

**Article 5: Approval Procedures**  
**Division 4: Special Land Use**

**Section 550 Intent**

The intent of this Article is to provide standards for special land uses, which are uses that under usual circumstances could be detrimental to other land uses permitted within the same zoning district, but may be permitted because of circumstances unique to the location of the particular use. This Article provides standards for the Planning Commission to determine the appropriateness of a given special land use using factors such as: compatibility with adjacent zoning, location, design, size, intensity of use, impact on traffic operations, potential impact on groundwater, demand on public facilities and services, equipment used, and processes employed. Accordingly, special land uses should not be permitted without consideration of relevant restrictions or conditions being imposed which address their unique characteristics.

**Section 551 Standards for Approval**

- a. Prior to approving a special land use application, the Planning Commission shall require that the following general standards, in addition to the specific standards noted for individual uses in this Division, Section 557-: Special Land Use Specific Requirements, be satisfied. The proposed use or activity shall:
  - 1. Be compatible and in accordance with the goals, objectives, and policies of the City of Munising Comprehensive Plan and promote the intent of the zoning district in which the use is proposed.
  - 2. Be constructed, operated, and maintained so as to be compatible with the existing or intended character of the general vicinity and so as not to change the essential character of the area in which it is proposed.
  - 3. Be served adequately by public facilities and services, such as highways, streets, police and fire protection, drainage structures, water and sewage facilities, and primary and secondary schools.
  - 4. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to the natural environment, public health, safety, or welfare by reason of excessive production of traffic, noise, smoke, odors, or other such nuisance.
  
- b. Properties for which application for special land use approval is made shall also be subject to site plan review in accordance with the requirements of Article 5, Division 1: Site Plan Review. Failure to obtain site plan approval will constitute denial of the approved special land use.

**Section 552 Application Procedure**

- a. Any person owning or having an interest in the subject property may file an application for special land use approval as provided for in this Article.
- b. The following materials shall be submitted to the City at least thirty (30) days prior to the meeting at which the Planning Commission first considers the special land use application:
  - 1. Payment of the required fee.
  - 2. Copies of completed application forms.
  - 3. Copies of a site plan meeting the requirements of Article 5, Division 1: Site Plan Review.
  - 4. Impact assessment if required by the Planning Commission; the analysis shall be carried out by qualified individuals and shall include, but need not be limited to the impact on: natural features, stormwater management, surrounding land uses, public facilities/services, public utilities, and traffic.

**Section 553 Designated Review Authority and Approval Procedure**

- a. The Planning Commission shall have final review authority for all special land uses.
- b. Following the submission of the required application materials the Planning Commission shall hold a public hearing in accordance with the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended and with Article 6 Division 2, Section 613, Public Hearings.
- c. The Planning Commission shall review the application in terms of the requirements of this Division Section 551: Standards for Approval, and shall approve, approve with conditions, or deny the application.

**Section 554 Conditions of Approval**

- a. As part of any special land use approval, the Planning Commission may impose any additional conditions or limitations as, in its judgement, may be necessary for protection of the public interest. Such conditions shall be related to and ensure that the review considerations of this Division Section 551: Standards for Approval, and the applicable specific regulations of Section 557: Special Land Use Specific Requirements, are met.
- b. The approval of a special land use, including conditions made as part of the approval, is attached to the property described as part of the application and not to the owner of such property.
- c. A record of conditions imposed shall be maintained. The conditions shall remain unchanged unless an amendment to the special land use approval is

approved.

- d. A record of the decision of the Planning Commission, the reasons for the decision reached, and any conditions attached to such decision shall be kept and made a part of the minutes of the Planning Commission.
- e. The Zoning Official shall make periodic investigations of developments authorized by special land use approval to ensure continued compliance with all requirements imposed by the Planning Commission and this Article. Noncompliance with the requirements and conditions approved for the special land use shall constitute grounds for the Planning Commission to terminate the approval following a public hearing. Such hearing shall be held in accordance with the procedures used for the original hearing as described in Article 6, Division 2, Section 613, Public Hearings, and as required by this Article.

**Section 555      Validity of Special Land Use Approval**

- a. In cases where actual physical construction of a substantial nature of the structures authorized by a special land use approval has not commenced within one (1) year of issuance, and a written application for extension of the approval has not been filed as provided below, the approval shall automatically become null and void and all rights thereunder shall terminate.
- b. Upon written application filed prior to the termination of the one (1) year period, the Planning Commission may authorize a single extension of the time limit for a further period of not more than one (1) year. Such extension shall only be granted based on evidence from the applicant that the development has a reasonable likelihood of commencing construction within the one (1) year extension.
- c. The granting of a special land use shall allow that particular use to be conforming on the subject property, as long as the standards of this Article are maintained.
- d. Any use for which a special land use approval has been granted and which ceases to continuously operate for a six (6) month period shall be considered abandoned and the special land use approval shall become null and void.
- e. No application for a special land use approval which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of the order of denial, except on the grounds of new evidence or proof of changed conditions relating to all of the reasons noted for the denial found to be valid by the Planning Commission.

**Section 556 Special Land Use Amendments and Expansions**

- a. Amendments. Any person or agency who has been granted a special land use approval shall notify the Zoning Administrator of any proposed amendment to the approved site plan of the special land use. The Zoning Administrator shall determine whether the proposed amendment constitutes a minor or major amendment based on the determination standards for all site plans in accordance with the requirements of Article 5, Division 1, Section 511, Deviations from Approved Site Plan. A major amendment to a special land use approval shall comply with the application and review procedures contained in this Article.
  
- b. Expansion or Change in Use. The expansion, change in activity, reuse, or redevelopment of any use requiring a special land use approval, with an increase of ten percent (10%) or greater, shall require re-submittal in the manner described in this Article. A separate special land use approval shall be required for each use requiring special land use review on a lot, or for any expansions of a special land use on property which has not previously received special land use approval.

**Section 557 Special Land Use Specific Requirements**

- a. The general standards and requirements of this Division, Section 551, Standards for Approval, are basic to all uses authorized by a special land use approval. However, certain special land uses, because of their unique character and potential impacts on the welfare of adjacent properties and the City, require additional specific requirements. Such uses are listed below with specific standards and regulations that must be met in addition to the general standards of this Division, Section 551, Standards for Approval, and other Sections of this Ordinance.
  
- b. The following are special land uses with specific site and/or use standards which are described on the following pages:

**1. Adult Entertainment Regulated Uses**

- a) Intent. In the development and execution of these zoning regulations, it is recognized there are some uses that, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby causing a deleterious effect upon the adjacent areas. The proximity of adult entertainment regulated uses to certain uses considered particularly susceptible to the negative impacts or the concentration of adult uses tends to erode the quality of life, adversely affect

## City of Munising Zoning Ordinance

property values, disrupt business investment, encourage residents and businesses to move or avoid the community, increase crime, and contribute a blighting effect on the surrounding area. This subsection describes the uses regulated and the specific standards needed to ensure that the adverse effects of these uses will not contribute to the deterioration of the surrounding neighborhood, to prevent undesirable concentration of these uses, and to require sufficient spacing from uses considered most susceptible to negative impacts.

