

Uses	Minimum Required Parking spaces
Group/ Commercial child day care facility, adult foster care	1 per employee plus two loading and unloading site
Financial institutions	1 per 150 square feet of floor area , plus 3 stacking spaces for each drive-up window
Hospital (in patient services)	2 per each bed
Funeral home	10 per each parlor room
Laundromat	1 per every 3 washers
Medical and dental clinic, out-patient services Veterinary clinic	3 per exam room or chair
Mini storage warehouse	1 parking/ loading space per unit
Other service establishments	1 per 150 square feet of usable floor area
Repair shops; plumber, electrician, decorator, etc showroom	1 per 500 square feet of usable floor area
School, public or private (includes auditorium as accessory use), technical, trade vocational or business	1 per each employee plus 1 per every 5 driving age students

Section 416 Payment in Lieu of Off-Street Parking

- A. It is the policy of the City of Munising that off-street parking as required by Section 416 shall be required to the maximum extent possible. The City recognizes that owing to the small **lots** found in the City and existing development patterns, new development may not be able to secure sufficient property to meet the minimum requirements. Subject to the approval of the **Zoning Board of Appeals**, all or part of the required off-street parking in the D, T, and LC Districts may be waived subject to the applicants election to contribute a one-time predevelopment fee to the City in lieu of the number of spaces waived. Such fee shall be established by resolution of the City Commission, and shall be based on the number of spaces waived.
- B. The City of Munising Alternative Parking Fund is established for the sole purpose of assuring that adequate off-street parking areas in the D, T and LC Districts are adequately satisfied. Fees paid in accordance with Section 416A shall be deposited into this fund. In order to accomplish this objective, expenditures from this fund shall be restricted to the purchase of property and physical improvements to provide for additional off-street parking within areas zoned as D, T or LC.
- C. The funds will be managed and maintained as a separate account by the City Treasurer. The fund will be the repository of contributions generated under this section. The fund may be augmented by transfers from federal, state, municipal and private sources.

Expenditures from the fund will be made by the City Commission according to appropriation procedures as specified in the City charter and upon recommendations of the **Planning Commission**.

- D. The **Zoning Board of Appeals** may allow for the contribution to the fund only if the applicant can demonstrate by clear and convincing evidence that (1) off-site parking will be impossible or constitute an undue hardship, or (2) a contribution to the fund under the particular circumstances of the application will be more beneficial to the City. The contribution to the fund, if allowed, shall represent the smallest amount of a **variance** from the requirements of off-street parking that will afford relief. Such contribution shall be deemed a payment in lieu of providing off-street parking and shall not be deemed an impact fee or exaction.
- E. The amount of the predevelopment contribution will be determined and adjusted periodically as needed by the City Commission upon the recommendation of the **Zoning Administrator** or upon its own motion.
- F. It is clearly understood that the off-street parking areas to be developed by the City may not directly benefit the applicants but will benefit the community at large. There shall be no time limit established by when the City must expend funds in the Alternative Parking Fund.

Section 417 Off-Street Parking Space Layout, Standards, Construction and Maintenance

- A. Wherever the off-street parking requirements in Section 416 require the building of an off-street parking facility, such **off street parking lots** shall be laid out, constructed and maintained in accordance with the following standards and regulations:
 - 1. No **parking lot** shall be constructed unless and until a **zoning compliance permit** is issued. Applications for a permit shall be submitted with two copies of plans for the development.
 - 2. Adequate ingress and egress to the **parking lot** shall be provided and shall receive the review and approval of the **Zoning Administrator** in order to provide for the greatest possible public safety and welfare. Such necessary directional signs and controls as required shall be established and maintained by the owner or lessee of the **parking lot**.
 - 3. All spaces shall be provided adequate access by means of maneuvering lanes.
 - 4. Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements:

PARKING PATTERN	MANEUVERING LANE WIDTH	PARKING SPACE WIDTH	PARKING SPACE LENGTH	TOTAL WIDTH OF ONE TIER OF SPACES PLUS MANEUVERING	TOTAL WIDTH OF TWO TIERS OF SPACES PLUS MANEUVERING
75E to 90E	20 ft.	9 ft.	20 ft.	40 ft.	60 ft.
54E to 74E	15 ft.	8 ft. 6 in.	20 ft.	36 ft. 6 in.	58 ft.
30E to 53E	12 ft.	8 ft. 6 in.	20 ft.	32 ft.	52 ft.

5. All maneuvering lane widths shall require one-way traffic movement, with the exception of the 90E pattern where two-way movement may be permitted.

Section 418 Off-Street Loading and Unloading

- A. On the same premises with every **building, structure** or part thereof, involving the receipt or distribution of **vehicles** or materials or merchandise, there shall be provided and maintained on the **lot**, adequate space for standing, loading and unloading in order to avoid undue interference with public **use** of dedicated **streets** or **alleys**.

Section 419 Landscaping Regulations

- A. Whenever a **yard** or open area is created, the area shall be landscaped within six months from the date of a certificate of occupancy or **Conditional Use Permit**, depending upon seasonal conditions, and shall be reasonably maintained.
- B. Landscaping shall include natural ground covering material of sufficient density to prevent the washing, blowing and shifting of soil.
- C. Off-street parking areas with the capacity of 50 or more **vehicles** shall include a minimum landscaped area equal to 18 square feet for each **vehicle** parking. Landscaped areas shall be kept continuously planted with living vegetation. The landscaped area may be located at the perimeter of the parking area, as separate areas within the parking area, or in combination at the discretion of the developer. If the design includes separate areas, each area must contain at least one tree to be maintained in a healthy condition and

pruned to remove dead wood. All plant materials shall not create a hazard to drivers or pedestrians.

Section 420 Required Screening

- A. A planting **screen** or a six-foot fence, whether it is an opaque, wooden fence or chain link fence with interwoven slats, or a masonry wall of sufficient length and height shall be required at a **recycling drop-center**, trash collection site, **salvage yard**, or **recycling center** to interfere with the view from the adjoining property, except where the view is blocked by a change in **grade** or other natural or man-made features. Within the Lake Superior Shoreline Protection Overlay District, a four foot fence or planting **screen** will be required.
- B. Where a **service entrance** in the D or T District is located within 50 feet of any residential property either a six-foot fence or a planting **screen** no less than six feet is required.

Section 421 Planting Screens

- A. Any person desiring to build or cause to be built a planting **screen** upon property shall first apply to the **Zoning Administrator** for a fence/planting **screen** permit. The fence/planting **screen** permit application shall contain information, including drawings required for the determination of whether the erection of the planting **screen** is consistent with the provisions of this Ordinance. A fee shall be paid at the time of application.
- B. Whenever a **greenbelt** or planting is required by this Ordinance, it shall be planted within six months from the date of issuance of a certificate of occupancy or **Conditional Use Permit** (depending upon seasonable conditions). The **greenbelt** or planting shall be reasonably maintained with permanent plant materials to provide a **screen** to **abutting** properties. A **zoning compliance permit** may be revoked, after 30 days written notice is sent to the person assessed for taxes on the affected **lot** or to the occupant, whenever the plants are not maintained as required by this Ordinance.
- C. No planting **screen** shall be located on any **street** or alley corner which would obscure the vision of drivers using the **streets** or conflict with traffic control signals at the intersections of any **street** or **alley**. No planting **screen** shall obstruct the vision of drivers at any driveway, **parking lot** or other route providing ingress and egress to any premises. Clear vision shall be maintained at no less than 3.5 feet from the **grade** of the **street** or alley for a continuous length of 15 feet from the curb or shoulder of the intersecting **street** or **alley**.
- D. All planting **screens** required by this Ordinance shall consist of plants, at least 30 inches high when planted, maintained in a healthy condition and so pruned as to provide maximum opacity from the ground to a height of six feet.

- E. The plant materials in the recommended list below may be used or a **resource professional** may be employed by the applicant to determine alternative plant materials based on soil and drainage conditions.
- F. Plant materials shall be spaced according to the following requirements:
1. Plant materials shall not be closer than the mature width of the plant from the property line.
 2. Where planting materials are planted in two or more rows, the plant materials should be staggered in rows.
 3. Evergreen trees should be planted at 8'-10' spacing.
 4. Narrow evergreens should be planted not more than three feet on centers.
 5. Deciduous trees shall be planted at 10'-12' spacing.
 6. Tree like shrubs should be planted not more than 8'-10' on centers.
 7. Large deciduous shrubs should be planted 6'-8' on centers.
 8. A planting scheme provided by a **resource professional** may be used in the alternative. The planting scheme must provide for adequate soil erosion control and adequate **screening**.
- G. If a **resource professional** is not used, the following plant materials are recommended:

TREE LIKE SHRUBS:

Acer spicatum - Mountain maple
Cornus alternifolia - Alternate leaved dogwood
Sorbus americana - Mountain Ash
Sorbus decora - Mountain Ash
Prunus virginiana - Chokecherry
Prunus pensylvanica - Pincherry
Crataegus crus-galli - Cockspur torn
Crataegus chrysoarpa - Hawthorn
Coryllus cornuta - Beaked hazel
Alnus rugosa - Speckled alder
Amelanchier species - Juneberry

LARGE DECIDUOUS SHRUBS

Nemopanthus mucronata - Mountain holly
Dirca palustris - Leatherwood
Shepherdia canadensis - Buffalo berry
Cornus rugosa - Round leaved dogwood
Cornus stolonifera - Red osier
Sambucus canadensis - American elderberry
Sambucus pubeas - Red Elderberry
Viburnum cassinoides - Wild raisin
Viburnum lentago - Nannyberry
Viburnum trilobum - High-bush cranberry

Ilex verticillata - Winterberry
Rhus typhina - Staghorn sumach
Rhus glabra - Smooth sumach
Physocarpus opulifolius - Ninebark
Myrica gale - Sweet gale

EVERGREEN TREES

Thuja occidentalis - Northern white-cedar
Picea glauca - White spruce
Pinus strobus - Eastern white pine; northern white pine
Pinus resinosa - Red pine
Larix laricina - Tamarack; Eastern larch

- H. It is the responsibility of the applicant to determine that the plant materials will survive in the soil and drainage conditions where planted.

