that the proposed use:
1. Will be harmonious with and in accordance with the general policies of the City of Munising or with any specific objectives of any adopted development plans;
 2. Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;

3. Will be designed to preserve the natural and scenic character found in the surrounding **hillside** and the lakeshore;
4. Will not be hazardous or disturbing to existing or future neighboring **uses**;
5. Will not diminish the value of land, **buildings**, or structures in the **district**;
6. Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools, and that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;
7. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
8. Will not involve **uses**, activities, processes, materials and equipment and conditions of operation that will be detrimental to any person, property, or the general welfare by reason of excessive production of noise, traffic, smoke, fumes, glare, odors, or electrical or communication interferences;
9. Will provide for adequate storage of snow and take into account the resulting anticipated drainage patterns;
10. Will protect the public health, safety and general welfare of the community; and
11. Will be consistent with the intent and purpose of the specific zoning **district** in which it is located.

C. The following standards shall be used by the **Planning Commission** when considering **child care facility, group or commercial**:

1. Is located not closer than 1,500 feet to any of the following:
 - i. Another licensed **child care facility, group or commercial**.
 - ii. An **adult foster care small group home** or large group home licensed under the Adult Foster Care Facility Licensing Act, Act No. 218 of the Public Acts of 1979, being Sections 400.701 to 400.737 of the Michigan Compiled Laws.
 - iii. A facility offering substance abuse treatment and rehabilitation service to seven or more people licensed under Article 6 of the Public Health Code, Act No. 368 of the Public Acts of 1978, being Sections 333.6101 to 333.6523 of the Michigan Compiled Laws.

- iv. A community correction center, secured facility, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.
2. Has appropriate fencing for the safety of the children in the child day Care facility as determined by the **Planning Commission**.
 3. Maintains the property consistent with the visible characteristics of the neighborhood.
 4. Does not exceed 16 hours of operation during a 24-hour period. The **Planning Commission** may limit but not prohibit the operation of a child day care facility between the hours of 10:00 p.m. and 6:00 a.m.
 5. Meets regulations, if any, governing signs used by a child day care facility to identify itself.
 6. Meets regulations, if any, requiring a child day care facility operator to provide off-street parking accommodations for his or her employees in accordance with Section 416.
 7. Has sufficient and safe loading areas for buses and private vehicles.
 8. Other standards as amended by state statute.
- C. The following additional standards shall be used by the **Planning Commission** when considering **schools**:
7. A minimum 30 foot **open space** shall be maintained around the perimeter of the school property. Within the **open space** there shall be no placement/construction of **buildings** or playground equipment nor shall it be used for temporary or permanent **vehicle** parking.
 8. Off-street passenger loading zones shall be provided for school buses and private **vehicles**.
- D. The following additional standards shall be used by the **Planning Commission** when considering a **bed and breakfast establishment**:
1. The **use** shall be confined to the **single-family dwelling unit** which is the principal **dwelling unit** on the property. The **dwelling unit** in which the **bed and breakfast establishment** takes place shall be the principal residence of the operator who shall live on the premises during any times the **bed and breakfast establishment** is active.

2. No premises shall be utilized as a **bed and breakfast establishment** unless there are at least two exits to the outdoors. Rooms utilized for sleeping shall have a minimum size of 100 square feet for two occupants, with an additional 30 square feet for each additional occupant to a maximum of four occupants per room.
 3. The minimum size of a **structure** to be used for a **bed and breakfast establishment** shall be 2,000 square feet of **floor area**, exclusive of garages and storage sheds.
 4. Lavatories and bathing facilities shall be available to all persons using any **bed and breakfast establishment**.
 5. The **bed and breakfast establishment** shall provide parking in accordance with the requirements of Section 415.
 6. The impact of a **bed and breakfast establishment** shall be no greater than that of a private home with guests.
- E. The following additional standards shall be used by the **Planning Commission** when considering if an **accessory building** may be used as a **guest house**:
1. No more than two **guest houses** are permitted per lot
 - a. One **guest house** is permitted on a **lot** that is at least two times the minimum **lot area** for applicable **district**.
 - b. Two **guest houses** are permitted on a **lot** that is at least three times the minimum **lot area** for the applicable **district**.
 2. The size of the **guest house** cannot exceed 50% of the **principal structure** or 750 square feet of **floor area**, whichever is greater.
 3. The **guest house** will comply with all **setback** requirements of a **principal structure**.
 4. There is one ingress/egress point from the public road to the **principal dwelling** and **guest house**, however, the **Planning Commission** may authorize separate access points.
 5. The **guest house** is accessory to the **principal single-family dwelling**; there are no charges made for the accommodation provided and shall not be rented or leased.
 6. The **guest house** shall be conventionally constructed on site and shall not be a mobile home unit.

