

**CITY OF  
LUNA PIER**

**ZONING ORDINANCE**

**211**

**City of Luna Pier  
4357 Buckeye Street  
P.O. Box 375  
Luna Pier, MI 48157**

**Adopted: March 8, 2012**

**Updated: March 2021**

**Included Amendments:**

Ordinance 214 – 10/11/12

Ordinance 221 – 03/12/14

Ordinance 229 – 12/19/16

Ordinance 234 – 01/15/18

Ordinance 211-A – 9/27/18

Ordinance 211-B – 12/12/19

*[Note: This document is designed for two-sided printing.]*

(As originally adopted)

[As Amended]

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## **ARTICLE 1 - GENERAL PROVISIONS**

### **SECTION 100 TITLE**

This Ordinance shall be known and may be cited as the "City of Luna Pier Zoning Ordinance" or as a short title, the "Zoning Ordinance" or within this document as "this Ordinance."

### **SECTION 101 PURPOSE**

Pursuant to the authority conferred by the Michigan zoning enabling act of 2006, Act 110, Eff. July 1, 2006, and the Michigan Planning Enabling Act of 2008, Act 33, Eff. Sept. 1, 2008, the City of Luna Pier, to encourage the use of lands in accordance with their character and adaptability, to limit the improper use of land, to conserve natural resources and energy, to meet the needs of the state's residents for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to insure that uses of the land shall be situated in appropriate locations and relationships, to avoid the overcrowding of population, to provide adequate light and air, to lessen congestion on the public roads and streets, to reduce hazards to life and property, to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements, and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources, and properties. This zoning Ordinance reasonably considers the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building, and population development.

### **SECTION 102 INTENT**

This Ordinance governing the regulation of land development within the incorporated areas of the City of Luna Pier, Monroe County, Michigan is intended to accomplish the following:

1. To divide the Municipality into districts and establish the boundaries thereof in order to regulate and restrict the location and use of buildings, structures and land for trade, industry, residence and for public and semi-public or other specified uses; and to achieve specific land management objectives and avert or solve specific land use problems, including the regulation of land development and the establishment of districts in areas subject to damage from flooding or beach erosion;
2. To regulate and limit the location, height, bulk, number of stories, uses, and size of dwellings, buildings, and other structures that may be erected or altered, including tents and recreational vehicles;
3. To regulate and to determine the size of yards, courts and open spaces;
4. To regulate and limit the density of population;
5. To provide for changes in the regulations, restrictions and boundaries of such districts;
6. To define certain terms used herein;
7. To provide for enforcement;
8. To establish a Planning Commission and Board of Appeals, and
9. Imposing penalties for the violation of this Ordinance.

**SECTION 103 SCOPE**

No building or structure, or part thereof, shall hereafter be erected, constructed or altered and maintained, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this Ordinance. This Zoning Ordinance shall not have the effect of totally prohibiting the establishment of a land use within the City of Luna Pier in the presence of a demonstrated need for that land use within either that local unit of government or the surrounding area within the state, unless a location within the local unit of government does not exist where the use may be appropriately located or the use is unlawful.

**SECTION 104 INTERPRETATION**

In the interpretation and application, the provisions of this Ordinance shall be held to the minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. It is not intended by this Ordinance to repeal, abrogate, annul, or in any way to impair or interfere with any existing provision of law or ordinance other than the above described Zoning Ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided however, that where this Ordinance imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this Ordinance shall control.

**SECTION 105 VESTED RIGHT**

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

**SECTION 106 SEVERANCE CLAUSE**

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph, or provision thereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

**SECTION 107 CONFLICTING REGULATIONS**

Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of that ordinance shall govern.

**SECTION 108 REPEAL OF PRIOR ORDINANCE**

The preexisting Zoning Ordinance adopted by the City of Luna Pier and all amendments thereto, are hereby repealed only to the extent necessary to implement any current amendments to this Ordinance. The repeal of the above ordinance and its amendments does not affect or impair any act done, offense committed or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

**SECTION 109 EFFECTIVE DATE**

Public hearing having been held hereon, the provisions of this Ordinance, as amended, shall take effect ten (10) days after publication, pursuant to the provisions of Section 6.3 of the City Charter and Act 110, Public Acts of 2006 (M.C.L. 125.3101 et seq.), as amended.



## **ARTICLE 2 - CONSTRUCTION OF LANGUAGE AND DEFINITIONS**

### **SECTION 200 CONSTRUCTION OF LANGUAGE**

The following rules of construction apply to the text of this Ordinance:

1. The particular shall control the general.
2. In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
3. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
4. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
5. A "building" or structure includes any part thereof.
6. The phrase "used for" includes "arranged for", "intended for", "designed for", "maintained for", or "occupied for."
7. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
8. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", "either... or", the conjunction shall be interpreted as follows:
  - (a) "And" indicates that all connected items, conditions, provisions, or events shall apply.
  - (b) "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
  - (c) "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
9. Terms not herein defined shall have the meaning customarily assigned to them.

### **SECTION 201 DEFINITIONS**

**Accessory Use or Accessory:** A use which is clearly incidental to, customarily found in connection with, and located on the same zoning lot, unless otherwise specified, as the principal use to which it is related. When "accessory" is used in this text, it shall have the same meaning as accessory use. An accessory use includes, but is not limited to, the following:

1. Residential accommodations for servants and/or caretakers.
2. Outdoor swimming pools, hot tubs, and saunas for the use of the occupants of a residence, or their guests.
3. Domestic or agricultural storage in a barn, shed, tool room or similar accessory building or other structure.
4. A newsstand primarily for the convenience of the occupants of a building, which is located wholly within such building and has no exterior signs or displays.
5. Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district, regulations.

ARTICLE 2 - CONSTRUCTION OF LANGUAGE AND DEFINITIONS (CONT'D)

6. Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
7. Accessory off-street parking spaces open or enclosed, subject to the accessory off-street parking regulations for the district in which the zoning lot is located.
8. Uses clearly incidental to a main use such as but not limited to: offices of an industrial or commercial complex located on the site of the commercial or industrial complex.
9. Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located.
10. Accessory signs, subject to the sign regulations for the district in which the zoning lot is located.

**Adult Arcade:** Any establishment offering adult material as a substantial portion of its stock-in-trade, to which the public is permitted or invited for any form of consideration and wherein coin operated, slug operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depiction or display of specified sexual activities or specified sexual anatomical areas.

**Adult Bookstore:** Any establishment that offers adult materials for retail sale or rental as a substantial portion of its stock-in-trade, for any form of consideration, including printed matter, visual representations, instruments, devices or paraphernalia.

**Adult Cabaret:** A nightclub, bar, restaurant, or other similar establishment that features, as a substantial portion of its business, live performances characterized by the exposure of specified sexual anatomical areas or by the depiction of specified sexual activities, and by films, motion pictures, computer files or software, laser discs, video cassettes, DVD's, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material characterized by the emphasis upon the depiction or description of specified sexual activities or specified sexual anatomical areas.

**Adult Materials:** Media, matter, or services distinguished or characterized by the emphasis on specified sexual anatomical areas or specified sexual activities. Adult materials may include any one or more of the following: books, magazines, newspapers, periodicals, pamphlets, posters, prints, pictures, photographs, slides, transparencies, figures, images, descriptions, motion picture films, video cassettes, compact discs, laser discs, DVDs, computer files or software, phonographic records, tapes, or other printed matter, visual representations, tangible devices or paraphernalia designed for use in connection with specified sexual activities, or any service capable of arousing prurient interest through sight, sound or touch.

**Adult Motel:** A hotel, motel, or similar commercial establishment that offers accommodation to the public for any form of consideration, provides patrons with close-circuit television transmissions, films, motion pictures, laser discs, videocassettes, DVDs, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities, or adult material, and:

1. Has a sign visible from the public right-of-way that advertises the availability of adult and/or sexually explicit materials along with room rentals, or
2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours, or
3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

**Adult Motion Picture Theater:** An establishment where, for any form of consideration, films, motion pictures, computer files or software, laser discs, video cassettes, DVD's, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the description of specified sexual activities or specified sexual anatomical areas.

**Adult-Only Entertainment Establishment:** An establishment where the patron directly or indirectly is charged a fee and where the establishment features entertainment or services, such as exhibitions, dance routines, gyrational choreography, lingerie modeling, lingerie dancers, strippers (male or female), female impersonators, or similar entertainment, performed by persons who exhibit specified sexual anatomical areas, depict specified sexual activities, or which otherwise involves or constitutes "adult materials" as previously defined.

**Adult Theater:** A theater, concert hall, auditorium, or similar commercial establishment that features, as a substantial portion of its stock-in-trade, persons or live performances that are characterized by the exposure of specified sexual anatomical areas or specified sexual activities.

**Alley:** Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

**Alterations:** Any change, addition, or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed."

### **Alternative Energy Definitions (Chapter 33)**

**db(A):** The sound pressure level in decibels. Refers to the "a" weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.

**Hub Height:** The distance measured from ground level to the center of the turbine hub. Hub height is defined as the height from the ground level at which the hub of the windmill or the hub of the propeller blades of the wind energy generator is situated.

**Outdoor Furnace:** An outdoor furnace is an apparatus designed to burn solid or liquid combustible materials (e.g., corn, ear corn, wood, wood pellets, coal, fuel oil) to produce heat and/or heat hot water for a building on the same lot.

**Photovoltaics:** Photovoltaics (PV) is a technology that converts light directly into electricity.

**Rotor:** An element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

**Shadow Flicker:** Alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as a window in a dwelling.

**Solar Power Plant:** A utility-scale commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or various experimental solar technologies, for the primary purpose of wholesale or retail sales of generated electricity.

ARTICLE 2 - CONSTRUCTION OF LANGUAGE AND DEFINITIONS (CONT'D)

**Wind Energy System:** A wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment.

**Wind Energy System – Accessory:** A wind energy conversion system consisting of a wind turbine, a tower and associated control or conversion electronics which will be used primarily to reduce on-site consumption of utility power. A small wind energy system shall not exceed a rated capacity of 50 kWh.

**Wind Energy System – Commercial:** An electricity generating facility consisting of one or more wind turbines under common ownership or operation control, and includes substations, MET Towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity to offsite customers. This includes systems designed and built to provide electricity to the electric utility grid.

**Amusement Arcade:** Any place, premises, or establishment, or any room or floor space set aside in a commercial establishment, in or at which four (4) or more mechanical amusement devices as defined herein are located.

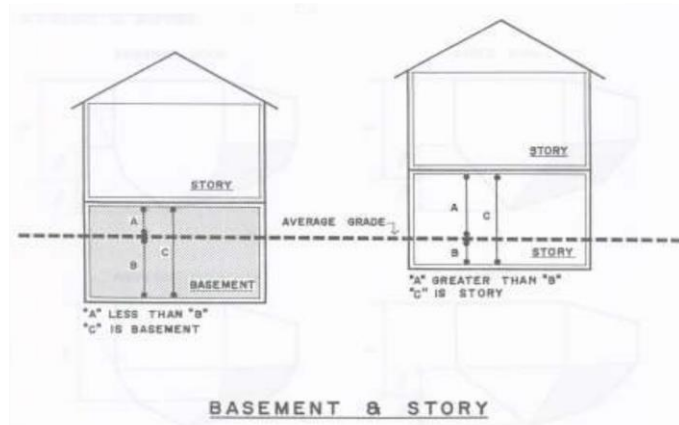
**Apartments:** A suite of rooms in a multiple-family building arranged and intended for a place of residence of a single family or a group of individuals living together as a single housekeeping unit.

**Automobile Repair, Major:** The general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straighten and repair; overall painting and undercoating of automobiles.

**Automobile Repair, Minor:** Repairs other than major repair including engine tune-up, muffler shops, shock absorber replacement shops, undercoating shops and tire stores.

**Automobile Service Station:** A place for the dispensing, sale or offering for sale of motor fuels direct only to users of motor vehicles, together with the sale of minor accessories and services for motor vehicles and may include a restaurant and convenience store but shall not include major automobile repair nor the facilities of a truck stop.

**Basement:** That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.



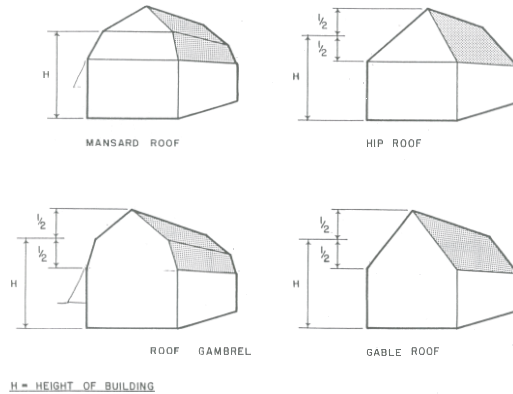


ARTICLE 2 - CONSTRUCTION OF LANGUAGE AND DEFINITIONS (CONT'D)

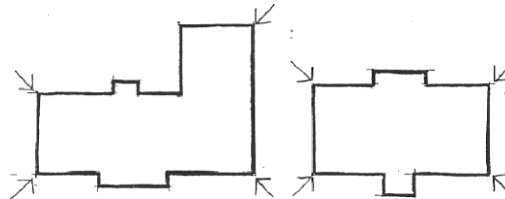
**Block:** The property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating), or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river or live stream; or between any of the foregoing and other barrier to the continuity of development, or corporate boundary lines of the Municipality.

**Building:** Any structure, either temporary or permanent with a roof supported by columns or walls, and intended for the shelter, or enclosure of persons, animals, chattels, or property of any kind.

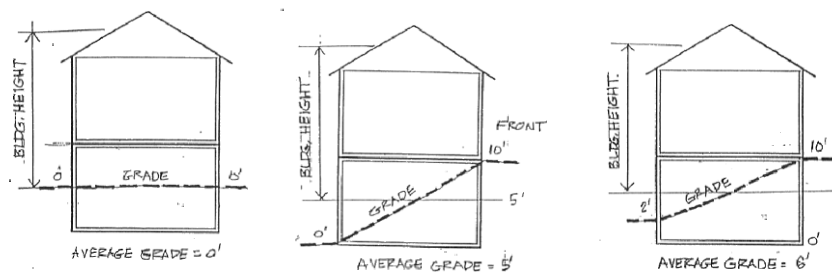
**Building Height:** The vertical distance measured from the established grade to the highest point of the roof surface for flats roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs. Building height measurement for buildings on sloping ground shall be computed from the average grade of the four predominant corners of the building. (See examples.)



BUILDING HEIGHT



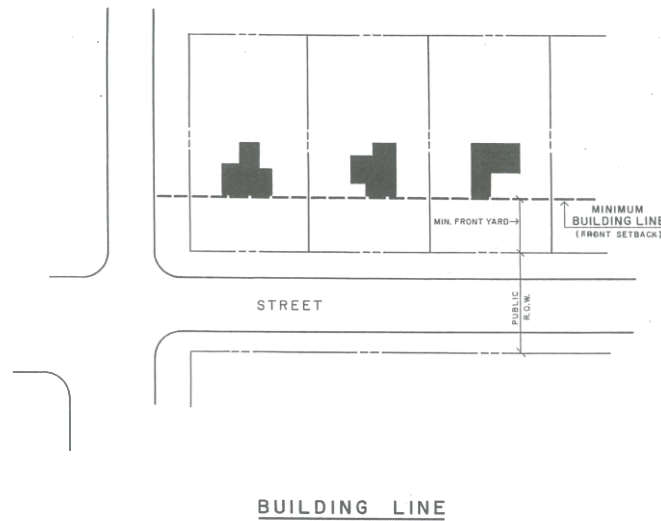
EXAMPLES: Four predominant building corners for average building height measurement on sloping ground.



