



VILLAGE OF SUTTONS BAY
Planning Commission
420 N. Front Street, Suttons Bay, MI 49682
December 13, 2023 at 5:00 pm
Regular Meeting Agenda

1. Call to order
2. Roll call and notation of quorum
3. Approval of Agenda
4. Member conflict of interest on any item on the agenda
5. Approval of minutes November 8, 2023
6. Public comment/Written communications (Reserved time for items listed on the agenda). Please limit remarks to no more than three (3) minutes
7. Old Business
 - a. Public Hearing- Amendments for Sections 2-6 Environmental Protection and Section 2-21 Walls and Fences
 - b. Public Hearing-Amendment Section 4-3 Hillside Residential – side setback discrepancy
 - c. Wetland Language-Continued Discussion
8. New Business
9. Public comment
10. Reports
 - a. Zoning Administration Report
 - b. ZBA Report
 - c. Village Council Updates
11. Good of the order
12. Announcements: Next Regular Meeting January 10, 2024
13. Adjournment

If you are planning on attending this meeting and are disabled requiring any special assistance, please notify the Village Clerk by calling 231.271.3051 or by email at suttonsbay@suttonsbayvillage.org as soon as possible.



VILLAGE OF SUTTONS BAY
PLANNING COMMISSION
MEETING MINUTES OF NOVEMBER 8, 2023
420 N FRONT ST
SUTTONS BAY, MI 49682

The meeting was called to order at 5:00 p.m. by Chairperson Hetler.

Present: Feringa, Hetler, Hylwa, Pontius, Smith and Suppes
Absent: Ostrowski
Staff present: Fay, Patmore and Kopriva

Approval of agenda

Hylwa moved, Suppes seconded, CARRIED, to approve the agenda as presented.
Ayes: 6, No: 0.

Approval of minutes

Suppes moved, Hylwa seconded, CARRIED, to approve the Planning Commission meeting minutes of October 11, 2023. Ayes: 6, No: 0.

2024 Planning Commission Budget

Suppes moved, Smith seconded, CARRIED to recommend the proposed 2024 Planning Commission budget to Village Council for approval. Ayes: 6, No: 0.

Resolution to Recommend Master Plan Adoption to Village Council

Suppes moved, Pontius seconded, CARRIED, that the Village of Suttons Bay Planning Commission recommends the Village Council adopt this Master Plan for the Village of Suttons Bay, along with the text, maps, charts, graphs, and other descriptive materials contained in the Plan, with an affirmative unanimous roll call vote. Ayes: 6, No: 0.

Proposed Amendments for Michigan Historic High-Water Mark

Pontius moved, Smith seconded, CARRIED, to set a public hearing for December 13, 2023, to amend text in Sections 2-6 Environmental Protection and Section 2-21 Walls and Fences, as presented in Kopriva's report dated 11-3-23. Ayes: 6, No: 0.

Proposed Amendment Hillside Residential – Side Setback Discrepancy

Suppes moved, Smith seconded, CARRIED, to set a public hearing for December 13, 2023, to update the text in table 4-3, as presented in Kopriva's report dated 11-3-23.
Ayes: 6, No: 0.

Wetland language

- Kopriva referred to the Wetlands Map found in the packet, stating that applications for any work done in the blue area of the map would require adherence to the Wetlands Ordinance once approved. This would include any parcel under two acres. Anything over two acres is regulated by EGLE.
- Kopriva referred to Section 4.2 stating it is possible to change who the Board consists of, emphasizing the need to appoint individuals with experience in wetlands. The difficulty of this task was voiced by Commissioners. Commissioners suggested individuals tied to the Leelanau Conservancy, DNR, Leelanau County residents, and residents of Suttons Bay Township (up to two individuals). Commissioners suggested a stipend for this board. Do other Leelanau County municipalities already have a Wetlands Ordinance in place?
- Are references to iron and copper found in Section 5.2 applicable to the Village?
- Suggestion to add man-made sedimentation basins.
- The proposed Wetlands Ordinance requires a Wetlands Administrator, who could be a staff member. Fees and escrows to cover the Wetlands Consultant would need established.
- The ordinance would require a lot of record keeping.
- A suggestion was made to add language that encourages wetland restoration. Kopriva will look into this.
- Change the language in Section 10 from DEQ, to EGLE.
- Commissioners would like the Wetlands Ordinance be placed on the agenda for December, with the goal of moving the Ordinance to Village Council in January.

2024 Schedule

Feringa moved, Smith seconded, CARRIED, to approve the 2024 Planning Commission Meeting Schedule as presented. Ayes: 6, No: 0.

Reports

Zoning Administration report

The Zoning Administration report was submitted and can be found in this meeting packet.

Village Council updates

Suppes stated a few changes in the 2024 Fee Schedule have been recommended to Council for approval, such as Marina Fees and Short-Term Rental fees.

Good of the order

Pontius stated a few trees were planted in North Park, Marina Park, and on Grove Street, and that many volunteers showed up for the planting.

The next regular Planning Commission meeting will be held on December 13, 2023.

The meeting adjourned at 6:13 p.m.

Meeting minutes submitted by Shar Fay, Clerk.

STATE OF MICHIGAN
COUNTY OF LEELANAU

VILLAGE OF SUTTONS BAY
PUBLIC HEARING

PROPOSED AMENDMENT(S) TO THE VILLAGE ZONING ORDINANCE

The Village of Suttons Bay Planning Commission will hold a public hearing to consider the following Zoning Ordinance Amendment(s) at their regular planning commission meeting scheduled for Wednesday, December 13, 2023 at 5:00 P.M.

Article 2-6 Environmental Protection

H. Waterfront Greenbelt.

1. Minimum Depth. A greenbelt a minimum of 25 feet deep will be established and maintained as a condition for new development or redevelopment taking place on waterfront parcels. This strip will be made up of a mixture of low growing shrubs and trees that are well suited for the site. This strip will be located upland from the Lake Michigan Historic High-Water Elevation (~~582.3' IGLD-1985~~) **as determined by the US Army Corp of Engineers** and no lawn may be maintained between this strip and the water's edge.

Article 2-21 Walls and Fences

Section 3. Placement

- (a) No fence shall be located below the Lake Michigan Historic High-Water Elevation of (~~582.3 feet IGLD-1985~~) **as determined by the US Army Corp of Engineers**.

Article 4. Residential Districts

Table 4-3 Spatial Requirements Hillside Residential side setbacks from ~~40 feet~~ to **20 feet** as identified in Figure 4-3 and update Figure 4-1 to reflect the same.

Article 7-3 Developmental Standards

- B. *Shoreline Yard and Setback Requirements*. Except for boat ramps, docks, harbormaster offices, and piers, all other structures shall be set back a minimum of 50 feet from the established Lake Michigan historic high-water elevation **as determined by the US Army Corp of Engineers** unless a greater setback from the shoreline is required by the *State of Michigan* or other public agency.
- C. Information regarding the amendment may be examined by contacting the Office of Planning & Zoning at the Village of Suttons Bay, during regular business hours of 8:00 a.m. – 4:00 p.m., Monday through Thursday, and 8:00 a.m. – Noon on Friday, at 231-271-3051 or by email at suttonsbay@suttonsbayvillage.org. Comments may be made in writing, addressed to Planning & Zoning, c/o Village of Suttons Bay, PO Box 395, Suttons Bay, Michigan 49682.

Date: 12.08.23
From: Sara Kopriva, AICP
To: Suttons Bay Planning Commission

Project: Zoning Amendment- High Water Mark Additional Changes

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Following the public hearing and review of criteria:

Recommended Motion: Motion to recommend approval of the high water mark amendment.