- b) Definitions. The following definitions shall apply to adult entertainment regulated uses:
- 1) Specified Anatomical Areas. Portions of the human body defined as follows:
    - i. Less than completely and opaquely covered human genitals, pubic region, buttocks, or female breast below the point immediately above the top of the areola.
    - ii. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
  - 2) Specified Sexual Activities. The explicit display of one (1) or more of the following:
    - i. Human genitals in a state of sexual stimulation or arousal.
    - ii. Acts of human masturbation, sexual intercourse, or sodomy.
    - iii. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.
- c) Uses Regulated. The following uses are regulated by this subsection and defined for purposes of regulating adult entertainment regulated uses:
- 1) Adult Book or Supply Store. An establishment having ten percent (10%) or more of all usable interior, retail, wholesale, or warehouse space devoted to the distribution, display, or storage of books, magazines, and other periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes, and/or novelty items which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein, or an establishment with a segment or Section devoted to the sale or display of such material.
  - 2) Adult Model Studio. Any place where models who display specified anatomical areas as defined herein are present to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons who pay some form of consideration or gratuity. This definition shall not apply to any accredited art school or similar educational institution.
  - 3) Adult Motion Picture Arcade or Mini Motion Picture Theater. Any place where motion picture machines, projectors, or other image producing devices are maintained to show images and where the images displayed depict, describe, or relate to specified sexual activities or specified

## City of Munising Zoning Ordinance

- anatomical areas as defined herein.
- 4) Adult Motion Picture Theater or Adult Live Stage Performing Theater. An enclosed building wherein still or motion pictures, video tapes, or similar material is presented or viewed which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein for observation by patrons therein. Such an establishment is customarily not open to the public generally, but only to one (1) or more classes of the public, excluding any minor by reason of age.
  - 5) Adult Outdoor Motion Picture Theater. A drive-in theater used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein for observation by patrons of the theater. Such establishment is customarily not open to the public generally, but only to one (1) or more classes of the public, excluding any minor by reason of age.
  - 6) Adult Physical Cultural Establishment. Any establishment, club, or business by whatever name designated, which offers or advertises, or is equipped or arranged to provide as part of its services, massages, body rubs, alcohol rubs, physical stimulation, baths, or other similar treatment by any person. An adult physical cultural establishment may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, Turkish bathhouses, and steam baths.
  - 7) The following uses shall not be included within the definition of an adult physical culture establishment:
    - i. Establishments which routinely provide such services by a licensed physician, a licensed chiropractor, a licensed osteopath, a licensed physical therapist, a licensed practical nurse practitioner, a therapeutic massage practitioner as defined in this Ordinance or any other similarly licensed medical professional.
    - ii. Fitness center, as defined in this Ordinance.
    - iii. Electrolysis treatment by a licensed operator of electrolysis equipment.
    - iv. Continuing instruction in martial or performing arts, or in organized athletic activities.
    - v. Hospitals, nursing homes, medical clinics, or medical offices.
    - vi. Barber shops or beauty parlors and salons which offer massages to the scalp, the face, the neck, or shoulders only.
    - vii. Adult photography studios whose principal business does not include the taking of photographs of specified anatomical areas as defined herein.
  - 8) Cabaret. An establishment where live entertainment is provided, presented, permitted or performed, which performances are distinguished or characterized by an emphasis on or relationship to

## City of Munising Zoning Ordinance

specified sexual activities or specified anatomical areas as defined herein for observation by or participation of patrons therein. Also, an establishment which features any of the following: topless dancers and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers, topless and/or bottomless waiters, waitresses and/or employees.

- 9) Adult, Nude, Partially Nude Dancing. A business having as its principal activity the live presentation of or display of nude or partially nude male or female impersonator(s), dancer(s), entertainers(s), waiter(s) or waitress(es), or employee(s) and which may or may not feature the service of food or beverage. For the purpose of this Article, nude or partially nude shall mean having any or all of the specified anatomical areas exposed as defined herein.
- d) Required Spacing. The establishment of the types of adult entertainment regulated uses listed above shall meet all of the following space requirements, with the minimum distance between uses measured horizontally between the nearest points of each property line:
  - 1) One thousand (1,000) feet from:
    - i. Any other adult entertainment regulated use.
    - ii. All churches, convents, temples and similar religious institutions.
    - iii. All public, private or parochial nursery, primary or secondary schools, public parks, public libraries, and hospitals.
    - iv. Any adult or child care facility.
  - 2) Eight hundred (800) feet from:
    - i. Any Single-Family or Multiple-Family Residential District or use.
    - ii. Any pool or billiard hall, concreted amusement center, indoor and outdoor recreation such as miniature golf; dance club catering primarily to teenagers, movie theaters, ice or roller skating rinks, and similar uses generally frequented by children and teenagers.
- e) Special Site Design Standards
  - 1) The maximum size of the building shall be five thousand (5,000) square feet.
  - 2) The building and site shall be designed, constructed, and maintained so material such as a display, decoration, or sign depicting, describing, or relating to specified sexual activities or specified anatomical areas cannot be observed by pedestrians and motorists on a public right-of-way or from an adjacent land use.
  - 3) Adult entertainment regulated uses shall be located within a freestanding building. A shared or common wall structure or shopping center are not considered to be a freestanding building.
  - 4) The color of the building materials shall be reviewed and approved by the Planning Commission.
  - 5) The Planning Commission shall determine the type of buffer zone to be required and maintained along the side and rear lot lines, based on the



## City of Munising Zoning Ordinance

site conditions, views from public streets, and distance and type of surrounding land uses.

- 6) The hours of operation shall be approved by the Planning Commission.
  - 7) Access shall be from an arterial roadway.
  - 8) Any adult entertainment regulated use which allows customers to remain on the premises while viewing live, filmed, or recorded entertainment, or while using or consuming the products or services supplied on the premises shall provide at least one (1) security guard on duty outside the premises, patrolling the grounds and parking areas, at all times while the business is in operation.
- f) **Obscene Material Strictly Prohibited.** The applicant for a special land use for any adult entertainment regulated use shall set forth in his or her application a statement in sufficient detail to describe the material contained in the adult entertainment regulated use. In the event that the Planning Commission finds the material proposed to be within the adult entertainment regulated use to be obscene, then the special land use shall not be granted. For purposes of this subsection, a form of expression shall be classified as obscene if the material meets all of the following criteria:
- 1) The average individual, applying contemporary community standards for the City would find that the material, taken as a whole, appeals to the prurient interest.
  - 2) The material, taken as a whole, lacks serious literary, artistic, political, or scientific value.
  - 3) The material depicts or describes, in a patently offensive way, sexual conduct.
- g) **Waivers.** Upon denial of any application for an adult entertainment regulated use under this Section the applicant may appeal for a waiver of the location provisions above to the Zoning Board of Appeals (ZBA) consistent with the standards set forth below. The ZBA may waive the location provisions set forth in this Section, after all the following findings are made:
- 1) **Compliance with Regulations.** The proposed use will not be contrary to any other provision of these zoning regulations or injurious to nearby properties.
  - 2) **Not Enlarge District.** The proposed use will not enlarge or encourage the development of a "skid row" or "strip".
  - 3) **Consistent with Programs.** The establishment of an additional adult entertainment regulated use will not be contrary to, or interfere with, any program of urban renewal or neighborhood development.
  - 4) **Consistent with Law.** All applicable City, State or Federal laws and regulations will be observed.
  - 5) **Procedure for Waiver.** Prior to granting a waiver of the location restrictions set forth above, a public hearing in accordance with the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended and with Article 6, Division 2, Section 613, Public Hearings, shall be held.

