

ORDINANCE No. 52

AN ORDINANCE OF THE VILLAGE OF MUIR, RELATING TO STREETS, ALLEYS AND PUBLIC PLACES, ESTABLISHING THE PROCEDURES, NOTICE REQUIREMENTS AND FEES FOR THE VACATION OF STREETS AND ALLEYS WITHIN THE VILLAGE.

WHEREAS, the Village does not currently have procedures for the vacation of streets and alleys; and

WHEREAS, the Village has the authority, pursuant to Michigan Compiled Laws 67.14, to adopt an ordinance for the implementation of street and alley vacations; now, therefore,

THE VILLAGE COUNCIL OF THE VILLAGE OF MUIR, MICHIGAN, DO ORDAIN AS FOLLOWS:

Section 1. Petition for Vacation.

A. **Petitions authorized.** The owners of an interest in any real estate abutting upon any street or alley desiring to vacate the street or alley or any part thereof, may petition the Village Council to make such vacation.

B. **Elements of Petition.** The vacation petition shall include a legal description of the property to be vacated, as prepared by a licensed surveyor.

C. **Filing of Petition.** The petition or resolution shall be filed with the Village Clerk, and the petition shall be signed by the owners of more than two-thirds of the property abutting upon the part of such street or alley to sought to be vacated.

D. **Council Resolution for Vacation/Council Action on Resolution or Petition.** Upon receipt of petition for vacation, or after the Village Council's own motion on its own resolution for vacation, the Village Council shall adopt a resolution fixing a time when the petition will be heard and determined, which time shall not be more than sixty days nor less than twenty days after the date of the passage of the resolution.

Section 2 Petition Fees.

A. **Pre-hearing Fee.** Every petition for the vacation of any street, alley or public place, or any part thereof, shall be accompanied by an initial nonrefundable payment to the Village of a pre-hearing fee of one hundred fifty dollars (\$150.00), to defray the administrative costs incurred in processing such vacation petitions.

B. **Appraisal Fees to be Paid After Council Recommends Vacation.** At the time the Village Council recommends granting a vacation petition, the petitioner shall deposit five hundred (\$500) with the Village Clerk, which shall be the Village's estimated cost of the full appraisal. In the event that the appraisal cost is less than the amount deposited, the vacation compensation

payable to the Village shall be reduced by the difference between the deposit and the actual cost, or, in the alternative, such difference shall be refunded. In the event the cost of the appraisal cost is more than the amount deposited, the vacation compensation payable to the Village shall be increased by the difference between the deposit and the actual cost, or in the alternative, such difference shall be separately billed and paid by the petitioners prior to the approval of the vacation.

C. The Village Clerk is authorized to obtain appraisals from qualified, independent appraisers of such streets, alleys or public places, as are recommended for vacation, after the hearing by the Village Council or a committee thereof, and is further authorized to obtain appraisals from qualified, independent real estate appraisers of the fair market value of the alternate right-of-way land proposed to be granted or dedicated to the Village for street or alley purposes in lieu of a cash payment. In such instance, an additional appraisal deposit fee shall be paid for the appraisal of such parcel(s), and according to the fee and time schedule.

Section 3. Notice of Hearing.

A. **Notice to be Provided.** Upon the passage of the resolution, the Village Clerk shall give twenty (20) days' notice of the pendency of the petition by a written notice posted in three of the most public places in the Village, and a like notice in a conspicuous place on the street, alley or public place sought to be vacated.

B. **Elements of Notice.** The said notice shall contain a statement that a petition has been filed to vacate the street or alley described in the notice, together with a statement of the time and place fixed for the hearing of the petition. The notice will state that the Council shall hold a public hearing on the proposed vacation in the manner required in this chapter. In addition, the notice posted on the alley or street proposed to be vacated shall indicate that the area is public access, it is proposed to be vacated, and that anyone objecting to the proposed vacation should attend the public hearing or send a letter to the Village Council indicating his or her objection.

C. **Notice where Council Initiates Vacation by Resolution.** In all cases where the proceeding is initiated by resolution of the Village Council without a petition having been signed by the owners of more than two-thirds of the property abutting upon the part of the street, alley or public place sought to be vacated, in addition to the notice hereinabove required, there shall be given by mail at least fifteen days before the date fixed for the hearing, a similar notice to the record owners or reputed owners of all lots, tracts or parcels of land or other property abutting upon any street, alley, public place or portion thereof sought to be vacated, as shown on the rolls of the County treasurer.