Section 422 Fence Regulations

- A. Any person desiring to build or cause to be built a fence upon property shall first apply to the **Zoning Administrator** for a fence/planting **screen** permit. The permit application shall contain information, including drawings required for the determination of whether the erection of the fence is consistent with the provisions of this Ordinance. A fee shall be paid at the time of application.
- B. The following requirements shall apply:
1. Open constructed fences shall not exceed four feet or solid constructed fences shall not exceed three feet in height within the **front yard setback**.
 2. The maximum height of fences located in the rear or **side yard setback** shall be six feet without restriction on open or closed construction.
 3. Fences located in the **rear yard** on the **lot** line or within four feet thereof may be built to a height of six feet.
 4. **Natural fences** are permitted to a maximum height of four feet in the **front yard setback** and six feet in the rear and side **setback** areas.
 5. All fences must be located at least six inches from the property line of the person, firm or corporation constructing the fence, unless a written agreement stipulates that a fence may be constructed on the property line along with maintenance arrangements.

6. No fence shall be constructed or placed upon any property within 10 feet of the curb or shoulder of a **street** or alley where there is no public sidewalk. A fence shall be placed at least six inches from the inside the sidewalk line.
 7. The finished side of the fence shall be located as the exterior side of the fence, unless otherwise provided for in an agreement between **abutting** property owners.
 8. No fence shall be located on any **street** or alley corner which would obscure the vision of drivers using the **streets** or conflict with traffic control signals at the intersections of any **street** or **alley**. Clear vision shall be maintained at no less than 3.5 feet from the **grade** of the **street** or **alley** for a continuous length of 15 feet from the curb or shoulder of the intersecting **street** or alley. No fence shall obstruct the vision of drivers at any driveway, **parking lot** or other route providing ingress and egress to any premises.
 9. Fences shall be constructed to posts sunk in the soil at least three feet or at least 18 inches into concrete.
- C. A permit for the erection of a fence for protective or security measures shall be granted only after a demonstration of the need for such a fence. Application for such fences shall be presented to the **Planning Commission** for approval or denial.
- A. Fences must be maintained so not to endanger life or property. The use of barbed wire is prohibited. No fence shall be constructed or maintained in such a fashion that it is charged or connected with an electrical current in such a manner as to transmit the electrical current to person, animals or things which intentionally or unintentionally might come in contact with it. Any fence which, through lack of repair, type of construction or otherwise imperils life or property, shall be deemed a **nuisance**. The **Zoning Administrator** shall notify the owner of the property on which the fence is located of the existence of the **nuisance** and require the **nuisance** be abated within six days of receiving such a notice.

Section 423 Garage Sale

- A. **Garage sale** at residences are allowed a maximum of three occurrences per calendar year in all zoning **districts**; each occurrence shall not exceed four consecutive days. **Garage sale** is not considered to be a **home occupation**.

Section 424 Temporary Sales Stand

- A. A **temporary sales stand** is permitted in the D, C, T, and LC Districts. A temporary sales stand, other than those under the auspices of a community or charitable organization or in connection with a community or charitable event or activity, shall comply with the following regulations:
1. One stand per parcel.

2. The stand to be operated during daylight hours only.
 3. The maximum total **floor area** of the stand is 320 square feet.
 4. Off-street parking shall be provided for a minimum of four **vehicles**.
 5. The stand must be located a minimum of five feet from the road right-of-way.
 6. The **temporary sales stand** is for a maximum of 90 days within a calendar year.
 7. The stand must be removed within 14 days of ceasing operations.
- B. **Temporary sales stand** operated under the auspices of a community or charitable organization or in connection with a community or charitable event or activity shall operate for a maximum of seven consecutive days.
- C. Other than those operated under the auspices of a community or charitable organization or in connection with a community or charitable event or activity, a permit shall be obtained from and payment of a fee must be paid to the city prior to operating a **temporary sales stand**.

Section 425 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**. It is the City's interest, to the extent reasonable, to

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 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 **Conditional 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.
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 **Conditional 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**.
16. Conditions and safeguards as identified in Section 705 will be applicable to **Conditional Use Permits** granted for **wireless communication facilities** and **attached wireless communication facilities**.

ARTICLE V: NONCONFORMING USES AND STRUCTURES

Section 501 Intent

- A. **Nonconforming uses** and **structures** are those which do not conform to a provision or requirement of this Ordinance but were lawfully established prior to the time of its applicability. It is recognized that those nonconformities which adversely affect the orderly development and the value of nearby property are not permitted to continue without restriction.
- B. The zoning regulations established by the Ordinance are designed to guide the future **use** of and in the City of Munising by encouraging appropriate groupings of **compatible** and related **uses** to promote and protect the public health, safety and general welfare.
- C. The continued existence of nonconformities is frequently inconsistent with the purpose for which these regulations were established. It is the purpose of this Ordinance to eliminate **nonconforming uses** and **structures** as permitted by law without payment of compensation, but not to create an undue hardship to the property owner.
- D. Any **use** or **structure** created in violation of any preceding City of Munising Zoning Ordinance remains a violation unless the **use** or **structure** is in compliance with the present zoning ordinance.
- E. Where, at the effective date of adoption of this Ordinance, a lawful **use** of land exists that is no longer permissible under the terms of this Ordinance as enacted or amended, such **use** may be continued, so long as it remains otherwise lawful, subject to the provisions of this Article.

Section 502 Provisions for Continued Use of a Non Conforming Structure or Use

- A. A **nonconforming structure** may be enlarged to occupy an area no greater than 110% of its gross **floor area** at the effective date of adoption of this Ordinance or amendment without the approval of the **Planning Commission**.
- B. If a **nonconforming structure** is damaged by fire or other casualty and such damage is less than the State Equalized Value of such property, reconstruction or repair may proceed without the approval of the **Planning Commission**.
- C. If damage caused by fire or other casualty to a **nonconforming structure** equals or exceeds the State Equalized Value of such property, reconstruction or repair to the **structure** is not permitted unless the **Planning Commission** authorizes the continuation of the **nonconforming structure**. A written application for such authorization must be filed with the **Planning Commission** within six months of the occurrence of the damage.

- D. Structural alterations to the interior of a **nonconforming structure** are permitted without the approval of the **Planning Commission**.
- E. Structural **alterations** to the exterior of a **nonconforming structure** as required by local, state or federal laws or regulations are permitted without the approval of the **Planning Commission**.
- F. A **nonconforming use** or **structure** may be moved in whole or in part to any other portion of the **lot** or parcel **occupied** by such **use** or **structure** subject to the specific approval of the **Planning Commission**.
- G. A **nonconforming use** or **structure** may be changed to another **nonconforming use** subject to specific approval of the **Planning Commission**. Before granting the approval, the **Planning Commission** shall determine that such change in **use** will have a less harmful effect on neighboring properties than the existing nonconforming **use**.
- H. No **nonconforming use** or **structure** shall be resumed if it has been discontinued for a continuous period of 12 months, unless caused by casualty or fire. Reconstruction or repair activities due to casualty or fire must be completed within a stipulated 18 month time period of such damage, unless extended by the **Planning Commission**.
- I. A **nonconforming use** or **structure** shall not be resumed if it has been changed to a conforming **use** or **structure**.
- J. In the situation where two or more nonconforming dwellings are located on the same **lot** and one dwelling sustains damage by fire or other casualty, to the extent that the cost of reconstruction or repair exceeds the State Equalized Value of the **structure**, the damaged **structure** shall be removed, unless the damaged dwelling is closer to the **street** or faces a **street**. In such case it may be rebuilt with the approval of the **Planning Commission**.

Section 503 Procedure For Approval by Planning Commission

- A. A written application shall be filed with the **Planning Commission** utilizing forms obtained from the **Zoning Administrator** which shall include:
 - 1. Name and address of property owner and applicant, if not same;
 - 2. A legal description of the property or **lot**;
 - 3. A **site plan** pursuant to Article VI;
 - 4. An explanation describing the present **nonconforming use** or **structure**;
 - 5. An explanation of any proposed addition or alteration to the **uses** or structures;
 - 6. Time frame for completion of the project; and,
 - 7. Comparison of the proposed activity to the existing **structure** or **use**.
- B. The **Planning Commission** shall, upon receipt of the application, schedule a public hearing in accordance with the procedures of Section 1103. The applicant must

demonstrate undue hardship and a necessity for the continuation or expansion of the **nonconforming use or structure**. Upon hearing the facts and information, the **Planning Commission** shall make its decision in writing and set forth the findings and reasons on which it is based, pursuant to the standards identified in Section 1104. Conditions may be attached, including any time limit, where necessary, to assure that the **use or structure** does not become contrary to the public health, safety, or welfare, or the spirit and purpose of this Ordinance.

Section 504 Standards for Review and Approval

- A. In granting its approval, the **Planning Commission** shall review the particular facts and circumstances of each request in terms of the following standards and shall find adequate evidence showing that:
1. The continuance of the **use or structure** would not be contrary to the public health, safety and welfare or the spirit of this Ordinance;
 2. The **use or structure** does not, and is not likely to significantly decrease the value of nearby properties;
 3. No useful purpose would be served by strict application of the provisions or requirements of this Ordinance with which the **use or structure** does not conform;
 4. The **use or structure** will be harmonious with and in accordance with the general policies or specific objectives of development plans adopted by the City of Munising;
 5. The **use or structure** 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 will not change the essential character of the area;
 6. The **use or structure** will not be hazardous or disturbing to existing or foreseeable neighboring **uses**;
 7. The **use or structure** will not diminish the value of land, **buildings**, or structures in the **district**;
 8. The **use or structure** will be served adequately by essential public facilities and services; and,
 9. The **use or structure** 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.

ARTICLE VI: ZONING COMPLIANCE PERMITS AND SITE REVIEW PLANS

Section 601 Intent

- A. It is the intent of this section to require a **zoning compliance permit** for all new structures and **uses**, as well as changes in usage. A **site plan** review may be required for all structures and **uses** as part of obtaining a **zoning compliance permit**. The regulations contained herein are intended to provide and promote the orderly development of the City; safe and convenient traffic movement, both within a site and in relation to access **streets**; the stability of land values and investments by preventing the impairment or depreciation of land values and development, by the erection of structures or additions or **alterations** thereto, without proper attention to setting or to unsightly or undesirable appearances; harmonious relationship to buildings, other structures and **uses**, both within a site and/or adjacent sites; and the conservation of natural amenities and resources.