EXAMPLES: (3) of average grade.

ARTICLE 2 - CONSTRUCTION OF LANGUAGE AND DEFINITIONS (CONT'D)

**Building Line:** Is a line formed by the face of the buildings, and for the purposes of this Ordinance, a minimum building line is the same as a front setback line.



**Club:** Is an organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit.

**Convalescent or Nursing Home:** A structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing and limited medical care.

**Child Care Center:** A facility other than a private residence, licensed pursuant to Public Act 116 of 1973 (M.C.L. Chapter 722 *et. seq.*), as amended, receiving 1 or more preschool or school-age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child, including a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is also generally described as a child care center, day nursery, nursery school, parent cooperative preschool, play group, before- or after-school program, or drop-in center. Child care center does not include any of the following:

1. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are attending for not more than 3 hours per day for an indefinite period or for not more than 8 hours per day for a period not to exceed 4 weeks during a 12-month period.
2. A facility operated by a religious organization where children are cared for not more than 3 hours while persons responsible for the children are attending religious services.
3. A program that is primarily supervised, school-age-child-focused training in a specific subject, including, but not limited to, dancing, drama, music, or religion. This exclusion applies only to the time a child is involved in supervised, school-age-child-focused training.
4. A program that is primarily an incident of group athletic or social activities for school-age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age child is engaged in the group athletic or social activities and if the school-age child can come and go at will.

ARTICLE 2 - CONSTRUCTION OF LANGUAGE AND DEFINITIONS (CONT'D)

**Child Care Family Home:** A bona fide private residence of the operator licensed pursuant to Public Act 116 of 1973 (M.C.L. Chapter 722 *et. seq.*), as amended, in which one (1), but fewer than seven (7), minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. "Child Care Family Home" includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year. This facility is also generally described as a "day care family home" "family child care home."

**Child Care Group Home:** A bona fide private residence of the operator licensed pursuant to Public Act 116 of 1973 (M.C.L. Chapter 722 *et. seq.*), as amended, in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. "Child Care Group Home" includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year. This facility is also generally described as a "day care group home" or a "group child care home."

**Deck Line:** The intersection of two roof surfaces of a mansard or gambrel roof forming the highest horizontal line of the steeper roof slope.

**Development:** The construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

**District:** A portion of the unincorporated area of the Municipality within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

**Drive-In:** An establishment where food, frozen desserts, or beverages are sold to the customers in a ready-to-consume state and where the customer consumes food, frozen desserts or beverages in an automobile parked upon the premises or at other facilities provided for customers which are located outside the building.

**Drive-Through:** An establishment so developed that some portion of its retail or service character is dependent upon providing a driveway approach and staging area specifically designed for motor vehicles so as to serve patrons while in their motor vehicles, rather than within a building or structure, for carry out and consumption or use after the vehicle is removed from the premises.

**Dwelling Unit:** A building or portion thereof, designed for occupancy by one (1) family for residential purposes and having cooking facilities.

**Dwelling, One-Family:** A building designed exclusively for and occupied exclusively by one (1) family.

**Dwelling, Two-Family:** A building designed exclusively for occupancy by two (2) families living independently of each other.

**Dwelling, Multiple-Family:** A building or a portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each other.

**Educational Facilities, College/University:** A public or private institution authorized by the State of Michigan to award associate, baccalaureate, or higher degrees.

**Educational Facilities, Elementary School:** A school that serves students between the kindergarten and high school levels.

**Educational Facilities, High School:** A school that serves students between ninth, tenth, eleventh, and twelfth grades.

**Educational Facilities, Junior High School:** A school which provides educational instruction for not more than the first year of high school and not more than the upper two elementary grades.

**Educational Facilities, Vocational or Trade School:** A school established to provide for the teaching of industrial, clerical, managerial, or artistic skills. This definition includes schools that are owned and operated privately for profit and that do not offer a complete educational curriculum (e.g., beauty school, modeling, school, etc.).

**Elderly Housing, Assisted Living Facility:** These facilities are a special combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of elderly who require help with activities of daily living. These facilities generally have a central or private kitchen, dining, recreational, and other facilities, with separate bedrooms or living quarters, where the emphasis of the facility remains residential.

**Elderly Housing, Retirement Housing:** A residential complex containing multifamily dwellings designed for and principally occupied by senior citizens. Such facilities may include a congregate meals program in a common dining area, but exclude institutional care such as medical or nursing care and are distinguished from life care retirement centers, or assisted living facilities.

**Erected:** Built, constructed, altered, reconstructed, moved upon or any physical operations on the premises which are required for construction. Excavation, fill, drainage, and the like, shall be considered a part of erection.

**Escort Agency:** A person or business association, who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. The escort is a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**Essential Services:** The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants in connection herewith, but not including buildings, which are necessary for the furnishing of adequate service to the township by such utilities or municipal departments for the general health, safety or welfare. Wireless communication towers, devices, and facilities are not defined as an essential service.

**Excavation:** Any breaking of ground, except common household gardening and ground care.

**Family:** A single individual or a number of individuals domiciled together whose relationship is of a continuing, non-transient, domestic character and who are cooking and living together as a single, nonprofit housekeeping unit. This shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose relationship is of a transitory or seasonal nature or for anticipated limited duration of school terms or other similar determinable period.

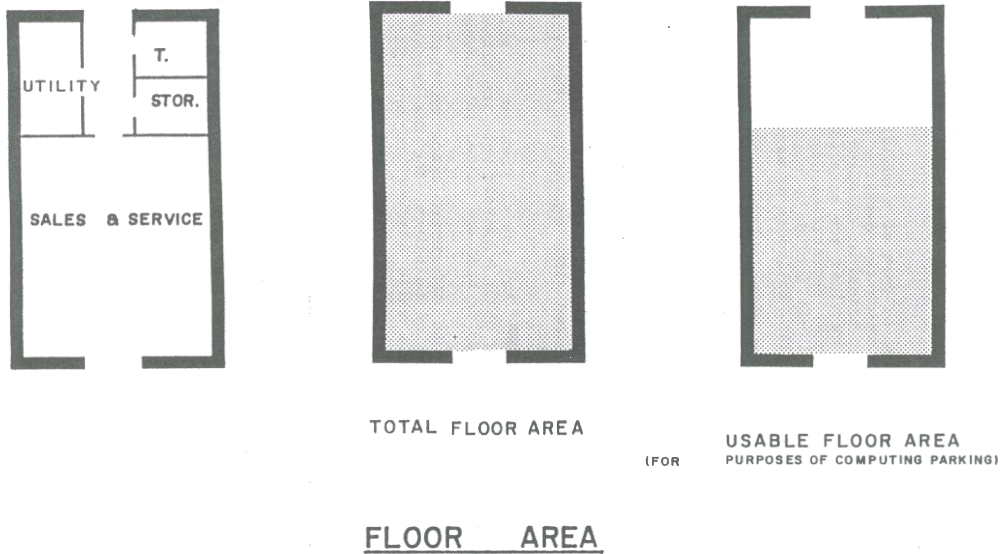
**Farm:** The carrying on of any agricultural activity or the raising of livestock or small animals as a source of income.

ARTICLE 2 - CONSTRUCTION OF LANGUAGE AND DEFINITIONS (CONT'D)

**Fence:** A man-made structure constructed for the purpose of or to have the effect of enclosing or screening the area upon which it is constructed.

**Fence, Ornamental:** A man-made structure the surface area of which is more than seventy-five (75) percent open. Ornamental fences shall not be chain link or wire construction.

**Floor Area, Residential:** For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls or from the center line of walls separating two dwellings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.



**Floor Area, Usable (for the purposes of computing parking):** That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways or for utilities or sanitary facilities, shall be excluded from this computation of "Usable Floor Area." Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

**Garage, Private:** An accessory building or portion of a main building designed or used solely for the storage of motor-driven vehicles, boats and similar vehicles owned and used by the occupants of the building to which it is accessory.

**Garage, Service:** Any premises used for the storage or care of motor-driven vehicles, or where any such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

**Grade:** The ground elevation established for the purpose of regulating the number of stories and the height of the buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

**Greenbelt:** A planting of trees and shrubs to serve as a screening device between abutting land uses.

**Guarantee:** A cash deposit, certified check, irrevocable bank letter of credit, surety bond or such other instrument acceptable to the City.

ARTICLE 2 - CONSTRUCTION OF LANGUAGE AND DEFINITIONS (CONT'D)

**Home Occupation:** An occupation or profession customarily carried on by an occupant of a dwelling unit as a secondary use which is clearly subservient to the use of the dwelling for residential purposes. A home occupation includes instruction in a craft or fine art, subject to other regulations and limitations defined herein.

**Hotel:** A building or part of a building, with a common entrance or entrances, in which the dwelling units or rooming units are used primarily for transient occupancy, and in which one or more of the following services are offered: maid service, furnishing of linen, telephone, secretarial, or desk service, and bellboy service. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms or meeting rooms.

**Improvements:** Those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of a local unit of government and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of zoning approval.

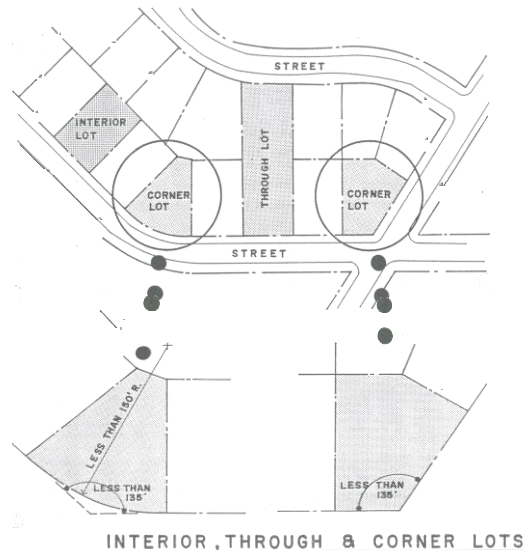
**Junk:** Any abandoned, discarded, unusable, or unused objects or equipment including, but not limited to: furniture, stoves, refrigerators, freezers, cans implements, parts of motor vehicles, machinery, cloth, rubber, bottles, any metals, boxes cartons or crates.

**Junk Yard:** An area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled including but not limited to: scrap iron and other metals, paper, rags, rubber tires and bottles. A "Junk Yard" includes automobile wrecking yards and includes any open area of more than two hundred (200) square feet for storage, keeping or abandonment of junk.

**Kennel, Commercial:** Any lot or premises on which three (3) or more dogs, cats or other household pets are either permanently or temporarily boarded or bred and raised for remuneration.

**Loading Space:** An off-street space on the same lot with a building or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

**Lot:** A parcel of land occupied or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records.



**Lot Area:** The total horizontal area within the lot lines of the lot.

**Lot, Corner:** A lot where the interior angle of two adjacent sides at the intersection of two streets is less than one hundred and thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than one hundred and fifty (150) feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than one hundred thirty-five (135) degrees.

**Lot Coverage:** The part or percent of the lot occupied by buildings including accessory buildings.

**Lot, Depth:** The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

**Lot, Interior:** Any lot other than a corner lot.

**Lot Lines:** The lines bounding a lot as defined herein:

1. **Lot Line, Front:** In the case of an interior lot, is the line separating said lot from the street. In the case of a through lot, is that line separating said lot from either street.
2. **Lot Line, Rear:** That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.
3. **Lot Line, Side:** Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

**Lot of Record:** A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by Municipal or County Officials, and which actually exists as so shown, or any part of such parcel held in record ownership separate from that of the remainder thereof.

**Lot, Through:** Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row double frontage lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.

**Lot Width:** The horizontal straight line distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines.

**Lot, Zoning:** A single track of land, located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A zoning lot shall satisfy this Ordinance with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located. A zoning lot, therefore, may not coincide with a lot of record as filed with the County Register of Deeds, but may include one or more lots of record.

**Main Building:** A building in which is conducted the principal use of the lot upon which it is situated.

**Major Thoroughfare:** An arterial street which is intended to serve as a large volume traffic-way for both the immediate municipal area and the region beyond, and may be designated as a major thoroughfare, parkway, freeway, expressway, equivalent terms on the Major Thoroughfare Plan to identify those; streets comprising the basic structure of the Major Thoroughfare Plan.

ARTICLE 2 - CONSTRUCTION OF LANGUAGE AND DEFINITIONS (CONT'D)

**Massage Parlor:** An establishment, sometimes also referred to as “spas”, that offer massage by a person or persons not licensed pursuant to Michigan State law and the Public Health Code to practice massage therapy.

**Massage Studio:** An establishment offering massage therapy by a massage therapist(s) licensed to provide services in the State of Michigan. A massage studio is not a massage parlor as separately defined.

**Massage Therapist:** A person appropriately licensed to provide massage therapy. Massage therapy includes the application of a system of structured touch, pressure, movement, and holding to the soft tissue of the human body in which the primary intent is to enhance or restore the health and well-being of the client. Practice of massage therapy includes complementary methods, including the external application of water, heat, cold, lubrication, salt scrubs, body wraps, or other topical preparations; and electromechanical devices that mimic or enhance the actions possible by the hands. Practice of massage therapy does not include medical diagnosis; practice of physical therapy; high- velocity, low-amplitude thrust to a joint; electrical stimulation; application of ultrasound; or prescription of medicines

**Master Plan:** Any plan adopted or amended pursuant to the Michigan Planning Enabling Act This includes, but is not limited to, plans prepared by the Luna Pier Planning Commission authorized by this act and used to satisfy the requirement of the Michigan Zoning Enabling Act.

**Medical Marijuana Facilities Related Definitions:** (amended by Ord. 211-A, 11-27-18)

**GROWER** means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to another Grower, processor or provisioning center.

**LICENSEE** means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

**MARIJUANA or MARIHUANA** means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.

**MARIJUANA FACILITY** means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, or marijuana safety compliance facility. The term does not include or apply to a “primary caregiver” or “caregiver” as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

**PROCESSOR** means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale to a state licensed processor or for sale and transfer in packaged form to a provisioning center.

**PROVISIONING CENTER** means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.

**SAFETY COMPLIANCE FACILITY** means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

**SECURE TRANSPORTER** means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.



ARTICLE 2 - CONSTRUCTION OF LANGUAGE AND DEFINITIONS (CONT'D)

**Mezzanine**: An intermediate floor in any story occupying not to exceed one-third (1/3) of the floor area of such story.

**Mobile Home**: A structure, transportable in 1 or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Mobile home does not include recreational equipment.

**Mobile Home Park**: A parcel or tract of land under the control of a person upon which 3 or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home. Mobile home parks may include one office building to be used exclusively for conducting the business operation of the Mobile Home Park, utility buildings for laundry facilities and auxiliary storage space for mobile home tenants, and community buildings for use by the tenants of the Mobile Home Park as well as recreation areas and playgrounds.

**Motel**: A series of attached, semi-detached, or detached rental units containing a bedroom, bathroom and closet space. Units shall provide for overnight lodging and are offered to the public for compensation, and cater primarily to the public traveling by motor vehicle. Motels allow access to rooms directly from the parking lots.

**Municipality**: The City of Luna Pier, Michigan.

**Nonconforming Building**: A building or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto and that do not conform to the provisions of the Ordinance in the District in which it is located.

**Nonconforming Use**: A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereto, and that does not conform to the use regulations of the district in which it is located.