## City of Munising Zoning Ordinance

- h) Conditions of Approval. Prior to the granting of approval for the establishment of any adult entertainment regulated use, the Planning Commission may impose any conditions or limitations upon the establishment, location, construction, maintenance, or operation of the adult entertainment regulated use which is necessary for the protection of the public interest. Any evidence, bond, or other performance and guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.
- i) Specific Penalties. No person operating an adult entertainment regulated use shall permit any person under the age of eighteen (18) to be on the premises of the business as an employee, customer, or otherwise.

### **2. Automobile Gasoline Stations/EV Charging Stations**

- a) There shall be a minimum lot area of one (1) acre and minimum lot width of two hundred fifty (250) feet.
- b) Pump islands shall be a minimum of forty (40) feet from any public right-of-way or lot line. Tanks, propane, and petroleum products shall be set back at least fifteen (15) feet from any lot line.
- c) Overhead canopies shall be setback at least twenty (20) feet from the right-of-way and constructed of materials consistent with the principal building. The proposed clearance of any canopy shall be noted on the site plan. Any signs, logo, or identifying paint scheme shall be in accordance with Article 4, Division 4: Signs. The canopy shall be no higher than the principal building. Lighting in the canopy shall be recessed, fully shielded, and directed downward to prevent off-site glare.
- d) Only one (1) driveway shall be permitted from each street unless the Planning Commission determines additional driveways will be necessary to ensure safe and efficient access to the site.
- e) The intensity of lighting within a site shall meet the requirements of Article 4, Division 5: Lighting Standards.
- f) There shall be no outdoor storage or display of vehicle components and parts, supplies, or equipment except within an area defined on the site plan approved by the Planning Commission and which extends no more than ten (10) feet beyond the building.
- g) The applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the City of Munising Fire Department.
- h) Any use involving maintenance, service, or repair shall also meet the standards for automobile service establishments.
- i) In the event that an automobile service station use has been abandoned or terminated for a period of more than one (1) year, all underground gasoline storage tanks shall be removed from the premises, in accordance with State

## City of Munising Zoning Ordinance

requirements.

### **3. Automobile Repair Establishments (Major Repair)**

- a) All principal and accessory structures shall be set back a minimum of five hundred (500) feet from a Single-Family Residential District.
- b) Prohibited in residential districts.
- c) There shall be a minimum lot frontage on a paved road of two hundred (200) feet.
- d) All maintenance and repair work shall be conducted completely within an enclosed building.
- e) There shall be no outdoor storage or display of vehicle components and parts, materials, commodities for sale, supplies, or equipment.
- f) Storage of wrecked, partially dismantled, or other derelict vehicles, or overnight parking of any vehicle except a tow truck shall be permitted in a designated area. Such area shall be appropriately screened from public view as determined by the Planning Commission.
- g) The applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the City of Munising Fire Department.
- h) Any use with gasoline sales shall also meet the standards for automobile gasoline stations.

### **4. Bed and Breakfast/Inns**

- a) 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.
- b) Parking areas shall be located off-street and shall not be located in any required front yard.
- c) No bed and breakfast inn shall be located closer than three hundred (300) feet to another bed and breakfast inn.
- d) Meals or other services provided on the premises shall only be available to residents, employees, and overnight guests of the inn.
- e) The dwelling unit in which the bed and breakfast establishment is located shall be the principal residence of the operator, and such operator shall live on the premises while the establishment is active. In the case of multiple ownership, at least one owner shall occupy the premises or an adjacent structure while the establishment is active.
- f) No guest of the bed and breakfast inn shall be permitted to reside on the premises for more than thirty (30) consecutive days.
- g) Any dwelling or structure proposed as a bed and breakfast inn must possess

## City of Munising Zoning Ordinance

some historical or architectural significance that makes it a unique location for such an establishment. The exterior appearance of the bed and breakfast shall not be changed from its single-family or historic character.

- h) No more than five (5) rooms shall be available for rent at any time.
- i) 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.
- j) 4. Lavatories and bathing facilities shall be available to all persons using any bed and breakfast establishment.
- k) The impact of a bed and breakfast establishment shall be no greater than that of a private home with guests.

### **5. Campground/RV park**

- a) Access driveways shall be located no less than fifty (50) feet from the centerline of the intersection of any street or any other driveway.
- b) The applicant shall secure all necessary permits from County and State authorities.
- c) Minimum lot area shall be ten (10) acres.
- d) Retail commercial uses may be permitted within the campground provided that the following requirements are met:
  - 1) All commercial uses allowed shall occupy no more than five (5) percent of the lot for building and parking areas.
  - 2) No merchandise for display, sale or lease shall be located in any manner outside the main building.
  - 3) Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any Residential District or across any property line.

### **6. Cemeteries**

- a) Minimum site size shall be 20 acres with a minimum lot width of 330 feet.
- b) There shall be no burial plots within 50 feet of any property line.
- c) No service building shall be located closer than 100 feet to any property line and all service and storage yards shall be screened from view by an obscuring wall or pressure-treated wood fence at least six feet high.
- d) On all sides abutting property in a zoning district that permits residential uses, there shall be a landscaped greenbelt at least 25 feet wide.

**7. Drive-through Window Facilities for Banks, Restaurants or Other Permitted Uses**

- a) Sufficient stacking capacity in accordance with Article 4, Division 1: Off-Street Parking and Loading Standards, for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way.
- b) A bypass lane shall be provided around the stacking spaces.
- c) In addition to parking space requirements, at least three (3) parking spaces shall be provided in close proximity to the exit of the drive-through portion of the operation to allow for customers waiting for delivery of orders.
- d) Only one (1) ingress/egress driveway shall be permitted on any single street. If the use is located on a corner lot access to the drive-through facility shall be only from the street which carries the least amount of daily traffic at the time the application is approved, except that such access from any other street may be shared with an adjoining property.
- e) The Planning Commission may require direct vehicular access connections with adjacent commercial developments where feasible.
- f) Access driveways shall be located no less than one hundred (100) feet from the centerline of the intersection of any street or seventy-five (75) feet from the centerline of any other driveway.
- g) Overhead canopies shall be setback at least twenty (20) feet from the right-of-way and constructed of materials consistent with the principal building. The proposed clearance of any canopy shall be noted on the site plan. The canopy shall be no higher than the principal building.
- h) Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.

**8. Essential Public Service Buildings and Structures**

- a) Such facilities shall not be located closer than one hundred fifty (150) feet from any lot occupied by a residential use or located in a residential district.
- b) Electric or gas regulator equipment and apparatus shall be set back a minimum of fifty (50) feet from any public right-of-way and thirty (30) feet from all other lot lines.
- c) An open-air fence six (6) feet in height shall be constructed for security purposes as determined by the Planning Commission.