While amending the zoning ordinance to clarify the high water mark, there were sections of the ordinance that also need to be updated to be consistent throughout the text. Those sections are below and the language is being updated to be the same as the language that was passed last month for high water mark.

Amendment Below:
Proposed changes are in **bold** and highlighted in **Yellow** below.

Section 2-6 Environmental Protection

A. *Waterfront Greenbelt.*

- 1. Minimum Depth. A greenbelt a minimum of 25 feet deep will be established and maintained as a condition for new development or redevelopment taking place on waterfront parcels. This strip will be made up of a mixture of low growing shrubs and trees that are well suited for the site. This strip will be located upland from the Lake Michigan Historic High Water Elevation ~~(582.3' IGLD 1985)~~ **as determined by the US Army Corp of Engineers** and no lawn may be maintained between this strip and the water's edge.

Section 2-21 Walls and Fences

3. Placement.

- a. No fence shall be located below the Lake Michigan Historic High Water Elevation ~~of (582.3 feet IGLD 1985).~~ **as determined by the US Army Corp of Engineers.**

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Section 7-3 Development Standards

- B. *Shoreline Yard and Setback Requirements.* Except for boat ramps, docks, harbormaster offices, and piers, all other structures shall be set back a minimum of 50 feet from the established Lake Michigan **Historic High Water Elevation as determined by the US Army Corp of Engineers historic high water elevation (582.3 feet IGLD 1985)** unless a greater setback from the shoreline is required by the DNR/DEQ or other public agency.



Evaluation of Proposed Text Amendment

Below is an evaluation of the proposed Zoning Ordinance amendment based on the criteria for text amendments set forth in Sec. 18-3(C). (Evaluation in *italics*):

1. The proposed text amendment would clarify the intent of the ordinance.

The proposed text amendment will clarify the intent of the ordinance and help with further enforcement of the Zoning Ordinance.

2. The proposed text amendment would correct an error or oversight in the ordinance.

The amendment will correct an oversight of the ordinance by further defining language to help with enforcement and implementation of the Zoning Ordinance.

3. The proposed text amendment would address changes to the State legislation, recent case law or opinions from the Attorney General of the State of Michigan.

The proposed text amendment is not in response to any State legislation, recent case law or opinions from the Attorney General.

4. The proposed text amendment would promote compliance with changes in other County, State or Federal regulations.

The proposed amendment would not promote compliance with changes in other County, State or Federal regulations.

5. In the event the amendment will add a use to a district, that use shall be fully consistent with the intent of the district and the character of the range of uses provided for within the district.

This amendment does not add a use to a district.

6. The amendment will not create incompatible land uses within a zoning district, or between adjacent districts.

The amendment does not create incompatible land uses.

7. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.

There does not appear to be any conflict with any other reports, studies, or other documents.

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8. As applicable, the proposed change shall be consistent with the Village's ability to provide adequate public facilities and services.

The amendment is only related to definitions and clarifications. There is no impact on public facilities.

9. The proposed change shall be consistent with the Village's desire to protect the public health, safety, and welfare of the community.

The proposed text amendments are consistent with the Village's desire to protect the public health, safety and welfare of the community.

Date: 12.08.23
 From: Sara Kopriva, AICP
 To: Suttons Bay Planning Commission
 Project: Zoning Amendment- HR Side Setback

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 initiative

Following the public hearing and review of criteria:

Recommended Motion: Motion to recommend approval of the HR side setback amendment.

As mentioned last month, the text (table 4-3) and diagrams (Figure 4-1 & 4-3) have two different dimensions. It is recommended that the table in 4-3 be updated to reflect what the diagrams show which is a 20 ft side yard setback vs 40 ft side yard setback that is currently listed in Table 4-3

Amendment Below:
 Proposed changes are in highlighted in **Yellow** below and **red** text.

Table 4-3 Spatial Requirements- Residential Districts											
Residential Districts	Min. Depth (ft.)	Min. Width/ Frontage	Setbacks (feet)					Height of Primary (feet)	Stories	Building Coverage	Max. Impervious Coverage
			Primary Street Front	Side Street Front	Side	Rear/ Alley	Lake Michigan				
HR	100	100/20	40	40	40 20	40	-	30, 40 for dwellings with walk out basement	2.5	Lesser of 40% or 8,000 SF	Lesser of 50% or 10,000 SF

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Evaluation of Proposed Text Amendment

Below is an evaluation of the proposed Zoning Ordinance amendment based on the criteria for text amendments set forth in Sec. 18-3(C). (Evaluation in *italics*):

1. The proposed text amendment would clarify the intent of the ordinance.

The proposed text amendment will clarify the intent of the ordinance and help with further enforcement of the Zoning Ordinance.

2. The proposed text amendment would correct an error or oversight in the ordinance.

The amendment will correct an oversight of the ordinance by further defining language to help with enforcement and implementation of the Zoning Ordinance.

3. The proposed text amendment would address changes to the State legislation, recent case law or opinions from the Attorney General of the State of Michigan.

The proposed text amendment is not in response to any State legislation, recent case law or opinions from the Attorney General.

4. The proposed text amendment would promote compliance with changes in other County, State or Federal regulations.

The proposed amendment would not promote compliance with changes in other County, State or Federal regulations.

5. In the event the amendment will add a use to a district, that use shall be fully consistent with the intent of the district and the character of the range of uses provided for within the district.

This amendment does not add a use to a district.

6. The amendment will not create incompatible land uses within a zoning district, or between adjacent districts.

The amendment does not create incompatible land uses.

7. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.

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There does not to appear to be any conflict with any other reports, studies, or other documents.

8. As applicable, the proposed change shall be consistent with the Village's ability to provide adequate public facilities and services.

There is no impact on public facilities.


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9. The proposed change shall be consistent with the Village's desire to protect the public health, safety, and welfare of the community.

The proposed text amendments are consistent with the Village's desire to protect the public health, safety and welfare of the community.

project memorandum

B R 
Beckett&Raeder

Landscape Architecture
Planning, Engineering &
Environmental Services

Date: 12.08.23
From: Sara Kopriva, AICP
To: Suttons Bay Planning Commission

Project: Wetland Ordinance

 initiative

Attached is a revised wetlands ordinance as discussed at last month's meeting. I used track changes so that you could see the corrections, most of them are Section 4.2 related to the wetland board. Following the Planning Commission's review, I would like get EGLE's review of the ordinance before forwarding to Village Council, this can be done during the time that the ordinance is transitioning from the Planning Commission and Village Council. This way we can make sure that any changes are compliant with EGLE.

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WETLANDS PROTECTION
VILLAGE OF SUTTONS BAY, MICHIGAN
Ord. No __ effective __

An Ordinance for the control and preservation of wetlands within Suttons Bay and to protect the wetlands from sedimentation, destruction, and misuse; to prescribe the powers, duties and functions of the enforcing agency; to establish permits and a fee schedule; to establish design standards, specifications, and bond requirements; to provide for variance and exceptions; to provide for inspections and enforcement; to provide for violations, remedies and penalties thereof; and to provide for severability and effective date of the Ordinance.

THE VILLAGE OF SUTTONS BAY HEREBY ORDAINS:

SECTION 1. GENERAL

Section 1.1 - Findings

The Suttons Bay Village Council finds that wetlands are indispensable and fragile resources that provide many public benefits, including maintenance of water quality through nutrient cycling and sediment trapping as well as flood and storm water runoff control through temporary water storage, slow release, and groundwater recharge. In addition, wetlands provide open space; passive outdoor recreation opportunities; fish and wildlife habitat for many forms of wildlife, including migratory waterfowl, and rare, threatened, or endangered wildlife and plant species; and pollution treatment by serving as biological and chemical oxidation basins.