**Nude Model Studio**: Any place where a person who exhibits specified sexual anatomical areas is to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. A Nude Model Studio shall not include a school licensed by the State of Michigan or a College, Junior College, or University supported entirely or in part by public taxation, a private college or university that maintains and operates educational programs in which credits are transferable to a College, Junior College, or University supported entirely or partly by taxation, or in a structure provided such institution meets all of the following criteria:

1. There is no sign visible from the exterior of the structure and no other advertising that indicates a person exhibiting specified sexual anatomical areas is available for viewing; and
2. In order to participate in a class, a student must enroll at least three days in advance of the class; and
3. No more than one person exhibiting specified sexual anatomical areas is on the premises at any one time.

**Nursery, Plant Materials**: A space, building or structure, or combination thereof, for the storage of live trees, shrubs, or plants offered for retail sale on the premises including products used for gardening or landscaping. The definition of nursery within the meaning of this Ordinance does not include any space, building, or structure used for the sale of fruits, vegetables, or Christmas trees.

**Nuisance**: An object or conduct that endangers or inconveniences the public, or interferes with the property or personal rights of individuals.

ARTICLE 2 - CONSTRUCTION OF LANGUAGE AND DEFINITIONS (CONT'D)

**Nuisance Factors:** An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as but not limited to: (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) shock waves (j) heat, (k) electronic or atomic radiation, (l) objectionable effluent, (m) noise of congregation of people, particularly at night, (n) passenger traffic, (o) invasion of non-abutting street frontage by traffic, (p) a burned out structure, (q) a condemned structure.

**Nuisance Per Se:** An object or conduct that is a nuisance to the public regardless of the place or circumstances.

**Off-Street Parking Lot:** A facility providing off-street vehicular parking spaces and drives or aisles for the parking of more than three (3) vehicles.

**Outdoor Combustible Burning Furnace:** An accessory structure or appliance designed to be located outside living space ordinarily used for human habitation and designed to transfer or provide heat, via liquid or other means, through the burning of wood or solid waste or other materials, for heating spaces other than where such structure or appliance is located, any other structure or appliance on the premises, or for heating a domestic swimming pool, hot tub or Jacuzzi water. "Outdoor combustible burning furnace" does not include a fire pit, wood-fired barbecue, or chimney.

**Parking Space:** An area of definite length and width, said area shall be exclusive of drives, aisles, or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

**Principal Use:** The main use to which the premises are devoted and the principal purpose for which the premises exist.

**Principal Building:** A building in which the primary use of the lot on which the building is located is conducted.

**Public Utility:** A person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under Federal, State or Municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water.

**Recreational Equipment:** Travel trailers, recreational vehicles, pick-up campers or coaches, motorized dwellings, tent trailers, boats and boat trailers, personal watercrafts, snowmobiles, horse and other enclosed recreational equipment trailers, off-road motorcycles, dune buggies, kayaks, rafts, and other similar equipment.

**Recreational Vehicle:** Any building, structure, or vehicle designed and/or used for living or sleeping and/or recreational purposes and equipped with wheels to facilitate movement from place to place, and automobiles when used for living or sleeping purposes and including pick-up coaches (campers), motorized homes, boats, travel trailers, and camping trailers (not otherwise meeting the definitions of a manufactured home or mobile home). Recreational vehicles typically have their power system or are towed by a motor vehicle. Recreational vehicles commonly provide temporary living quarters for recreational, camping, travel, or seasonal use in compliance with applicable state and federal vehicle regulations.

**Residential Facility for Adult Foster Care:** A structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Facility Licensing Act (1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128) and provides residential services for six (6) or fewer persons under twenty-four (24) hour supervision or care. This definition does not include adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

**Ridge Line:** The intersection of two roof surfaces forming the highest horizontal line of the roof.

**Roof:** The outside top covering of a building.

**Room:** For the purpose of determining lot area requirements and density in a multiple-family district, a living room, dining room, and bedrooms, each equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen sanitary facilities, utility provisions, corridors, hallways, and storage. Plans presented having 1, 2, or 3 bedroom units and including a “den”, “library” or other extra room shall count as a bedroom for the purpose of computing density.

**Setback:** The distance required to obtain minimum front, side or rear yard open space provisions of this Ordinance.

**Sexually-Oriented Business:** An establishment where a substantial portion of the use is related to adult materials, visual representations, performances, or services characterized by an emphasis upon specified sexual activities or specified sexual anatomical areas, including an: adult arcade, adult bookstore, adult cabaret, adult motel, adult motion picture theater, adult-only entertainment establishment, adult theater, escort agency, nude model studio, massage parlor, sexual encounter center, or sexually-oriented spa more specifically defined herein.

**Sexual Encounter Center:** A business or commercial enterprise that for any form of consideration offers activities or physical contact, including wrestling or tumbling, between male and female persons and/or persons of the same sex when one or more of the persons exhibits or displays specified sexual anatomical areas for the purpose of specified sexual activities.

**Sexually-Oriented Spa:** A place or structure that provides bathing, saunas, showers or hot tubs, and engages in or offers to engage patrons in specified sexual activities or activities commonly associated with a sexual encounter center, for any form of consideration.

**Specified Sexual Anatomical Areas:** Completely and opaquely covered human: genitals; pubic region; vulva; buttocks; anus; anal cleft; or human male genitals in a discernible turgid state even if completely and opaquely covered. The showing of the lower portion of the female breast below a horizontal line across the top of the areola at its highest point, but not including any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bath suit, or other wearing apparel provided the areola or nipple is not exposed in whole or in part.

**Specified Sexual Activities:** Any of the following as part or in connection with any of the uses of an establishment set forth in this Zoning Ordinance:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
2. Sexual activity, normal or perverted, actual or simulated, including intercourse, oral copulation, sodomy, sadomasochistic activities, or bestiality;
3. Actual or simulated masturbation, or the penetration of an orifice with a sex toy;.
4. Excretory functions, actual or simulated, including urination, defecation, male ejaculation, or the aftermath of male ejaculation.

**Sign:** Any device (including but not limited to letters, words, numerals, figures, emblems, pictures, or any part or combination) used for visual communication intended to attract the attention of the public and visible to the public right-of-way or other properties. The term “sign” shall not include any flag, badge, or insignia or any governmental unit, nor shall it include any item of merchandise normally displayed within a show window of a business.

**Sign, abandoned:** A sign or sign structure on a site where all buildings have been demolished or removed, or any sign that advertises a business, lessor, owner, product, service, or activity that is no longer located on the premises where the sign is displayed.

**Sign, advertising:** Any advertising sign, billboard, statuary or poster that directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such sign is located or to which it is affixed, but does not include those advertising signs, billboards, or poster panels that direct attention to the business on the premises or to a brand name of a product or commodity with which the business is specifically identified and which is sold on the premises.

**Sign, Area:** The entire face of a sign including the advertising surface and any framing, trim, or molding, but not including the supporting structure. Sign area is the same regardless of whether it has two sign faces.

**Sign, Awning:** A sign attached to or hung from an awning, canopy or other covered structured projecting from and supported by the building and extending beyond the building wall.

**Signs, Electronic:** Signs with alphabetic, pictographic, or symbolic informational content can be changed or altered on a fixed display screen composed of electrically illuminated segments.

**Sign, Freestanding:** A sign anchored directly to the ground or supported by one or more posts, columns, or other vertical structures or supports, and not attached to or dependent for support from any building.

**Sign, Monument:** A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles.

**Sign, Portable:** A sign designated or intended to be moved easily that is not permanently embedded in the ground or affixed to a building or other structure, including any sign that rests upon the ground, a frame, a building, or other structure. Including but not limited to the following signs: trailer signs (with or without wheels), menu and sandwich boards, hot air or gas-filled balloons or umbrellas used for advertising, signs mounted for advertising purposes on a vehicle that is parked and visible from the public right-of-way (except signs identifying the related business when the vehicle is being used in the normal day-to-day operation of that business), sidewalk or curb signs, and A-frame signs.

**Signs, Real Estate:** A temporary sign that relates to the sale, lease, or rental of property or buildings, or to construction activities on a site.

**Signs, Temporary:** A display sign, banner or other advertising devise constructed of cloth, canvas, fabric, plastic or other light temporary material, with or without structural frame or any other sign intended for a limited period of display, but not including decorative displays for holidays or public demonstration.

**Sign, Wall:** A display sign which is painted on or attached directly to the building wall.

**Sign, Window:** A sign affixed to a window or within three (3) feet of the window so as to be observable from the opposite side of the window to which such sign is affixed.

**Single Housekeeping Unit:** All of the associated rooms in a dwelling unit available to and occupied by all of the occupants with a single set of cooking facilities also available to and utilized by all of the occupants of the dwelling unit.

**Site Plan:** The documents and drawings required by the Zoning Ordinance to insure that a proposed land use or activity complies with local regulations.

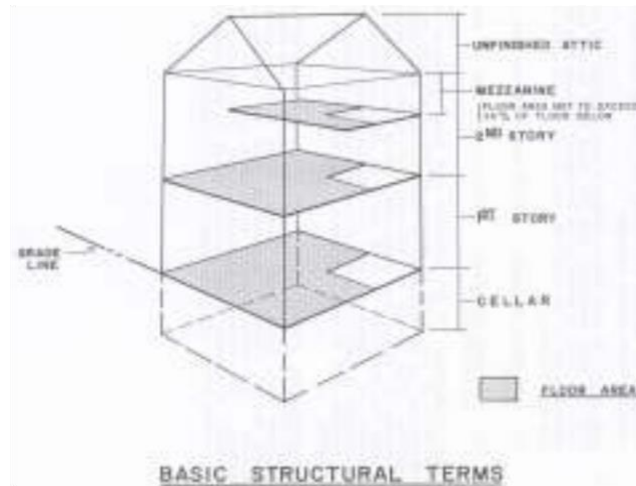
ARTICLE 2 - CONSTRUCTION OF LANGUAGE AND DEFINITIONS (CONT'D)

**Story:** That part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall not be counted as a story.

**Story, Half:** An uppermost story lying under a sloping roof having an area of at least two (200) square feet with a clear height of seven feet six inches (7'6"). For the purpose of this Ordinance, the usable floor area is only that area having at least five (5) feet clear height between floor and ceiling.

**Street:** A dedicated public right-of-way, other than an alley, which affords the principal means of access to abutting property.

**Structure:** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.



**Swimming Pool:** Any structure intended for swimming or recreational bathing that contains water over twenty-four (24) inches deep. This includes in-ground, aboveground, and on-ground swimming pools, hot tubs, and spas, either permanent or non-permanent in nature.

**Transition:** For the purposes of this Ordinance, the word or term transition or transitional shall mean a zoning district which may serve as a district of transition, i.e., a buffer zone between various land use districts or land use types.

**Temporary Use or Building:** A use or building permitted by the Board of Appeals to exist during a specified period of time.

**Travel Trailer:** A vehicle designed as a travel unit for occupancy as a temporary or seasonal vacation living unit.

**Truck Stop:** A building, premises or land in which or upon which a business, service or industry involving the maintenance, servicing, storage or repair of commercial vehicles is conducted or rendered including the dispensing of motor fuel or other petroleum products directly into motor vehicles, the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop also may include overnight parking, overnight accommodations, showers, and restaurant facilities solely for the use of truck crews.

ARTICLE 2 - CONSTRUCTION OF LANGUAGE AND DEFINITIONS (CONT'D)

**Undeveloped State:** A natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be dedicated to the use of the public.

**Use:** The principal purpose for which land, or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

**Use Permitted Subject to Special Conditions:** A land use specifically listed as a "use permitted subject to special conditions" for a zoning district which may only be issued a Permit upon review and approval by the Planning Commission and is further subject to the conditions imposed for the use by the Planning Commission.

**Wall, Obscuring:** A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this Ordinance.

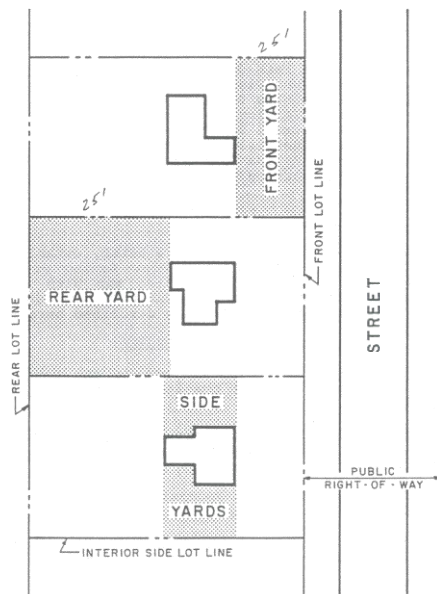
**Wind Energy System:** A wind energy system which converts wind energy into electricity through use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment.

**Yards:** The open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, and as defined herein:

**Yard, Front:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.

**Yard, Rear:** An open space extending the full width of the lot the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.

**Yard, Side:** An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building.



**Yard, Side, Exterior:** A side yard abutting upon a street.

**Yard, Side, Interior:** A side yard that does not abut upon a street.

**Zoning Exceptions:** A use permitted only after review of an application by the Board of Appeals or City Council, or a modification in the standards of this Ordinance specifically permitted after review by the Board of Appeals, Planning Commission or City Council; such review being necessary because the provisions of this Ordinance covering conditions precedent or subsequent are not precise enough to all applications without interpretation and such review and exception is provided for by this Ordinance. An exception is not a variance.

**Zoning Variance:** A modification of the literal provisions of the Zoning Ordinance Granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The crucial points of variance are: (a) undue hardship, (b) unique circumstances, and (c) applying to property. A variance is not justified, unless all three elements are present in the case. A variance is not an exception.





## **ARTICLE 3 - ZONING DISTRICTS AND MAPS**

### **SECTION 300 DISTRICTS ESTABLISHED**

For the purpose of this Ordinance, the City of Luna Pier is hereby divided into the following districts:

R-1 One-Family Residential District  
R-2 One-Family Residential District  
R-3 One-Family Residential District  
RM Multiple-Family Residential District  
MH Mobile Home Park District  
B-1 Local Business District  
DM Downtown Mixed District  
B-2 General Business District  
ES Expressway Service District  
WM Waterfront Marina District  
MU Mixed Use District  
I-1 Light Industrial District  
I-2 General Industrial District  
PUD Planned Unit Development  
LPRCO – Luna Pier Road Corridor Overlay District

### **SECTION 301 DISTRICT BOUNDARIES**

The boundaries of these districts are hereby established as shown on the Zoning Map, City of Luna Pier Zoning Ordinance, which accompanies this Ordinance, and which map with all notations, references, and other information shown thereon shall be as much a part of this Ordinance as if fully described herein. The boundaries of the various districts as shown on the Zoning Map shall be drawn and interpreted as follows:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys, shall be construed to follow such center lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following City limits shall be construed as following City limits.
4. Boundaries indicated as following railroad lines shall be construed to be the midway between the rail tracks.
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
6. Boundaries indicated as parallel to or extensions of features indicated in Subsections 1 through 5, above shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.

ARTICLE 3 - ZONING DISTRICTS AND MAPS (CONT'D)

7. Where physical or natural features existing on the ground are at variance with those shown on the official Zoning Map, or in other circumstances not covered by subsections 1 through 6, above, the Board of Appeals shall interpret the district boundaries.
8. Insofar as some or all of the various districts may be indicated on the Zoning Map by patterns which, for the sake of map clarity, do not cover public rights-of-way, it is intended that such district boundaries do extend to the center of any public right-of-way.