**9. Extractive Uses** (*commercial mining of sand, gravel, stone, and similar materials*).

- a) Extractive operations reasonably related to site development for building foundations, parking lot grading and preparation, grading for approved detention or retention ponds and/or intended to accommodate swimming pools, as determined by the zoning administrator, shall not require a special

## City of Munising Zoning Ordinance

land use permit.

- b) All extractive uses shall be established and maintained in accordance with all applicable state statutes.
- c) The applicant shall submit a written statement describing:
  - 1) The equipment to be used and the process involved;
  - 2) A time period by which the excavation shall be completed, including a specified extension period should undue weather conditions arise;
  - 3) Indication of the proposed use of the property following the extraction;
  - 4) An approved reclamation plan;
  - 5) An agreement to conform to the standards of the zoning ordinance;
  - 6) Documentation that demonstrates to the satisfaction of the Planning Commission that the extractive activities will not produce any serious consequences which will adversely affect the natural topography, drainage patterns, water bodies, floodplains, street conditions, nearby property values or use of adjacent land. The Planning Commission may require separate environmental, engineering, traffic impact or marketing studies supporting the need for and minimal consequences of such extraction.
- d) The Planning Commission may require a performance bond or other guarantee to ensure compliance with the standards of this article. In addition, the Planning Commission may require an occupancy permit to allow extractive activities for a time not exceeding one year. The permit may be renewed upon the finding by the zoning administrator that the applicant has complied with the requirements by the city and other appropriate agencies.
- e) In order to ensure sublater support, no machinery shall be erected or maintained within 50 feet of any property line or street right-of-way; or within 200 feet of any residential district.
- f) Stormwater runoff shall be accommodated in a manner approved by the city engineer.
- g) Creation of a lake or pond shall only be permitted where the applicant can demonstrate using engineering and hydrologic studies that the water can be maintained in a nonpolluted condition; and that the applicant meets any requirements by the Michigan Department of Natural Resources.
- h) Truck routing shall be restricted to those streets designed to accommodate truck traffic on a year-round basis. The Planning Commission may restrict access routes to protect the character or surrounding areas and/or street pavement and base conditions.
- i) A reclamation plan shall be provided indicating final grades which are harmonious with surrounding grades and not in excess of five percent unless demonstrably necessary for the proposed reclamation land use. No topsoil shall be removed from the site; topsoil shall be redistributed properly upon completion of the extractive activities, or phase thereof.
- j) The Planning Commission may require that the site be enclosed with a six-foot high security fence with a locking access gate. Such fences shall be

## City of Munising Zoning Ordinance

placed no closer than 50 feet to the top or bottom of any slope.

- k) No slope shall exceed an angle with the horizontal of 45 degrees.
- l) No building or structure shall be erected on the site, except as may be permitted in that zoning district or if approved as a temporary structure for machinery or field office.
- m) Proper measures shall be utilized to minimize the nuisance of noise and dust or airborne materials, as determined by the building administrator, and may include requirements on stockpiling size and/or covering of stockpiles.

### 10. Hostel

- a) Must meet general special land use standards
- b) Must comply with the National Park Services (nps.gov) adopted Hostel Lodging Standards.

### 11. Log Yards

- a) Log yards shall be located on a minimum of five (5) acres.

### 12. Kennels

- a) For kennels housing dogs, the minimum lot size shall be two (2) acres for the first three (3) dogs and an additional one-third (1/3) acre for each one (1) additional dog.
- b) Buildings wherein dogs are kept, dog runs, and/or exercise areas shall not be located closer than one hundred fifty (150) feet to any lot line and two hundred (200) feet from any road right-of-way.
- c) Such facilities shall be subject to other conditions and requirements necessary to ensure against the occurrence of any possible nuisance (i.e., fencing, soundproofing, sanitary requirements).
- d) All enclosures for breeding, rearing, shelter, or other uses in connection with harboring of animals, shall be hard surfaces and provided with proper drains.
- e) A kennel may be permitted as an accessory use to a veterinary office, clinic, or hospital. Such accessory use shall be subject only to the special land use standards of the veterinary use.

### 13. Multiple Family Residential

- a) Multiple Family residential structures are permitted in a single family residential district subject to the following conditions:
  - 1) May not exceed two stories.
  - 2) Shall not be located closer than 150 feet to any one family residential unit; and
  - 3) The multiple family structure shall be screened from the view of adjoining

## City of Munising Zoning Ordinance

one family residential unit.

### **14. Marijuana, Recreational**

- a) Definitions. Words and phrases used herein shall have the definitions as provided for in Initiated Law 1 of 2018, MCL 333.27953 (hereafter, the “Act”) as the same may be amended from time to time, and in the Emergency Rules and Rules adopted by the Marihuana Regulatory Agency, which words and phrases are incorporated herein by reference. :
- 1) “City Commission” shall mean the City Commission of the City of Munising.
  - 2) “City Clerk” shall mean the Munising City Clerk.
  - 3) “LARA” shall mean the Michigan Department of Licensing and Regulatory Affairs.
  - 4) “Person” shall mean an individual, corporation, limited liability company, partnership of any type, trust or other legal entity.
  - 5) “Stakeholder” shall mean a shareholder of a corporation, partner in a partnership, member of a limited liability company or individual of a sole proprietorship.
  - 6) “Zoning Ordinance” shall mean the City of Munising Zoning Ordinance.
  - 7) “Noise Ordinance shall mean the City of Munising Noise Ordinance.
- b) Authorization Of Marihuana Establishments and Fee
- 1) The City hereby authorizes, subject to the issuance of a municipal license by the City Clerk, marihuana establishments, within the boundaries of the City, as are authorized pursuant to Section 6.1. of the Act and the Emergency Rules issued by the Michigan Marihuana Regulatory Agency and any Rules issued that revise or replace those Emergency Rules. The establishments authorized pursuant to this Ordinance are relating to the Act and are not Marihuana Facilities that may be authorized pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
  - 2) A nonrefundable municipal license application fee shall be paid by each marihuana establishment applying to be licensed under this ordinance in the amount of \$5,000.00. The municipal license fee is in addition to any other fees required, including, but not limited to, zoning fees.
  - 3) Should the City grant a marihuana establishment a municipal license, the municipal license application fee shall be considered as the fee imposed for the first year the license is granted. Prior to the expiration of the first year of the license, and as provided in this Ordinance in Section X, the licensee may apply for an extension/renewal of the municipal license for an additional one year period at a nonrefundable fee of not more than \$5,000 as set by resolution of the City Commission to defray the administrative and enforcement costs of the City associated with the operation of the licensed marihuana establishment.
- c) Requirements And Procedure for Issuing Municipal License