7. The **guest house** will not be used as a year-round dwelling and is **occupied** on an intermittent basis, not to exceed a total of 120 days over a 12-month period by the same person.
- F. The following additional standards shall be used by the **Planning Commission** when considering if an **accessory building** may be used as a **rental house**:
1. No more than two **rental houses** are permitted per lot:
 - a. One **rental house** is permitted on a lot that is at least two times the **minimum lot area** for the applicable **district**.
 - b. Two **rental houses** are permitted on a lot that is at least three times the **minimum lot area** for the applicable **district**.
 2. The minimum size of the **rental house** is 750 square feet of **floor area** and the maximum size is 75% of the **principal structure**.
 3. The **rental house** will comply with all **setback** requirements of a **principal structure**. A **site plan** will show the **rental house** as located on a minimum lot size parcel of that **district** meeting the required set back requirements.
 4. There is one ingress/egress point from the public road to the **principal structure** and **rental houses**. However, the **Planning Commission** may authorize separate access points.
 5. The **rental house** is accessory to a principal single-family dwelling. Fees may be charged for the accommodation provided.
 6. The **rental house** shall be conventionally constructed on site and shall not be a mobile home unit.
- G. The following additional standards shall be used by the **Planning Commission** when considering if a portion of a garage may be used as a **garage apartment**:
1. No more than one garage may house a **garage apartment**.
 2. The maximum area of the **garage apartment** cannot exceed 700 square feet.
 3. At least one additional **parking space** shall be provided for the **garage apartment**.
 4. There is one ingress/egress point from the public road to the **principal structure** and the **garage apartment**.
 5. The **garage apartment** is accessory to the principal single-family dwelling; however, rent may be charged for the accommodation provided.

6. The **garage apartment** may be used as a year-round dwelling.
- H. The following additional standards shall be used by the **Planning Commission** when considering an **accessory apartment**:
 1. It is the intent of the City of Munising to allow for **accessory apartment** units, where, because of advancing age or illness assistance or companionship is needed.
 2. The **accessory apartment** will be a separate **apartment** within the principal **dwelling unit**.
 3. No alteration or conversion of an existing housing unit shall take place without the acquisition of an authorized building permit.
 4. The **accessory apartment** may continue as long as medical or other reasons recited in the **Conditional Use Permit** exist.

Section 705 Conditions and Safeguards

- A. Prior to granting any **Conditional Use Permit**, the **Planning Commission** may impose conditions or limitations upon the establishment, location, construction, maintenance or operation of the **use** authorized by the **Conditional Use Permit** as in its judgement may be necessary for the protection of the public interest. Conditions imposed shall further be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will utilize the land **use** or activity under consideration, residents and landowners immediately adjacent to the proposed land **use** or activity and the community as a whole; and be consistent with the general standards listed in Section 904 of this Ordinance and therefore be necessary to meet the intent and purpose of the regulations contained therein.
- B. Conditions and requirements stated as part of **Conditional Use Permit** authorization shall be a continuing obligation of land holders. The **Zoning Administrator** shall make periodic investigations of developments authorized by **Conditional Use Permit** to determine compliance with all requirements.
- C. A **use** that is clearly temporary in nature may have time limits or periodic reviews attached as conditions of approval.
- D. In authorizing a **Conditional Use Permit**, the **Planning Commission** may require that a cash deposit, certified check, bond or other financial guarantee acceptable to the City, of ample sum be furnished by the developer to insure compliance with such requirements as drives, walks, utilities, parking, landscaping and the like. The financial guarantee shall be deposited with the City Treasurer at the time of issuance of the permit authorizing the **use** or activity. As work progresses, the **Planning Commission** may authorize a

proportional rebate of the financial guarantee upon completion of significant phases or improvements.

- E. Revocation of a **Conditional Use Permit** by the **Planning Commission** shall be made at a public hearing following the same procedures as original approval to the effect that:
 - 1. Such conditions as may have been prescribed in conjunction with the issuance of the original permit included the requirement that the use be discontinued after a specified time period; or
 - 2. Violations of conditions pertaining to the granting of the permit continue to exist more than 30 days after an order to correct has been issued. Violations of any conditions set by the **Planning Commission** are violations of this zoning ordinance.
- F. All plans, specifications and written statements submitted by the applicant as part of the **Conditional Use Permit**, and all changes made by the **Planning Commission** shall become part of the **Conditional Use Permit** issued by the **Planning Commission**.
- G. The standards in Section 704A are basic to all conditional uses as identified in this Ordinance.

Section 706 Appeal

- A. Recourse for a person aggrieved by a decision of the **Planning Commission** in the granting or denial of a **Conditional Use Permit**, other than a **planned unit development**, shall be to the **Zoning Board of Appeals**.