**SECTION 302 ZONING OF ANNEXED AREAS**

Whenever any area is annexed to the City of Luna Pier, one of the following conditions will apply:

1. Land that is zoned previous to annexation shall be classified as being in whichever district of this Ordinance most closely conforms with the zoning that existed prior to annexation, such classification to be recommended by the Planning Commission to the City Council and City Council shall approve same by resolution.
2. Land not zoned prior to annexation shall be automatically classified as an R-1 District until a Zoning Map for said area has been adopted by the City Council. The Planning Commission shall recommend that appropriate zoning districts for such area within three (3) months after the matter is referred to it by the City Council.

**SECTION 303 ZONING OF VACATED AREAS**

Whenever any street, alley or other public way, within the City of Luna Pier shall be vacated, such street, alley or other public way or portion thereof, shall automatically be classified in the same Zone District as the property to which it attaches.

**SECTION 304 DISTRICT REQUIREMENTS**

All buildings and uses in any District shall be subject to the provisions of Article 18 (Schedule of Development Standards) through Article 25 (Walls and Fences).

## **ARTICLE 4 - R-1 THROUGH R-3 ONE-FAMILY RESIDENTIAL DISTRICTS**

### **SECTION 400 INTENT**

The R-1 through R-3 One-Family Residential Districts is designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low-density, one-family detached dwellings along with other residentially related facilities which serve the residents in the district.

### **SECTION 401 PRINCIPAL USES PERMITTED**

All principal permitted uses are listed in Article 17.

### **SECTION 402 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

All uses subject to special conditions are listed in Article 17. Such uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed for each use, including the review and approval of the Site Plan by the Planning Commission, and subject further to public notification and hearing held in accord with Article 27 (Public Hearings).

### **SECTION 403 GENERAL SITE PLAN REVIEW REQUIREMENTS**

Pursuant to Article 30, a Site Plan is required when any proposed development involves the provision of new or expanded off-street parking spaces that are available to for general public use.

### **SECTION 404 PRIVATE SWIMMING POOLS.**

Private swimming pools shall be permitted as an accessory use within the side and rear yards only, provided they meet the following requirements:

1. There shall be a minimum distance of not less than five (5) feet between the adjoining property line, or alley right-of-way and the outside of the pool wall. Yard setbacks applicable in a given zoning district shall apply if required to be greater than five (5) feet.
2. There shall be a distance of not less than four (4) feet between the outside pool wall and any building located on the same lot.
3. No swimming pool shall be located in a front yard and in no case shall a pool be located less than fifteen (15) feet from a street.
4. No swimming pool shall be located in an easement.
5. Those residential lots or parcels having water frontage and abutting a public thoroughfare shall maintain the yard on the water side as an open un-obscured yard, excepting that a private swimming pool shall be permitted in the waterfront yard so long as the finished height of all components including barriers or railing does not exceed four (4) feet in height. Private swimming pools shall also be permitted as an accessory

structure in the setback between the abutting road right-of-way and the main building providing the front yard setback required in Article 18 (Schedule of Development Standards) of this Ordinance is met.

6. For the protection of the general public, all swimming pools, spas, and hot tubs shall conform to the Michigan Building Code.

### **SECTION 405 GENERAL REQUIREMENTS FOR RESIDENTIAL USES**

All dwelling units shall be reviewed by the Building/Zoning Official subject to the following:

1. Dwelling units shall conform to all applicable City codes and ordinances. Any such local requirements are not intended to abridge applicable State or Federal requirements with respect to the construction of the dwelling.
2. Dwelling units shall be permanently attached to a perimeter foundation. In instances where the applicant elects to set the dwelling on piers or other acceptable foundations which are not at the perimeter of the dwelling, then a perimeter wall shall also be constructed. Any such perimeter wall shall be constructed of durable materials and shall also meet all local requirements with respect to materials, construction and necessary foundations below the frost line. Any such wall shall also provide an appearance which is compatible with the dwelling and other homes in the area.
3. Dwelling units shall be provided with exterior finish materials similar to dwelling units on adjacent properties or in the surrounding residential neighborhood.
4. Dwelling units shall be provided with roof designs and roofing materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood and shall have a roof pitch of not less than five in twelve (5/12). **Exception:** repairs, rebuilding of damaged roof areas, or where additions to roof areas are added, such areas shall not exceed twenty (20) percent of the existing roof area.
5. Dwelling units shall be provided with an exterior building wall configuration which represents an average width to depth or depth to width ratio which does not exceed three (3) to one (1), or is in reasonable conformity with the configuration of dwelling units on adjacent properties or in the surrounding residential neighborhood. Each such dwelling unit shall provide a minimum width and depth of at least twenty (20) feet over eighty (80) percent of any such width or depth dimension.
6. The dwelling unit shall contain storage capability in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten (10) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
7. Any such dwelling shall be anchored by an anchoring system approved by the City.
8. A front door entranceway shall be provided with a porch built to the requirements of the state building code and be of not less than forty (40) square feet in ground area. The roof design of the porch shall be similar in design to the roof of the dwelling.
9. The Building/Zoning Official may request a review by the Planning Commission of any dwelling unit with respect to subparagraphs 3, 4, 5 and 8, above. The Building/Zoning Official or Planning Commission shall not seek to discourage architectural variation, but shall seek to promote the reasonable compatibility of the character of dwelling units, thereby protecting the economic welfare and property value of surrounding residential uses and the City at large. In reviewing any such proposed dwelling unit, the Building/Zoning Official may require the applicant to furnish such plans, elevations, and similar documentation as it deems necessary to permit a complete review and evaluation of the proposal. When comparing the proposed dwelling unit to similar types of dwelling areas, consideration shall be given to comparable types of homes

within three hundred (300) feet. If the area within three hundred (300) feet does not contain any such homes, then the nearest twenty-five (25) similar type dwellings shall be considered.

**SECTION 406 AREA AND BULK REQUIREMENTS**

See Article 18 (Schedule of Development Standards) limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum density permitted, and providing minimum yard setback requirements.



## **ARTICLE 5 - RM MULTIPLE-FAMILY RESIDENTIAL DISTRICTS**

### **SECTION 500 INTENT**

The RM Multiple-Family Residential Districts are designed to provide sites for multiple-family dwelling structures, and related uses, which will generally serve as zones of transition between the nonresidential districts and lower-density single-family districts. The Multiple-Family District is further provided to serve the limited needs for the apartment type of unit in an otherwise medium density, single-family community.

### **SECTION 501 PRINCIPAL USES PERMITTED**

All principal permitted uses are listed in Article 17.

### **SECTION 502 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

All uses subject to special conditions are listed in Article 17. Such uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed for each use, including the review and approval of the Site Plan by the Planning Commission, and subject further to public notification and hearing held in accord with Article 27 (Public Hearings).

### **SECTION 503 GENERAL SITE PLAN REVIEW REQUIREMENTS**

Pursuant to Article 30, a Site Plan is required when any proposed development involves the provision of new or expanded off-street parking spaces that are available to for general public use.

### **SECTION 504 AREA AND BULK REQUIREMENTS**

See Article 18 (Schedule of Development Standards) limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum density permitted, and providing minimum yard setback requirements.





## **ARTICLE 6 - MH MOBILE HOME PARK DISTRICTS**

### **SECTION 600 INTENT**

The purpose of the MH Mobile Home Park District is to give recognition to the fact that mobile homes can provide satisfactory living conditions provided certain minimum standards are maintained. Mobile home parks possess site development, use and density characteristics, and private drive systems similar to multiple-family residential development. They are, in this ordinance, provided for as a transitional use between nonresidential development and residential districts or between multiple-family residential districts and one-family residential districts.

The following regulations shall apply in MH Districts and no building, structure or premises, except as otherwise provided in this Ordinance, shall be erected, altered, or used except for one or more of the following specified uses.

### **SECTION 601 PRINCIPAL USES PERMITTED**

All principal permitted uses are listed in Article 17.

### **SECTION 602 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

All uses subject to special conditions are listed in Article 17. Such uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed for each use, including the review and approval of the Site Plan by the Planning Commission, and subject further to public notification and hearing held in accord with Article 27 (Public Hearings).

### **SECTION 603 SITE PLAN REVIEW REQUIREMENTS**

Pursuant to Article 30, a Site Plan is required for all Mobile Home Parks.

### **SECTION 604 LOCATIONAL REQUIREMENTS**

1. Access to any mobile home park shall be to a major thoroughfare or secondary thoroughfare as designated on the Master Plan. The intent being to avoid higher density traffic movements through existing or planned single-family developments. An emergency means of ingress and egress to a mobile home park shall meet or exceed Mobile Home Commission rules, as adopted.
2. The outside storage of household effects, other than normal patio furniture, etc. is prohibited. The storage of recreational vehicles, i.e., boats, campers, trailers, motor homes, snowmobiles on mobile home sites and/or required parking spaces for longer than forty-eight (48) hours is also prohibited.
3. The storage or parking of recreational vehicles, motor homes, boats, snowmobiles, or other vehicles or items ordinarily towed, driven or used for a special purpose, if storage or parking of such is permitted in the mobile home park, shall be in accordance herewith. The storage of the vehicles or items in the mobile

## ARTICLE 6 - MH MOBILE HOME PARK DISTRICTS (CONT'D)

home development is specifically prohibited except in the storage area. The storage area shall be screened by solid-type fence five (5) feet in height around its perimeter or by some other similar screening device.

4. All utility connections shall comply with State and local codes.
5. The mobile home park developer is also encouraged to provide trees and other landscape improvements on the individual mobile home sites and in the open space areas which will create an aesthetically pleasing and functional environment.
6. The proposed Site Plan for the mobile home park shall be submitted to the Planning Commission for their review and approval prior to any consideration. The Planning Commission in reviewing the Site Plan, shall utilize the provisions of Article 30 (Site Plan Review) in evaluating the Site Plan. In utilizing these standards, the Planning Commission shall apply those considerations which relate to the City's needs in furnishing necessary emergency service to the mobile home park and/or providing safe and convenient pedestrian and vehicular movements in relation to adjacent properties and public thoroughfares. The suggestion of any changes or modifications shall be based on such reasonable requirements as are applied to the review and approval of all other uses in the City. Any items determined to be undesirable or inadequate shall be made known to the applicant and a copy of such objections shall immediately be forwarded to the State Mobile Home Commission for their consideration in reviewing the proposed mobile home park plans.
7. The City Engineer shall also review the proposed park plans with respect to drainage patterns to adjacent properties, water and sewage needs which would be generated, and the City's ability to accommodate such mobile home park needs. In addition, any connections to municipal facilities shall meet applicable City engineering design requirements. A copy of any deficiencies noted shall be transmitted immediately, with the recommendations of the Planning Commission, to the State Mobile Home Commission.
8. Each occupied mobile home shall be skirted and anchored with materials meeting Mobile Home Commission specifications.

### **SECTION 605 OTHER REQUIREMENTS**

See Article 18 (Schedule of Development Standards) limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum density permitted, and providing minimum yard setback requirements.

## **ARTICLE 7 - B-1 LOCAL BUSINESS DISTRICTS**

### **SECTION 700 INTENT**

The B-1 Local Business Districts, as herein established, are designed to meet the day-to-day convenience shopping and service needs of persons residing in adjacent residential areas.

### **SECTION 701 PRINCIPAL USES PERMITTED**

All principal permitted uses are listed in Article 17.

### **SECTION 702 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

All uses subject to special conditions are listed in Article 17. Such uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed for each use, including the review and approval of the Site Plan by the Planning Commission, and subject further to public notification and hearing held in accord with Article 27 (Public Hearings).

### **SECTION 703 GENERAL SITE PLAN REVIEW REQUIREMENTS**

Pursuant to Article 30, a Site Plan is required when any proposed development involves the provision of new or expanded off-street parking spaces that are available to for general public use.

### **SECTION 704 GENERAL CONDITIONS**

All business establishments shall be retail or service establishments dealing directly with customers. All goods produced on the premises shall be sold at the retail on premises where produced. All business, servicing, processing and storage of goods except for off-street parking or loading, shall be conducted within a completely enclosed building.

### **SECTION 705 AREA AND BULK REQUIREMENTS**

See Article 18 (Schedule of Development Standards) limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.



## **ARTICLE 8 - DM DOWNTOWN MIXED DISTRICT**

### **SECTION 800 INTENT**

The DT Business Districts, as herein established, is designed to support the development and redevelopment in a mixed-use and pedestrian-oriented environment next to Memorial Park and near the waterfront. This area is planned to be active place where residents and guests can live, work, shop, dine and socialize in a downtown-like environment. Only one downtown business district is envisioned in Luna Pier.

### **SECTION 801 PRINCIPAL USES PERMITTED**

All principal permitted uses are listed in Article 17.

### **SECTION 802 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

All uses subject to special conditions are listed in Article 17. Such uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed for each use, including the review and approval of the Site Plan by the Planning Commission, and subject further to public notification and hearing held in accord with Article 27 (Public Hearings).

### **SECTION 803 GENERAL SITE PLAN REVIEW REQUIREMENTS**

Pursuant to Article 30, a Site Plan is required when any proposed development involves the provision of new or expanded off-street parking spaces that are available to for general public use.

### **SECTION 804 GENERAL CONDITIONS**

All business establishments shall be retail or service establishments dealing directly with customers. All goods produced on the premises shall be sold at the retail on premises where produced. All business, servicing, processing and storage of goods except for off-street parking or loading, shall be conducted within a completely enclosed building. Off-street parking is a permitted use in the DM district, but it is not required.

### **SECTION 805 AREA AND BULK REQUIREMENTS**

See Article 18 (Schedule of Development Standards) limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.



## **ARTICLE 9 - B-2 GENERAL BUSINESS DISTRICT**

### **SECTION 900 INTENT**

The B-2 General Business Districts are designed to provide sites for more diversified business types and with a variety of automotive and goods incompatible with the uses and with the pedestrian movement in the Local Business District. The General Business Districts are often located so as to serve passerby traffic.

### **SECTION 901 PRINCIPAL USES PERMITTED**

All principal permitted uses are listed in Article 17.

### **SECTION 902 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

All uses subject to special conditions are listed in Article 17. Such uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed for each use, including the review and approval of the Site Plan by the Planning Commission, and subject further to public notification and hearing held in accord with Article 27 (Public Hearings).

### **SECTION 903 GENERAL SITE PLAN REVIEW REQUIREMENTS**

Pursuant to Article 30, a Site Plan is required when any proposed development involves the provision of new or expanded off-street parking spaces that are available to for general public use.

### **SECTION 904 AREA AND BULK REQUIREMENTS**

See Article 18 (Schedule of Development Standards) limiting the height and bulk of buildings and minimum size of lot by permitted land use.





## **ARTICLE 10 - ES EXPRESSWAY SERVICE DISTRICTS**

### **SECTION 1000 INTENT**

The ES Expressway Service Districts are designed to provide for servicing the needs of automobile highway traffic at the interchange areas of feeder roads and expressway facilities. The avoidance of undue congestion on feeder roads, the promotion of smooth traffic flow at the interchange area and on the expressway, and the protection of adjacent properties in other zones from adverse influences of traffic are prime considerations in the application of this district.

### **SECTION 1001 PRINCIPAL USES PERMITTED**

All principal permitted uses are listed in Article 17.

### **SECTION 1002 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

All uses subject to special conditions are listed in Article 17. Such uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed for each use, including the review and approval of the Site Plan by the Planning Commission, and subject further to public notification and hearing held in accord with Article 27 (Public Hearings).