## City of Munising Zoning Ordinance

- 1) No person shall operate a marihuana establishment in the City without a valid municipal license issued by the City pursuant to the provisions of this ordinance.
- 2) No person shall be issued a municipal license by the City without first having obtained from the City of Munising Planning Commission a Special land use Permit authorizing the operation of the establishment pursuant to the City of Munising Zoning Ordinance.
  - a) No person who holds elective City office, is a member of or employed by a regulatory body of the City, such as the Planning Commission, or is employed by the City shall have an interest, directly, or indirectly, in a Marihuana Establishment.
  - b) Every applicant for a municipal license to operate a marihuana establishment shall file an application in the City Clerk's office upon a form provided by the City. The application shall include:
    - 1) The appropriate nonrefundable municipal license application fee in the amount determined by the City;
    - 2) If the applicant is an individual, the applicant's name; date of birth; Social Security number; physical address, including residential and any business address; copy of government-issued photo identification; email address; one or more phone numbers, including emergency contact information;
    - 3) If the applicant is not an individual, the names; dates of birth; physical addresses, including residential and any business address; copy of government-issued photo identifications; email address; and one or more phone numbers of each Stakeholder of the applicant, including designation of the highest ranking representative as an emergency contact person; contact information for the emergency contact person; articles of incorporation or organization; assumed name registration; Internal Revenue Service EIN confirmation letter; copy of the operating 3 agreement of the applicant, if a limited liability company; copy of the partnership agreement, if a partnership; names and addresses of the beneficiaries, if a trust, or a copy of the bylaws or shareholder agreement, if a corporation;
    - 4) The name, address, and type or nature of the proposed marihuana establishment;
    - 5) A copy of the Special Land Use Permit issued by the City of Munising Planning Commission;
    - 6) A location area map of the marihuana establishment and surrounding area that identifies the relative locations and the distances (closest property line to the subject marihuana establishment's property line) to the closest real property comprising a public or private kindergarten or any of grades 1 through 12 and establishing the marihuana establishment's

## City of Munising Zoning Ordinance

property line is not closer than 1000 feet from the public or private school's property line;

- 7) A signed acknowledgement that the applicant understands that all matters related to marihuana growing, cultivation, possession, testing, safety compliance and transporting, are currently subject to state and federal laws, rules and regulations, and that the approval or granting of a license hereunder does not exonerate or exculpate the applicant from abiding by the provisions and requirements and penalties associated with those laws, rules, and regulations, or exposure to any penalties associated therewith; and further, the applicant waives and forever releases any claim, demand, action, legal redress, or recourse against the City, its elected and appointed officials, and its employees and agents for any claims, damages, liabilities, causes of action, damages, or attorney fees that the applicant may incur as a result of the violation by the applicant, its Stakeholders and agents of those laws, rules, and regulations;
  - 8) If the applicant has a draft or final Marihuana Establishment Plan, prepared pursuant to Rule 11 of the Emergency Rules or any rule that revises or replaces Rule 11, when the application for a municipal license is filed, a copy of the draft or final Marihuana Establishment Plan.
  - 9) Any other information which may be required by the City Clerk.
- c) Upon an applicant's completion of the above-described form and furnishing of all required information and documentation, the City Clerk shall file the application. The City Clerk shall act to approve or deny an application not later than twenty-one (21) days from the date the completed application is filed. If approved, the City Clerk shall issue 4 the applicant a provisional License and subsequently a final license after issuance by the state of Michigan of an operating license. If the application is denied, the City Clerk shall issue a written notice of denial to the Applicant and mail the same by first class mail to the address for the Applicant provided in the application.
  - d) Should the City Clerk deny an application, the Applicant shall have fourteen (14) days from the mailing of the denial to appeal the denial to the City Manager by filing a notice of appeal with the City Manager's Office. The City Manager may require additional information or act upon the appeal based upon the information supplied to the City Clerk. Should the City Manager reverse the decision of the City Clerk, the City Clerk shall issue a provisional license. Should the City Manager affirm the decision of the City Clerk, the City Manager shall mail a written notice affirming the decision by first class mail to the address for the Applicant provided in the application.
  - e) The Applicant shall have fourteen (14) days from the mailing of a

## City of Munising Zoning Ordinance

decision by the City Manager affirming the decision of the City Clerk to appeal to the City Commission. To appeal the decision of the City Manager the Applicant must file a notice of appeal with the City Clerk. The City Commission shall hear the appeal at its next regular meeting, but not sooner than 7 days from the receipt of the appeal. So long as an appeal of the City Manager's decision affirming the City Clerk's decision is pending (i.e. not acted upon by the City Commission), Applicant's application is also deemed pending.

- f) Maintaining a valid license issued by the state is a condition for the maintenance of a license under this ordinance and continued operation of a marihuana establishment. A provisional license does not authorize operations until a final license is issued, which will only occur upon issuance of the appropriate license by the state of Michigan.
- g) A License issued under this ordinance is not transferable without the prior approval of the City under the same terms and conditions required for the initial issuance of a license under this Ordinance.
- h) Minimum Operational Standards For All Marihuana Establishments Within The City Of Munising. The following minimum standards shall apply to all Marihuana Establishments within the City:
  - 1) Marihuana Establishments shall comply at all times and in all circumstances with the Act and applicable Michigan law, the Emergency Rules issued by the Michigan Regulatory Agency and any rules issued to revise or replace the Emergency Rules, and the general rules of the Department of Licensing and Regulatory Affairs, as they may be amended from time to time. It is the responsibility of the owner to be aware of changes in the Act. The City is not responsible for any failure of the owner to be aware of changes in the Act;
  - 2) All Marihuana Establishments shall comply with applicable requirements of the Zoning Ordinance, including obtaining and maintaining a Special Land Use Permit.
  - 3) Odor and noise from operations shall be controlled as provided in the Zoning Ordinance or in the Noise Ordinance and as may be required under the Special land use Permit issued to the Licensee, and, in any event, shall not be a public nuisance.
- i) Denial And Revocation
  - 1) A License issued under this Ordinance may be revoked after an administrative hearing at which the City Clerk determines that grounds for revocation under this Ordinance exist. Notice of the time and place of the hearing and the grounds for revocation must be given to the holder of a License at least five days prior to the date of the hearing, by first class mail to the address given on the license application; a licensee whose license is the subject of such

## City of Munising Zoning Ordinance

- hearing may present evidence and/or call witnesses at the hearing;
- 2) A License applied for or issued under this Ordinance may be denied or revoked for:
    - i. Any violation of this Ordinance;
    - ii. Any conviction of delivery of a controlled substance to a minor;
    - iii. City Clerk finding of fraud, misrepresentation or the making of a false statement by the Applicant or any stakeholder of the Applicant while engaging in any Activity for which this Ordinance requires a License or in connection with the Application for a License or request to renew a License;
    - iv. Sufficient evidence that the Licensee lacks, or has failed to demonstrate, the requisite professionalism and/or business experience required to assure strict adherence to this ordinance, and the rules and regulations governing the Act;
    - v. The License holder or any of its Stakeholders is in default to the City personally or in connection with any business in which they hold an ownership interest, for failure to pay property taxes, special assessments, fines, fees or other financial obligation;
    - vi. The marihuana establishment is determined by the City to have become a public nuisance; or
    - vii. The Michigan Marijuana Regulatory Agency or LARA has denied, revoked or suspended the applicant's state operating license.
    - viii. The marihuana establishment is not operating, which means open for business on a regular, day to day basis, within eighteen (18) months of the date the Applicant's provisional license is issued by the City Clerk.
  - 3) Should the City Clerk revoke a License, the Licensee shall have fourteen (14) days from the mailing of the written notice of revocation to appeal the decision to the City Manager. The City Manager may require additional information or Act upon the appeal based upon the information supplied to the City Clerk. Should the City Manager reverse the decision of the City Clerk, the City Clerk shall reinstate the license. Should the City Manager affirm the decision of the City Clerk, he/she shall mail by first class mail a written notice affirming the decision to the address for the Licensee contained in the City Clerk's records.
  - 4) Should the City Manager affirm the denial, revocation or suspension of a License by the City Clerk, the Licensee shall have fourteen (14) days from the mailing of the decision of the City Manager to appeal the decision to City Commission, by filing with the City Clerk a written notice of appeal. City Commission shall hear the appeal at its next regularly scheduled meeting, but no sooner than 7 days from the receipt of the appeal.