Preservation of the remaining wetlands is necessary to maintain hydrological, economic, recreational, and aesthetic natural resource values for existing and future residents of the Suttons Bay, and therefore the Village Council declares a policy of no net loss of wetlands. Furthermore, the Village Council declares a long-term goal of net gain of wetlands to be accomplished through review of degraded or destroyed wetlands in the Village of Suttons Bay, and through cooperative work with landowners, using incentives and voluntary agreements to restore wetlands.

To achieve these goals, and with authority from Section 30307(4) of Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended MCL 324.30307(4) (hereinafter the Wetlands Protection Act), the Village Council finds that local regulation of wetlands is necessary. Pursuant to Article 4, Section 52 of the Constitution of the State of Michigan, the conservation and development of natural resources of the state is a matter of paramount public concern in the interest of the health, safety, and general welfare of the people.

The Village Council therefore finds that this Ordinance is essential to the long term health, safety, and general welfare of the people of the Village of Suttons Bay, and to the furtherance of the policies set forth in Part 17, Michigan Environmental Protection Act, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended MCL 324.1701 et. seq. (hereinafter the Michigan Environmental Protection Act) and the Wetlands Protection Act.

Section 1.2 - Purpose

The purposes of this Ordinance are to provide for:

- A. The protection, preservation, replacement, proper maintenance, restoration, and use in

accordance with the character, adaptability, and stability of the Village of Sutton Bay's wetlands, in order to prevent their pollution or contamination; minimize their disturbance and disturbance to the natural habitat therein; and prevent damage from erosion, siltation, and flooding.

- B.** The coordination of and support for the enforcement of applicable federal, state, and county statutes, ordinances and regulations including but not limited to the Wetlands Protection Act, enforced by the Michigan Department of Environment, Great Lakes, and Energy which is hereinafter referred to as EGLE.
- C.** Compliance with the Michigan Environmental Protection Act which imposes a duty on government agencies and private individuals and organizations to prevent or minimize degradation of the environment which is likely to be caused by their activities.
- D.** The establishment of standards and procedures for the review and regulation of the use of wetlands.
- E.** A procedure for appealing decisions.
- F.** The establishment of enforcement procedures and penalties for the violation of this Ordinance.
- G.** Creation of a board to assist in the protection of wetlands and to build public support for the values of wetlands.

Section 1.3 - Construction and Application.

The following rules of construction apply in the interpretation and application of this Section:

- A.** In the case of a difference of meaning or implication between the text of this section and any caption or illustration, the text shall control.
- B.** Details provided by illustration or enumeration shall not control general language.
- C.** It is the intent of this ordinance to allow reasonable use of private property.
- D.** Any ambiguities perceived in this ordinance are to be resolved by the entity administering the ordinance, in accordance with Section 7.

Section 1.4 - Applicability to Private and Public Agency Activities and Operations.

The provisions of this Ordinance, including wetlands use permit requirements and criteria for wetlands use permit approval, shall apply to activities and operations proposed by federal, state, local, and other public agencies as well as private and public organizations and individuals except as may be exempt by law.

SECTION 2 - DEFINITIONS

Section 2.1 - Definition of Terms

Terms not specifically defined shall have the meaning customarily assigned to them:

CONTIGUOUS means any of the following:

1. A permanent surface water connection or any other direct physical contact with an inland lake or pond, a river or stream, or one of the Great Lakes.
2. A seasonal or intermittent direct surface water connection to an inland lake or pond, a river or stream, or one of the Great Lakes.
3. A wetland is partially or entirely located within five hundred (500') feet of the ordinary high water mark of an inland lake or pond or a river or stream or is within 1,000 feet of the ordinary high watermark of one of the Great Lakes, unless it is determined by EGLE, pursuant to R. 281.924 of the administrative rules promulgated under the Wetlands Protection Act (hereinafter Wetlands Administrative Rules), that there is no surface water or groundwater connection to these waters.
4. Two (2) or more areas of wetlands separated only by barriers, such as dikes, roads, berms, or other similar features, but with any of the wetland areas contiguous under the criteria described in Subsections (1)(2) or (3) of this definition.

ELECTRIC DISTRIBUTION LINE: means underground lines below 30 kilovolts and lines supported by wood poles.

ELECTRIC TRANSMISSION LINE: means those conductors and their necessary supporting or containing structures located outside of buildings that are used for transmitting a supply of electric energy, except those lines defined as an electric distribution line.

FILL MATERIAL means soil, rocks, sand, waste of any kind, or any other material that displaces soil or water or reduces water retention potential.

LOT: means a designated parcel, tract, building site or other interest in land established by plat, subdivision, conveyance, condominium master deed, or as otherwise permitted by law, to be used, developed, or built upon as a unit.

MINOR DRAINAGE: includes ditching and tiling for the removal of excess soil moisture incidental to the planting, cultivating, protecting, or harvesting of crops or improving the productivity of land in established use for agriculture, horticulture, silviculture, or lumbering.

MITIGATION shall mean: (1) methods for eliminating or reducing potential impact to regulated wetlands; or (2) creation of new wetlands to offset unavoidable and permitted loss of existing wetlands.

PERSON means an individual, sole proprietorship, partnership, corporation, association,

municipality, this state, and instrumentality or agency of this state, the federal government, or an instrumentality or agency of the federal government, or other legal entity.

PIPELINES HAVING A DIAMETER OF 6 INCHES OR LESS: means a pipe which is equal to or less than what is commonly referred to as a 6-inch pipe and which has an actual measured outside diameter of less than 6.75 inches.

VILLAGE COUNCIL shall mean the legislative body of the Village of Suttons Bay.

WETLAND means land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh and which is any of the following:

1. All wetlands subject to regulation by EGLE including wetlands:
 - (a) Contiguous to the Great Lakes, an inland lake or pond, or a river or a stream.
 - (b) Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and more than 5 acres in size; except this subparagraph shall not be of effect, except for the purpose of inventorying, in counties of less than 100,000 population until the EGLE certifies to the Village it has substantially completed its inventory of wetlands in that county.
 - (c) Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and 5 acres or less in size if the EGLE determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the owner; except this subparagraph may be utilized regardless of wetland size in a county in which subparagraph (ii) is of no effect; except for the purpose of inventorying, at the time.
2. Other wetlands subject to regulation by Suttons Bay including:
 - (a) Wetlands two (2) acres or greater in size, whether partially or entirely contained within the project site, which are not contiguous to the Great Lakes, an inland lake or pond, or a river or a stream.
 - (b) Wetlands smaller than two (2) acres in size which are not contiguous to the Great Lakes, a lake or pond, or a river or a stream, and are determined to be essential to the preservation of the natural resources of Suttons Bay as provided for in Section 7.6 of this Ordinance.

WETLAND CONSULTANT shall mean a person or persons knowledgeable in wetland protection and delineation who is identified by the Village of Suttons Bay to make wetlands determinations, to delineate wetlands, and to advise on wetland resource policy, education, and restoration.

WETLAND VEGETATION means plants that exhibit adaptations to allow, under normal conditions, germination, or propagation and to allow growth with at least their root systems in

water or saturated soil. This does not include invasive species.

WETLANDS ADMINISTRATOR shall mean a person(s) knowledgeable in wetlands protection, appointed by Suttons Bay Village Council to administer this Ordinance and to carry out certain duties hereunder.

WETLANDS BOARD shall mean the body of the Village of Suttons Bay which makes decisions on wetlands use permit appeals and advises the community on wetlands resource policy, education, and restoration.

WETLANDS MAP refers to the Suttons Bay wetlands inventory map, based on the National Wetlands Inventory Map of the U.S. Fish and Wildlife Service; the Michigan Resource Information System Mapping (MIRIS) of the State of Michigan; the soils maps of the Soil Conservation Service, aerial photography, and onsite inspections.

