

ARTICLE 24 ENVIRONMENTAL PROTECTION STANDARDS

Section 24.01 Intent.

The intent of including environmental protection standards is to ensure that development in the Village of Dundee that is reviewed, approved and completed under the regulations of this Ordinance is compatible with the natural systems of this Village including woodlands, wetlands, water bodies, drainage courses, soils, air and the overall natural quality of life. These features are sensitive and can be negatively impacted by development. The following standards seek to minimize these impacts and are in addition to state regulations related to natural features such as the Natural Resources Environmental Protection Act, Act 451 of 1994.

Section 24.02 Soil Removal, Filling, and Grading Standards.

24.02.01 **Applicability:** No person shall do any grading, stripping, excavating or filling, or undertake any earth change, unless the Zoning Enforcement Officer has issued a valid grading permit.

24.02.02 **Exceptions to Applicability:** A grading permit is not required under the circumstances described below. Even though no permits are required for these instances, those operations and construction that is exempted from obtaining permits must still be in compliance with the rules and regulations concerning grading and erosion specified in this ordinance or other applicable laws and ordinances.

- (a) The activity is associated with an approved site plan, subdivision plat, site condominium plan or private road approval.
- (b) Plowing and tilling of land for purposes of crop production or harvesting.
- (c) The activity is associated with a residential use and involves a volume of soil less than 100 cubic yards.
- (d) The activity is associated with a non-residential use and involves a volume of soil less than 50 cubic yards.
- (e) The activity is associated with grading or excavating for a building or structure that was authorized by another valid permit.
- (f) If the Zoning Enforcement Officer certifies in writing that the planned work and the final structure or topographical changes will not result in or contribute to soil erosion or sedimentation of the water of the state; will not interfere with any existing drainage course in such a manner as to cause damage to any adjacent property or result in the depositing of debris or sediment on any public way, will not create any hazard to any persons or property; and will have no detrimental influence upon the public welfare or upon the total development of the watershed.

24.02.03 **Grading Permit Review and Approval Procedures:** A separate application shall be required for each grading permit and the following procedure shall apply:

- (a) Submission of a completed application as required in Section 24.02.04 and the required fee to the Zoning Enforcement Officer.
- (b) The Zoning Enforcement Office shall review the application for conformance with Section 24.02.04 and Section 24.02.05. The Zoning Enforcement Officer may require a

re-submittal, or additional information. If the Zoning Enforcement Officer determines the application complies with the ordinance, the permit shall be issued.

- (c) The Zoning Enforcement Officer shall inspect the work upon completion to confirm compliance with the approved plan.

24.02.04 **Application Information Requirements:** The plans shall be prepared or approved by a person who is trained and experienced in soil erosion and sedimentation control methods and techniques. The plans and specifications accompanying the grading permit application and required fee shall be submitted to the Zoning Enforcement Officer and contain the required data listed below.

- (a) A vicinity sketch indicating the site location as well as the adjacent properties within one hundred (100) feet of the site boundaries.
- (b) Scale and north arrow for the plan.
- (c) Name, address and telephone number of the landowner, developer and petitioner.
- (d) The location of existing and proposed utility structures, ditches, culverts.
- (e) The location and distance of drainage structure to which the site will drain.
- (f) The location of existing and proposed buildings and structures.
- (g) A description and details of soil erosion control methods.
- (h) Existing spot elevations for the site and existing topographic contours at 2-foot intervals.
- (i) Proposed topographical contours at 2-foot intervals.
- (j) A timing schedule indicating the anticipated starting time and completion dates for the project.

24.02.05 **Review Standards:** All applications shall comply with the following standards:

- (a) New grades shall provide a sloping grade away from buildings and structures, thereby causing surface water to drain away from the walls of the building to a natural or established drainage course.
- (b) New grades shall not be established that would permit an increase in the run-off of surface water onto adjacent properties and public roadways except through established drainage courses.
- (c) New grades shall not result in the creation of standing water; the erosion or filling of a roadside ditch and shall not result in the blockage of public water courses.
- (d) Any land development, dredging, filling or other activity requiring a permit pursuant to the Natural Resources and Environmental Protection Act, Public Act 451 of 1994 shall be required to obtain said permit prior to the issuance of a grading permit. The Zoning Enforcement Officer may require the applicant to submit a letter from the MDEQ to confirm non-jurisdiction.
- (e) Any land development which disturbs the existing grade or more than one (1) acres of land or lies within five hundred (500) feet of a river, stream lake or open drain, shall require a Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended, prior to issuance of a grading permit.