Section 602 Zoning Compliance Permit Application

- A. It shall be unlawful to commence construction, grading or other development upon the land intended to be developed, or to **use** or occupy or permit the **use** or occupancy of any **building** or premises, or both, or any part which has been created, **erected**, changed, converted or wholly or partly altered, or enlarged in it **use** or **structure** until a **zoning compliance permit** has been issued by the **Zoning Administrator**. The permit shall state that the **building, structure**, new or proposed, **lot** and **use** conform to the requirements of this Ordinance.
- B. **Conditional Use Permits, Planned Unit Development Permits, Open Space Preservation Permits, Site Condominium Permits, Non-Conforming Uses and Structures and their continuation and/or expansion Permits and any other Permits** shall require written approval of the **Planning Commission** and become part of the **zoning compliance permit**.
- C. **Variances** require the written approval of the **Zoning Board of Appeals**.
- D. The **Zoning Administrator** shall issue all necessary and appropriate forms to the applicant and record such issuance.
- E. If the applicant does not exercise the use of the **zoning compliance permit** by completing any approved construction and/or use within two years after its issue, the **Zoning compliance permit** will become null and void. The applicant may apply for a one year extension to the **Planning Commission** at least 60 days prior to the termination of such permit.
- F. Any **Zoning compliance permit** acted upon by the applicant or his agents or successors will inure for the duration of existing **use** and/or **structure(s)** and is limited to those

structures and **uses** specified in the **zoning compliance permit** unless specified contrarily in the permit.

Section 603 Site Plan Requirements

- A. All applications for a **zoning compliance permit** must be submitted on the proper forms provided by the **Zoning Administrator** and accompanied with a **site plan** for review by the **Zoning Administrator** and/or the **Planning Commission**. The requirements for **site plans** are as follows:
1. Permitted **uses** described in Article III per Sections 604 and 605 below for:
 - a. Any proposed construction of new structures
 - b. Any proposed new **use**
 - c. Any proposed change in **use** if required by the **Zoning Administrator**
 2. **Conditional Use Permit** per Article VII and Section 605
 3. **Planned unit development** per Article VIII and Section 605
 4. Open Space Preservation per Article IX and Section 605
 5. **Site condominium** per Article X and Section 605
 6. Continuation or expansion of a non-conforming **use** and/or **structure** per Article V and Section 605
 7. **Variance** per Section 606 and Sections 604 and 605 where applicable
 8. Any other request for zoning status where the **Zoning Administrator** determines a **site plan** is necessary for accurate review or documentation of the existing development
- B. The **site plan** may be drawn on the application form or on a separate sheet(s) of paper as required.

Section 604 Site Plans for Permitted Single and Two Family Dwellings, Residential Accessory uses and Structures, Multiple Family Dwellings of no more than Four Units and less than 5,000 square feet, and All Non-Industrial Uses under 4,000 square feet, and Non-Conforming Uses and Structure, and Conditional Use Permits for above Structures and Uses

- A. A **site plan** meeting the following standards and the standards in Section 606 shall be required for the following:
1. **Single-family dwellings**
 2. **Two-family dwellings** and less than 5,000 square feet
 3. **Multiple-family dwellings** of no more than four **Dwelling units**
 4. Residential accessory structures and **uses** associated with the above residential **dwelling units**
 5. Non-Industrial structures and **uses** under 4,000 square feet in **floor area**

6. Non-Conforming **Use** and/or **Structure** changes not exceeding 110% of its gross **floor area** as of the effective date of adoption of this Ordinance.
 7. **Conditional Use Permits** for above **uses** in **districts** where the conditional may be permitted.
- B. One copy of the **site plan** shall be provided to the **Zoning Administrator** attached to the completed **zoning compliance permit** application form and other forms required for Non-Conforming and Conditional **Uses**. The **site plan** shall depict the following information:
1. A legal description of the site.
 2. All **lot lines** and dimensions of the **lot**.
 3. All existing and proposed structures shown and labeled.
 4. Proposed **use** of each existing and new structures.
 5. Distances between each existing and new **structure** and all **lot lines**.
 6. Exterior dimensions of existing and proposed structures.
 7. A drawing or photograph of the elevation view of existing and proposed structures.
 8. All roads (named) and alleyways.
 9. All easements, existing and proposed, for roads, waterways and utilities.
 10. Existing and proposed utility locations, including municipal water, sanitary and storm sewers, wells and septic, and connections to the existing and proposed structures and **uses**.
 11. The location and identification of natural features that may or may not affect existing and proposed development such as rock, water and drainage.
 12. A north arrow
 13. The location of areas on the parcel that will be utilized for the storage of snow and the resulting drainage patterns that will result from the melting snow.
 14. The location of a high water mark and **bluff edge** and compliance with the Lake Superior Shoreline Protection Overlay District, if appropriate.
 15. The status of any local, state or federal permits required for the existing and proposed structures and **uses**.
 16. The location of all fences, natural or manmade, and signs, including sizes and heights and lighting.
 17. Parking areas including marking of individual **parking spaces**, and their access an egress to private or public roadways.
- C. Upon receipt of the application forms and **site plan** for the structures and **uses** in this section, the **Zoning Administrator** shall review them to determine whether they are in proper form and contain the required information showing compliance with this Ordinance and other ordinances of the city, state and federal governments. A certified property survey may be required if in the opinion of the **Zoning Administrator** one is needed to verify property lines. Any defects in form, lack of required information,

violation of any provisions of this Ordinance, including standards contained in Section 607 and elsewhere in this Ordinance shall be noted in writing to the applicant within ten (10) working days after receipt of the application by the **Zoning Administrator**.

Section 605 Site Plans for Permitted Multiple-Family Dwelling units with greater than four Dwelling units, Non-Industrial Structures and Uses greater than 4,000 square feet, all Industrial Structures and Uses, Conditional Use Permits, Planned Unit Development, Conditional Use Permits, Open Space Preservation Permits, and Condominium and Site Condominium Permits

- A. A **site plan** meeting the following standards and the standards in Section 606 shall be required for the following permitted structures and **uses**:
1. Multiple-family dwelling units with more than four dwelling units or having more than 5,000 square feet floor area.
 2. Non-industrial structures and uses, excluding single and two-family dwelling units, with greater than 4,000 square feet floor area.
 3. Industrial structures and uses
 4. Open space preservation developments
 5. Condominium and site condominium developments, unless also a part of a Planned Unit Development.
- B. Additional requirements may be required for Open Space Preservation and Condominium and Condominium Site developments per Articles IX and X respectively.
- C. Three copies of the **site plan** shall be attached to the **Zoning compliance permit** application and submitted to the **Zoning Administrator**. If the **site plan** has been prepared in digital format (.dwg, dxf, etc.) A copy shall be provided to the City. The **site plan** shall be not more than 24 inches by 36 inches, drawn to scale not smaller than 40 feet to the inch, unless approved by the **Zoning Administrator**. The **site plan** shall be certified by a registered land surveyor, professional engineer or architect and shall show the following:
1. A scale adequate to illustrate the proposed activity.
 2. A legal description of the **lot**; the name, address and telephone number of the owner, developer and designer.
 3. Location and type of easements on and within 25 feet of the parcel.
 4. Date and North arrow.
 5. The actual dimensions of the proposed area to be developed with the survey stakes visible showing relationship of the subject property to **abutting** properties
 6. The location of existing and proposed structures on the subject property and all existing structures and **uses** on the land immediately adjacent to the site within 10

- feet of the site property lines. The **site plan** shall show all structures located within 600 feet of a proposed light or heavy industrial **structure** or **use**.
7. The height and **floor area** of all existing and proposed structures.
 8. A drawing and/or photograph of the elevation view of all existing and proposed structures.
 9. The location of all existing and proposed drives and parking areas, including dimensions.
 10. The location and right-of-way widths of all **abutting streets**, including their names, **alleys**, private drives and easements.
 11. The location of existing and proposed plantings, landscaping, **screening**, fencing, signs and advertising features, including sizes, heights and lighting.
 12. The size and location of all existing and proposed public and private utilities, including private wells and septic systems.
 13. Location of all existing and proposed surface water impoundments and surface water drainage pattern. Indicate whether local, state or federal permits have been applied for and their status.
 14. The location and extent of all earth movement which is planned. Indicate if a sedimentation and erosion control permit has been applied for and status of application.
 15. The location of areas on the parcel that will be utilized for the storage of snow and the anticipated drainage patterns that will result from the melting snow.
 16. The location of the high water mark and **bluff edge** and compliance with the Lake Superior Shoreline Protection Overlay District, if appropriate.
 17. The location and identification of natural features that may or will affect proposed development.
 18. The status of any local, state or federal permits that are required to complete the project.
 19. Any other information necessary to establish compliance with this Ordinance or any other applicable ordinances.
- D. Upon receipt of the application forms and **site plan** for the structures and **uses** in this section, the **Zoning Administrator** shall review them to determine whether they are in proper form and contain the required information showing compliance with this Ordinance and other ordinances of the city, state and federal governments. A certified property survey may be required if in the opinion of the **Zoning Administrator** one is needed to verify property lines. Any defects in form, lack of required information, violation of any provisions of this Ordinance, including standards contained in Section 607 and elsewhere in this Ordinance shall be noted in writing to the applicant within 10 working days after receipt of the application by the **Zoning Administrator**.
- E. The **Zoning Administrator** shall submit the administratively complete application, including **site plans**, to the **Planning Commission**. The **Planning Commission** shall at its next regularly scheduled meeting review the administratively complete application for compliance with this Ordinance and all other pertinent ordinances of the City. The **Planning Commission** shall, within 15 working days, approve or deny the application,

setting forth the reasons in writing. Reasons for denial shall be limited to any defect in form, lack of required information, violation of any provisions of this Ordinance, including standards contained in Section 607 or elsewhere in this Ordinance.

Section 606 Site Plan for Variances

- A. A **site plan**, meeting the requirements for Sections 604 or 605 as appropriate, shall be attached to the request for a **variance** form and submitted to the **Zoning Administrator**.
- B. Upon receipt of the application form and **site plan** for the structures and **uses** requesting a **variance** from this Ordinance, the **Zoning Administrator** shall review them to determine whether they are in proper form and contain the required information showing compliance with this Ordinance and other ordinances of the city, state and federal governments. A certified property survey may be required if in the opinion of the **Zoning Administrator** one is needed to verify property lines. Any defects in form, lack of required information, violation of any provisions of this Ordinance, including standards contained in Section 607 and elsewhere in this Ordinance shall be noted in writing to the applicant within 10 working days after receipt of the application by the **Zoning Administrator**.
- C. The **Zoning Administrator** shall forward the properly completed request for a **Variance** form and **site plan** to the **Zoning Board of Appeals** for a public hearing and decision on the requested **variance**.