WETLANDS USE PERMIT shall mean approval required for activities in wetlands described in Section 7 of this Ordinance.

SECTION 3 - RELATIONSHIP TO STATE AND FEDERAL PERMIT REQUIREMENTS

Whenever persons requesting a wetland use permit are also subject to state and/or federal permit requirements, the following shall apply:

- A. Suttons Bay shall have jurisdiction for the regulation of wetlands under this Ordinance concurrent with the jurisdiction of EGLE.
- B. Approvals under this Ordinance shall not relieve a person of the need to obtain a permit from EGLE and/or the U.S. Army Corps of Engineers, if required.
- C. Issuance of a permit by EGLE and/or the U.S. Army Corps of Engineers shall not relieve a person of the need to obtain approval under this Ordinance, if applicable.

SECTION 4. ADMINISTRATION

Section 4.1 -Sutton Bay Wetlands Map

The Suttons Bay Wetlands Map is a guide to the location of its wetlands. The Wetlands Map shall be used in the administration of this Ordinance.

The Wetlands Map, together with all explanatory matter, as may be amended through the Wetlands Verification and Delineation process, is adopted by reference and declared to be a part of this Ordinance. The Wetlands Map shall be on file in the Clerk's office.

The Wetlands Map does not create any legally enforceable presumptions regarding whether property that is or is not included on the Wetlands Map is or is not a wetland.

The Wetlands Verification Process shall be used to verify wetlands on properties where wetlands

are shown on the Wetlands Map or on properties where wetlands exist as defined in Section 2.1.

The Wetlands Delineation Process shall be used to establish the actual boundaries of wetlands in the Village of Suttons Bay. The identification of the precise boundaries of wetlands on a project site shall be the responsibility of the applicant subject to review and approval by the Suttons Bay Wetland Consultant. Verification and delineation under this ordinance does not constitute a federal or state wetland jurisdiction or boundary decision.

A. Wetlands Verification Process

1. The Village of Suttons Bay or property owners of wetlands may initiate a verification of the areas shown on the Wetlands Map as wetlands or on properties where wetlands exist as defined in Section 2.1. The verification shall be limited to a “finding of wetlands” or “no wetlands” by the Wetlands Administrator. The finding shall be based on, but not limited to, aerial photography, topographical maps, site plans, and field verification.
2. If there is a finding of no wetlands on the property, then no further determination would be required.
3. The applicant shall pay fees for the Wetlands Verification Process as established in Section 9.1.

B. Wetlands Delineation Process

Prior to the issuance of any permit or land development approval for a property which is shown to include wetlands on the Wetlands Map, the applicant may be required to provide a wetlands delineation. The Wetlands Administrator, in consultation with the Wetland Consultant, shall determine whether a delineation is required, based on the proximity and relationship of the project to the wetlands. A delineation shall be required when a wetland use permit is requested.

1. To establish actual wetlands boundaries on a property, the applicant shall provide a survey or dimensional site plan, drawn at the scale, showing property lines, buildings, and any points of reference along with the wetland boundaries, according to one of the following:
 - (a) Wetlands delineation by EGLE
 - (b) Wetlands delineation by the applicant's wetlands consultant subject to review and approval by the Wetland Consultant.
2. Where a wetlands delineation is required by this section, the Wetland Consultant shall establish wetlands boundaries following receipt of the above required information and after conducting a field investigation.
3. The applicant shall pay fees for the Wetlands Delineation Process as established in Section 9.1.

C. Map Amendment

1. The Planning Commission shall make recommendations to the Village Council for revisions to the Wetlands Map whenever new and substantial data for wetlands becomes available.
2. The Village shall ensure that each record owner of property on the property tax roll shall be notified of any amendment to the Wetlands Map via a public hearing notice published in the newspaper of record. The notice shall include the following information:
 - (a) Sutton Bay Wetlands Map has been amended;
 - (b) the location to review the map;
 - (c) the owner's property may be designated as wetlands on the map;
 - (d) the Village has an Ordinance regulating wetlands and a link to where to view it;
 - (e) the map does not necessarily include all of the wetlands that may be subject to the Wetlands Ordinance.

Section 4.2. Wetlands Board

There is hereby created a Wetlands Board:

- A. The Wetlands Board shall consist of five (5) members who are appointed by the Village Council. Three (3) members shall be residents of the Village of Suttons Bay ~~appointed by the Village Council.~~ To provide additional expertise that may not be found in the village, two (2) members may be non-residents but shall be a resident of Leelanau County.
- B. Of the total membership, four ~~of whom~~ (4) shall have knowledge and experience in the areas of botany, soils, geology, hydrology, or natural resources. One (1) member of the Wetlands Board shall be a member of the Village Council.
- A.C. The initial terms of appointment shall be as follows: 2 individuals for 3 years, 2 individuals for 2 years, and 1 individual for 1 year. Thereafter, appointments shall be for a term of three years. The term of the Village Council representative to the Wetlands Board shall be concurrent with the term of office.
- B.D. The Wetlands Board shall establish rules of procedure.
- C.E. The Wetlands Board is authorized to undertake activities to protect wetlands including the following:
 1. Conduct public hearings and review appeals of wetlands use permit, mitigation, and/or restoration decisions made by the Wetlands Administrator, the Planning Commission, or Village Council.

2. Serve in an advisory role in setting policy guidelines on wetlands issues.
3. Identify conflicts between wetlands protection and Village ordinances, operating procedures, and activities.
4. Provide recommendations and assist in map administration.
5. Coordinate with EGLE in keeping up- to-date on issues affecting wetlands protection.
6. Recommend a program to protect and acquire important wetlands through tax incentives, donation, development rights, easements, land exchange, purchase, and other means.
7. Develop education programs for the public and for Sutton Bay schools. The program should promote the values of wetlands and awareness of the hazards and threats to wetlands. The program should be particularly targeted to landowners with wetlands and emphasize how best to protect wetlands values on their property.
8. Develop an adopt-a-wetlands program for interested citizens to participate more directly in preservation of specific wetlands.
9. Review degraded or destroyed wetlands for possibility of rehabilitation or restoration.

D.F. The Village Council has sole and exclusive discretion for removal of members of the Wetlands Board with or without a hearing.

SECTION 5 - ACTIVITIES IN WETLAND

Section 5.1 - Activities Prohibited Without First Obtaining a Wetland Use Permit

Except as otherwise provided by Section 5.2, it shall be unlawful for any person to do any of the following in a wetland unless and until a wetland use permit is obtained from the Village of Suttons Bay pursuant to this Ordinance.

- A. Deposit or permit the placing of fill material in a wetland.
- B. Dredge, remove, or permit the removal of soil or minerals from a wetland.
- C. Construct, operate, or maintain any use or development in a wetland.
- D. Drain surface water from a wetland.

Section 5.2 – Activities Not Requiring A Permit

Notwithstanding the prohibitions of Section 5.1, the following uses are allowed in a wetland without a wetland use permit, unless otherwise prohibited by statute, ordinance, or regulation:

- A. Fishing, trapping, or hunting.
- B. Swimming or boating.
- C. Hiking.