### **SECTION 1003 GENERAL SITE PLAN REVIEW REQUIREMENTS**

Pursuant to Article 30, a Site Plan is required when any proposed development involves the provision of new or expanded off-street parking spaces that are available to for general public use.

### **SECTION 1004 AREA, BULK AND YARD SETBACK REQUIREMENTS**

See Article 18 (Schedule of Development Standards) limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing yard setback requirements.



## **ARTICLE 11 - WM WATERFRONT - MARINA DISTRICTS**

### **SECTION 1100 INTENT**

The WM Waterfront-Marina District is designed to accommodate recreational boating along with those activities and services related to harbor and waterway improvements, thereby facilitating navigation and providing safe and economical waterfront recreational development.

### **SECTION 1101 PRINCIPAL USES PERMITTED**

All principal permitted uses are listed in Article 17.

### **SECTION 1102 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

All uses subject to special conditions are listed in Article 17. Such uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed for each use, including the review and approval of the Site Plan by the Planning Commission, and subject further to public notification and hearing held in accord with Article 27 (Public Hearings).

### **SECTION 1103 GENERAL SITE PLAN REVIEW REQUIREMENTS**

Pursuant to Article 30, a Site Plan is required when any proposed development involves the provision of new or expanded off-street parking spaces that are available to for general public use.

### **SECTION 1104 AREA AND BULK REQUIREMENTS**

See Article 18 (Schedule of Development Standards) limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.



## **ARTICLE 12 – MU MIXED USE DISTRICTS**

### **SECTION 1200 INTENT**

The MU Districts are designed so as to serve as transitional areas with mixed land uses. The range of permitted land uses is intentionally broad to accommodate light industrial uses such as wholesale activities and warehouses, along with commercial retail, commercial service and office uses.

### **SECTION 1201 PRINCIPAL USES PERMITTED**

All principal permitted uses are listed in Article 17.

### **SECTION 1202 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

All uses subject to special conditions are listed in Article 17. Such uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed for each use, including the review and approval of the Site Plan by the Planning Commission, and subject further to public notification and hearing held in accord with Article 27 (Public Hearings).

### **SECTION 1203 GENERAL SITE PLAN REVIEW REQUIREMENTS**

Pursuant to Article 30, a Site Plan is required when any proposed development involves the provision of new or expanded off-street parking spaces that are available to for general public use.

### **SECTION 1204 AREA AND BULK REQUIREMENTS**

See Article 18 (Schedule of Development Standards) limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.



## **ARTICLE 13 – I-1 INDUSTRIAL USE DISTRICTS**

### **SECTION 1300 INTENT**

The I-1 Industrial Districts are designed so as to primarily accommodate wholesale activities, warehouses, and industrial operations. In order to allow optimum service to activities of this nature, residential uses, uses incidental to residential development and most retail activities are prohibited from this District. It is the intent of this Article to encourage the full utilization of the District under adequate standards of development, health, and public safety, and to protect against the creation of nuisances.

### **SECTION 1301 PRINCIPAL USES PERMITTED**

All principal permitted uses are listed in Article 17.

### **SECTION 1302 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

All uses subject to special conditions are listed in Article 17. Such uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed for each use, including the review and approval of the Site Plan by the Planning Commission, and subject further to public notification and hearing held in accord with Article 27 (Public Hearings).

### **SECTION 1303 GENERAL SITE PLAN REVIEW REQUIREMENTS**

Pursuant to Article 30, a Site Plan is required when any proposed development involves the provision of new or expanded off-street parking spaces that are available to for general public use.

### **SECTION 1304 AREA AND BULK REQUIREMENTS**

See Article 18 (Schedule of Development Standards) limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

### **SECTION 1305 PERFORMANCE STANDARDS**

Any use established in the I-1 or in any other district after the effective date of this Ordinance shall be operated so as to comply with the following performance standards:

1. Noise
  - (a) Maximum permissible sound-pressure levels at the lot line, or any point beyond, for noise radiating continuously from a facility between the hours of 10:00 p.m. and 7:00 a.m.

<u>Frequency Band Cycles Per Second</u>	<u>Sound Pressure Level Decibels re: 0.0002 dync/cm (1)</u>
20 - 75	- 69
75 - 150	- 54
150 - 300	- 47
300 - 600	- 41
600 - 1,200	- 37
1,200 - 2,400	- 34
2,400 - 4,800	- 31
4,800 - 10,000	- 28

(b) If the sound is not smooth or continuous and is not radiated between the hours of 10:00 p.m. and 7:00 a.m., one or more of the corrections in the following table shall be added or subtracted from each of the decibel levels given above.

<u>Type of Operation or Character of Noise</u>	<u>Correction In Decibels*</u>
Daytime operation only	Plus 5
Noise source operates less than 20% of any one hour period	Plus 5
Noise source operates less than 5% of any one hour period	Plus 10
Noise source operates less than 1% of any one hour period	Plus 15
Noise impulsive character (hammering, etc.)	Minus 5
Noise of periodic character (hum, screeching, etc.)	Minus 5
* Apply ONE of the corrections ONLY.	

2. Toxic Gases - Industrial uses shall emit no noxious, toxic or corrosive fumes or gases, in such concentrations as to be detrimental to or endanger the public health, safety, comfort or welfare or cause injury to property or business.
3. Heat and Glare -
  - (a) No industrial use shall carry on any operation that would produce heat or glare beyond the boundary line of the Industrial District.
  - (b) No industrial use shall use industrial lighting in a manner that produces glare on public highways and/or neighboring property.
4. Wastes - Disposal of all wastes shall comply with the City of Luna Pier Ordinances and any amendments thereto.

**SECTION 1306 AREA, BULK AND YARD SETBACK REQUIREMENTS**

See Article 18 (Schedule of Development Standards) limiting the height and bulk of buildings, and the minimum size of lot by permitted land use.



## **ARTICLE 13 – I-1 INDUSTRIAL USE DISTRICTS**

### **SECTION 1307 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

#### Medical Marihuana Facilities.

1. Medical Marihuana Facilities must comply with the following regulations.
  - A. Facilities must comply with the Michigan Medical Marihuana Facilities Licensing Act, Michigan Compiled Laws 333.27101 *et seq.*
  - B. At the time of application for a special use permit the marijuana facility must be licensed by the State of Michigan, or have the State of Michigan license concurrently in process with the special use permit approval and then must be at all times in compliance with the laws of the State of Michigan including but not limited to the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*; and the Marihuana Tracking Act, MCL 333.27901 *et seq.*; and all other applicable rules promulgated by the State of Michigan.
  - C. At the time of application for a special use permit the marijuana facility must be licensed by the City of Luna Pier, [or have the City of Luna Pier license concurrently in process with the special use permit and site plan approval], and then must be at all times in compliance with Ordinance Number 239.
  - D. The use or facility must be at all times in compliance with all other applicable laws and ordinances of the City of Luna Pier including Site Plan Approval.
  - E. The City of Luna Pier may suspend or revoke a special use permit based on a finding that the provisions of the special use standards in this section, all other applicable provisions of this zoning ordinance, Ordinance 239, Building Codes or the terms of the special use permit and approved site plan are not met.
  - F. Signage requirements for marijuana facilities are not permitted as stated in Article 24, Section 2410, 9. I-1 District, and shall comply with Article 24, Sections 2400 and 2401, 3. B-1 District requirements.
  - G. Co-located facilities and stacked grower licenses may be permitted, subject to regulations of this section and the State of Michigan.
  - H. Facilities shall have sufficient setbacks as stated in Article 18 – Schedule of Development Standards, for an I-1 District, unless otherwise required here-in, and include landscape screens or buffers to minimize light, odor and noise affecting adjacent properties.
  - I. Special use applications must provide a plan for secure storage and disposal of marihuana and chemicals, to minimize risk of theft or exposure.
  - J. All storage shall be contained within a building, unless the Facility has received prior Site Plan

approval and conditions for outdoor storage.

- K. Facilities must be constructed with opaque facades so that marijuana plants and products are not visible from exterior areas.
  - L. The roofs of facilities must be constructed of rigid materials, not thin films, and further conform to all Michigan Codes.
2. Marijuana growers and marijuana processors shall additionally be subject to the following standards:
- A. Marijuana production and Processing shall be located entirely within one or more completely enclosed buildings.
  - B. Lighting shall be regulated as follows: Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
  - C. Odor. As used in this subsection, building means the building, or portion thereof, used for marijuana production or marijuana processing.
    - 1. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
    - 2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
    - 3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
    - 4. Negative air pressure shall be maintained inside the building.
    - 5. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
    - 6. An alternative odor control system is permitted if the special use permit applicant submits and the municipality accepts a report by a mechanical engineer licensed in the state of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.
  - D. Security Cameras. If used, security cameras shall be directed to record only the subject property and may not be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the state of Michigan.

## **ARTICLE 13 – I-1 INDUSTRIAL USE DISTRICTS**

- E. Facility property shall include 24-hour, seven-days-a-week staffed security presence on the property.
3. Provisioning centers shall be additionally subject to the following standards:
- A. Hours. A provisioning center may only sell to consumers or allow consumers to be present in the building space occupied by the provisioning center between the hours of 9:00 a.m. and 9:00 p.m.
  - B. Indoor Activities. All activities of a provisioning center, including all transfers of marijuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up window or drive-thru window service.
  - C. Other Activities. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the provisioning center.
  - D. Nonconforming Uses. A provisioning center may not locate in a building in which a nonconforming retail use has been established in any district.
  - E. Physical Appearance. The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.
  - F. Buffer Zones. A provisioning center may not be located within the distance specified from the uses below. The distance shall be measured as the shortest straight line distance between the property line of the location of the following uses to the property line of the parcel on which provisioning center premises is located, whichever is less.
  - G. a. A provisioning center may not be located within 100 feet of the real property comprising or used by a public or private elementary, vocational, or secondary school; a public or private college, junior college, or university; a licensed child care center or preschool; a public playground, public swimming pool, or public or private youth activity facility; a public park, public outdoor recreation area, or public recreation facility; or a public library; or a religious institution or a residentially zoned property.
  - H. Odor. As used in this subsection, building means the building, or portion thereof, used for a provisioning center.
    - 1. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
    - 2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.

3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
  4. Negative air pressure shall be maintained inside the building.
  5. Doors and windows shall remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
  6. An alternative odor control system is permitted if the special use applicant submits and the municipality accepts a report by a mechanical engineer licensed in the state of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.
4. Marijuana Safety Compliance Facility shall be additionally subject to the following standards:
    - A. All activities of a marijuana safety compliance facility, including all transfers of marijuana, shall be conducted within the structure and out of public view.
  5. Marijuana Secure Transporter shall be additionally subject to the following standards:
    - A. A marijuana secure transporter shall be subject to the special regulations and standards applicable to [transportation and warehousing] uses in the Zoning ordinance and the following standards.
    - B. Any buildings or structures used for the containment of stored materials shall be located no closer than 50 feet from any property line and 100 feet from any Residentially Zoned property.

**ARTICLE 13 – I-1 INDUSTRIAL USE DISTRICTS**

### **SECTION 1400 INTENT**

I-2 General Industrial Districts are designed to accommodate manufacturing, assembling and fabrication activities including business activities, which are not well suited to locations in business districts due to their impact on abutting neighborhoods or due to their requirements for large site areas not available in the City's limited business district. The I-2 District is so structured as to permit the manufacturing, processing and compounding of semi-finished or finished products from raw materials as well as from previously prepared material.

### **SECTION 1401 PRINCIPAL USES PERMITTED**

All principal permitted uses are listed in Article 17.

### **SECTION 1402 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

All uses subject to special conditions are listed in Article 17. Such uses may be permitted by the Planning Commission subject to the conditions hereinafter imposed for each use, including the review and approval of the Site Plan by the Planning Commission, and subject further to public notification and hearing held in accord with Article 27 (Public Hearings).

### **SECTION 1403 GENERAL SITE PLAN REVIEW REQUIREMENTS**

Pursuant to Article 30, a Site Plan is required when any proposed development involves the provision of new or expanded off-street parking spaces that are available to for general public use.

### **SECTION 1404 AREA AND BULK REQUIREMENTS**

See Article 18 (Schedule of Development Standards) limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

### **SECTION 1405 PRINCIPAL USES PERMITTED**

In a General Industrial District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance:

1. Any principal use first permitted in an I-1 District.
2. Heating and electric power generating plants.
3. Any of the following production or manufacturing uses (not including storage of finished products) provided that they are located not less than eight hundred (800) feet distant from any Residential District and not less than three hundred (300) feet distant from any other district.

## **ARTICLE 13 – I-1 INDUSTRIAL USE DISTRICTS**

- (a) Junk yards, provided such are entirely enclosed within a building or within an eight (8) foot obscuring wall and provided further that one property line abuts a railroad right-of-way.
  - (b) Incineration of garbage of refuse when conducted within an approved and enclosed incinerator plant.
  - (c) Blast furnace, steel furnace, blooming or rolling mill.
  - (d) Manufacture of corrosive acid or alkali, cement, lime, gypsum or plaster of paris.
  - (e) Petroleum or other inflammable liquids, production, refining, or storage.
  - (f) Smelting of copper, iron or zinc ore.
4. Any other use which shall be determined by the City Council, after recommendation from the Planning Commission, to be of the same general character as the above permitted uses in this section. The City Council may impose any required setback and/or performance standards so as to insure public health, safety, and general welfare.
  5. Accessory buildings and uses customarily incident to any of the above permitted uses.

### **SECTION 1406 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

The following uses may be permitted upon the granting of a permit for such use by the Planning Commission subject to the conditions hereinafter imposed for each use and subject further to such reasonable conditions which in the opinion of the Planning Commission are necessary to provide adequate protection to the neighborhood and abutting properties and subject further to a public hearing in accord with Article 27 (Public Hearings) and further shall be reviewed as provided for Article 30 (Site Plan Review):

1. Adult entertainment facilities. Because minors are excluded from such facilities by virtue of age, the location of such activities shall be limited to I-2 General Industrial Districts, subject to the following conditions:
  - (a) No adult entertainment facility shall be permitted with 500 feet of a church or a public or private school property.
  - (b) No adult entertainment facilities shall be permitted with in 500 feet of a district zoned for residential use.
  - (c) All other requirements of the I-2 District shall be complied with regarding height, area, setback, screening walls, signs, etc.
  - (d) The distances provided in the section shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel line upon which the proposed use is to be located or the zoning district boundary, or major thoroughfare right-of-way line from which the proposed land use is to be separated.
2. Massage establishment subject to the following conditions:
  - (a) No massage establishment shall be permitted with 500 feet of a church or a public or private school property.
  - (b) No massage establishment shall be permitted with 500 feet of a district zoned for residential use.
  - (c) All other requirements of the I-2 District regarding height, area, setback, screening walls, signs, etc., shall be complied with.

- (d) The distances provided in the section shall be measured in a straight line, without regard to intervening buildings, from the nearest point of the property parcel line upon which the proposed use



## ARTICLE 14 - I-2 INDUSTRIAL DISTRICTS (CONT'D)

is to be located or the zoning district boundary line from which the proposed land use is to be separated.