## City of Munising Zoning Ordinance

- j) License Renewal
  - 1) License shall be valid for one year from the date of issuance, unless revoked as provided by law, including this Ordinance.
  - 2) A valid License may be renewed on an annual basis by submitting a renewal application upon a form provided by the City and payment of the annual license fee. Applications to renew a License shall be filed with the City Clerk at least thirty (30) days prior to the date of its expiration. As long as no changes to the Licensee have occurred and there is no pending request to revoke or suspend a License, and the Licensee has paid the License Renewal Fee, the City Clerk shall renew the License.
- k) Unlawful Activities. Any act, which is a violation of MCL 333.27954, or any amendment thereto, shall be considered a violation of this Ordinance. It is unlawful to consume marihuana in a public place in the city of Munising, except in a location designated by the act of the City Commission for consumption and only when not accessible to persons under 21 years of age. It is unlawful for a marijuana establishment engaged in retail sales or transfers to the public to operate between the hours of 11:00 pm and 9:00am, EDT. *Note: MCL 333.27956(2)(b) allows the City to regulate the “time, place, and manner of operation of marihuana establishments” and I find nothing in the Emergency Rules that specifically address hours of operation so I am of the opinion the City can impose this hours of operation requirement.*
- l) Applicability. The provisions of this Ordinance shall be applicable to all persons and Establishments described herein, including if the operations or Activities associated with a marihuana establishment were established without authorization before the effective date of this ordinance.
- m) Penalties And Enforcement
  - 1) Any person who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine of \$500, plus costs, except that a violation of Section 14 by consuming marihuana in a public place is a civil infraction and subject to the payment of a civil fine of up to \$100.
  - 2) Each day a violation of this Ordinance continues to exist constitutes a separate violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.
  - 3) A violation of this Ordinance is deemed to be a nuisance per se. In addition to any other remedy available at law, the City may bring an Action for an injunction or other process against a Licensee to restrain, prevent, or abate any violation of this Ordinance.

## City of Munising Zoning Ordinance

- 4) This Ordinance may be enforced and administered by the City Clerk, any City of Munising Police Officer, City Manager or such other city official as may be designated from time to time by resolution of the City Commission. Section
- n) Severability. In the event that any one or more Sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining Sections, provisions, phrases or words of this Ordinance.

### **15. Outdoor Display, Sales, and Storage**

- a) A special land use approval may be granted for outdoor display, sales, or storage on the same property as an approved mini-storage use, marina, or other principal use deemed compatible by the Planning Commission.
- b) Stored vehicles or goods on a site without a building, shall meet the setback requirements of the zoning district. If a building is located on the site, no outdoor storage shall be permitted in any required yard of buildings for the district in which the commercial outdoor storage use is located.
- c) If retail activity is associated with the use, an enclosed building of at least five hundred (500) square feet of gross floor area for office and sales use is required.
- d) The storage of soil, sand, mulch, and similar loosely packaged materials shall be contained and covered to prevent it from blowing into adjacent properties. The outdoor storage of fertilizers, pesticides, and other hazardous materials is prohibited.
- e) All stored materials including loosely packaged materials shall not be piled or stacked higher than the height of the obscuring screen. Vehicles, implements, and recreational vehicles may exceed the height of the screen provided that they are set back from the screen a distance equal to their height.
- f) All outdoor storage areas shall be paved with a permanent, durable, and dustless surface and shall be graded and drained to dispose of all surface water.
- g) All loading and truck maneuvering shall be accommodated on-site or on a dedicated easement.
- h) Fencing and lighting for security purposes may be required as determined by the Planning Commission. All lighting shall be shielded from adjacent residential areas in accordance with Article 4, Division 5: Lighting Standards.

### **16. Outdoor Multiplex/Theater**

- a) Commercial outdoor recreation multiplex and theaters may be permitted in certain districts as specified in the ordinance, subject to the following:
  - 1) Minimum lot size of 2 acre.
  - 2) No activities shall take place within 100 feet of an abutting residential district.

## City of Munising Zoning Ordinance

- 3) Use of loudspeaker or public address systems for broadcasting music or continuous announcements shall be prohibited after 10:00 p.m.
- 4) An outdoor lighting plan shall specify the type of fixtures to be used, light intensity, and method of shielding the fixtures so that light does not project onto adjoining properties or interfere with driver visibility on any public or private street or public right-of-way.
- 5) Hours of operation may be restricted by the planning commission in order to reduce the impact of the proposed use on abutting residential areas.

### **17. Restaurants with an Open Front Window**

- a) Trash receptacles shall be provided and maintained on the property.
- b) All signs placed on the building shall be mounted flat against the building; and interior signs visible to patrons through glass or an opening shall not exceed twenty-five percent (25%) of that area. Temporary signs indicating the whether the establishment is “opened” or “closed for the season” shall be permitted.
- c) Outdoor seating may be provided when meeting the requirements of Article 3, Division 2, Section 356, Outdoor Dining.
- d) Months and hours of operation shall be provided as part of the zoning permit or site plan approval.

### **18. Retail Businesses with Adult Novelty Items.**

- a) Intent. Same as Section 557(1).
- b) Definitions.
  - 1) Adult materials: one or a combination of more than one of the following types of materials: adult books and adult novelty items.
  - 2) Adult books: books, magazines, newspapers, advertisements, displays, posters, video tapes, video discs and motion picture films which are characterized by their emphasis on portrayals of human genitals and pubic regions or acts of human masturbation, sexual intercourse, or sodomy.
  - 3) Adult novelty items: devices of simulated human genitals or devices designed for sexual stimulation.
  - 4) Retail Businesses with Adult Novelty Items: See Article 1, Division 2, Definitions (Retail Businesses with Adult Novelty Items).
- a) Requirements and regulated uses. The following requirements and regulated uses are included this subsection and defined for purposes of regulating retail businesses with adult novelty items:
  - 1) Except for transitory movement by customers to the cash register and exiting the store, and except for temporary movement for delivery of inventory into the store and subsequent shelf placement, adult materials shall not be visible to the public, except for within a designated area meeting the following requirements:

## City of Munising Zoning Ordinance

- i. A separate room (hereinafter referred to as adult material room) with a minimum of six (6) foot high walls that screen or substantially limit view by persons in the remaining areas of the store.
- ii. Minors under the age of eighteen (18) years of age shall not be permitted in the adult material room.
- iii. The ceiling in the adult material room shall not be utilized for the display, storage or reflection of any adult materials.
- iv. A bathroom and/or mechanical room adjacent to the adult material room shall at no time be used for the display or storage of adult materials.
- v. Adult materials are prohibited in any location visible to the public outside of a retail business, including any area visible to the public through front windows of a retail business.
- vi. There shall not be any live modeling or similar activity of any sort on the property.
- vii. There shall be only one public entrance to the retail business located at the front of the retail business only, excluding required emergency exits and loading doors.
- viii. Retail businesses with adult novelty items shall be located at least five hundred (500) feet from:
  - i) All places of worship (i.e. churches, convents, temples and similar religious institutions).
  - ii) All public, private or parochial nursery, primary or secondary schools, public parks, public libraries, and hospitals.
  - ii) All child care centers or day care centers.
- ix. Pre-viewing of any adult materials on or from any televisions, audio players, video screens, monitors or other devices in the retail business is prohibited.

### **19. Schools, including Public, Private, and Parochial Elementary, Middle, and High**

- a) At least one (1) street access shall be onto a street classified as a “major street” or “collector street” on the City's Act 51 transportation map.
- b) All play areas adjacent to a Residential District must be fenced.
- c) Bus and automobile drop-off and pickup drives must be provided and shall be separate from, and not conflict with, through travel lanes of any street classified as a “major street “ or “collector street” on the City's Act 51 map.
- d) 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. vehicles.



**20. Solar Energy Collectors**

- a) The installation of any solar panel (on-site or commercial) shall not negatively impact adjacent properties with additional or excessive storm water runoff and/or drainage.
- b) It shall be shown that all panels are adequately secured to the surface upon which they are mounted and that the mounting structure has the capability of supporting the panels.
- c) All panels shall have tempered, non-reflective surfaces.
- d) Solar energy equipment shall be repaired, replaced, or removed within three months of becoming nonfunctional.
- e) Each system shall conform to applicable industry standards including those of the American National Standards Institute (ANSI).
- f) Solar energy collectors shall be installed, maintained, and used only in accordance with the manufacturer's directions. Upon request, a copy of such directions shall be submitted to the building inspector prior to installation. Building inspector approval is required.
- g) Solar energy collectors and installation and uses shall comply with construction code, electrical code, and other state requirements.
- h) On-Site Roof-Mounted Solar Energy Collector
  - 1) Solar energy collectors shall be such a weight to be safely supported by the building. Building inspector approval is required.
  - 2) Solar energy collectors shall be considered part of the building and meet all the required building height and setback requirements.
  - 3) Solar energy collectors shall not project more than 2 feet above highest point of roof or exceed maximum building height limitations allowed in that zoning district.
  - 4) Solar energy collectors shall not be located within 3 feet of any peak, eave, or valley to maintain adequate accessibility.
- i) On-Site Ground-Mounted Solar Energy Collector
  - 1) Ground-mounted solar energy systems are only permitted in the side and rear yards, unless permitted in front yard by issuance of a special land use permit
  - 2) Ground-mounted solar energy systems may not extend into the side-yard or rear setback when oriented at any designed tilt angle.
  - 3) Ground-mounted solar energy collectors shall not exceed 12 feet in height measured from the ground at the base of such equipment. The height of the ground-mounted solar energy collector shall be measured from ground level to the highest point of the solar panel.
  - 4) There shall be a minimum of 25 feet from all-natural features including water courses, wood lots, wetlands, and 100-year floodplains.
  - 5) The total area of ground-mounted solar energy collections shall be included

**City of Munising Zoning Ordinance**

in calculations to determine lot coverage and shall not exceed the maximum lot coverage.

j) Commercial Solar Energy Collector System

1) The commercial solar energy collector system must meet all requirements for solar energy collectors and roof-mounted solar energy collectors. All commercial solar energy collector systems that are ground-mounted shall follow the following requirements:

- i. Ground-mounted solar energy collectors shall not exceed 12 feet in height measured from the ground at the base of such equipment. The height of the ground-mounted solar energy collector shall be measured from ground level to the highest point of the solar panel.
- ii. The total area of ground-mounted solar energy collections shall be included in calculations to determine lot coverage and shall not exceed a maximum lot coverage of 25 percent regardless of the residing zoning district.
- iii. Required to be on lots larger than 2 acres.
- iv. Any commercial solar energy collector system adjoining any residential development shall be provided with a buffer of at least 60 feet along the adjacent property line. Such buffer shall be planted with evergreen and other suitable plantings and used for no other purposes.
- v. A landscaped planting area of at least 60 feet shall also be provided along all street frontage. The Planning Commission may approve to substitute the above described greenbelt for an obscuring fence, wall, and other protective barriers.
- vi. The planting of native ground covers that shall be maintained on site during the operation, until the site is decommissioned.
- vii. Provide verification that adequate infrastructure exists to transport the electricity generated into the larger grid system.
- viii. Power and communication lines running between the banks of the solar panels may be placed above ground, provided the lines are placed no higher than top of the solar panels.
- ix. Power and communication lines to electric substations or interconnections with buildings shall be buried underground.

2) Exception for underground power communication lines:

- i. Where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.
- ii. When required by the utility company.
- iii. Unless otherwise determined by the Planning Commission.

3) The installation of the solar energy collectors shall not disturb the existing topography.

4) A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 90 days. The plan shall include provisions for removal of all structures, foundations, electrical equipment

## City of Munising Zoning Ordinance

and internal or perimeter access roads, restoration of soil and vegetation, and a plan ensuring financial resources will be available to fully decommission the site. The applicant shall submit a financial guarantee in the form of a bond in favor of the City of Munising equal to 125 percent of the costs to meet the requirements of the decommissioning plan. The type of guarantee is subject to the Planning Commission's approval.

### **21. Stone Cutting**

- a) Stone-work and cutting shall be conducted wholly within a completely enclosed building, except for on-site parking of delivery vehicles which are incidental thereto.

**22. Trucking Terminals.** Trucking terminals may be permitted in certain districts, as specified in this ordinance, subject to the following:

- a) The site shall be designed to minimize negative impact on adjacent properties with regard to noise, glare, dust or fumes.
- b) All loading/truck service areas shall be located in compliance with Article 4, Division 1, Loading and Unloading, and shall be designed to minimize negative impacts on adjoining properties.
- c) Site lighting shall be designed and regulated in accordance with Article 4, Division 5 Lighting Standards. All site lighting shall be designed to minimize glare on adjacent properties.
- d) Any proposed maintenance/service facility, including fueling stations, shall be noted on the site plan. The site plan shall detail the location of all underground or above ground storage tanks and storage areas for new or used/waste materials of a hazardous or toxic nature. Method of secondary containment and leak detection, where applicable, shall also be noted on the site plan.
- e) Loudspeakers or public address systems may be permitted subject to the following criteria:
  - 1) Any proposed sound system shall be detailed on the site plan.
  - 2) The facility and proposed sound system shall be designed so as to minimize the level of noise generated and the impact on adjacent properties. Such design alternatives include, but are not limited to, time/volume limitations on the use of sound systems, directional/locational limitations, sound deadening construction materials and landscaping.
- f) The planning commission shall review the special approval in one year to determine if there are any noise-related problems regarding the approved sound system. In reviewing the special approval, the planning commission shall consult the police department and code assistance whose reports, along with any public comments at the review hearing, shall be the basis for any

## City of Munising Zoning Ordinance

subsequent decisions by the planning commission.