- D. Maintenance or operation of serviceable structures in existence on October 1, 1980 or constructed pursuant to the Wetlands Protection Act or former Act No. 203 of the Public Acts of 1979.
- E. Maintenance or improvement of public streets, highways, or roads, within the right-of-way and in such a manner as to assure that any adverse effect on the wetland will be otherwise minimized. Maintenance or improvement does not include adding extra lanes, increasing the right-of-way, or deviating from the existing location of the street, highway, or road.
- F. Maintenance, repair, or operation of gas or oil pipelines and construction of gas or oil pipelines having a diameter of 6 inches or less, if the pipelines are constructed, maintained, or repaired in a manner to assure that any adverse effect on the wetland will be otherwise minimized.
- G. Maintenance, repair, or operation of electric transmission and distribution power lines and construction of distribution power lines, if the distribution power lines are constructed, maintained, or repaired in a manner to assure that any adverse effect on the wetland will be otherwise minimized.
- H. Operation or maintenance, including reconstruction of recently damaged parts, of serviceable dikes and levees in existence on October 1, 1980 or constructed pursuant to the Wetlands Protection Act or former Act No. 203 of the Public Acts of 1979.
- I. ~~Construction of iron and copper mining tailings basins and water storage areas.~~
- J. An activity in a wetland that was effectively drained for farming before October 1, 1980 and that on and after October 1, 1980 has continued to be effectively drained as part of an ongoing farming operation is not subject to regulation under this ordinance.
- K. A wetland that is incidentally created as a result of one or more of the following activities is not subject to regulation under this ordinance:

1. Intentionally man-made detention and retention basins.

~~1.2.~~ Excavation for mineral or sand mining, if the area was not a wetland before excavation. This exemption does not include a wetland on or adjacent to a water body of 1 acre or more in size.

~~2.3.~~ Construction and operation of a water treatment pond or lagoon in compliance with the requirements of state or federal water pollution control regulations.

~~3.4.~~ A diked area associated with a landfill if the landfill complies with the terms of the landfill construction permit and if the diked area was not a wetland before diking.

SECTION 6 - APPLICATION REQUIREMENTS

Application for approval, appeal, and issuance of wetland use permits shall be concurrent with

the application for approval, appeal, and issuance of other necessary approvals by the Village. The applicant for a wetland use permit shall submit four copies of the following to the Wetland Administrator:

- A.** An application completed in full, on a form supplied by EGLE, together with any supplemental information necessary relative to isolated wetlands under 2 acres.
- B.** A wetlands delineation including, but not limited to the following information: dominant tree, sapling, shrub, and herb vegetation; presence or lack of accepted wetland hydrology indicators; analysis of soil including a description of the soil profile to at least 20 inches and comparison to Leelanau County Soil Survey, and plan views of the wetland(s) delineated. Plan views shall be represented in a manner that allows comparison to the Wetlands Map.
- C.** Soil drainage and stormwater management plans.
- D.** A mitigation plan, if the proposed activity will result in the loss of wetland resources. In order to adequately review a proposed mitigation plan, the following information shall be provided:
 - 1.** A brief overview of the plan including the short-range and long-range objectives for vegetation, hydrology, grading, and monitoring.
 - 2.** A schedule of all mitigation activities, including coordination with other local and state agencies, if applicable.
 - 3.** A planting plan and plant list for the area(s) to be established. The use of native plants characteristic of local conditions are required. Species should be selected based on the need for wildlife, restoration, landscaping, and recovery. Mitigation activities shall be performed without the use of invasive species.
 - 4.** A grading and soil erosion control plan including existing and proposed conditions.
 - 5.** A description of all soils and materials to be used including their approximate volumes and origin.
 - 6.** Hydro-geological information sufficient to determine the site's suitability for mitigation.
 - 7.** Construction detail drawings for planting, soil erosion control, stabilization, water conveyance, and all other items necessary to facilitate the review.
- E.** A cover letter signed by the applicant including the following information:
 - 1.** Name, address, email address, and phone number of applicant.
 - 2.** Name of project and brief description (one sentence).
 - 3.** Date upon which the activity is proposed to commence.

4. Explanation of why the project meets the wetlands use permit standards and criteria contained in this Ordinance.
 5. List of all federal, state, county, or other local government permits or approvals required for the proposed project including permit approvals or denials already received. In the event of denials, the reasons for denials shall be given. Attach copies of all permits that have been issued.
 6. Identification of any present litigation involving the property.
 7. Size of total wetland, size of affected wetland and cubic yards of fill.
- F.** For a wetland use permit approval required in conjunction with a site plan, plat, or other proposed land use, the applicant shall at the time of application elect to have the application processed under either Subsection (1) or (2) below:
1. The wetlands use permit application shall be reviewed either prior to or concurrent with the review of the site plan, plat, or other proposed land use submitted by the applicant. The Village will need to complete the review within the 90-day review period limitation pursuant to the Wetlands Protection Act. However, the land use review may not be completed at the time the decision is rendered on the wetland use permit application. Therefore, election of this alternative may require a reopening of the wetlands use permit application if the land use approval is inconsistent with the wetlands use permit approval; or,
 2. The wetlands use permit application shall be reviewed and acted upon concurrent with the review of the site plan, plat, or other proposed land use submitted by the applicant, and the 90-day review period limitation specified in the Wetlands Protection act shall thereby be extended accordingly.
- G.** Copies of wetland permit applications filed with EGLE and forwarded to Suttons Bay in accordance with Section 30307(6) of Wetlands Protection Act shall become part of the application for a local wetland use permit.
- H.** An application shall not be considered properly received by Suttons Bay, nor shall the 90-day review period limitation specified in the Wetlands Protection Act commence until all information required by this section has been submitted.

SECTION 7 - REVIEW

SECTION 7.1 - Method of Review of Wetlands Use Permit Application

- A.** Whenever a wetland use permit is required, applicant may request an administrative meeting with the Wetlands Administrator to review the proposed activity in light of the purposes of this Ordinance.
- B.** Upon receipt of an application, Suttons Bay shall ensure that all required information including a wetlands delineation has been submitted. The receipt of the application shall constitute permission from the owner to complete an on-site investigation.

- C. The applicant shall pay fees as established in Section 9.1.
- D. The Wetlands Administrator shall transmit one copy of the application and supporting materials to the Wetland Consultant to confirm the boundaries of the wetland and to review the proposal in light of the purpose and review standards of Section 7 and other applicable sections of this Ordinance.
- E. The Wetland Consultant shall prepare and transmit a report and recommendation to the Wetlands Administrator documenting the review required by Section 7.1 D.
- F. Upon receipt of an application, the Wetlands Administrator shall:
 - 1. Transmit one copy of the application, along with any state fees received, to EGLE.
 - 2. Publish a notice of the application and the date and time for submission of written public comments in a newspaper of general circulation in, except for activities proposed on a single-family lot.
 - 3. Advise the applicant of his/her obligation to post the subject property with a sign that shall be no less than ten (10) square feet in size. The sign shall be clearly visible from the abutting street(s) and shall state that an application has been filed for a wetland use permit on the property.

Section 7.2 - Wetlands Use Permit Decisions by the Wetlands Administrator

The following process shall apply to wetlands use permit decision by the Wetlands Administrator:

- A. For wetland use permit, applications submitted in conjunction with activities that do not require approval by the Planning Commission and/or Village Council, the Wetlands Administrator shall approve, approve with modifications, or deny the application within 90 days after receipt of an application. If the Wetlands Administrator does not make a final determination on the application within ninety (90) days after receipt of a complete application, then the permit application shall be considered approved, except where the 90-day limit has been extended pursuant to Section 6.F.2
- B. Persons wishing to comment on the application must submit their comments in writing to the Wetlands Administrator prior to the date and time set in the notice. Persons wishing to receive notice of the Wetlands Administrator's decision must submit a written request to the Wetlands Administrator.
- C. After completing the review and reviewing the written comments, the Wetlands Administrator shall approve, approve with modifications or conditions, or deny the wetlands use permit application in accordance with the standards of this Ordinance. The denial of a permit shall be accompanied by a written statement of all reasons for the denial. The Wetlands Administrator shall report the decision to the Wetlands Board, Planning Commission and Village Council, and EGLE.
- D. When a wetland use permit is approved, approved with modifications, or denied, written

notice shall be sent to the applicant and to all persons who have requested notice of the Wetlands Administrator's decision.