3. Indoor archery range, indoor tennis courts, indoor skating rink, or similar forms of indoor commercial recreation when such building is located at least two hundred (200) feet from any front, rear or side yard of any residential lot in an adjacent residential district.
4. Commercial Television and Radio Towers, Public Utility Microwave Towers, Public Utility TV Transmitting Towers. Radio and television towers, public utility microwave towers, public utility television transmitting towers, their attendant facilities shall be permitted in I-1 and I-2 Districts, provided said use shall be located centrally on a continuous parcel of not less than one and one-half (1-½) times the height of the tower measured from the base of said tower to all points on each property line.
5. Cellular Telephone Transmission Towers. Towers and antennae for cellular telephone transmission may be permitted in I-1 and I-2 Districts and on municipally owned properties subject to the following conditions.
  - (a) Cellular towers and antennae shall not exceed one hundred and fifty (150) feet in height, measured from the grade at the base of the tower.
  - (b) The base of the tower shall have a minimum setback of not less than the height of the tower from any property line.
  - (c) If located on the same zoning lot with another permitted use, such tower and any other structures connected therewith shall not be located in a front yard or side yard abutting a street.
  - (d) Cellular telephone antennae and supporting structures shall be permitted to be placed on the roofs of buildings subject to the following conditions: The principal use is a conforming use and the building is a conforming structure: The antenna shall not exceed the height of its supporting structure by more than twelve (12) feet: The top of the supporting structure may exceed the maximum height of the district in which it is located by not more than ten (10) feet: The supporting structure shall be set back from the outermost vertical wall or parapet of the building a distance equal to at least two (2) times the height of such structure.
  - (e) The Planning Commission may authorize a permit for such use after finding that the criteria for approving a “use permitted subject to special conditions” are met as well as the following: The petitioner demonstrates that operating requirements necessitate locating within the City and within the district, and that location on existing towers or buildings in district where such facilities are permitted are not available: That, in the opinion of the Planning Commission, nearby residential areas will not be negatively influenced by the location of the tower: That the height of the tower and antennae not exceed one hundred and fifty (150) feet.
  - (f) Any cellular tower and antennae that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such tower or antennae shall remove same within ninety (90) days of receipt of notice from the City notifying the owner of such abandonment. Failure to remove an abandoned antennae or tower within said ninety (90) days shall be grounds to remove the tower or antennae at the owner’s expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

ARTICLE 14 – I-2 DISTRICTS (CONT'D)

**SECTION 1407 AREA AND BULK REQUIREMENTS**

See Article 18 (Schedule of Development Standards) limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

## **ARTICLE 15 - PLANNED UNIT DEVELOPMENT**

### **SECTION 1500 INTENT**

It is the policy of the City of Luna Pier to promote the progressive and creative development of land and to encourage utilization of these planned unit development regulations to achieve:

1. A maximum choice of living environments by allowing a variety of housing and building types and permitting an increased density per acre and a reduction in lot dimensions, yards, building setbacks and area requirements.
2. A more useful pattern of open space and recreation areas and, if permitted as part of a project, more convenience in the location of accessory commercial uses and services.
3. A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and which prevents the disruption of natural drainage patterns.
4. A more efficient use of land than is generally achieved through conventional development resulting in substantial savings through reduced lengths of utilities and streets.
5. A development pattern in harmony with land use density, transportation facilities and community facilities objectives of the City's Master Plan.
6. The City is also prepared to accept a greater population density in undeveloped areas than that reflected by present zoning, provided that the developer can demonstrate that any increment of public cost clearly attributable to increased densities will be compensated for by the private amenities and public benefits to be achieved by the plan of development.

### **SECTION 1501 SPECIAL PROVISIONS; CONFLICTS.**

Because of the special characteristics of planned unit developments, special provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this chapter and those of the other chapters of this Zoning Ordinance, the provisions of this chapter shall prevail. Subjects not covered by this chapter shall be governed by the respective provisions found elsewhere in this Zoning Ordinance.

### **SECTION 1502 APPLICATION OF CHAPTER TO EXISTING ZONING DISTRICTS.**

Upon approval by the Planning Commission and the City Council, a Planned Unit Development District may be applied to any existing zoning District. Upon approval of a final development plan, the Official Zoning Map shall be annotated for the land area involved so that the district name includes the notation "PUD". Planned Unit Development Districts shall be approved by the Planning Commission and the City Council in the manner provided herein.

### **SECTION 1503 COMBINATION OF COMPATIBLE USES.**

Compatible residential, commercial, office, light industrial and public uses may be combined in PUD districts provided that the proposed location of the commercial uses will not adversely affect adjacent property and/or the public health, safety and general welfare. Building site area and other setback requirements of the zoning districts shall

apply, except as modified in this chapter. The amount of land devoted to commercial use in a combined residential- commercial development shall be determined by the Planning Commission and subject to final approval by the City Council.

**SECTION 1504 MINIMUM PROJECT AREA.**

The gross area of a tract of land to be developed in a Planned Unit Development District shall be a minimum of five acres.

**SECTION 1505 RESERVATION OF COMMON OPEN SPACE.**

A minimum of twenty percent of the land developed in any planned unit development project shall be reserved as common open space for the users of the area being developed. Common open space shall be provided as a system that helps to connect and link the development, rather than as an isolated space with limited accessibility.

**SECTION 1506 DISPOSITION AND MAINTENANCE OF COMMON OPEN SPACES.**

The required amount of common open space land reserved under a planned unit development shall either be held in corporate ownership by owners of the project area, for the use of each owner who buys property within the development, or be dedicated to the City and retained as common open space for parks, recreation and related uses. All land dedicated to the City must meet the Planning Commission's requirements as to size, shape and location. Public utility easements and similar easements and rights of way for watercourses and other similar channels are not acceptable for common open space dedication to the City, unless such land or right of way is usable as a trail or other similar purpose and is approved by the Planning Commission. The City retains the right to refuse any open space for dedication. The responsibility for the maintenance of all open spaces shall be specified by the developer before approval of the final development plan.

**SECTION 1507 UTILITIES.**

Underground utilities, including telephone and electrical systems, are required within the limits of all planned unit developments. Appurtenances to these systems, which can be effectively screened, may be excepted from this requirement if the Planning Commission finds that such exemption will not violate the intent or character of the proposed planned unit development.

**SECTION 1508 BUILDING SITE AREAS AND WIDTHS; DENSITY.**

In platted area or site condominium projects, the permitted lot size per dwelling unit may be reduced by not more than forty percent of what is permitted in the Article 18.

**SECTION 1509 PROXIMITY OF BUILDING SITES TO COMMON OPEN SPACE.**

Every property developed under the planned unit development approach should be designed to abut upon common open space or similar areas. A clustering of dwellings is encouraged.

**SECTION 1510 SIDE AND REAR YARDS.**

For each foot of building height over the maximum height regulations, the distance between such building and the side and rear property lines of the planned unit development project area shall be increased by a one-foot addition to the side and rear yard required in the district.

**SECTION 1511 OFF-STREET PARKING AND LOADING.**

Off-street parking, loading and service areas shall be provided in accordance with Article 22.

**SECTION 1512 PERIMETER SETBACKS.**

Notwithstanding the provisions of this chapter, every building site abutting the perimeter of a Planned Unit Development District shall maintain all setback requirements for the adjacent zoning district(s).

**SECTION 1513 ARRANGEMENT OF COMMERCIAL USES.**

When Planned Unit Development Districts include commercial uses, commercial buildings and establishments shall be planned as groups having common parking areas and common ingress and egress points in order to reduce the number of potential accident locations at intersections with thoroughfares. Planting screens or fences shall be provided on the perimeter of the commercial areas abutting residential areas. The project shall provide for the integrated and harmonious design of buildings and for adequate and properly arranged facilities for internal traffic circulation, landscaping and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding noncommercial areas. All areas designed for future expansion, or not intended for immediate improvement or development, shall be landscaped or otherwise maintained in a neat and orderly manner.

**SECTION 1514 PRE-APPLICATION MEETING.**

The developer shall meet with the City Planner, City Engineer and the Planning Commission prior to the submission of the preliminary development plan. The purpose of this meeting is to discuss, early and informally, the purpose and effect of this chapter and the criteria and standards contained herein and to familiarize the developer with the policies contained in the City's Master Plan.

**SECTION 1515 APPLICATION FOR APPROVAL OF PRELIMINARY DEVELOPMENT PLAN.**

Fifteen copies of an application for preliminary planned unit development shall be filed with the City Planner by at least one owner or lessee of property for which the planned unit development is proposed. At a minimum, the application shall contain the following information, submitted with fifteen copies thereof:

1. Name, address and phone number of the applicant.
2. Name, address and phone number of the registered surveyor, the registered engineer and/or the site designer assisting in the preparation of the preliminary development plan.
3. Legal description of the property.
4. Description of the existing use.
5. Zoning district(s).

ARTICLE 15 - PLANNED UNIT DEVELOPMENT DISTRICT (CONT'D)

6. Vicinity map, showing property lines, streets, existing and proposed zoning and such other items as the Planning Commission may require showing the relationship of the planned unit development to the land use and other community facilities and services.
7. Preliminary development plan, showing topography at two-foot intervals; location and type of residential, commercial and industrial land uses; layout, dimensions and names of existing and proposed streets, rights of way, utility easements, parks and community spaces; layout and dimensions of lots and building setback lines; preliminary improvements drawings, showing water, sewer, drainage, electricity, telephone and natural gas; and such other characteristics as the Planning Commission deems necessary.
8. Proposed schedule for the development of the site.
9. Evidence that the applicant has sufficient control over the land in question to initiate the proposed development plan within two years.
10. The application for preliminary planned unit development shall be accompanied by a written statement by the developer setting forth the reasons why the planned unit development would be in the public interest and would be consistent with the City's statement of objectives for planned unit developments.

**SECTION 1516 PUBLIC HEARINGS; NOTICES.**

Within thirty days after receipt of the preliminary development plan, the Planning Commission shall hold a public hearing. Before holding a public hearing, notice of such hearing shall be given in the manner described in Article 27.

**SECTION 1517 APPROVAL IN PRINCIPLE OF PRELIMINARY DEVELOPMENT PLAN.**

Within thirty days after the public hearing, the Planning Commission shall review the preliminary development plan to determine if it is consistent with the intent and purpose of this Zoning Ordinance and the City Master Plan. The Commission's approval in principle of the preliminary development plan shall be necessary before an applicant may submit a final development plan. Approval in principle shall not be construed to endorse a precise location of uses, configuration of parcels or engineering feasibility.

**SECTION 1518 SUBMITTAL OF FINAL DEVELOPMENT PLAN.**

After approval in principle of the preliminary development plan, the developer shall submit a final development plan to the Planning Commission. The final development plan shall be in general conformance with the preliminary development plan approved in principle. Fifteen copies of the final development plan shall be submitted.

**SECTION 1519 APPLICATION FOR APPROVAL OF FINAL DEVELOPMENT PLAN.**

An application for approval of the final development plan shall be filed with the City Clerk by at least one owner or lessee of property for which the planned unit development is proposed. Each application shall be signed by the owner or lessee, attesting to the truth and exactness of all information supplied on the application for approval of a final development plan. Each application shall clearly state that the approval shall expire and may be revoked if construction on the project has not begun within two years from the date of issuance of the approval. At a minimum, the application shall contain the following information:

ARTICLE 15 - PLANNED UNIT DEVELOPMENT DISTRICT (CONT'D)

1. A survey of the proposed development site, showing the dimensions and bearings of the property lines, the area in acres, the topography and existing features of the development site, including major wooded areas, structures, streets, easements, utility lines and land uses.
2. All the information required on the preliminary development plan; the location and sizes of lots; the location and proposed density of dwelling units, nonresidential building intensity and land use considered suitable for adjacent properties.
3. A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and streetscapes; a tabulation of the number of acres in the proposed project for various uses, the number of dwelling units proposed by type and the estimated residential population by type of dwelling; the estimated nonresidential population (employees); the anticipated timing of construction for each unit; and standards for height, open space, building density, parking areas, population density and public improvements proposed for each unit.
4. Engineering feasibility studies and plans showing, as necessary, water, sewer, drainage, electricity, telephone and natural gas installations; waste disposal facilities; street improvements; and the nature and extent of the earthwork required for site preparation and development.
5. A site plan, showing building(s), various functional use areas and circulation and their relationship.
6. Preliminary building plans, including floor plans and exterior elevations.
7. Landscaping plans.
8. Deed restrictions, protective covenants and other legal statements or devices to be used to control the use, development and maintenance of the land and the improvements thereon, including those areas, which are to be commonly owned and maintained.

**SECTION 1520 RECOMMENDATION BY PLANNING COMMISSION.**

Within thirty days after receipt of the final development plan, the Planning Commission shall recommend to the City Council that the final development plan be approved as presented, approved with supplementary conditions or disapproved. The Planning Commission shall then transmit all papers, constituting the record and the recommendations to the City Council.

**SECTION 1521 CRITERIA FOR RECOMMENDATION BY PLANNING COMMISSION.**

Before making its recommendation, the Planning Commission shall find that the facts submitted with the application and presented at the public hearing establish that:

1. The proposed development can be initiated within two years of the date of approval.
2. Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; and that the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could be achieved under standard district regulations.
3. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and that increased densities will not generate traffic in such amounts as to overload the street network outside the planned unit development.
4. Any proposed commercial development can be justified at the locations proposed.
5. Any variance from standard district requirements is warranted by the design and other amenities incorporated in the final development plan, in accordance with the planned unit development and the adopted policy of the Planning Commission and the City Council.

ARTICLE 15 - PLANNED UNIT DEVELOPMENT DISTRICT (CONT'D)

6. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.
7. The planned unit development is in general conformance with the Master Plan.
8. The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed.
9. The planned unit development meets all other requirements of related development regulations.

**SECTION 1522 ACTION BY CITY COUNCIL.**

Within sixty days after receipt of the final recommendation of the Planning Commission, the City Council shall approve, approve with supplementary conditions or disapprove the application as presented. If the application is either approved or approved with conditions, the Building Inspector shall issue building permits only in accordance with the approved final development plan and the supplementary conditions attached thereto. Furthermore, approval of a Planned Unit Development by the City Council is an amendment to the Zoning Ordinance and must follow the procedure for adoption described in Article 32.

**SECTION 1523 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS; VIOLATIONS.**

In approving any Planned Unit Development District, the City Council may prescribe appropriate conditions and safeguards, such as performance bonds or escrow accounts, in conformity with this Zoning Ordinance. A violation of such conditions or safeguards, when made a part of the terms under which the final development plan is approved, shall be deemed a violation of this Zoning Ordinance.

**SECTION 1524 EXPIRATION/EXTENSION OF APPROVAL PERIOD.**

The approval of a final development plan for a Planned Unit Development District shall be for a period not to exceed two years. If no construction has begun within two years after approval is granted, the approved final development plan shall be void and the land shall revert to the regulations governing the district in which it is located. An extension of the time limit may be approved if the Planning Commission finds that such extension is not in conflict with the public interest. If the project is approved in phases, each individual phase does not need further approval providing construction has started within two years of the approved construction date. Any modification from the approved final development plan may be approved if the Planning Commission finds that such modification is not in conflict with the public interest. Any proposed modification will require a public hearing, subject to the requirements listed in Section 1516.



## **ARTICLE 16 - LPRCO - LUNA PIER ROAD CORRIDOR OVERLAY DISTRICT**

### **SECTION 1600 INTENT**

The purpose of the Luna Pier Road Corridor Overlay District is to inspire and support high-quality architectural design and to encourage consistent architectural elements to help define a sense of place and community context as envisioned and described in the Master Plan. It is recognized that the appearance Luna Pier Road Corridor is of utmost importance to the community as it encourages redevelopment and reinvestment. In concert with other municipal efforts, this Overlay District is intended to help order the appearance of new construction and renovation around unifying architectural themes. As an overlay district, the Luna Pier Road Corridor Overlay District provides additional development standards that must be met along with those defined in the underlying zoning district. The provisions of this overlay district therefore supplement the underlying zoning district in which a property is located.