24.02.06 **Bond, Cash Deposit or Instrument of Credit:** A grading permit shall not be issued unless the permittee shall first post with the Zoning Enforcement Officer a bond executed by the landowner and payable to the Village and in the amount stipulated below. The bond shall include penalty provisions for failure to complete the work on schedule as specific on the grading permit.

- (a) Residential: For activities associated with residential uses a bond of \$250.00 is required.
- (b) Non-residential: For activities associated with non-residential uses a bond of \$1000.00 is required.

24.02.07 **Extension of Time:** If the permittee is unable to complete work within the specified time, he may, at least ten (10) days prior to the expiration of the permit, present in writing to the Zoning Enforcement Officer a request or extension of time setting forth the reasons for the requested extension. If such an extension is warranted, the Zoning Enforcement Officer may grant additional time for the completion of the work, but no such extension shall release the owner from the obligation of the required bond set forth in Section 24.04.05 above.

Section 24.03 Preserving Existing Vegetation.

24.03.01 **Intent.** The intent of this Section is to preserve existing vegetation unless there are no other site design alternatives. Where healthy plant material exists on a site prior to its development or redevelopment, as determined by the Zoning Enforcement Officer or the Planning Commission, variations from the landscape requirements contained in Article 19 may be approved to allow credit for such plant material if such adjustment is keeping with the intent of this Ordinance.

24.03.02 **Inspection.** All existing vegetation shall be inspected by the Village to ensure the vegetation is high quality and will fulfill the requirements of this Article.

24.03.03 **Credit for Trees.** Credit for tree preservation shall be applied at the following rate:

- (a) For preserved trees of equal to or greater than twelve (12) inches in caliper, a credit of three (3) trees is permitted.
- (b) For preserved trees less than twelve (12) inches in caliper, a credit of two (2) trees is permitted.

24.03.04 **Credit for Shrubs.** Shrubs may be credited toward shrub requirements on a one (1) for one (1) basis.

24.03.05 **Removed Credit Trees.** In the event that healthy plant material credited towards required plantings are removed, damaged, or destroyed, as determined by the Zoning Enforcement Officer, they shall be replaced with new plant material meeting the standards of this Article.

24.03.06 **Mitigation.** Every attempt shall be made to preserve healthy mature existing vegetation. In the event that an existing tree with greater than a four (4) inch caliper or eight (8) feet tall is removed when there are obvious alternatives to their removal (as determined by the Director of Engineering and/or designee), all such trees shall be replaced at a ratio of 2 for 1. Each new tree shall have a caliper of no less than three (3) inches or six (6) feet tall.

Section 24.04 Natural Features Setback Standards.

24.04.01 **Required Setbacks.** All sites that are reviewed and approved under the regulations of this ordinance shall comply with the following minimum setback requirements from state regulated wetlands and from the shoreline of the River Raisin. These setback standards shall supercede the setbacks outlined in the Schedule of Regulations for sites where state regulated wetlands and water bodies are present.

Table 24.01		
Condition	Minimum Required Setback from State Regulated Wetland	Minimum Required Setback from the Shoreline of the River Raisin
sites lacking public sanitary sewer: Principal Structure Accessory Structure	25 feet 25 feet	75 feet 50 feet
sites connected to public sewer: Principal Structure Accessory Structure	25 feet 25 feet	50 feet 35 feet
paved parking areas	25 feet	35 feet

24.04.02 **Treatment of Setback Area.** The required setbacks as listed in Section 24.04.01 shall be maintained as an undisturbed natural buffer. Permitted uses and activities within the setback area shall only include trails and recreation areas such as a boat dock/launch. Vegetation shall be undisturbed with the exception of regular maintenance and the installation of native vegetation.

24.04.03 **Preservation of Regulated and Non-Regulated Wetlands:** Judicious effort shall be made through site plan design to preserve wetlands located on a site.

24.04.04 **Variations:** In considering a variance from a natural features setback, the applicant must demonstrate to the Zoning Board of Appeals that:

- (a) the setback is not necessary to preserve the wetland's ecological and aesthetic value.
- (b) the natural drainage pattern to the wetland will not be significantly affected;
- (c) the variance will not increase the potential for erosion, either during or after construction;
- (d) no feasible or prudent alternative exists and the variance distance is the minimum necessary to allow the project to proceed; or
- (e) Michigan Department of Environmental Quality permit requirements have been met and all possible avoidable impacts to wetlands have been addressed.