Section 607 Additional Standards for Site Plan Approval

- A. All elements of the **site plan** shall be harmoniously and efficiently organized in relation to topography, the size and type of **lot**, the character of adjoining property and type and size of **buildings**. The site will be developed as not to impede the normal and orderly development or improvement of surrounding property for **uses** permitted in this Ordinance.
- B. Special attention shall be given to assure that site surface drainage, including runoff caused by melting snow, will not adversely affect neighboring properties.
- C. The **site plan** shall provide reasonable visual and auditory privacy for all **dwelling units** located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
- D. All **buildings** or groups of **buildings** shall be arranged as permit emergency **vehicle** access to each **building**.
- E. Every **building** or dwelling shall have access to a public **street**, walkway or other area dedicated to common **use**. Attention must be given to assure that safe and efficient

ingress and egress are provided and the placement of driveways will not be a traffic concern.

- F. All loading or unloading and outside storage areas, including areas for trash, at commercial, industrial and **multi-family** developments shall be **screened** which face or are visible from residential properties, abut residential zones or public thoroughfares.
- G. All outdoor lighting, whether for illuminating parking areas, **buildings**, signs and/or other structures shall be shielded, shaded, designed and/or directed away from all adjacent residential **districts** and **uses**; and further shall not glare upon or interfere with persons and **vehicles** using public **streets**. Flashing or intermittent lights shall not be permitted.
- H. Any additional standards as required in Articles V, VII, VIII, IX and X, if appropriate.

Section 608 Zoning Compliance Permit Approval and Issuance

- A. For **zoning compliance permit** applications submitted under Section 604, with the exception of **Conditional Use Permits**, the **Zoning Administrator** shall approve and issue the **zoning compliance permit** within 15 working days after determining the application form and **site plan** are in proper form and comply with this Ordinance.
- B. For **zoning compliance permit** applications submitted under Section 605 and **Conditional Use Permits** submitted under Section 604, the **Zoning Administrator** shall issue a **zoning compliance permit** within 15 working days after receiving written approval and a copy of the appropriate permit issued by the **Planning Commission**.
- C. The original **zoning compliance permit** along with the application form, **site plan** and any other pertinent permits shall be submitted to the City Clerk for record retention. One copy of the permit shall be forwarded to the applicant, and one forwarded to the County Building Inspector.

Section 609 Appeal

- A. An applicant may appeal the denial of the **site plan** review, other than a **site plan** for a **variance**, to the **Zoning Board of Appeals**, per Section 1305. The **Zoning Board of Appeals** shall **use** the requirements of this Article in the review.

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 and 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 416.
 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**.

ARTICLE VIII: PLANNED UNIT DEVELOPMENT

Section 801 Intent

- A. To permit greater flexibility in the **use** and design of structures and land in situations where modifications of specific provisions of this Ordinance will not be contrary to its intent and purpose or significantly inconsistent with the planning on which it is based and will not be harmful to the neighborhood in which they occur. A **Planned Unit Development (PUD)** should result in development which maximizes the provision of **open space**, preserves natural features, and provides a harmonious arrangement of structures and **uses**. More than one **principal use** and/or **structure per lot** may be permitted.
- B. Development in accordance with the **Planned Unit Development** provisions of this Ordinance can be in the form of a platted **subdivision**, a **site condominium** development or other legal means.
- C. Development for a **shopping center** shall be as a **Planned Unit Development**.

Section 802 Eligibility

- A. In order to receive consideration by the **Planning Commission**, a proposed **Planned Unit Development** shall:
 - 1. Be located in one of the following **districts**, R-2, L-2, H-1, H-2, D, T, LC, C, I-1, or I-2.
 - 2. Be located on a parcel equal to the greater of either:
 - (a) two **acres** or
 - (b) the total square footage for all **buildings**, including storage, garages, etc. divided by the **floor area ratio** of .15.
 - 3. Provide for **open space** and preservation of natural features; clustered development and similar design methods are encouraged.
 - 4. Minimize the amount of the impervious surface created.
 - 5. Provide a harmonious and efficient arrangement of all structures and **uses** in relation to topography, the size and type of plot, the character of adjoining property, and the type and size of **buildings**. Arrangements of **buildings** shall be done in such a way to utilize natural topography, existing vegetation and views within and beyond the site.

Section 803 Application and Modification Powers

- A. The applicant shall submit an application to the **Planning Commission** in accordance with the procedures in Section 804 through Section 807.
- B. In acting upon the application, the **Planning Commission** may alter **setback** requirements, building size limits, off-street parking regulations, landscaping rules, and density and intensity limits. It may also authorize **uses** not permitted in the **district**.
- C. The provisions of this section shall be applied to the existing zoning **district** as defined on the zoning map where the **PUD** is to be located.

Section 804 Preliminary Conference

- A. Prior to preparing a formal application, the applicant shall meet with the **Planning Commission** to discuss the proposed development and application procedures. No decision regarding any proposed **PUD** is to be reached at this conference.

Section 805 Preliminary Application

- A. Following the preliminary conference, the applicant shall prepare and submit copies to be distributed to individual **Planning Commission** members, and three copies for city administration of a preliminary application to the **Zoning Administrator** which consists of the following written and graphic documents, together with any fee(s) which have been imposed by the City Commission:
 - 1. A written description of the proposed **PUD**, including:
 - a. How the proposed **PUD** is consistent with the intent of Section 801 and with the eligibility criteria in Section 802.
 - b. A statement identifying all intended **uses**, including future sales or leasing arrangements of all or portions of the proposed **PUD**.
 - c. A legal description of the proposed **PUD** parcel.
 - d. A listing of all owners, holders of easements, and other interested parties.
 - e. A projected assessment of the proposed **PUD** demands on public services and utilities, including, but not limited to, water, sewer, electrical service, **streets** and roads, sidewalks, refuse disposal, and emergency services.

2. A preliminary **site plan** at a scale adequate to illustrate the proposed activity, shall include the following information: (If the preliminary **site plan** has been prepared in digital format (.dwg, .dxf, etc.), a copy shall be provided to the City.)

- a. The legal description and **street** address of the **lot(s)**.
- b. The name, address and telephone number of the owner, developer, and/or designer.
- c. The date the **site plan** was prepared.
- d. North arrow and scale.
- e. The actual dimensions of the **lot(s)** as shown by a licensed surveyor, engineer, architect, or registered landscape architect, with survey stakes visible. The requirement for a survey may be waived if building dimensions will not change as a result of the proposed activity.
- f. The relationship of the subject **lot(s)** to **abutting** properties.
- g. Depiction of all existing structures, including signs, on the subjects **lot(s)** shown to scale.
- h. The dimensions of all proposed structures on the subject **lot(s)**, including height of proposed **buildings**.
- i. Depiction of any **buildings** slated for eventual demolition.
- j. Distances between existing structures and proposed structures on the subject **lot(s)** and distance between **lot lines** and proposed structures.
- k. **Use** of all existing or proposed structures on the subject **lot(s)**.
- l. The location of all proposed fences and planting **screens**, green areas, or other **buffers**.
- m. The location and right-of-way widths of all **streets, alleys**, private road easements and/or railroads located within or **abutting** the subject **lot(s)**. Named **streets** should be labeled.
- n. The location of all existing and proposed ingress/egress points, sidewalks, driveways and parking areas on the subject **lot(s)**.
- o. The locations of existing ingress/egress points, driveways, **streets, alleys** and/or railroads within 300 feet of the boundaries of the subject **lot(s)**.
- p. The size and location of all existing and proposed public and private utilities.
- q. The location of natural features affecting development, such as rock outcrops, water, wetlands, etc.
- r. The location of existing and proposed surface water impoundments and surface water drainage pattern.
- s. The location and extent of all planned earth movement. Indicate status of any necessary permits, such as sedimentation and soil erosion permit, wetlands permit, etc.
- t. Any other information necessary, in the opinion of the **Zoning Administrator**, to establish compliance with this Ordinance or any other applicable ordinances.

3. A development schedule; a list of proposed covenants or deed restrictions; any proposed maintenance agreements on **open space** or common ownership areas; and a description of the type of financial guarantees to be utilized to insure **PUD** development.
 4. Any other information the **Planning Commission** may reasonably require to show the applicant's intent for the development and viability of the proposal.
- B. The **Planning Commission** shall hold a public hearing in accordance with the requirements of Section 1103 to review the preliminary application. In making its review of any portion of the **PUD** preliminary application, the **Planning Commission** shall find that the proposed **PUD** is consistent with the standards outlined in Section 808 and Section 704 and other relevant provisions of this Ordinance. Following the review, the **Planning Commission** shall approve, approve with conditions or subject to modifications, or deny the preliminary application. Action taken on the preliminary application shall be specified in writing, including the reasons for approval or denial of the application, and any conditions imposed as part of approval with conditions.
 - C. All application materials must be received in the office of the **Zoning Administrator** before a public hearing notice can be submitted for publication.
 - D. The applicant may request of the **Zoning Administrator** that the requirement of Section 806 for a final application be waived, and include all of the information required for a final application with the preliminary application. If, upon submittal, the **Zoning Administrator** finds that all items required by Section 805 A (1) through (4) above, and Section 806 1 through 5, are included, the requirement for a final application and final public hearing may be waived. If the requirement for a final application is waived, the public hearing notice and all other materials pertaining to the preliminary application should clearly state that the final application requirement has been waived, and that no further public hearings on this application are anticipated.
 - E. Approval of the preliminary application does not constitute recording of the plan or plot nor authorize the issuance of building permits.
 - F. Within a maximum of 12 months following preliminary approval, the applicant shall file for final application as outlined below. For good cause, the **Planning Commission** may extend this time period for six months. If the applicant fails to apply for final application for any reason, approval or conditional approval shall be revoked.

Section 806 Final Application

- A. Following approval or approval with conditions of the preliminary application, the applicant shall prepare and submit sufficient copies for individual **Planning Commission** members and three for city administration of a final application which shall include:
1. All information as required by the **Planning Commission** for preliminary approval or conditional approval of the preliminary application, including modifications required to meet conditions imposed on the preliminary application, if any.
 2. Signed copies of any preliminary plats, in accordance with the Land Division Act (Act 288 of 1967, as amended).
 3. A detailed development time schedule.
 4. Deed restrictions or covenants of the parcel.
 5. Any other plans, documentation, or specifications, as the **Planning Commission** may require to insure final engineering review and approval, which may include building plans, elevation and perspective drawings, drainage, road or other facility designs, and letters of commitment or intent insuring adequate financing for public utilities and/or services.
- B. All the application materials must be received in the office of the **Zoning Administrator** before a public hearing notice can be submitted for publication.
- C. If a separate final application is received, the **Planning Commission** shall hold a second public hearing, and shall determine whether or not the final plans substantially conform to the approved preliminary development plan and are in proper form for final recording. Action taken on the final application shall be specified in writing, including the reasons for approval or denial of the application, and any conditions imposed as part of approval with conditions.