### **SECTION 1601 PRINCIPAL AND SPECIAL USES PERMITTED**

All principal and special uses allowed pursuant to the underlying district are also permitted when the Luna Pier Road Corridor Overlay District is applicable to a particular property.

### **SECTION 1602 DESIGN GUIDELINES**

To more clearly define desirable design elements, the Luna Pier Design Guidelines have been adopted by separate Ordinance. This document contains descriptions of desirable architectural elements, urban form and structure. Various design details are also provided to help define unifying architectural themes. This material is intended to offer specific information about desired design elements, along with design flexibility so that individual property owners can explore ways to contribute to a unified sense of place.

### **SECTION 1603 DEVELOPMENT REVIEW**

To insure compliance with the provisions of the Luna Pier Road Corridor Overlay District, all new construction or physical expansions of buildings shall be subject to the Site Plan Review procedures established in Article 30. Information submitted pursuant to these requirements shall include all required elements defined in Article 30, along with necessary documentation to illustrate compliance with the Luna Pier Design Guidelines. Exterior changes to an existing building that does not result in a physical expansion of a building, shall also be designed in accordance with the Luna Pier Design Guidelines. However, such non-structural changes may be approved administratively by the Luna Pier Building Inspector, who may also consult with the City Planner and City Administrator. Applicants, who wish to appeal any administrative decision, may appeal to the Planning Commission.

### **SECTION 1604 SUBMITTAL REQUIREMENTS**

Along with other required materials associated the with Site Plan Review Procedures established in Article 30, additional materials may be required to help document and illustrate proposed building design, materials, colors,

ARTICLE 16 – LUNA PIER ROAD CORRIDOR OVERLAY DISTRICT (CONT'D)

landscape treatments, etc. For new construction, renderings of façades will be required to illustrate proposed design elements.

## ARTICLE 17 - SCHEDULE OF PERMITTED AND SPECIAL USES

### SECTION 1700 INTENT

In any given zoning district, no land or building may be used for a purpose other than those indicated in the following chart (x = permitted use in a zoning district, s= special use in zoning district). Requirements related to indicated special uses in a given zoning district are provided in each zoning district. When a proposed use is not specifically listed, the Building/Zoning Official shall make a determination concerning which of the listed uses is most closely comparable to the proposed use.

Land Uses	R 1	R 2	R 3	R M	MH	B1	DM	B 2	ES	WM	MU	I 1	I 2
<b>RESIDENTIAL / GENERAL</b>													
Multiple-Family dwellings				X						X			
Single-family dwelling, attached			X	X						X			
Single-family dwellings, detached	X	X	X										
Single-family dwellings, in a mixed use building							X			X			
Two-Family dwellings				X						X			
<b>RESIDENTIAL /SPECIAL TYPES</b>													
Bed and Breakfast	S	S	S	X			X						
Child Care Family Homes	X	X	X	X									
Child Care Group Homes	S	S	S	S									
Convalescent Homes				X	X	X		X					
Elderly Housing, Assisted Living Facility				X									
Elderly Housing, Retirement Housing				X									
Mobile Home Park					X								
Residential Facilities for Adult Foster Care	X	X	X	X									
<b>RETAIL /GENERAL COMMERCIAL</b>													
Amusement Arcade								S					
Animal hospitals and veterinary offices without outside runs and places for keeping animals.								X			X		
Animal hospitals, veterinary offices and commercial kennels with outside runs and places for keeping animals.											S	X	X
Antique shops							X	X					
Art Gallery/Studio or Art Education Facility							X						
Artist live/work area provided a retail sales area exists on a first floor for items made on the premises.							X						
Automobile car wash								X	X		X		
Automotive repair (minor)								X			X	X	X
Automotive repair (major)								S			X	X	X

ARTICLE 17 – SCHEDULE OF PERMITTED AND SPECIAL USES (CONT'D)

Land Uses	R1	R2	R3	RM	MH	B1	DM	B2	ES	WM	MU	I1	I2
Automobile sales and service businesses including used car lots and repair garages								S			X	X	X
Automobile service stations, with or without convenience stores.									X				
Automobile, truck, boat, or recreational vehicle repair garages											X	X	X
Banks, credit unions, savings and loan associations, and similar uses, including drive-through facilities.								X			X		
Bars, microbrewery, cocktail lounges.								X		X			
Child Care Centers				X		X		X			X		
Clubs								S					
Coffee Shops							X	X					
Commercial recreation businesses including bowling alleys, dance halls, miniature golf courses, etc.								X			X		
Commissary facilities for the provision of food, beverages, and the like to be stored aboard boats.										X			
Copy or Business Center							X	X			X	X	X
Craft making or site assembly or production of items such as jewelry, pottery, household items, specialty food items, photography and lighthouses, provided not less than one third of the total floor space is devoted to retail sales of items produced on the premises and display areas are accessible to the public.							X	X					
Cultural Centers and Museums							X						
Dry cleaning establishments (retail)							X	X			X		
Entertainment Facility, Commercial							X	X			X		
Funeral homes.	S	S	S	S		X		X			X		
Hotels							X	X	X	X	X		
General retail businesses which supply commodities on the premises, such as but not limited to: groceries, meats, dairy products, or other foods, drugs, dry goods, clothing and notions or hardware.						X	X	X			X		
Ice cream shops/stands							X	X					
Ice skating / roller rink								X			X		
Lodges and fraternal organizations.								X		X	X		
Marine-related sales of commodities such as sale of boats, engines and accessories, fishing equipment and other similar items.								S		X			
Mobile home and travel trailer sales and service.												X	X
Monument works with or without retail outlet on premises.												X	X
Motels								X			X		
Pharmacy, non-prescription medicine sales (excluding medical marijuana)													
Print shop.								X			X	X	X
Public or private beaches and recreation areas.							X		X				
Public or private development of either the berthing, protection, or													
Repair services and businesses, related to household goods and items								X			X	X	X

ARTICLE 17 – SCHEDULE OF PERMITTED AND SPECIAL USES (CONT'D)

Land Uses	R1	R2	R3	RM	MH	B1	DM	B2	ES	WM	MU	I1	I2
Restaurant with outdoor customer dining area, or sidewalk café'							X	X					
Restaurants without drive-through facilities							X	X	X				
Restaurants, with drive through facilities.								X	X				
Retail bakeries.						X	X	X					
Retail establishments to service the needs of the highway traveler including such facilities as, gift shops and convenience stores.									X				
Truck stops									X				
Theater or Auditorium								X					
<b>SERVICE</b>													
Personal service establishments which perform services on the premises, such as but not limited to: repair shops (watches, radio, television, shoes, etc.), tailor shops, beauty parlors or barber shops, photographic studios, and self-service laundries and dry cleaners.						X	X	X			X		
<b>OFFICE</b>													
Medical, dental or other health-care related professional offices						X		X			X		
Commercial offices, including administrative and sales offices, with merchandise for display purposes only.								X			X		
Professional or business offices						X		X			X		
Professional or business offices located on a second or third floor of a mixed use building.							X						
<b>INDUSTRIAL</b>													
Asphalt mixing plant.													S
Blast furnace, steel furnace, blooming or rolling mill.													S
Bottling Plants													X
Bus passenger stations.								X	X		X		
Cement production or product manufacture.													S
Churches and other facilities normally incidental thereto	S	S	S	S	S	X		X					
Commercial dry cleaning plants.												X	X
Commercial parking lots and garages.						S	S	X	X	X	X	X	X
Community recreation centers, private or public.	S	S	S	S		X	X	X					
Design and development of computer hardware and software, data communications, information technology, data processing, and other computer-related services.											X	X	X
Greenhouses												X	X
Heating and electric power generating plants.													X
Hospitals, urgent care or out patient clinics								X			X		
Incineration of garbage or refuse when conducted within an approved and enclosed incinerator plant.													S
Junk yards or salvage yards													S
Laboratories - experimental, film or testing.											X	X	X
Life science technology and medical laboratories, including but not limited to biomedical engineering, materials engineering, biotechnology, genomics, proteomics, molecular and chemical ecology.											X	X	X

ARTICLE 17 – SCHEDULE OF PERMITTED AND SPECIAL USES (CONT'D)

Land Uses	R 1	R 2	R 3	RM	MH	B1	DM	B 2	ES	WM	MU	I 1	I 2
Light manufacturing uses that do not include any outside storage of raw materials or finished products and do not include any semi-truck delivery facilities.											X	X	X
Manufacture of corrosive acid or alkali, cement, lime, gypsum or plaster of Paris.													S
Manufacture of musical instruments, toys, novelties, and metal or rubber stamps, or other small molded rubber products.													
Manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.												X	X
Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs.												X	X
Manufacturing and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves, and the like.												X	X
Medical Marijuana Grower												S	
Medical Marijuana Processor												S	
Medical Marijuana Provisioning Center												S	
Medical Marijuana Secure Transporter												S	
Medical Marijuana Safety Compliance Facility												S	
Metal stamping.													S
Paint, oil, shellac, varnish or turpentine manufacture.													S
Paper manufacture.													S
Petroleum or other inflammable liquids, production, refining, or storage.													S
Printing plants.												X	X
Radio and television broadcasting stations and towers.												X	X
Railroad transfer and storage tracks, railroad right-of-way and freight terminals													X
Research, design, engineering, testing, diagnostics and pilot or experimental product development, including but not limited to medical device and alternative energy technologies.												X	X
Smelting of copper, iron or zinc ore.													S
Storage facilities for building materials, sand gravel, stone, lumber, open storage of contractor's equipment and supplies.												X	X
The manufacture, compounding, processing, packaging or treatment of such products as, but not limited to: bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery; tool, die, gauge and machine shops.												X	X
Utility and public service buildings and uses with storage yards								S	S	S	S	X	X
Warehousing and wholesale establishments and trucking facilities.											S	X	X
Water supply and sewage disposal plants.												X	X
<b>MISCELLANEOUS LAND USES</b>													
Accessory buildings and uses	X	X	X	X	X	X	X	X	X	X	X	X	X
Agriculture	X	X	X	X								X	X
Cellular Telephone Transmission Towers												S	S
Cemeteries	S												
Churches	S	S	S	S	S	S	S	S	S				
Commercial Television and Radio Towers, Public Utility Microwave Towers, Public Utility TV Transmitting Towers.												S	S

ARTICLE 17 – SCHEDULE OF PERMITTED AND SPECIAL USES (CONT'D)

Land Uses	R1	R2	R3	RM	MH	B1	DM	B2	ES	WM	MU	I1	I2
Home Occupations <sup>1</sup>	X	X	X	X	X		X						
Hospitals, urgent care or out patient clinics								X			X		
Golf Courses or Driving Ranges											X		
Municipal Buildings and Facilities	X	X	X	X	X	X	X	X	X	X	X	X	X
Parks, playgrounds and community buildings or facilities owned or operated by public agencies.	X	X	X	X	X	X	X	X	X	X	X	X	X
Private noncommercial recreational areas, (including institutional or recreation centers and nonprofit swimming pool clubs)	S	S	S	S		X	X		X		X		
Sexually-Oriented Businesses <sup>2</sup>													S
Utility and public service buildings without storage yards	S	S	S	S	S	S	S	S	S	S	S	X	X
Wind Energy Systems	S	S	S	S	S	S	S	S	S	S	S	S	S
<b>EDUCATIONAL USES</b>													
Educational Facilities, College/University.								X	X		X	X	X
Educational Facilities, Elementary School.	X	X	X	X		X							
Educational Facilities, High School	S	S	S	S		S		X	X		X		
Educational facilities, Junior High School	S	S	S	S		S		X	X		X		
Educational facilities, vocational or trade school								X			X	X	X
<b>OTHER PRINCIPAL AND ACCESSORY USES</b>													
Attached Accessory Solar Energy System	X	X	X	X	X	X	X	X	X	X	X	X	X
Freestanding Accessory Solar Energy	S	S	S	S	S	S	S	S	S	S	S	X	X
Solar Power Plant												X	X
Commercial Wind Energy System												S	X
Accessory Wind Energy System	S	S	S	S	S	S	S	S	S	S	S	X	X

(Amended by Ord. 211-A, 9-27-18)

(Amended by Ord. 211-B, 12-12-19)

<sup>1</sup> No home occupation shall be permitted that: Changes the outside appearance of the dwelling or is visible from the street; Generates traffic, parking, sewerage or water use in excess of what is customary in the residential neighborhood; Creates noise, vibration, glare, fumes, odors or results in electrical interference, or becomes a nuisance; Results in outside storage or display of anything, including signs; Requires the employment of anyone in the home other than the dwelling occupant; Requires exterior building alterations to accommodate the occupation; Occupies more than twenty-five (25) percent of the ground floor area of the dwelling, or fifty (50) percent of a detached garage; Requires parking for customers that cannot be accommodated on the site and/or not exceeding one (1) parking space at curb side on the street; Requires the delivery of goods or the visit of customers before 8:00 A.M. and after 8:00 P.M. A proposed home occupation that does not meet these requirements may be considered by the Planning Commission and approved as proposed, or with conditions, following a public hearing conducted in accordance with Article 27.

<sup>2</sup> No sexually-oriented business shall be permitted with 500 feet of a church, day care, or public or private school property, or public or private park. Further, no sexually-oriented business shall be permitted within 500 feet of a district zoned for residential use. The distances provided in the section shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel line upon which the proposed use is to be located or the zoning district boundary.

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## ARTICLE 18 - SCHEDULE OF DEVELOPMENT STANDARDS

### SECTION 1800 STANDARDS LIMITING HEIGHT, BULK, DENSITY, AND AREA BY ZONING DISTRICT

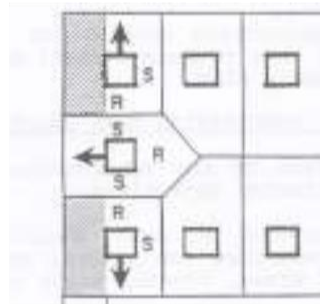
		MINIMUM ZONING LOT SIZE PER DWELLING UNIT		MAXIMUM HEIGHT OF STRUCTURES (IN FT.)	MINIMUM YARD SETBACK PER LOT IN FEET			MINIMUM FLOOR AREA PER UNIT (SQ. FT.)	MAXIMUM % OF LOT AREA (BY ALL BUILDINGS)
		AREA IN SQ. FT.	WIDTH IN FT.		FRONT	EACH SIDE	REAR		
R-1	One-Family Residential	6,600 (a)	60 (a)	30	25 (a,b)	5 (b, c)	25 (b)	1,050 (0)	30%
R-2	One-Family Residential	5,400 (a)	45 (a)	30	20 (a,b)	5 (b, c)	25 (b)	768 (0)	30%
R-3	One-Family Residential	4,500 (a)	50 (a)	30	10 (a,b)	5 (b, c)	15 (b)	768 (0)	30%
RM	Multiple-Family Residential	Eff. – 2,100 1BR – 2,100 2BR – 2,900 3BR – 3,600 4BR – 4,400 (d)	None	35	50 (e)	30 (e)	30 (e)	Eff. – 300 1BR – 450 2BR – 600 3BR – 750 4BR – 900	25%
MH	Mobile Home Park	See Article 6 (Mobile Home Park Districts) for standards							
B-1	Local Business	None	None	35	25 (f)	10 (g, j)	20	None	None
DM	Downtown Mixed	None	None	50	Principal buildings may not be located <b>more than 10'</b> from ROW	0	10	Same as RM	None
B-2	General Business	None	None	40	30 (f)	10 (g, j)	20	None	None
ES	Expressway Service	None	None	40	75 (f)	75 (g, m)	75 (m)	None	None
WM	Waterfront Marina	None	None	40	50	(i, l)	(l, l, m)	None	None
MU	Mixed Use	None	None	40	20 (k)	20 (j, l)	20 (j, l)	None	None
I-1	Light Industrial	None	None	40	40 (k)	20 (j, l)	20 (j, l)	None	None
I-2	General Industrial	None	None	None	60 (k)	30 (j, l)	30 (j, l)	None	None

ARTICLE 15 – SCHEDULE OF REGULATIONS (cont'd)

(See Notes on following pages)

**NOTES TO SCHEDULE**

- (a) See Section 1802 (Averaged Lot Size), Section 1803 (Subdivision Open Space Preservation Provision) and Section 1804 (One-Family Clustering Option). In cases where existing residences are setback distances that are less than required, an average front setback may be used. Averaging front setbacks shall involve taking the average setback of all residences within 100 feet of the subject property on the same side of the street.
- (b) For all uses permitted other than single-family residential, the front, side or rear setback shall equal the height of the wall most nearly parallel with such front, side or rear lot line, or those defined in Section 1800 above, whichever is greater.
- (c) In the case of corner lots, the side yard setback abutting a street shall not be less than the minimum front yard setback of the district in which it is located as shown in the following illustration (where arrows point to the street, shaded areas represent the requirement to have a yard depth equal to required front yards, and R= rear yard and S = side yard).



