

The Council for the Village of Hillman met in regular session on Tuesday, August 1, 2023 at 7 p.m. in the evening in the east-end conference room of the Hillman Community Center at 24220 Veterans Memorial Highway, Hillman, Michigan. Present: President Dave Hornbacher, Clerk/Treasurer Brenda South. Trustees: Stephen Orlandi, Thomas Bouchey, Johnathon Smith, Velma Brown. Employees: Dave Post, Jan McMurray. Visitors: Yvonne Swager (Tribune) Judy Nichols, Brush Creek Mill.

The meeting opened with the pledge of allegiance and was called to order at 7 p.m. by President Hornbacher.

A motion was made by Trustee Smith and supported by Trustee Brown to approve the agenda as presented. Yeas: Orlandi, Bouchey, Smith, Brown. Nays: None, Abstain: Hornbacher. Motion carried.

A motion was made by Trustee Orlandi and supported by Trustee Bouchey to approve the minutes of the July 18, 2023, Council meeting as written. Yeas: Orlandi, Bouchey, Smith, Brown. Nays: None, Abstain: Hornbacher. Motion carried.

A motion was made by Trustee Bouchey and supported by Trustee Brown to pay the bills and additional bills with checks numbered 36163 through 36177. Yeas: Orlandi, Bouchey, Smith, Brown. Nays: None, Abstain: Hornbacher. Motion carried.

President Hornbacher presented Ordinance 2023-01 An Ordinance To Amend The Village of Hillman Zoning Ordinance Section 4.12 To Create An Industrial Overlay District And Amend Article 10 To add Conditional Rezoning, to the Council for adoption. **Manager Dave Post** explained that the Planning Commission has recommended this be adopted by the Council, explaining that this will not change the zoning but would allow for a change of use of a particular business/building if requested by the owner. Conditions would have to be met, and it would go before the Planning Commission, if conditions are in compliance with zoning then it would then be passed on to the Council for final approval.

A motion was made by Trustee Orlandi and supported by Trustee Brown to adopt Ordinance 2023-01 An Ordinance To Amend The Village Of Hillman Zoning Ordinance Section 4.12 To Create An Industrial Overlay District And Amend Article 10 to Add Conditional Rezoning. Yeas: Orlandi, Bouchey, Smith, Brown. Nays: None, Abstain: Hornbacher. Motion carried.

Village of Hillman
Ordinance No. 01 of 2023
AN ORDINANCE TO AMEND THE VILLAGE OF HILLMAN ZONING
ORDINANCE SECTION 4.12 TO CREATE AN INDUSTRIAL OVERLAY
DISTRICT AND AMEND ARTICLE 10 TO ADD CONDITIONAL
REZONING

The Village of Hillman, Montmorency/Alpena County, Michigan ordains:

Section 1: Amendments to the Zoning Ordinance.

That the Village of Hillman Zoning Ordinance, Section 4.12 (Industrial District) is hereby amended to read as follows:

C. Development Standards

Lot & Structure Standards

Minimum Lot Area/Unit	17,424 sq. ft.
Minimum Lot Width	132 feet
Minimum Lot Depth	132 feet
Maximum Building Height	50 feet

Setbacks

Minimum front yard	40 feet
Minimum rear yard	10 feet
Minimum side yard	10 feet
Minimum side yard (Corner Lots)	15 feet

Other Regulations

INDUSTRIAL OVERLAY DISTRICT

- (1) The Industrial Overlay District is intended to be applied as needed to individual lots.
- (2) The Industrial Overlay District allows for uses allowed within the Industrial District to be located on a lot in addition to the uses allowed in the underlying district.
- (3) Development Standards:
 - (a) Uses which are listed as Permitted or Special Land Uses within the underlying District only shall adhere to the development standards for the underlying district.
 - (b) Uses which are listed as Permitted or Special Land Uses within the Industrial District only shall adhere to the development standards of the Industrial District.
 - (c) Uses which are listed as Permitted or Special Land Uses within both the underlying district and the Industrial District shall adhere to the least restrictive district development standards.