Section 807 Authorization and Issuance of Conditional Use Permit

- A. Where the **Planning Commission** determines that the final application is consistent with this Section and other requirements thereof, and is in proper form for recording, it shall authorize a **PUD Conditional Use Permit** for development and use in accordance with the final accepted development plan. Authorizing the **PUD Conditional Use Permit** shall not obligate the **Planning Commission** or the City Commission to enforce any deed restrictions or covenants of the development parcel.
- B. The **PUD Conditional Use Permit** shall be issued following evidence of recording of the **PUD** final development plan with the Alger County Register of Deeds.

Section 808 Planned Unit Development Standards

- A. All preliminary and final applications shall be evaluated with respect to the following standards:
1. Dimensional requirements: **Yard, setback**, maximum **lot coverage** ratio, **lot** size, type of **dwelling unit**, height, and frontage requirements and restrictions may be waived for the **PUD**, provided, however, that the spirit and intent of this Article as defined in the intent statement, are incorporated within the total development plan. The **Planning Commission** may determine that certain **setbacks** be established within all or a portion of the perimeter of the site, and shall determine the suitability of the total development plan in accordance with the intent of this Article.
 2. Access: Every **structure** or **dwelling unit** shall have access to a public **street**, or to a private roadway built to city specifications and dedicated to common **use**. A maintenance agreement shall be required for private roadways. Commercial **buildings** shall have a service road at the rear of the **building**. Private agreements shall provide adequate provisions for the removal of snow, necessary **street** repairs and regular maintenance.
 3. Sidewalks: For areas of residential development and significant pedestrian **use**, all **streets** and roadways within the **PUD** shall have a sidewalk at least four feet in width on at least one side of the **street** or roadway, unless otherwise excluded or altered by the **Planning Commission**.
 4. Land Usage: **Structures** and **uses** shown on the development plan shall be arranged so as not to be detrimental to existing or proposed **structures** within the development or surrounding neighborhood.
 5. Privacy: Each development shall provide reasonable visual and acoustical privacy or provide for reasonable spatial separation for **dwelling units**. Fences, walks, barriers, and landscaping or **open space** shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, **screening** of objectionable views or **uses** and reduction of noise.
 6. Off-Street Parking: Parking convenient to all **dwelling units** and other **uses** shall be provided pursuant to the requirements of Sections 416, 418, and 419 of this Ordinance. Common driveways, parking areas, walks, or steps may be required together with appropriate lighting, in order to insure the safety of the occupants and the general public. **Screening** of parking and service areas may be required through **use** of trees, shrubs, hedges or **screening** walls.
 7. Utilities: **PUD's** shall, where feasible, provide for underground installation of utilities (including electricity and telephone) in both public ways and private

extensions thereof. In no instance shall the **PUD** place demands in excess of the capabilities of the affected public facilities and services.

8. Planting: The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; additional new landscaping shall be added where feasible for privacy, shade, beauty of **buildings** and grounds, and to **screen** out objectionable features.
9. Review standards: The **PUD** shall be consistent with the standards of this Ordinance.

Section 809 Changes in Approved PUD

- A. Changes in the location site or character of the **building** and **structures** may be authorized by the **Planning Commission**, if required by engineering or other circumstances not foreseen at the time the final development plan was approved.
- B. Changes which cause a change in the **use**, character, or intent of the development, an increase in the intensity of **use**, changes in the overall coverage of the **structures**, or problems of traffic circulation, utility services, or similar services, or a reduction in the approved **open space**, off-street parking and **loading space**, or pavement width requirements may be authorized by the **Planning Commission** following a public hearing.
- C. Changes which are approved must be made and recorded in accordance with the procedures established for the recording of the initial final development plan.

ARTICLE IX: OPEN SPACE PRESERVATION

Section 901 Intent

- B. It is the intent of this article to offer an open space preservation option to developers as authorized by Act 179 of 2001 for the purpose of:
 - 6. Assuring the permanent preservation of open space, agricultural lands, and other natural resources;
 - 7. Allowing innovation and greater flexibility in the design of residential developments;
 - 8. Encouraging a less sprawling form of development, thus preserving open space.
- B. For the purpose of this article the term “open space” shall refer to a natural state preserving natural resources, natural features, or scenic or wooded conditions; **agriculture use**; or a similar **use** or condition.
- C. Development in accordance with the Open Space Preservation provisions of this Ordinance can be in the form of a platted **subdivision**, a **site condominium** development or other legal means.

Section 902 Eligibility Criteria

- A. To be eligible for open space preservation consideration, the applicant must present a proposal for residential development that meets each of the following:
 - 1. Minimum Project Size. The minimum size of an open space preservation development shall be 5 acres of contiguous land.
 - 2. Unified Control. The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.
 - 3. Guarantee of Open Space. The applicant shall guarantee to the satisfaction of the **Planning Commission** that all open space portions of the development will be maintained in the manner approved. Documentation shall be presented that binds all successors and future owners in fee title to commitments set forth in the applicant’s proposal. This provision shall not prohibit a transfer of ownership or

control, provided notice of such transfer is provided to the City and the land uses continue as approved in the open space preservation **site plan**.

Section 903 Project Design Standards

- A. A proposed open space preservation project shall comply with the following project design standards:
1. The open space preservation option is applicable only in the H-1 and H-2 Districts and restricted to residential development.
 2. Unless specifically waived or modified by the **Planning Commission**, and excepting the minimum **lot area**, all Zoning Ordinance dimensional requirements for the underlying zoning **district** and other City regulations shall remain in full force.
 3. The developer shall maintain a minimum of 35% of the gross area of the site as dedicated open space. Land dedicated for open space does not include a golf course, **street** rights-of-ways, unbuildable land areas, or submerged land areas but may include a recreational trail, picnic area, children's play area, greenway or linear park. The dedicated open space may be, but is not required to be, dedicated to the **use** of the public.
 4. The number of **dwelling units** allowable within an open space preservation project shall be determined in the following manner: The applicant shall prepare and present to the **Planning Commission** a design of the area that is consistent with the existing City zoning requirements. The **Planning Commission** shall review the design and determine the number of **lots** that could be feasibly constructed on the property. This number, as determined by the **Planning Commission**, shall be the maximum number of **dwelling units** allowable for the open space preservation project.
 5. To encourage flexibility and creativity consistent with the open space preservation concept, the **Planning Commission** may grant specific departures from the requirements of the Zoning Ordinance for **yard, lot, and bulk** standards as a part of the approval process. Any regulatory modification approved by the **Planning Commission** shall result in a higher quality of development than would be possible using conventional zoning standards. The regulatory modifications are not subject to **variance** approval of the **Zoning Board of Appeals**. No part of an open space preservation **site plan** may be appealed to the **Zoning Board of Appeals**.
 6. The dedicated open space shall be set aside by the developer through an irrevocable **conveyance** that is found acceptable to the **Planning Commission**, such as:

- a. recorded deed restrictions in perpetuity,
 - b. covenants that run perpetually with the land, or
 - c. a conservation easement established per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (M.C.L. 399.251) or
 - d. deeded property to the City.
2. Such **conveyance** shall assure that the open space "will be protected from all forms of development and shall never be changed to another **use**." Such **conveyance** shall:
 - a. Indicate the proposed allowable **use(s)** of the dedicated open space.
 - b. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
 - c. Provide standards for scheduled maintenance of the open space.
 - d. Provide for maintenance to be undertaken by the City of Munising in the event that the dedicated open space is inadequately maintained, or is determined by the City to be a public **nuisance**, with the assessment of costs upon the property owners of the development.
 3. The dedicated open space shall forever remain open space, subject only to **uses** set forth on the approved **site plan**. Further **subdivision** of open space land or its **use** for other than recreation or conservation shall be strictly prohibited.
 4. Accessory structures related to a recreation, or conservation **use** may be **erected** within the dedicated open space, subject to the approved open space preservation **site plan**. These accessory structures shall not exceed, in the aggregate 1% of the total **required open space** area.
 5. Direct access onto a public road shall be required for all developments receiving approval under the open space preservation option.
 6. The developer shall be responsible for construction of roads providing access into and circulation within the new development.
 7. The development shall be designed to promote the preservation of natural features. If animal or plant habitats of significant value exist on the site, the **Planning Commission**, as a condition of approval, may require that the open space preservation **site plan** preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.

Section 904 Project Standards

- D. In considering any application for approval of an open space preservation **site plan**, the **Planning Commission** shall make the determinations on the basis of the standards for

site plan approval set forth in Article VI Site Plan Review as well as the following standards and requirements:

1. Compliance with the project design standards in Section 903.
2. The open space preservation project shall be designed to minimize the impact of traffic generated by the proposed development on surrounding **uses**.
3. The proposed open space preservation project shall be protective of the natural environment.
4. Compliance with all applicable federal, state, and local regulations.

Section 905 Application and Approval Process

- A. The application for approval of an open space preservation proposal shall be in accordance with procedures for consideration of a **Conditional Use Permit**. The required materials and fees shall be submitted to the **Zoning Administrator**.
- B. Approval of an open space preservation proposal shall be upon issuance of a **Conditional Use Permit** following a public hearing. All improvements and **uses** of the site shall conform with the approved open space preservation **site plan** and comply fully with any conditions imposed by the **Planning Commission**.
- C. The applicant shall record an affidavit with the register of deeds containing the full legal description of the project site specifying the date of final City approval, and declaring that all improvements will be carried out in accordance with the approved open space preservation **site plan** unless an amendment is adopted by the **Planning Commission**. In addition, all deed restrictions and easements shall be duly filed with the Alger County Register of Deeds with certified copies of recorded documents presented to the City.
- D. Following final approval of the open space preservation **site plan** by the **Planning Commission**, a **zoning compliance permit** may be obtained from the **Zoning Administrator**. It shall be the responsibility of the applicant to obtain all other applicable township, city, county, state or federal permits.
- E. If construction has not commenced within one year of final approval, all City approvals become null and void. The applicant may make written application to the **Planning Commission** for an extension, not to exceed 12 months. A maximum of two extensions may be allowed.
- F. The **Planning Commission** may require that a performance guarantee, in accordance with the Section 705 D of the Zoning Ordinance, be deposited with the City Treasurer to insure completion of improvements.