- g) If the planning commission finds a noise-related problem, the planning commission may require additional measures be taken by the owner to reduce or eliminate the problem(s) in accordance with subsection X. above.
- h) A six-foot high masonry wall of face brick or poured concrete with brick pattern on both sides, shall be located on all property lines which abut any residential district. In addition, a five-foot wide greenbelt shall be installed adjacent to the required wall. This greenbelt shall be planted in accordance with the following:
  - 1) One three-inch caliper deciduous tree per 30 feet of wall length.
  - 2) Four 24-inch to 30-inch high or wide evergreen or deciduous shrubs per 30 feet of wall length.
  - 3) Groundcover shall be either grass, woodchips, or decorative stone. Weedmat shall be installed under stone or woodchips.

**23. Wind Energy Systems.** Medium and Large Wind Energy Systems shall be permitted as a special use and subject to the following:

- a) Acreage. A minimum of ten (10) acres is needed for the placement of any Medium or Large Wind Energy Facility.
- b) Height and Type.
- c) Only monopole construction shall be permitted.
- d) The total height of a wind energy system tower, including maximum extension of the top of the blade, shall not exceed the maximum height for structures permitted in the zoning district.
- e) Setbacks. A wind energy system tower shall be set back a distance equal to its total height from:
  - 1) Any public road right-of-way, unless written permission is granted by the governmental entity having jurisdiction over the road;
  - 2) Any overhead utility lines, unless written permission is granted by the affected utility;
  - 3) All property lines, unless written permission is granted from the affected landowner or neighbor;
  - 4) Support cables, if provided, shall be anchored to the ground no closer than ten (10) feet to any property line.
- a) Access.
  - 1) All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access;
  - 2) The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of eight (8) feet above the ground;
- b) Speed Controls. All systems shall be equipped with a manual and automatic over speed controls.
- c) Electrical Wires. All electrical wires associated with a wind energy system, other

than those necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, shall be located underground.

- d) Code Compliance. Wind energy systems including towers shall comply with all of the applicable construction codes, electrical codes, and the National Electric Code.
- e) Signal Interference. No Wind Energy facility shall be located in any location where its proximity with existing fixed broadcast, retransmission, or reception antennas for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.
- f) Noise. Audible noise or the sound pressure level from the operation of the Wind Energy Facility shall not exceed fifty (50) dBA, or the ambient sound pressure level plus five (5) dBA, whichever is greater, for more than ten percent (10%) of any hour, measured at any residence, school, hospital, church or public library existing on the date of approval of any

**24. Wireless Communication Facilities and Attached Wireless Communication Facilities**

- a. The City of Munising has a clear and identifiable interest in accommodating the communication needs of residents and businesses and has an interest in regulating the location and of such facilities to retain the integrity of neighborhoods and protect the public health, safety and welfare of the residents.
- b. Recognizing the number of providers authorized to establish and operate wireless communication services and coverage, it is further the purpose and intent of this Section to:
  - 1. Facilitate adequate and efficient provisions for wireless communication facilities;
  - 2. Ensure that wireless communication facilities are situated in appropriate locations and relationship to other land uses, structures and buildings;
  - 3. Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems and other public services and facility needs;
  - 4. Promote the public health, safety and welfare; and,
  - 5. Minimize the adverse impacts of abandonment by requiring the removal of such facilities when they are no longer being used.
- c. It is the policy of City of Munising to minimize the overall number of newly established locations for wireless communication facilities and wireless communication support structures within the City and encourage the use of existing structures for attached wireless communication facilities encourage the cooperative use and co-location of such towers and their associated facilities and structures. All new and modified wireless communication facilities shall be

## City of Munising Zoning Ordinance

- designed and constructed so as to accommodate co-location.
- d. The location of wireless communication facilities and attached wireless communication facilities shall be subject to the following conditions and regulations:
1. A Special Land Use Permit for a new wireless communication facility shall not be granted unless the applicant demonstrates that feasible co-location is not available for the coverage area and capacity needs.
  2. Applicants shall demonstrate a justification for the proposed height of the structures and present an evaluation of alternative designs which might result in lower heights. No part of any wireless communication facility shall be constructed, located, or maintained at any time on or upon any required setback area for the district in which it is located.
  3. The site shall have legal documented access to a public road.
  4. All support structures must be set back from all lot lines a distance equal to its height. Support structures located near a bluffline must be located back from the bluff edge a distance of two times the height of the structure.
  5. Where an attached wireless communication facility is proposed on the roof of a building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building.
  6. Equipment enclosure may be located within the principal building or may be in an accessory building. If the proposed building is an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks.
  7. A wireless communication facility may be of design, such as steeple, bell tower, or the form of which is compatible with the existing character of the proposed site, neighborhood and general area, as approved by the Planning Commission.
  8. All support structures must be certified by a professional engineer licensed in Michigan, that the structural design will withstand wind speeds and icing conditions under the worst conditions experienced in the area. All support structures must meet the standards of the Federal Aviation Administration, Federal Communication Commission, State of Michigan and must be certified by a registered, professional engineer under the laws of the State of Michigan to meet or exceed the Telecommunications Industry Association/Electronic Industry Association (TIA/EIA) standards in accordance with TIA/EIA-222-F.
  9. Wireless communication facility shall not be artificially lighted, except as required by the Federal Aviation Administration.
  10. There shall be no display on the wireless communication facility advertising or identification of any kind to be visible from the ground or other structures, except as required for emergency purposes.
  11. Fencing shall be provided for the protection of the support structure and security from children and unauthorized persons who may access the facilities.

## City of Munising Zoning Ordinance

12. Landscaping shall provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure.
13. The operator shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions. The wireless communication facility shall be located and operated so that they do not interfere with radio, television, audio, video, electronic, microwave or other reception in nearby areas.
14. As a condition of every approval of a wireless communication facility, adequate provisions shall be made for the removal of all wireless communication facilities within six months of being abandoned by all users. Following complete demolition and removal of the structure, the premises shall be restored to an acceptable condition as reasonably determined by the Zoning Administrator. The applicant shall provide a performance bond, issued by an acceptable bonding company authorized to do business in the State of Michigan, for the removal of the wireless communication facilities and restoration of the site
  
15. A maintenance plan and any applicable maintenance agreement shall be incorporated as part of the Special Land Use Permit. The maintenance agreement shall indicate measures to ensure the site will be maintained in a neat and orderly fashion and the facility is preserved in a safe condition. The applicant is responsible for preparing the maintenance plan and agreement for review by the Planning Commission.