That the Village of Hillman Zoning Ordinance, Section 10.2 is hereby amended to read as follows:

Section 10.3 Conditional Rezoning

A. Intent.

It is recognized that there are certain instances where it would be in the best interests of the Village, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with Section 405 of the Michigan Zoning enabling Act, 2006 PA 110, as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

B. Application and Offer of Conditions.

1. An owner of land may voluntarily offer, in writing, conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
3. The owner's offer of conditions may not authorize uses or developments not permitted in the requested new zoning district.
4. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
5. Any use or development proposed as part of an offer of conditions that would require a Special Land Use permit, variance, or site plan approval under the terms of this Ordinance may only be commenced if the Special Land Use permit, variance, or site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
6. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

C. Planning Commission Review.

The Planning Commission, after a public hearing with notifications as set forth in **Section 9.5** of this Ordinance and consideration of the factors set forth in **Section 10.1.F** (except 10.1.F.6) of this Ordinance, may recommend approval, approval with recommended changes or denial of rezoning provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

D. Village Council Review.

After receipt of the Planning Commission's recommendation, the Village Council shall deliberate upon the requested conditional rezoning and may approve or deny the request. Should the Village Council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Village Council shall, in accordance with Section 401 of the **Michigan Zoning Enabling Act, 2006 PA 110**, as amended, refer such amendments to the Planning Commission for a report thereon within a time specified by the Village Council, and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

E. Approval.

1. If the Village Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the Ordinance adopted by the Village Council to accomplish the requested rezoning.
2. The Statement of Conditions shall:
 - a. Be in a form recordable with the **County Register of Deeds**, or as an alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Village Council.
 - b. Contain the legal description and tax identification number of the land to which it pertains.
 - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
 - d. Incorporate by attachment or reference any diagram, plans, or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 - e. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Village with the **County Register of Deeds**.
 - f. Contain the notarized signatures of all owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation the land was rezoned with a Statement of Conditions. The Village Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Village with the **County Register of Deeds**. The Village

Council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the timeframe within which the conditions are to be satisfied., the recording of such a document would be of no material benefit to the Village or to any subsequent owner of the land.

5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

F. Compliance with Conditions.

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Ordinance and be punishable accordingly.
2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

G. Time Period for Establishing Development or Use.

Unless another time period is specified in the Ordinance, the approved development and/or use of the land pursuant to building or other required permits must be commenced upon the land within twenty-four (24) months after the rezoning took effect and thereafter proceeded diligently to completion. This time limitation may upon written request be extended by the Village Council if (1) it is demonstrated to Village Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently to completion, and (2) the Village Council finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

H. Reversion of Zoning.

If the approved development and/or use of the rezoned land does not occur within the timeframe specified under **subsection G** above, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the Village Council requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall be the same as applies to all other rezoning requests.

I. Subsequent Rezoning of Land.

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification, but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to **subsection H** above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Village Clerk shall record with the County Register of Deeds that the Statement of Conditions is no longer in effect.

J. Amendment of Conditions.

1. During the time period for commencement of an approved development and/or use specified pursuant to **subsection G** above or during any extension thereof granted by the Village Council, the Village shall not add to or alter the conditions in the Statement of Conditions.
2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

K. Village Right to Rezone.

Nothing in the Statement of Conditions or in the provisions of this Section shall be deemed to prohibit the Village from rezoning all or any portions of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the **Michigan Zoning Enabling Act, 2006 PA 110**, as amended.

L. Failure to Offer Conditions.

The Village shall not require any owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

Section 2: Severability

If any clause, sentence, paragraph or part of this Ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair or invalidate the remainder of this Ordinance but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgement is rendered.

Section 3: Saving Clause

The Village of Hillman Zoning Ordinance, except as herein or heretofore amended, shall remain in full force and effect. The amendments provided herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation, or prosecution of any right established, occurring prior to the effective date hereof.

Section 4: Effective Date

The ordinance changes shall take effect upon the expiration of seven days after the publication of the notice of adoption.