Section 4. Protest. If fifty percent (50%) of the abutting property owners file written objections to a Council-initiated vacation with the Village Clerk prior to the time of the hearing, the Village shall be prohibited from proceeding with the resolution.

Section 5. Hearing. The hearing on such petition may be held before the Village Council or before a committee thereof upon the date fixed by resolution or at the time said hearing may be

adjourned to. The Village Council may grant the petition to vacate the street, alley, or any part thereof by ordinance, with or without conditions, or the Village Council may deny the petition.

Section 6. Easements for Utilities and Services. Ordinances vacating streets, alleys, public places or portions thereof may contain a provision retaining or requiring conveyance of easements for construction, repair and maintenance of existing and future public utilities and services.

Section 7. Compensation for Vacation.

A. Payment for Vacation. Ordinances vacating any street, alley or public place which has not been acquired at public expense shall not be passed by the Village Council until a sum equal to one-half (1/2) of the fair market value, as shown in the appraisal, of the area vacated is paid to the Village. Where the area vacated was acquired at public expense, the sum to be paid to the Village shall be equal to the full fair market value, as shown in the appraisal, of the area vacated. The full fair market value, as shown in the appraisal shall be paid upon vacation of streets abutting upon bodies of water.

B. In-lieu Transfers of Property. Conveyance of other property acceptable to the Village may be made in lieu of the payment required, whether required to mitigate adverse impacts of the vacation or otherwise. When such conveyance is made for street purposes, one-half (1/2) of the fair market value, as shown in the appraisal, of the land conveyed shall be credited to the required payment. When the conveyance is made in fee for purposes other than street purposes, the full appraised value of the land conveyed shall be credited to the required payment.

When the value of the in-lieu parcel is less than the payment required by subsection A, the petitioner shall pay the difference to the Village. When the value of the in-lieu parcel exceeds the payment required, the Village shall pay the difference to petitioner.

C. Vacations Initiated by Council Resolution. The Council may pass a vacation ordinance to vacate a street, alley or public place without requiring that the abutting property owners make payment to the Village for such vacation where: (1) the street, alley or public place was not acquired at Village expense; (2) the Village determines that the street, alley or public place is not needed for public travel either now or in the foreseeable future; (3) the Village's maintenance or upkeep of the street, alley or public place is unrelated to any use of the street, alley or public place for public travel.

Section 8. Payment of Compensation or Conveyance. Upon securing the appraisal of the value of the street, alley or public place to be vacated as provided in this chapter, the Village Clerk shall notify the petitioner of the amount of compensation, deducting therefrom any remaining appraisal fee deposit not previously refunded to the petitioner. The payment shall be delivered to the Village Clerk, who, upon receipt of any such payment, shall forthwith transmit the same for deposit. In the event that the petitioner has received approval of delivery of an instrument granting or dedicating to the Village a parcel(s) of land in lieu of a cash payment, the Village Clerk, at the applicant's expense shall obtain a policy of title insurance insuring title thereto in the Village.

Section 9. Posting and Mailing Notices -- Recording Ordinance. Posting and mailing of the notices provided for in this chapter shall be the responsibility of the Village Clerk. As required by law, a certified copy of the ordinance vacating a street, alley or public place, or any portion thereof, shall be recorded by the Village Clerk and the office of the Village Assessor.

Section 10. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 11. This ordinance shall take effect and be in full force five (5) days after publication of an approved summary consisting of the title.

APPROVED:

Muir Village Council

ATTEST/AUTHENTICATED:

Laura Stewart

VILLAGE CLERK

FILED WITH THE VILLAGE CLERK:

PASSED BY THE VILLAGE COUNCIL:

PUBLISHED:

EFFECTIVE DATE - ORDINANCE NO. 52 :

SUMMARY OF ORDINANCE NO. 52 of the Village of Muir, Michigan

On the 3 day of November, 2009, the Village Council of the Village of Muir, passed Ordinance No. 52. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE VILLAGE OF MUIR, MICHIGAN, RELATING TO STREETS, ALLEYS AND PUBLIC PLACES, ESTABLISHING THE PROCEDURES, NOTICE REQUIREMENTS AND FEES FOR THE VACATION OF STREETS AND ALLEYS WITHIN THE VILLAGE, IMPLEMENTING THE AUTHORITY GRANTED TO THE VILLAGE BY THE STATE OF MICHIGAN.

The full text of this Ordinance will be mailed upon request.

DATED this 4 day of November, 2009.

Laura Stewart

VILLAGE CLERK