Section 24.05 Waterfront Regulations.

24.05.01 Waterfront structures and appurtenances are an accessory use to the principal use permitted in the zoning district of the waterfront property. The following requirements apply to all structures and appurtenances within the required waterfront yard (i.e. the minimum required setback from the ordinary high water mark contained in Section 24.04) of all zoning districts.

- 24.05.02 Only the following structures and appurtenances shall be permitted within the required waterfront yard:
- (a) docks and mooring apparatus;
 - (b) decks; and
 - (c) not more than one (1) gazebo.
- 24.05.03 Allowable accessory use of the waterfront in a single family residential district shall be limited to not more than (1) dock per lot or per dwelling unit.
- 24.05.04 No more than one (1) boat slip per dwelling unit shall be permitted for multiple-family dwellings.
- 24.05.05 Commercial boat rental shall be prohibited in residential districts.

Section 24.06 Performance Standards.

The following is a statement of policy of the Village of Dundee, Monroe County, Michigan, with respect to certain uses within the commercial and manufacturing use districts. The violation of any of these standards may constitute a public nuisance and will be considered by the Village Officials when making decisions as to whether or not to institute litigation to abate the same.

- 24.06.01 **Smoke:** It shall be unlawful for any person, firm or corporation to permit the emission of smoke from any source in an amount which shall be injurious or substantially annoying to persons residing in the affected area.
- 24.06.02 **Airborne Solids:** It shall be unlawful for any person, firm or corporation to operate and maintain, or cause to be operated and maintained, any process or activity that shall cause injury to neighboring business or property.
- 24.06.03 **Odor:** The emission of odors that shall be found to be obnoxious to any considerable number of persons at their place of residence shall be prohibited.
- 24.06.04 **Gases:** The emission or release of corrosive or toxic gases, in amounts which are injurious or substantially annoying to persons living or working in the effected area, shall be prohibited.
- 24.06.05 **Glare and Radioactive Materials:** Glare from any process or operation shall be shielded so as to be invisible beyond the property line of the premises on which the process is performed. Radiation, including radioactive materials and electromagnetic radiation such as that emitted by the x-ray process or diathermy, shall not be emitted to exceed quantities established as safe by federal regulations, when measured at the property line.
- 24.06.06 **Noise:** The emission of measurable noises from the premises shall not exceed sixty (60) decibels as measured at the property lines, except that where normal street traffic noises exceed sixty (60) decibels, the measurable noise emanating from the premises may equal, but not exceed, traffic noise levels

24.06.07 **Vibration:** Machines or operations which cause vibrations shall be permitted in manufacturing districts, provided that vibrations shall not cause displacement exceeding .003 of one inch as measured at the property line

Section 24.07 Hazardous Materials.

24.07.01 **Intent:** Protection of groundwater and surface water quality is of paramount importance to the Village of Dundee. No uses or developments shall be permitted which threaten water quality or which violate standards of County, State, and Federal agencies.

24.07.02 **Storage of Hazardous Substances:** Businesses that use, store, or generate hazardous substances in quantities greater than one hundred (100) kilograms (equal to about twenty-five (25) gallons or two hundred and twenty (220) pounds) must provide secondary containment (double enclosure) for all above ground storage containers.

24.07.03 **Outdoor Above Ground Storage:** Secondary containment structures must be designed to protect containers from the effects of storms, wind, fire, and vandalism. Structures that are covered and protected from rain and precipitation must provide secondary containment for ten percent (10%) of the volume of all containers or the volume of the largest container, whichever is greatest. Structures that are not protected from rain and precipitation must provide secondary storage capacity to hold one hundred fifty percent (150%) of the stored substances, unless the Planning Commission approves a lesser quantity.

24.07.04 **Indoor Above Ground Storage:** Hazardous substances should not be stored indoors in locations which are near a floor drain connecting to soils, groundwater, sanitary sewer lines, or nearby drains and rivers unless secondary containment is provided. Sump pumps and floor depressions to collect and hold leaks and spills are recommended.