Section 906 Revision of Approved Plans

- A. Minor changes to an approved open space preservation **site plan** may be permitted by the **Planning Commission** following normal **site plan** review procedures outlined in Section 605, subject to the finding of all of the following:
1. Such changes will not adversely affect the initial basis for granting approval;
 2. Such minor changes will not adversely affect the overall open space in light of the intent and purpose of such development as set forth in this Article; and,
 3. Such changes shall not result in the reduction of open space area as required by this Ordinance.
- B. Changes which are a substantial departure from the approved **site plan** or alter the character or intent of the development will require the resubmission of the proposal to the **Planning Commission** for a public hearing.

ARTICLE X: CONDOMINIUM AND SITE CONDOMINIUM

Section 1001 Purpose

- A. The purpose of this section is to provide for the review and approval process for all **condominium** and **site condominium** projects within the City.

Section 1002 General Requirements

- A. Each applicant shall comply with the following general requirements:
6. The applicant shall pay a reasonable fee, determined by the City Commission, prior to submitting a **condominium subdivision plan** for review.
 7. No construction, grading, work or other development shall be done upon the land intended to be **used** for a **site condominium** until a final **condominium subdivision plan** has been approved, except with the express permission of the **Planning Commission**. This requirement shall include contractible, conversion, and **expandable site condominiums**.
 8. A required **site plan** for **building, structure, or use** to be placed on a **condominium unit** requires **site plan** approval under Article VI **Site Plan** Review before a **zoning compliance permit** may be issued.
 9. The **Planning Commission** shall have the authority to review and approve or deny preliminary and final **condominium subdivision plan** based on whether or not the plan complies with the provisions of this Ordinance.
 10. Each **condominium unit** shall be located in a zoning **district** that permits the proposed **use**.
 11. For the purpose of this Article, each **site condominium unit** shall be considered equivalent to a single **lot** and shall comply with all regulations of the zoning **district** in which located. In the case of a **site condominium** containing single-family detached **condominium units**, no more than one single **structure** shall be located on a **condominium unit**, nor shall a **dwelling unit** be located on a **condominium unit** with any other **principal structure or use**. Required **setbacks** shall be measured from the boundaries of a **condominium unit**. Ground **floor** coverage and **floor area ratios** shall be calculated using the area of the **condominium unit**.
 12. Relocation of boundaries between adjoining **condominium units**, if permitted in the **condominium** documents and as provided in Section 48 of the **Condominium Act**, shall comply with all regulations of the zoning **district** in

which it is located and shall be approved by the **Zoning Administrator**. These requirements shall be made a part of the bylaws and recorded as part of the **master deed**.

13. Each **condominium unit** that results from a **subdivision** of another **condominium unit** if such **subdivision** is permitted by the **condominium** documents and as provided in Section 49 of the **Condominium Act**, shall comply with all regulations of the zoning **district** in which it is located and shall be approved by the **Zoning Administrator**. These requirements shall be made part of the **condominium** bylaws as part of the **master deed**.
14. Revisions to the final, approved **condominium subdivision plan** shall be submitted for review and approval or denial by the **Planning Commission**.
15. Any amendment to a **master deed** or bylaws that affects the approved preliminary or final **condominium subdivision plan** shall be reviewed and approved by the **Planning Commission**. The **Planning Commission** may require review of any amended **condominium subdivision plan** if in its opinion such changes in the **master deed** or bylaws require corresponding changes in the approved **condominium subdivision plan**.
16. The **Planning Commission** may require as a condition of approval that the applicant enter into a development agreement incorporating the terms and conditions of final **condominium subdivision plan** approval and record the same with the Alger County Register of Deeds.
17. All **streets** and roads proposed for any **site condominium** shall at a minimum conform to the standards and specifications promulgated by the City of Munising for construction of roads in **single-family residential subdivisions**.
18. Monuments shall be set in accordance with the **Condominium Act** and all other state rules and regulations. The **Planning Commission** may grant a delay in the setting of required monuments for a reasonable time, but not to exceed one year, on condition that the developer deposit with the City Clerk cash, a certified check, or any irrevocable bank letter of credit in an amount determined by resolution of the City Commission. Such deposit shall be returned to the developer upon receipt of a certificate by a registered surveyor that monuments and irons have been set as shown on the **condominium subdivision plan**. If the developer defaults, the City Commission shall promptly require a registered surveyor to set the monuments and irons in the ground as shown on the **condominium subdivision plan**, at a cost not to exceed the amount of the security deposit.
19. All right-of-way and utility easements shall be described separately from individual **condominium lots**. The rights-of-way and utility easements shall be

separately described for their individual purpose, such as; access, roadway, or location, installation, maintenance and replacement of public utilities. Utilities placed within the road rights-of-ways are subject to the requirements imposed by the City of Munising, Alger County Road Commission and/or State of Michigan.

20. All **condominium** projects shall comply with applicable federal and state statutes and local ordinances.

Section 1003 Application and Approval Process

- B. The application process shall consist of a pre-application conference, review and approval of a preliminary **condominium subdivision plan** and approval of final **subdivision plan**.
- C. Before submitting any formal documents for approval of a **condominium subdivision plan**, the applicant shall meet with the **Zoning Administrator** for a pre-application conference. It shall be the responsibility of the **Zoning Administrator** to contact and invite appropriate officials to such a meeting, including a representative of the **Planning Commission**. The general outline of the proposed **site condominium**, evidenced by sketch plans, will be reviewed at the meeting. The applicant will present the proposal to the **Planning Commission**.
- D. The requirements for a Preliminary **Condominium subdivision plan** are:
 1. A preliminary **condominium subdivision plan** shall be filed for approval with the **Planning Commission**.
 2. The preliminary **condominium subdivision plan** shall include all land that the developer intends to include in the **site condominium** project.
 3. The preliminary **condominium subdivision plan** shall include information required in Section 66 of the **Condominium Act**. The preliminary **site plan** shall also include all information required in Article VI herein, except in the case of a development that consists only of **condominium units** and not **buildings** or other structures at the time of submittal. In such case, the location and dimensions of **condominium units** rather than individual **buildings** and required **yards** shall be shown on the preliminary **condominium subdivision plan**.
 4. A final **condominium subdivision plan** for any phase of development shall not be filed nor reviewed by the **Planning Commission** unless a preliminary **condominium subdivision plan** has been approved by the **Planning Commission** and is in effect.
- E. The requirements for a Final **Condominium subdivision plan** are:

1. A final **condominium subdivision plan** shall be filed for review for each phase of development shown on the approved preliminary **condominium subdivision plan**.
2. A final **condominium** plan shall include all information required in Section 66 of the **Condominium Act**, and the **master deed** and bylaws. The final **condominium subdivision plan** shall also include all information required in Article XI herein, except in the case of a development that consists only of **condominium units** and not **buildings** or other structures at the time of **site plan** application. In such case, the location and dimensions of **condominium units** rather than individual **buildings** and required **yards** shall be shown on the final **condominium subdivision plan**.
3. The applicant shall provide proof of approvals by all local, county and state agencies having jurisdiction over the improvements in the **site condominium** development, including but not limited to the county drain commissioner, county road commission, and the district health department. The **Planning Commission** shall not approve a final **site plan** until each county and state agency having such jurisdiction has approved that portion of the final **site plan** that is subject to its jurisdiction.

ARTICLE XI: ADMINISTRATION AND ENFORCEMENT

Section 1101 Administration

- A. The administration and enforcement of this Ordinance shall be the responsibility of the City Commission. The City Commission shall have the right to delegate responsibility to appropriate city officers, employees or designees. The person or persons administering and enforcing this Ordinance shall be known as the **Zoning Administrator**.

Section 1102 Administrative Standards

- A. Whenever, in the course of administration and enforcement of this Ordinance, it is necessary or desirable to make an administrative decision, unless other standards are provided in this Ordinance, the decision shall be made so that the result will not be contrary to the spirit and purpose of this Ordinance or injurious to the surrounding neighborhood.
- B. When a public hearing is required in the administration of this Ordinance, the **Zoning Board of Appeals** and/or the **Planning Commission** shall base their decision upon facts presented at the public hearing.
- C. Wherever a discretionary decision is authorized in this Ordinance, such as, but not limited to, the issuance of **Conditional Use Permit**, conditions (including, but not limited to, greater **setbacks**, parking, **screening**, drainage, access control and other similar requirements) may be imposed provided they are:
1. Designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will **use** the land or activity under consideration, residents and landowners immediately adjacent to the proposed **use** or activity, and the community as a whole;
 2. Related to the valid exercise of the police power, and the purposes which are affected by the proposed **use** or activity;
 3. Necessary to meet the intent and purpose of the zoning ordinance, are related to standards established in the Ordinance for the land **use** or activity under consideration, and are necessary to insure compliance with those standards.
- D. Consideration shall also be given by the reviewing body or official to the following:
4. Intent of the zoning **district**.
 5. Current **use** of the adjacent lands and neighborhoods.
 6. Physical appearance of existing or proposed structures (location, height, bulk of **building**, as well as construction materials).

7. The suitability of the proposed landscaping in providing ground cover, **screening** and decoration of the site.
8. The nature and intensity of operations involved in or conducted in connection with the proposed **use**.
9. The time of **use** and physical and economic relationship of one type of **use** to another.
10. The assembly of persons or employees, which may be hazardous to the neighborhood or incongruous or conflict with normal traffic in the vicinity.
11. Vehicular and pedestrian traffic volumes and patterns, particularly of children, as well as vehicular turning movements in relation to traffic flows, intersections and sight distances.
12. The physical characteristics of the site such as: area drainage, topography, open space, landscaping, and access to minor and/or major **streets**.
13. Demands upon public services, such as electricity, police and fire protection, schools, and refuse disposal.
14. The type and amount of litter, waste, noise, dust, traffic, fumes, glare, and vibration which may be generated by such **use**.
15. Area requirements for the proposed **use** and potential for the **use** or its area requirements to expand.
16. Other factors necessary to maintain property values in the neighborhood and guarantee safety, light, air and privacy to the **principal uses** in the **district**.

Section 1103 Administrative Procedures for Public Notifications

A. All administrative decisions of the **Planning Commission** and **Zoning Board of Appeals** which require a public hearing must have the notice published in a newspaper of general circulation within the City.