Village of Hillman President

Village of Hillman Clerk

I, Brenda South, Clerk for the Village of Hillman, hereby certify that the foregoing is a true and correct copy of Ordinance No.01 of 2023 of the Village of Hillman, adopted at a meeting of the Village Council held on August 1, 2023.

A copy of the complete ordinance text may be inspected or purchased at the Hillman Village Offices at 24220 Veterans Memorial Highway, Hillman, Michigan.

Adopted: August 1, 2023 Published: August 9th, 2023 Effective: August 17, 2023, subject to PA 110 of 2006 as amended.

President Hornbacher presented a purchase agreement from Montmorency County Treasurer for Lot#24 in Orchard Pines Subdivision, the lot is up for tax sale. There were some typos in the agreement, those will need to be corrected. **A motion was made by Trustee Brown and supported by Trustee Orlandi to sign purchase agreement for \$861.73 plus recording fees. All in favor. Motion carried.**

Manager Dave Post reported that the Rural Readiness Grant Application should be ready to be submitted. Dave suggested hiring NEMCOG with a “fee for service” agreement to do grant applications avoiding wages/benefits for someone. **Manager Dave Post** reported that he and Jan had watched a “demo” video provided by the State Land Bank regarding the tearing down and disposal of dilapidated buildings. Dave made contact with a lot owner in Orchard Pines regarding purchasing his lot for building another house, the gentleman is interested in selling his lot. Hillman Power Company is planning to sell their office building which is being used for “cold storage”, they are still working on the solar power initiative.

A meeting with Huron Engineering was held yesterday, there is a problem with “duck weed” at the lagoons. It was suggested to put a mechanical skimmer in there, perhaps renting one. Chemical treatment is expensive and will need a

license and contractor. The discharge permit expires April 2024, it has gotten complicated, and we will need an engineer to navigate us through the renewal process. Becky from Huron is currently working on the water leads inspection, we will give them a list of random customers, 20% and she will document. The culverts on Second Street was discussed next, there was some concern about the plan for slipping in a liner, which may reduce the flow of water, EGLE will probably let it go since there isn't a strong water flow there. The determination from the State Revolving Loan Fund was that the Village of Hillman is significantly overburdened.

Trustee Brown reported that the airport inspection and meeting with hangar owners will be tomorrow night at 6 p.m. Airport Manager Mark Melligen is requesting some dirt be brought out to the airport to fill in holes. Scodellar, the company that did the crack sealing, was not happy with the fact the weeds had not been sprayed early enough to die out.

Trustee Smith reported that they are working on getting the park ready for VJ Day weekend. There was a problem with an unruly camper, he was arrested. There has been an issue with someone stealing toilet paper from the porta john.

President Hornbacher reported that the Hillman Area Fire & Ambulance board met, the fire department had 13 runs, 3 fires and 3 accidents. A county wide training for an "active shooter" has been planned for next week, but it may not happen due to a shortage of personnel. A new EMT has been cleared through orientation, the departments' insurance premiums went up. **Trustee Brown** requested that the municipal parking lot be swept before VJ Day.

Manager Dave Post reported that Alpena Power is currently putting in the 3-phase electric upgrade at the lift station. One suggestion for controlling the duck weed at the lagoon was to put a berm up to dry out.

Judy Nichols reminded the Council of the "soft opening" of the Brush Creek Museum on Thursday, August 10th, an invitation was included in their agendas.

Manager Dave Post reported that the Village Attorney, Tim Gulden, turned the issue of a delinquent HELP Loan to another partner, Dan Florip. A possible option would be a foreclosure notice on the business assets in the local paper.

A motion was made by Trustee Smith and supported by Trustee Orlandi to adjourn the meeting. Yeas: Orlandi, Bouchey, Smith, Brown. Nays: None, Abstain: Hornbacher. Motion carried. The meeting adjourned at 7:45 p.m.

Dave Hornbacher, President

Brenda South, Village Clerk/Treasurer