Section 7.3 - Wetlands Use Permit Decisions by Planning Commission or Village Council

The following process shall apply to wetlands use permit decisions by the Planning Commission or by Village Council:

- A.** Wetland use permit applications submitted in conjunction with a related land development activity shall be decided by the same entity that decides the related land development activity. The Wetlands Administrator shall transmit application materials and the report and recommendation prepared by the Wetland Consultant to the Planning Commission or Village Council as applicable.
- B.** After review and study of the application materials, the Wetland Consultant's report and recommendation, the Planning Commission or Village Council as applicable may hold one public hearing after publication in a newspaper of general circulation not less than ten (10) days nor more than sixty (60) days prior to the date of the hearing. Such notice shall indicate the place, time, and subject of the hearing and the place and time the proposed wetland use permit may be examined. The wetland use permit hearing may be held in conjunction with a review of the related land use requests.
- C.** In the event of a public hearing, notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered, and to all owners of property, as listed on the most recent tax roll, within 600 feet of the boundary of the property in question. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit shall receive notice. In the case of a single structure containing more than four (4) dwelling units, 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. A notice containing the time, date, place, and purpose of the hearing shall be posted on the subject property at least eight (8) days prior to the hearing. The posting sign shall be no less than ten (10) square feet in size, shall be clearly visible from the abutting street(s), and shall state that an application has been filed for a wetland use permit.
- D.** After completing the review, the Planning Commission or Village Council, as applicable, shall approve, approve with modifications, or deny the application within ninety (90) days after receipt of a complete application, in accordance with this Ordinance. If the Planning Commission or the Village Council, as applicable, does not make a final determination on the application within ninety (90) days after receipt of a complete application, then the permit application shall be considered approved, except where the 90-day limit has been extended pursuant to Section 6.F.2.
- E.** Written notice shall be sent to the applicant and EGLE upon approval, approval with modifications, or denial of a wetlands use permit by Suttons Bay. The denial of a permit shall be accompanied by a written statement of all reasons for denial.

Section 7.4 - Appeals Of Decisions of The Wetlands Administrator, Planning Commission, or Village Council

The following process shall apply to appeals of decisions made by the Wetlands Administrator, the Planning Commission, or Village Council as applicable:

- A.** Any person who is aggrieved by the approval, approval with modifications, or denial of a wetland use permit by the Wetlands Administrator, the Planning Commission, or Village Council, may appeal the decision to the Wetlands Board. A written letter containing the specific reasons for appeal shall be filed with the Clerk within ten (10) calendar days after the date of the decision to be appealed. Timely filing of an appeal shall have the effect of suspending the effect of the permit pending the outcome of the appeal. In the event that the person(s) filing the appeal do not own property within 600 feet of the wetland affected, the Planning Commission shall determine whether the person(s) are aggrieved.
- B.** Standard of Review. Based upon the record, in considering the appeal, the Wetlands Board shall affirm the original decision unless it finds an abuse of discretion by the entity deciding the wetland use permit.
- C.** After a hearing, the Wetlands Board shall determine that the decision of the Wetlands Administrator, Planning Commission, or Village Council be affirmed, affirmed with modification, or reversed. The Wetlands Board's decision shall be based on written findings.

Section 7.5 - Wetlands Use Permit Conditions

- A.** The Wetlands Administrator, the Planning Commission, or Village Council, as applicable, shall attach any reasonable conditions considered necessary to ensure that the intent of this section will be fulfilled, to minimize or mitigate damage or impairment to, encroachment in, or interference with nature resources and processes within the wetlands, or to otherwise improve or maintain the water quality. Any conditions related to wetland mitigation shall follow the provisions of Section 8 of this Ordinance.
- B.** The Wetlands Administrator, the Planning Commission, or Village Council, as applicable, shall fix a reasonable time to complete the proposed activities.
- C.** If the Wetlands Administrator, the Planning Commission, or Village Council, as applicable determines that there is a potential for adverse impacts to wetlands not authorized by the wetlands use permit or off-site property, they will require the applicant to file with the Village a cash bond or irrevocable bank letter of credit in an amount, estimated by the Wetland Consultant to be required to address those impacts.
- D.** A wetland use permit shall be conditioned upon compliance with all other requirements of ordinance and law, including site plan, plat, or land use approval as applicable, and issuance of a permit by EGLE, if required under the Wetlands Protection Act. In cases where an EGLE permit allows activities not permitted by the wetlands use permit approval granted under this section, the restrictions of the approval granted under this section shall govern.

- E. Wetland use permits for seasonal operations need not be renewed annually unless otherwise stated in the permit.
- F. Any change that materially increases the size or scope of the operation and that affects the criteria considered in approving the permit as determined by the Wetlands Administrator, the Planning Commission, or Village Council, as applicable, shall require the filing of a new wetlands use permit application.
- G. Any temporary, seasonal, or permanent operation that is discontinued for two (2) years or two (2) seasons shall be presumed to have been abandoned and the wetlands use permit automatically voided.
- H. Any permit granted under this Ordinance may be revoked or suspended by the Planning Commission or Village Council, as applicable, after notice and an opportunity for a hearing, for any of the following causes:
 - 1. A violation of a condition of the permit.
 - 2. Misrepresentation or failure to fully disclose relevant facts in the application.
 - 3. A change in a condition that requires a temporary or permanent change in the activity.
- I. An applicant who has received a wetland use permit under this Ordinance shall comply with the following in connection with any construction or other activity on the property for which the wetlands use permit has been issued:
 - 1. Maintain soil erosion control structures and measures, including but not limited to, silt fences, straw bale berms, and sediment traps. The permittee shall provide for periodic inspections throughout the duration of the project.
 - 2. Maintain clear delineation of the wetlands (so marked by the Wetlands Administrator or Wetland Consultant during the on-site inspection) so that such locations are visible to all construction workers.
 - 3. Post on the site, prior to commencement of work on the site and continuing throughout the duration of the project, a copy of the approved wetlands use permit containing the conditions of issuance, in a conspicuous manner such that the wording of said permit is available for public inspection.
- J. The wetland use permit shall remain effective for a time period coincidental with any other land use permit reviewed and approved concurrent with the wetlands use permit. If applied for prior to the expiration date and concurrent with the expiring land use permit, the applicant may be granted an extension that corresponds to additional time granted for the underlying land use permit. Extensions shall be approved by the same person or body that made the original decision. The maximum number of extensions shall coincide with the maximum number allowed for the underlying land use permit.

- K.** When there is no other activity or permit involved, the wetlands use permit shall remain effective for one (1) year. A maximum of a one (1) year extension may be approved.

Section 7.6 - Regulation Criteria for Non-Contiguous Wetlands Less Than (2) Two Acres In Area.

- A.** A wetland use permit shall be approved with respect to a non-contiguous wetland less than two (2) acres in area unless the Planning Commission or Village Council determines that the wetland is essential to the preservation of the natural resources of the Village of Suttons Bay.
- B.** All non-contiguous wetland areas of less than two (2) acres which appear on the Wetlands Map, or which are otherwise identified during a field inspection by the Village, shall be analyzed for the purpose of determining whether such areas are essential to the preservation of the natural resources. If there is to be a denial of a wetland use permit in a non-contiguous wetland area of less than two (2) acres, then, on the basis of data gathered by or on behalf of Suttons Bay, findings shall be made in writing and given to the applicant stating the basis for the determination that such wetland is essential to preservation of the natural resources. In order to make such a determination, there shall be a finding that one (1) or more of the following exist within such wetland:
1. The site supports state or federal endangered or threatened plants, fish, or wildlife appearing on a list specified in Section 36505 of Part 365, Endangered Species Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.
 2. The site represents what is identified as a locally rare or unique ecosystem.
 3. The site supports plants or animals of an identified local importance.
 4. The site provides groundwater recharge documented by a public agency.
 5. The site provides flood and storm control by the hydrologic absorption and storage capacity of the wetland.
 6. The site provides wildlife habitat by providing breeding, nesting, or feeding grounds or cover for forms of wildlife, waterfowl, including migratory waterfowl, and rare, threatened, or endangered wildlife species.
 7. The site provides protection of subsurface water resources and provision of valuable watersheds and recharging groundwater supplies.
 8. The site provides pollution treatment by serving as a biological and chemical oxidation basin.