1. Publication of notices shall be in accordance with the following:

Decision	Required Notice
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Non-Conforming Use	Notice published not less than 5 days nor more than 15 days prior to the public hearing
Hearing before the Zoning Board of Appeals	Notice published not less than 5 days nor more than 15 days prior to the public hearing
Conditional Use Permit	Notice published not less than 5 days nor more than 15 days prior to the public hearing
Ordinance Amendment (text or map)	Notice published not less than 15 days prior to the hearing.
Planned Unit Development	Notice published not less than 5 days nor more than 15 days prior to the public hearing
Changes to an Approved Planned Unit Development	Notice published not less than 5 days nor more than 15 days prior to the public hearing
Open Space Preservation	Notice published not less than 5 days nor more than 15 days prior to the public hearing

- B. Notification for **Conditional Use Permits**, zoning map amendments, and actions taken by the **Zoning Board of Appeals** shall be given by mail or personal service to all property owners to whom real property is assessed and to all occupants of structures within 300 feet of the boundary of the property in question. The current year's assessment role shall be **used** as prima facie evidence of record of ownership. If a **structure** contains more than one **dwelling unit** or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive the notice. In the case of a single **structure** containing more than four **dwelling units** or other distinct spatial areas owned or leased by different individuals, partnerships, business or organizations, notice may be given to the manager or owner of the **structure** who shall be requested to post the notice at the primary entrance to the **structure**. The notice shall be given not less than five days and not more than 15 days before the hearing.
- C. Notification for Amendments shall be given to registered utilities and to railroads within the zone affected not less than 15 days prior to the hearing.
- D. All hearing notices shall include the time, place and nature of the request, the geographic area included in the zoning proposal, where and when written comments will be received and where and when the zoning ordinance and proposals may be examined.

Section 1104 Standards for Hearings and Zoning Administration

- A. Interested parties at the hearing shall be permitted to present and rebut information either supporting or opposing the zoning action under consideration.
- B. The body conducting the hearing:

1. Shall prepare a comprehensive summary record of the hearing, including an exact record of motions, votes and other official action;
 2. Shall set forth in writing and in detail any denial, approval, conditional approval, or order and the facts supporting such decision;
 3. Shall file the record, written testimony or documents submitted with regard to the hearing and the decision with the City Clerk, and maintain an affidavit of mailing for each mailing made under this section;
 4. Shall comply with all other requirements under the law; and,
 5. Shall have all administrative actions recorded in the Official Zoning Orders Book and Map.
- C. The conditions imposed with respect to the approval of a land **use** or activity shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. A record of changed condition shall also be maintained.
- D. All administrative guides or rules developed to assist the **Zoning Board of Appeals** or the **Planning Commission** in the administration of this Ordinance shall be filed with the City Clerk and be open to public inspection.

Section 1105 Zoning Administrator

- A. The Office of **Zoning Administrator** is established. The **Zoning Administrator** shall be appointed by the City Commission and shall receive such compensation as the City Commission may, from time to time, determine. The **Zoning Administrator** may also serve in some other capacity as an employee or appointed elected officer of this City. The **Zoning Administrator** shall not be a member of the **Planning Commission** or **Zoning Board of Appeals**.
- B. The **Zoning Administrator** shall administer the provisions of the Ordinance and shall have all administrative powers which are not specifically assigned to some other office or body. The **Zoning Administrator** shall not vary, change or grant exceptions to any terms of this Ordinance, or to any person making application under the requirements.
- C. The **Zoning Administrator** shall have the power to issue a **zoning compliance permit** and to review **site plans** to determine whether they are in proper form, contain all of the required information and are in accordance with the provisions of this Ordinance.
- D. The **Zoning Administrator** shall maintain and make available for public inspection the Official Zoning Map. The **Zoning Administrator** shall keep the Official Zoning Orders Book, which shall contain all **variances**, **Conditional Use Permits**, rezonings, designations of nonconformance, and any terminations of any of them, and compliance

permits. Each item shall be assigned a number when entered. The **Zoning Administrator** shall also keep a map, to be known as the Official Zoning Orders Map, on which shall be recorded the numbers in the Official Zoning Orders Book to indicate the locations affected by the items in the book. The Official Zoning Orders Book and Map shall be open to public inspection.

- E. The **Zoning Administrator** shall have the power to make inspections of **buildings** and premises necessary to carry out his/her duties in the administration and enforcement of this Ordinance.
- F. It shall be unlawful for the **Zoning Administrator** to issue a **Zoning compliance permit** or other such permits, for any construction or **use** until he/she has inspected such plans and found them to conform with this Ordinance.
- G. The **Zoning Administrator** shall review all requests for administrative and legislative action. The **Zoning Administrator** shall forward an analysis of site factors and other information pertaining to the request to the appropriate body. The analysis may include a recommendation for action. The forwarding of such reviews and requests shall be within the times provided for in the ordinance or by state statute.
- H. If the **Zoning Administrator** shall find that any provision of this Ordinance is being violated, the Administrator shall order discontinuance of any illegal work being done; or shall take such action as authorized to correct or prevent violation of the provisions of this Ordinance.
- I. Whenever the **Zoning Administrator** determines that a violation of this Ordinance exists, the **Zoning Administrator** shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The notification shall be directed to each owner of or a party in interest whose name the property appears on the current year's tax assessment records. All notices shall be in writing and may either be served in person or mailed by certified mail, addressed to such owner or party of interest at the address shown in the tax records. An affidavit of mailing shall be maintained. If the violations are not corrected within a reasonable specified period of time, the **Zoning Administrator** shall take action as authorized by this Ordinance to ensure compliance with or prevent violations of its provisions.

Section 1106 Fees

The City Commission shall establish by resolution a schedule of fees for administering this Ordinance. The schedule of fees shall be made available at City Hall. No activity shall commence nor any permit shall be issued unless the fee has been paid.

- A. Fees are waived for actions initiated by the City Commission or the **Planning Commission**.

ARTICLE XII: AMENDMENTS TO THE ZONING ORDINANCE

Section 1201 Statement of Intent

- A. For the purpose of establishing and maintaining sound, stable and desirable development within the limits of the City of Munising, the zoning ordinance may be amended to correct an error in the Ordinance, to reflect a change in city policy, to respond to changed or changing conditions in a particular area or the city in general, to rezone an area, to extend the boundaries of an existing zoning **district** or to change the regulations and restrictions of the zoning ordinance.
- B. Only the City Commission shall adopt or amend this Ordinance. Proposals for amendment or changes may be initiated by the City Commission on its own motion, by the **Planning Commission** on its own motion, or by an individual.

Section 1202 Required Amendment Information

- A. If the amendment is to change the text of the ordinance, the petitioner shall transmit proposed language for consideration to the **Planning Commission**. The petitioner shall explain the reasons for the change and any benefit or interest to be gained.
- B. When the amendment involves a change in the Zoning Map, the petitioner shall submit the following information:
 - 1. A legal description of the property;
 - 2. A scaled map of the property, correlated with the legal description, and clearly showing the property's location;
 - 3. The name and address of the petitioner;
 - 4. The petitioner's interest in the property;
 - 5. Date of filing with the **Zoning Administrator**;
 - 6. Signatures of petitioner(s) and owner(s) certifying the accuracy of the required information; and,
 - 7. The desired change and reasons for such change.

Section 1203 Review of Amendment by Planning Commission

- A. In viewing any petition for a zoning amendment, the **Planning Commission** shall identify and evaluate all factors relevant to the petition. All findings of fact shall be made part of the Public Hearing.

Section 1204 Changes and Amendments

- A. Each application or amendment shall be submitted to the **Zoning Administrator**, accompanied by the proper fee, and then referred to the **Planning Commission** for their

review at a public hearing, which is held in conformance with Section 1103 of this Ordinance.

- B. The **Planning Commission** may refuse to schedule a hearing on a petition for rezoning which includes any portion of a site considered for rezoning in the previous twelve months.
- C. Notice of the hearing shall be provided to the owner(s) of the property being considered for rezoning. Notification shall be given by mail or personal service using the current year's assessment roll which shall be considered as prima facie evidence of record of ownership. The notice shall be given at least 15 days before the hearing.
- D. Following the public hearing, the **Planning Commission** shall submit the proposed zoning ordinance amendment and applicable maps, summary of the comments received, and recommendation to the City Commission
- E. Upon receipt, a public hearing may be held by the City Commission. Notice of the public hearing shall be published at least once in a newspaper of general circulation in the City of Munising. The notice shall state the time and place of the hearing and the substance of the proposed amendment. The notice shall appear in the newspaper at least 15 days prior to the date of the public hearing.
- F. The City Commission at a regular meeting or at a special meeting called for that purpose, shall consider and vote upon the adoption of the amendment. An amendment shall be approved by a majority vote of the City Commission, except in the case of a protest petition. The City Commission shall not make a change or departure from the plans, text, or maps as certified by the **Planning Commission**, unless the proposed change or departure is first submitted to the **Planning Commission** for its advice and suggestions. The **Planning Commission** shall have 30 days from the receipt of the proposed changes or departure to send its report to the City Commission.
- G. Upon presentation of a protest petition meeting the requirement of this subsection, an amendment to a zoning ordinance which is the object of the petition shall be passed by a 2/3 vote of the City Commission. The protest petition shall be presented to the City Clerk at or before the public hearing, and shall be signed by one of the following:
 - 1. The owners of at least 20% of the area of land, excluding publicly owned lands included in the proposed change.
 - 2. The owners of at least 20% of the area of land, excluding publicly owned lands, included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.
- H. No consideration for an amendment which has been disapproved by the City Commission for a period of 12 months from the date of disapproval, unless new and significant facts

or conditions which would result in the favorable action upon resubmittal, will be permitted. Resubmittal shall follow the same procedure as outlined in this Article.

Section 1205 Standards for the Review of Amendments

- A. The general standards to be considered by the **Planning Commission** shall include, but not be limited to, the following:
1. Whether the requested zoning change is justified by a change in conditions since the original ordinance was adopted or by an error in the original ordinance;
 2. Whether the requested zoning change is consistent with local plans and policies;
 3. The precedents, and the possible effects of such precedents, which might likely result from approval or denial of the petition;
 4. The ability of the City or other government agencies to provide any services, facilities, and/or programs that might be required if the petition is approved;
 5. Whether there are any significant and negative environmental impacts which would potentially occur if the petitioned zoning change occurred and resulting permitted structures were built, including, but not limited to, surface water drainage problems, wastewater disposal problems, or the loss of locally valuable natural resources;
 6. Effect of approval of the petition on adopted development policies of the City and other governmental units.