24.07.05 **Loading/Unloading Areas:** Areas used for the loading and/or unloading of hazardous substances shall be designed and constructed to trap hazardous materials spilled or leaked and designed to prevent discharge of hazardous substances to floor drains, sanitary sewer lines, rivers, or storm drains.

24.07.06 **Below Ground Storage.**

- (a) At a minimum, regulations of the Michigan Department of Environmental Quality, Michigan Fire Marshal Division, and the Village of Dundee for the installation, inspection, maintenance of a leak detection system, inventory and record keeping, emergency response, and closure must be met.
- (b) All underground storage tanks that have been out-of-service for nine (9) months or longer shall be removed from the site before a building permit is issued. The Fire Chief may adjust this requirement when a clear timetable for the safe use of the underground tank is established.

24.07.07 **County, State, and Federal Requirements:** At a minimum, County, State and Federal requirements for storage, leak detection, record keeping, spill prevention, emergency responses, transport and disposal of hazardous substances must be met. It is the responsibility of the business facility owner to obtain any applicable County, State, or Federal permits or approvals.

24.07.08 **Site Plan Review and Approval:** Site plans for facilities with hazardous substances shall also be reviewed by the Fire Chief or his/her designee prior to the approval by the Planning Commission.

24.07.09 **Enforcement and Penalties:**

- (a) Any person violating any of the provisions of this Article shall be guilty of a misdemeanor and shall be subject to the provisions of this Chapter, in addition to any other penalties as may be prescribed herein.
- (b) Transporters of hazardous materials in the Village of Dundee shall be strictly liable for the full amount and cost of any harm or damages that may result from such transport. Where it is determined that hazardous substances have leaked, or spilled due to a violation of the provisions of this Ordinance, another village ordinance, negligence, or willful misconduct, the violator shall be required to abate the violation. In the case of an emergency, appropriate local, state, county, or federal emergency personnel may be called upon to assist in abatement and any other efforts necessary to remove hazardous materials and protect the health, safety, and welfare of the public. All costs, fees, and expenses in connection with such action shall be assessed as damages against the violator.
- (c) Any judge or magistrate imposing a fine and costs which are not paid in full immediately or for which a bond is not immediately posted in double the amount of such fine and costs, shall order the driver or owner to move the vehicle at his own risk to a place of safekeeping within the jurisdiction of the judge or magistrate, inform the judge or magistrate in writing of the place of safekeeping, and there keep the vehicle until the fine and costs are paid or sufficient bond furnished or until the judge or magistrate shall be satisfied that the fine and costs will be paid. The officer or agent investigating the accident may require the driver to proceed to a magistrate within the County. If the magistrate is satisfied that the probable fine and costs will be paid by the owner or lessee, he may allow the driver to proceed. If the magistrate is not satisfied that the owner or lessee, after a notice and a right to be heard on the merits is given, will pay the amount of the probable fine and costs, the magistrate may order the vehicle to be impounded until trial on the merits is completed after the fine and costs have been imposed. Removal of the vehicle shall be under the control of and at the risk of the owner or driver. Vehicles impounded shall be subject to a lien, subject to any prior valid bona fide lien of prior record in the amount of such fine and costs and if the same are not paid within ninety (90) days after such seizure, said judge or magistrate shall certify such unpaid judgment to the prosecuting attorney of Monroe County who shall proceed to enforce the lien by foreclosure sale in accordance with procedure authorized in the case of chattel mortgage foreclosures.

Section 24.08 Storage of Flammable or Explosive Materials.

The location or storage of flammable or explosive materials shall be regulated as follows, except for automobile service and repair stations and junkyards, in which case the special land use standards apply. The storage of normal household chemicals are exempt from these regulations.

- 24.08.01 .On any parcel of land in any floodplain, office, commercial and manufacturing district, the owner or tenant shall not store flammable materials closer than one hundred (1 00) feet from a residential district and/or three hundred (300) feet from a residential building. Furthermore, no residential building shall be constructed within three hundred (300) feet of an existing flammable storage facility.
- 24.08.02 The storage of flammable materials shall be in containers or storage facilities as approved by the local Fire Marshal or other designated fire official.
- 24.08.03 Said containers or storage facilities shall be at least forty (40) feet from any side or rear lot line and one hundred fifty (150) feet from the front lot line as measured from the edge of the street right-of-way.
- 24.08.04 The storage of explosive materials shall be in accordance with applicable State regulations.