9. The site provides erosion control by serving as a sedimentation area and filtering basin, absorbing silt and organic matter.
 10. The site provides sources of nutrients in water food cycles and nursery grounds and sanctuaries for fish.
- C. In connection with the determination whether the wetland is essential to the preservation of the natural resources, the property owner shall make a response under Subsection 1 or 2 below, relative to each non-contiguous wetland area less than two (2) acres.
1. In lieu of having Suttons Bay or its Wetland Consultant proceed with the analysis and determination, the property owner may acknowledge that one (1) or more of the criteria in Subsections (B-1) through (B-10) above, exist on the wetland in question, including a specification of the one or more criteria which do exist; or
 2. A decision to have Suttons Bay or its Wetland Consultant proceed with the analysis of whether each of the criterion in Subsections (B-1) through (B-10) exist or do not exist in the wetland in question, including specific reasons for the conclusion in respect to each criteria.
- D. If the Village determines that the wetland is not essential to the preservation of the natural resources, the decision shall be so noted on the Wetland Map, at the time it is amended. The requested activity shall be approved subject to all other applicable laws and regulations.
- E. If the Village determines that the wetland is essential to the preservation of the natural resources, and has found that one or more of the criteria set forth exist at the site, the Village shall notify the applicant in writing stating the reasons for determining the wetland to be essential to the preservation of the natural resources.

After determining that a wetland less than two (2) acres in size is essential to the preservation of the natural resources, the wetland use permit application shall be reviewed according to the standards in Section 7.7.

Section 7.7 - Review Standards for Wetland Use Permits

The criteria to evaluate wetland use permits under this Ordinance and to determine whether a permit is granted are as follows:

- A. A permit for any activity listed in Section 5.1 shall not be approved unless the Village determines that the issuance of a permit is in the public interest, that the permit is necessary to realize the benefits derived from the activity, and that the activity is otherwise lawful.

In determining whether the activity is in the public interest, the benefit that reasonably may be expected to accrue from the proposal shall be balanced against the reasonably

foreseeable detriments of the activity. The decision shall reflect the national, state, and local concern for the protection of natural resources from pollution, impairment, and destruction. The following general criteria shall be considered:

1. The relative extent of the public and private need for the proposed activity.
 2. The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity.
 3. The extent and permanence of the beneficial or detrimental effects that the proposed activity may have on the public and private uses to which the area is suited, including the benefits the wetlands provide.
 4. The probable impact of each proposal in relation to the cumulative effect created by other existing and anticipated activities in the watershed.
 5. The probable impact on recognized historic, cultural, scenic, ecological, or recreational values and on the public health or fish or wildlife.
 6. The size of the wetland being considered.
 7. The amount of remaining wetland in the general area.
 8. Proximity to any waterway.
 9. Economic value, both public and private, of the proposed land change to the general area.
 10. Findings of necessity for the proposed project that have been made by federal or state agencies.
- B.** A wetland use permit shall not be issued unless it is shown that an unacceptable disruption will not result to the aquatic resources. In determining whether a disruption to the aquatic resources is unacceptable, the criteria set forth in Section 30302 of the Wetlands Protection Act and Subsection A of this section shall be considered. A permit shall not be issued unless the applicant also shows either of the following:
1. The proposed activity is primarily dependent upon being located in the wetland.
 2. A feasible and prudent alternative does not exist.

SECTION 8 - WETLAND MITIGATION

Section 8.1 - Findings That Wetland Loss Is Unavoidable

Mitigation shall not be considered a substitute for making all prudent attempts to avoid wetland impacts.

- A. Prior to considering a proposal for wetland mitigation, the Wetlands Administrator, the Planning Commission, or Village Council, as applicable shall make all of the following findings:
 - 1. That all feasible and prudent efforts have been made to avoid the loss of wetland.
 - 2. That all practical means have been considered to minimize wetland impacts.
 - 3. That it is practical to replace the wetland which will be unavoidably eliminated.
 - 4. That all alternatives for preserving wetlands have been evaluated and found to be impractical, inappropriate, or ineffective.
- B. To ensure no net loss of wetlands, mitigation shall be required in instances where there are losses of wetland resources and where the Wetlands Administrator, the Planning Commission, or Village Council, as applicable have made the findings required in Section 8.1.A.

Section 8.2 - Criteria For Approving Proposals for Wetland Mitigation.

If the Wetlands Administrator, Planning Commission, or Village Council, as applicable, determines that it is practical to replace the wetlands that will be impacted, mitigation plans shall be approved only if all of the following criteria are met:

- A. That the mitigation plan provides for the substantial replacement of the predominant functional values of the wetland to be lost. Mitigated wetlands shall be replaced at a minimum of 1.5 new acres of wetland to 1 lost acre. A larger replacement ratio may be required if the lost wetlands are deemed to have exceptional value.
- B. That the mitigation plan provides for no net loss of wetland resources unless the Wetlands Administrator, the Planning Commission, or Village Council, as applicable determines that the net loss will result in a minimum negative impact upon wetlands, and attendant natural resources under all of the circumstances.
- C. Mitigation shall be provided on-site where practical and beneficial to the wetland resources. If mitigation on-site is not practical and beneficial, then mitigation in the immediate vicinity, within the same watershed, of the permitted activity may be considered. Only if all of these options are impractical shall mitigation be considered elsewhere.
- D. The mitigation plan will comply with all applicable federal, state, and local laws.
- E. A plan to monitor preserved and replacement wetlands over a minimum of five (5) years has been specified. The plan shall include the following information:
 - 1. Schedule and list of activities to be contracted and conducted related to the site's hydrology, including sub-surface and surface water for a period of at least five (5) years.

A report and recommendation on the hydrologic conditions of the site should be submitted to the Village annually.

2. Schedule and list of activities to be contracted and conducted related to the site's plant establishment and control of invasive exotic species for a period of at least five (5) years. A report and recommendation on the plant establishment of the site should be submitted to the Village annually.
3. To assure that the objectives established in the mitigation plan are successful, the monitoring plan should indicate the mechanisms necessary to execute the recommendations from the annual reports and provide for additional monitoring after the five (5) year period.

Section 8.3 - Other Mitigation Requirements

- A. Wetland mitigation and monitoring plans shall become conditions to the wetland use permit and shall be the responsibility of the applicant.
- B. Financial assurances that mitigation is accomplished as specified by the permit condition may be required by Wetlands Administrator, Planning Commission, or Village Council, as applicable.
- C. Any mitigation activity shall be completed before initiation of other permitted activities, unless a phased concurrent schedule can be agreed upon between the Wetlands Administrator, Planning Commission, or Village Council, as applicable, and the applicant.
- D. Wetland mitigation plans that create less than two (2) acre wetlands shall be designed and constructed to meet one of the conditions listed in Section 7.6 B.1-10.