Section 1206 Notice of Adoption

- A. Notice of adoption of the amendment shall be published in accordance with Section 4(7) of the City and Village Zoning Act, Act 207 of 1921, as amended.

ARTICLE XIII: ZONING BOARD OF APPEALS

Section 1301 Creation and Membership

- A. The **Zoning Board of Appeals** is established in accordance with Act 207 of 1921, as amended. The Board shall consist of five regular members, each appointed by the City Commission: two members shall be members of the **Planning Commission**, one member may be a member of the City Commission, and the remaining members shall be residents of the City of Munising. The term for **Planning Commission** and City Commission members shall be limited to the time serving as a member of the respective board.
- B. The term of office of the first members appointed shall be 1, 2, and 3 years respectively, so as nearly as possible to provide for the appointment of an equal number of members each year. After the initial appointments, each member shall hold office for a 3- year term.
- C. The City Commission may appoint not more than two alternate members to the **Zoning Board of Appeals** for the same term as regular members of the **Zoning Board of Appeals**. The alternate may be called to serve in the absence of a regular member if a regular member is absent from or will be unable to attend. An alternate member will also be called to serve as a regular member for the purpose of reaching a decision on a case in which a regular member has abstained for reasons of conflict of interest; the alternate member shall serve in the case until a final decision is made. When called to serve on the **Zoning Board of Appeals**, the alternate member has the same voting rights as a regular member of the **Zoning Board of Appeals**.

Section 1302 Procedures

- A. The **Zoning Board of Appeals** shall adopt rules and regulations to govern its procedures. The **Zoning Board of Appeals** shall appoint one of its members as Chairperson.
- B. The concurring vote of 2/3 of the members of the **Zoning Board of Appeals** shall be necessary to revise any order, requirements, decision or determination of the **Zoning Administrator** or to decide in favor of an applicant on any matter upon which they are required to pass under this Ordinance or to effect any variation in this Ordinance.
- C. The concurring vote of 2/3 of the members of the **Zoning Board of Appeals** shall be necessary to grant a **variance** from **uses** of land permitted in the Ordinance.
- D. Meetings of the **Zoning Board of Appeals** shall be held at the call of the Chairperson and at such times its rules of procedure may specify. Minutes shall be kept of each meeting and the Board shall record into the minutes all findings, conditions, facts and other relevant factors, including the vote of each member upon any question or if absent or failing to vote indicating such fact, and all of its official actions. All meetings and

records shall be open to the public. All minutes shall be filed in the office of the City Clerk.

- E. The **Zoning Board of Appeals** shall fix a reasonable time and date for a hearing. The Board shall give due notice of the hearing by regular mail to the parties of interest and to owners of adjacent property in accordance with the provisions of Section 1103. The **Zoning Board of Appeals** shall decide the appeal within a reasonable time.

Section 1303 Duties and Powers

- A. The **Zoning Board of Appeals** shall perform its duties and exercise its powers as provided in Act 207 of 1921, as amended, so that the objectives of this Ordinance shall be attained, the public health, safety, and welfare secured, and substantial justice done.
- B. The **Zoning Board of Appeals** shall hear and decide only those matters which it is specifically authorized to hear and decide as provided, including administrative review; interpretation of the Zoning Ordinance, including the zoning map; consideration of requests for **variances**, and appeals of the granting or denial of **Conditional Use Permits**.
- C. The **Zoning Board of Appeals** shall have the power to:
 - 1. Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of this Ordinance;
 - 2. Determine the precise location of the boundary lines between zoning **districts** when there is dissatisfaction with a decision made by the **Zoning Administrator**;
 - 3. Determine the **parking space** requirements of any **use** not specifically mentioned either by classifying it with one of the groups listed in Section 416 or by an analysis of the specific needs;
 - 4. Determine if a **use** is similar to an expressly permitted (either by right or conditionally) **use** within a specific **district**.
 - 1. Grant **variances** in accordance with the provisions of Section 1304.
 - 2. Hear and decide appeals from and review any orders, requirements, decision or determination of the **Zoning Administrator**.
 - 3. Vary or modify any of the rules or provisions of this Ordinance, with the exception of **Planned Unit Development** and Open Space Preservation.

Section 1304 Variances

- A. The **Zoning Board of Appeals** is authorized, upon appeal in specific cases, to grant **variances** from the terms of this Ordinance that will not be contrary to the public interest where owing to special conditions, a literal enforcement of the provisions of this Ordinance would, with non-use dimensional **variance**, result in practical difficulties to the applicant and, with respect to a **use variance**, would result in unnecessary hardship to the applicant.
- B. A non use variance shall not be granted unless the **Zoning Board of Appeals** finds:
1. That the **use** to be authorized by the **variance** will not alter the essential character of the neighborhood,
 2. The dimensional zoning requirements cannot be physically met by an existing **lot** due to its shape or natural characteristics,
 3. The physical hardship is unique and is not shared by neighboring properties in the same **district**, and,
 4. That the special conditions and circumstances do not result from actions of the applicant.
- C. A **use variance** shall not be granted unless the **Zoning Board of Appeals** finds:
1. That unique conditions and circumstances exist which are peculiar to the land, **structure**, or **building** involved, and which are not applicable to other lands, structures, or **buildings** in the same **district**,
 2. That the land cannot reasonably be put to a conforming **use**,
 3. That the unique conditions and circumstances do not result from actions of the applicant, and,
 4. That the **use** to be authorized by the **variance** will not alter the essential character of the neighborhood.
- D. The public hearing shall be held allowing any party the opportunity to appear in person, or by a duly authorized agent or attorney. At the public hearing the Board of Appeals shall make a finding that the reasons set forth in the application justify the granting of the **variance** and shall make a finding that the granting of the **variance** will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- E. In granting any **variance**, the Board of Appeals shall be guided by the Administrative Standards in Section 1102. The Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and

safeguards, when made a part of the terms under which the **variance** is granted, shall be deemed a violation of this Ordinance and punishable under Section 1404.

Section 1305 Appeals

1. Appeals concerning interpretation of the administration of this Ordinance or for the granting or denial of a **Conditional Use Permit** shall be made by filing a notice of appeal specifying the grounds thereof with the **Zoning Administrator** within a period of 30 days from the occurrence of the contested action. The **Zoning Administrator** shall transmit to the **Zoning Board of Appeals** copies of all papers constituting the record upon which the action appealed was based upon.
2. A deposit fee shall be paid to the City at the time of filing the notice of appeal. The deposit and the appeal fee shall be established by the City Commission.
3. Any party or parties may appear at the hearing in person or by agent or attorney.
4. The **Zoning Board of Appeals** may reverse, affirm or modify an order, requirement, decision or determination based on an appeal made by a the **Zoning Administrator** and the **Planning Commission**. All actions taken by the **Zoning Board of Appeals** must be in conformance with this Ordinance.
5. The **Zoning Board of Appeals** shall decide upon all matters within a reasonable time. The decision of the Board shall be in the form of a resolution containing a full record of its findings and determinations in each case.
6. An appeal shall stay all proceedings in furtherance of the action appealed, unless the **Zoning Administrator** certifies to the Board, that a stay would in his/her opinion, **cause** an imminent peril to life or property, in which case the proceedings should not be stayed, other than by a restraining order granted by the courts.

Section 1306 Procedure on Matters of Appeal

- A. All questions concerning application of the provisions of this Ordinance shall first be presented to the **Zoning Administrator**. Such questions shall be presented to the **Zoning Board of Appeals** only on appeal from the decisions of the **Zoning Administrator**. Recourse from decisions of the **Zoning Board of Appeals** shall be to the Circuit Court of Alger County, as provided by law.

ARTICLE XIV: INTERPRETATION, SEVERABILITY, VESTED RIGHT, PENALTIES, AND EFFECTIVE DATE

Section 1401 Interpretation and Conflict

- A. In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity and general welfare. Unless specifically provided for, it is not intended by the Ordinance to repeal, abrogate, annul or in any way impair or interfere with the existing and unrepealed provision of law or ordinance or any rules, regulations, or permits previously adopted or issued pursuant to law relating to the **use of building** or land, provided, however, that where this Ordinance imposes a greater restriction upon the courtyards or other **open spaces** that are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this Ordinance shall control.

Section 1402 Severability

- A. This Ordinance and the various parts, sections, subsections, and clauses, thereof, are declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is provided that the remainder of the Ordinance shall not be affected. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional, or invalid as applied to a particular property, **building**, or **structure**, it is provided that the application of such portion of the Ordinance to other property, **buildings**, or **structures** shall not be affected. Whenever any condition or limitation is included in an order authorizing any **Conditional Use Permit, variance, zoning compliance permit, site plan** approval, or continuation or expansion of nonconformance, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this Ordinance or the requirement of some provision thereof, and to protect the public health, safety, and welfare, and that the officer or board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

Section 1403 Vested Right

- A. Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular **use, district**, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

Section 1404 Violations; Penalties and Nuisances

- A. The failure to comply with provisions of this Ordinance shall constitute a violation of this Ordinance. Every day on which a violation exists shall constitute a separate offense.
- B. Violations of the provisions of this Ordinance or failure to comply with its requirements, including violations of conditions and safeguards established in connection with **variances** and conditional **uses** and violations of approved **site plans** shall constitute a municipal civil infraction. Any person or entity who admits responsibility or is adjudged to be responsible for a violation of this Ordinance, or fails to comply with any of its requirements, shall, upon admission or judgement thereof, pay a civil fine or not less than fifty dollars nor more than five hundred dollars, plus costs and other sanctions, for each infraction. A separate infraction shall be deemed committed each day during or on which a violation occurs or continues.
- C. Any **building, structure** or **use** constructed, altered, moved or maintained in violation of the provisions of this Ordinance is hereby declared to be a **nuisance per se**.
- D. In addition to any other civil remedies provided for in this Ordinance, the City Commission may also institute proceedings for injunction, mandamus, abatement, or other appropriate remedies to prevent, enjoin, abate or remove any violations of this Ordinance. The imposition and payment of any civil penalty shall not exempt the violator from compliance with provisions of this Ordinance.

Section 1405 Repealing Clause

- A. The Zoning Ordinance for City of Munising, Michigan, adopted July 2, 1986 and effective July 23, 1986, and subsequent amendments, are hereby repealed.

Section 1406 Effective Date

- A. This Ordinance shall become effective seven days following publication of the notice of adoption in the Munising News.