SECTION 9 - FEES, PENALTIES, AND ENFORCEMENT

Section 9.1 - Fees

Applications for a wetland use permit under this section shall be accompanied by a non-refundable administrative application fee in an amount specified from time to time by resolution of the Suttons Bay Village Council. In addition, an applicant shall pay an escrow fee in an amount determined from time to time by resolution of Village Council for the estimated cost of outside consultant(s) who may be retained by the Village in connection with the review of the application. If the cost of the services of the consultant(s) is less than the escrow fee, the applicant shall be refunded the balance. In the event the cost of the services of the consultant(s) exceeds the amount of the escrow fee, the applicant shall provide additional escrow amount equivalent to no less than one-half (1/2) the original escrow amount. All review of the wetland use permit application shall cease until such additional escrow amount is deposited with Suttons Bay, and the number of days during which all review of the wetlands use permit application is ceased shall be deducted from the time limits within which the Village would otherwise act upon the application. If the cost of the services of the consultant(s) is less than the subsequent escrow

fee(s), the applicant shall be refunded the balance. A denial of an application for a wetland use permit shall not affect the applicant's obligation to pay the fees provided for in this Section.

Section 9.2 - Penalties And Enforcement

A. Penalties

1. If, on the basis of information available to the Village it finds that a person is in violation of this Ordinance or of a condition set forth in a permit, the Village shall issue an order requiring the person to comply with the prohibitions or conditions, or the Village shall take such enforcement action as it deems appropriate.
 - (a) If a person acts in violation of this ordinance, the Village may issue a stop work order on construction or shall refuse a certificate of occupancy or other construction permits related to the project whenever there is a failure to comply with the provisions of this Ordinance.
 - (b) An order issued under subsection (1) shall state with reasonable specificity the nature of the violation and shall specify a time for compliance, not to exceed 30 days, taking into account the seriousness of the violation and good faith efforts to comply with acceptable requirements.
2. A person who violates any provision of this Ordinance shall be responsible for a civil infraction for which the court may impose a civil fine of not less than \$100.00 nor no more than \$10,000 per day of violation plus all costs, direct or indirect, which the Village has incurred in connection with the violation.
3. In addition to the penalties provided by the Village, the court may order a person who violates this Ordinance to restore as nearly as possible the wetland affected by the violation to its original condition immediately before the violation and may issue any other orders permitted by law. The restoration may include the removal of fill material deposited in a wetland or the replacement of soil, sand, minerals, or plants.

B. Injunction

Any activity conducted in violation of this section is declared to be a nuisance *per se*, and the Village of Suttons Bay may commence a civil suit in any court of competent jurisdiction for an order abating or enjoining the violation, and/or requiring restoration of the wetland as nearly as possible to its condition before the violation.

Section 9.3 Reporting and Record Keeping

- A. Any citizen(s) observing what he/she/they believe(s) or suspect(s) may be an instance of noncompliance with the provisions of this Ordinance may report the observation to any official or employee of the Village of Suttons Bay.
- B. Any report received pursuant to Subsection A of this Section shall be forwarded immediately to the Village of Suttons Bay Ordinance Officer and the Village Clerk.

C. Village of Suttons Bay Ordinance Officer Duties

1. The Ordinance Officer shall inspect the site of the suspected noncompliance as soon as is reasonably practical, but in no case later than the close of business five (5) business days after receiving the report.
2. The Ordinance Officer shall complete an entry for the report into the Compliance Docket.
3. The Ordinance Officer may enlist the expertise of the Wetlands Administrator if necessary to determine whether a violation of this Ordinance has occurred.
4. The Ordinance Officer shall take any actions within his or her authority necessary to ensure this Ordinance is enforced.

D. Compliance Docket

The Ordinance Officer shall maintain a Compliance Docket. The Docket shall be used to identify all properties or uses of properties which have been evaluated for compliance with this Ordinance. The Docket shall be available to the public upon demand during normal business hours. The Docket shall contain the following information:

1. Date: the date the Docket entry was initiated.
2. Address/Location of Property: the street address, if available, or descriptive text or vicinity map sufficient to enable citizens to identify the property in question
3. Permit or Docket Number: If it has been determined that the use being made of the property does not require a wetland use permit from the Village, a Docket number shall be assigned. Otherwise, the Permit number shall be maintained.
4. Compliance Status: A record shall be made of whether the use on property is in compliance with the provisions of this Ordinance, the date the determination was made, and the name(s) of the Suttons Bay official and/or consultant who made the determination.
5. Property number.

E. Violation Docket

The Docket shall be used to track the status of violations of this Ordinance and shall contain the following information, as it becomes available:

1. Date: the date the Docket entry was initiated
2. The permit or Docket number: This number shall be the same number as is used to identify the property in the Compliance Docket.

3. Address/Location of property: The street address, if available, or descriptive text or vicinity map sufficient to enable citizens to identify the property in question.
4. Nature of violation.
5. Date violation confirmed.
6. Name of person confirming the violation.
7. Enforcement action taken.
8. Date of enforcement action taken.
9. Outcome of enforcement action: If outcomes are appealed by the property owner or any other party, each appeal shall be noted, and its outcome shall also be noted under this heading.

SECTION 10 - STATE NOTIFICATION

Section 10.1 - Notice to the Michigan Department of Environmental Quality Environment, Great Lakes, and Energy

The Village of Suttons Bay shall notify EGLE of the adoption of this Ordinance and shall cooperate with EGLE in the enforcement of the Wetlands Protection Act as to wetlands under EGLE's jurisdiction as defined under this Ordinance.

SECTION 11 - ORDINANCE CONFLICT

Section 11.1 - Abrogation and Conflict of Authority

Nothing in this Ordinance shall be interpreted to conflict with present or future state statutes on the same subject matter; conflicting provisions of this Ordinance shall be abrogated to, but only to, the extent of the conflict. Moreover, the provisions of this Ordinance shall be construed, if possible, to be consistent with and in addition to relevant state regulations and statutes. If any part of this Ordinance is found to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision. Such finding shall not affect the validity of the remaining portions thereof, and the remainder of the Ordinance shall remain in force. Rights and duties that have matured, penalties which have been incurred, proceedings which have begun and prosecutions for violations of law occurring before the effective date of this Ordinance are not affected or abated by this Ordinance.

SECTION 12 - PROPERTY TAX ASSESSMENT


If a wetland use permit is denied by the Village of Suttons Bay a landowner may appear at the annual Board of Review for the purpose of seeking a re-valuation of the affected property for assessment purposes to determine its fair market value under the use restriction.

SECTION 13 - EFFECTIVE DATE

This Ordinance shall take full force and effect upon [date], following final publication of said Ordinance.

SECTION 14 - CERTIFICATION

I, _____, Clerk of the Village of Suttons Bay, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted at first reading by Village Council at a regular meeting on _____ and adopted at second and final reading by said Village Council at a regular meeting of said Village Council on _____.

		VILLAGE OF SUTTONS BAY ZONING REPORT	
Prepared:	12/01/2023	Pages:	1 of 1
Meeting:	December PC & Council	Attachments:	0 <input type="checkbox"/>
Subject:	Zoning Report for November 2023		

LAND USE PERMITS ISSUED

DATE	TOTAL	NEW HOMES	ADU	ALTERATIONS ADDITIONS	ACCES. STRUCT.	FENCE	COMMERCIAL & SIGNS
November 2023	1	0	0	0	0	1	0
Year To Date	24	3	1	5	1	3	11

LUP 24-024 Fence 220 W. Second Street

STAFF REPORT

- Inquiries on Land Use Permits, properties, zoning.
- I will not be able to attend the December 13, 2023 Planning Commission Meeting, however, I support the Zoning Ordinance Amendments currently being proposed by the Planning Commission.

FUTURE ACTION REQUESTED:

Congratulations on the adoption of your new Master Plan.

I would recommend that the Planning Commission now re-review the Action Items in the Implementation Section of the Plan, and identify potential priority items to work on in 2024.