- (d) In a RM Multiple - Family District, the area used for computing density shall be the total site area exclusive of any dedicated public right-of-way of either interior or bounding roads. Not more than ten (10) percent of the units may be of an efficiency apartment type. For each additional bedroom over four (4) an additional one thousand (1,000) square feet of lot area shall be provided.
- (e) In addition to the minimum required yard setbacks established in Section 1800 above, the minimum distance between any two (2) buildings shall be regulated according to the schedule below in all RM Multiple-Family Residential Districts. Parking may be permitted within a required side or rear yard, but shall not cover more than thirty (30) percent of the area of any required yard, or any minimum distance between buildings. Parking areas and service drives shall not be located closer than fifteen (15) feet to any building wall with window or door penetrations on the first floor level.

<b>Building Relationship</b>	<b>Minimum Distance Between Buildings</b>
Front to Front	70'
Front to Rear	70'
End to Front (or rear)	30'
End to End	30'

- (f) Off-street parking shall be permitted to occupy a portion of the required front yard provided that there shall be maintained a minimum unobstructed and landscaped setback of ten (10) feet between

the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way line as indicated on the Master Plan.

- (g) On a corner lot which has a rear yard abutting a residential district, there shall be provided a setback of twenty (20) feet on the residential side street. Where a lot borders on a residential district or a street, there shall be provided a setback of not less than ten (10) feet on the side bordering the residential district or street.
- (h) Off-street parking shall be permitted in a required side yard or rear setback, but no closer than 5 feet from the property line.
- (i) Off-street parking for visitors, over and above the number of spaces required under Article 22 (Off-Street Parking Requirements), may be permitted within the required front yard provided that such off-street parking is not located within twenty (20) feet of the front lot line.
- (j) No building shall be located closer than fifty (50) feet or the height of the building, whichever is the greater to the outer perimeter (property line) of such district when said property line abuts any residential district.
- (k) All storage shall be in the rear yard and shall be completely screened with an obscuring wall or fence, not less than six (6) feet high, or with a chain link type fence and a greenbelt planting so as to obscure all view from any adjacent residential district or from a public street.
- (l) The minimum width of a single family dwelling unit shall be twenty-four (24) feet.

#### **SECTION 1801 AVERAGED LOT SIZE**

The intent of this Section is to permit the subdivider or developer to vary his lot sizes and lot widths so as to average the minimum size of lot per unit as required in Section 1800 (Standards Limiting Height, Bulk, Density, and Area by Zoning District) for each One-Family Residential District. If this option is selected, the following conditions shall be met:

1. In meeting the average minimum lot size, the subdivision shall be so designed as not to create lots having an area or width greater than ten (10) percent below that area or width required in Section 1800 (Standards Limiting Height, Bulk, Density, and Area by Zoning District) and shall not create an attendant increase in the number of lots.
2. Each final plat submitted as part of a preliminary plat shall average the minimum required for the district in which it is located.
3. All computations showing lot area and the average resulting through this technique shall be indicated on the print of the preliminary plat.

#### **SECTION 1802 SUBDIVISION OPEN SPACE PLAN PRESERVATION PROVISION**

The intent of the Subdivision Open Space Preservation Provision of this Zoning Ordinance is to promote the following objectives:

1. Provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, hills, and similar natural assets.
2. Encourage developers to use a more creative approach in the development of residential areas.
3. Encourage a more efficient, aesthetic and desirable use of open area while recognizing a reduction in development costs and allowing the developer to bypass natural obstacles on the site.
4. Encourage the provision of open space within reasonable distance to all lot development of the subdivision and to further encourage the development of recreational facilities.

ARTICLE 18 - SCHEDULE OF DEVELOPMENT STANDARDS (CONT'D)

Modification to the standards outlined in Section 1800 (Standards Limiting Height, Bulk, Density, and Area by Zoning District) may be made in Residential Districts, at the option of the landowner, with the same number of dwelling units on a smaller portion of the land than specified in the zoning ordinance, when the following conditions are met:

1. The land is zoned at a density equivalent to two (2) or fewer dwelling units per acre or, if the land is served by a public sewer system, three (3) or fewer dwelling units per acre.
2. The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the option provided by this subsection would also depend upon the extension.
3. The option provided under this subsection has not previously been exercised with respect to that land.
4. The development of land under this subsection is subject to other applicable ordinances, laws, and rules, including rules relating to suitability of groundwater for on-site water supply for land not served by public water and rules relating to suitability of soils for on-site sewage disposal for land not served by public sewers.
5. The minimum required lot area in all Residential Districts may be reduced up to twenty (20) percent. This reduction may be accomplished in part by reducing lot widths up to five (5) feet. These lot area reductions shall be permitted, provided that the dwelling unit density shall be no greater than if the land area to be subdivided were developed in the minimum square foot lot areas as required for each One-Family District under Section 1800 (Standards Limiting Height, Bulk, Density, and Area by Zoning District). For each square foot of land gained within a residential subdivision through the reduction of lot size below the minimum requirements as outlined in Section 1800 (Standards Limiting Height, Bulk, Density, and Area by Zoning District), at least equal amounts of land shall remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land in a manner approved by the Municipality. All calculations shall be predicated upon the One-Family Districts having the following gross densities (including roads).

R-1 = 4.34 dwelling units per acre

R-2 = 4.95 dwelling units per acre

6. Rear yards may be reduced to thirty (30) feet when such lots border on land dedicated for park, recreation, and/or open space purposes, provided that the width of said dedicated land shall not be less than one hundred (100) feet measured at the point at which it abuts the rear yard of the adjacent lot.
7. The area to be dedicated for subdivision open space purposes shall in no instance be less than four (4) acres and shall be in a location and shape approved by the Planning Commission.
8. The land area necessary to meet the minimum requirements of this section shall not include bodies of water, swamps or land with excessive grades making it unsuitable for recreation. All land dedicated shall be so graded and developed as to have natural drainage. The entire area may; however, be located in a flood plain.
9. This plan, for reduced lot sizes, shall be permitted only if it is mutually agreeable to City Council and the subdivider or developer.
10. This plan for reduced lot sizes, shall be started within six (6) months after having received approval of the final plat and must be completed in a reasonable time. Failure to start within this period shall void all previous approval.
11. Under this Subdivision Open Space Preservation approach, the developer or subdivider shall dedicate the total park area at the time of filing of the final plat on all or any portion of the plat.

**SECTION 1803 ONE-FAMILY CLUSTERING OPTION**

The intent of this section is to permit the development of one-family residential patterns which, through design innovation, will provide for an alternative means for development of single-family areas. To accomplish this, modifications to the One-Family Residential standards, as outlined in Section 1800 shall be permitted in the R-1 and R-2 Districts. In R-1 and R-2 One-Family Residential Districts, the requirements of Section 1800 (Standards Limiting Height, Bulk, Density, And Area by Zoning District) may be waived and the attaching of one-family dwelling units may be permitted subject to the standards of this section.

1. Conditions for Qualification

- (a) The Planning Commission may approve of the clustering or attaching of buildings on parcels of land under single ownership and control which, in the opinion of the Planning Commission, have characteristics which would make sound physical development under the normal subdivision approach impractical because of parcel size, shape or dimension or because the site is located in a transitional use area or the site has natural characteristics which are worth preserving or which make platting difficult. In approving an area for cluster development, the Planning Commission shall find at least one of the following conditions to exist: The parcel to be developed has frontage on a major or secondary thoroughfare and is of shallow depth as measured from the thoroughfare. The parcel has frontage on a major or secondary thoroughfare and is of a narrow width, as measured along the thoroughfare, which makes platting difficult. The parcel is shaped in such a way that the angles formed by its boundaries make a subdivision difficult to achieve and the parcel has frontage on a major or secondary thoroughfare. A substantial portion of the parcel's perimeter is bordered by a major thoroughfare which would result in a substantial proportion of the lots of the development abutting the major thoroughfare. A substantial portion of the parcel's perimeter is bordered by land that is located in other than an One-Family Residential District or is developed for a use other than single-family detached homes. The parcel contains a floodplain or poor soil conditions which result in a substantial portion of the total area of the parcel being unbuildable. The parcel contains natural land forms which are so arranged that the change of elevation within the site includes slopes in excess of ten (10) percent between these elevations. These elevation changes and slopes shall appear as the typical feature of the site rather than the exceptional or infrequent features of the site. The providing of one-family clusters will, in the opinion of the Planning Commission, allow a greater preservation of the natural setting. The parcel contains natural assets which would be preserved through the use of cluster development. Such assets may include natural stands of large trees, land which serves as a natural habitat for wildlife, unusual topographic features or other natural assets which should be preserved.
- (b) In order to qualify a parcel for development under this Section the Planning Commission shall determine that the parcel has these characteristics and the request shall be supported by written and/or graphic documentation, prepared by a Landscape Architect, Engineer, Professional Community Planner, Registered Architect or Environmental Design professional. Such documentation shall include the following as appropriate: soil test borings, floodplain map, topographic map of maximum two (2) foot contour interval, inventory of natural assets.
- (c) This option shall not apply to those parcels of land which have been split for the specific purpose of coming within the requirements of this cluster option section.

2. Permitted Densities: In a cluster development, the densities permitted may be increased to the following maximums (not including streets):

ARTICLE 18 - SCHEDULE OF DEVELOPMENT STANDARDS (CONT'D)

- (a) R-1 District - 6 dwelling units/acre, R-2 District - 7 dwelling units/acre
  - (b) Water areas within the parcel may be included in the computation of density provided that land adjacent to the water is substantially developed as open space.
3. Development Standards and Requirements. In areas meeting the criteria above, the minimum yard setbacks as required by Article 18, may be waived and the attaching of dwelling units may be accomplished subject to the following:
- (a) The attaching of one-family dwelling units, one to another, may be permitted when said homes are attached by means of one of the following: Through a common party wall which does not have over fifty (50) percent of its area in common with an abutting dwelling wall. By means of an architectural wall detail which does not form interior room space. Through a common party wall in only the garage portion of adjacent structures. No other common party wall relationship is permitted and the number of units attached in this matter shall not exceed four (4).
  - (b) Yard requirements shall be provided as follows: Spacing between groups of attached buildings or between groups of four (4) unattached buildings shall be equal to at least fifteen (15) feet, measured between the nearest points of adjacent buildings. Building setbacks from minor residential streets shall be determined after consideration of potential vehicular traffic volume, site design, and pedestrian safety. It is intended that setbacks for each dwelling shall be such that one (1) car length space will be available between the garage or required off-street parking spaces and the street pavement. In determining the setbacks from minor residential streets, the Planning Commission may use the following guidelines: Garages or required off-street parking spaces shall not be located less than twenty (20) feet from the right-of-way of a public street unless such street (or portion thereof) is serving as access to not more than sixteen (16) residential units. Where streets are private or the Planning Commission does not require the twenty (20) feet from the pavement edge of the street or the shoulder of a street. That side of a cluster adjacent to a major or secondary thoroughfare shall not be nearer to said street than twenty-five (25) feet. Any side of a cluster adjacent to a private road shall not be nearer to said road than ten (10) feet.
  - (c) The area in open space (including subdivision recreation areas and water) accomplished through the use of one-family cluster shall represent at least fifteen (15) percent of the horizontal development area of a one-family cluster development.
  - (d) In order to provide an orderly transition of density, where the parcel proposed for use as a cluster development abuts a one-family residential district, the Planning Commission shall determine the means of effectively buffering the cluster development from adjacent land uses.
4. Procedures
- (a) In making application for approval under this section, the applicant shall file a sworn statement that the parcel has not been split for the purpose of coming within the requirements of this option, and shall further file a sworn statement indicating the date of acquisition of the parcel by the present owner.
  - (b) Qualification for Cluster Development. Application to the Planning Commission for qualification of a parcel for cluster development shall include documentation substantiating one or more of the characteristics outlined in Paragraph 2 (Conditions for Qualification), above.
  - (c) Site Plan for One-Family Cluster: In submitting a proposed layout under this section, the sponsor of the development shall include, along with the Site Plan, typical building elevations and floor plans,

topography drawn at two (2) foot contour intervals, all computations relative to acreage and density, a preliminary grading plan, and any other details which will assist in reviewing the proposed plan. For those parcels which qualified under the provisions of paragraph 2.(a), one (1) copy of the Site Plan superimposed on a recent aerial photograph of at least 1' = 200' scale, shall be submitted for review to show the relationship of the Site Plan to existing natural features and to adjacent developments. Site Plans submitted under this option shall be accompanied by information as required in the Subdivision Regulations of the City of Luna Pier provided, however, that: Submission of an open space plan and cost estimates with the preliminary Site Plan shall be at the option of the sponsor. The open space plan and cost estimate shall be submitted prior to final review or the public hearing.

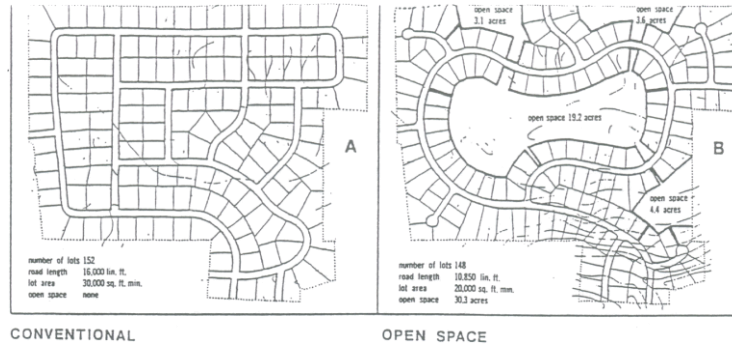
5. Hearing for One-Family Cluster

- (a) The Planning Commission shall hold at least one (1) public hearing on the request. Notification of the public hearing shall be given in accordance with Article 27 (Public Hearings).
- (b) The Planning Commission may request pre-application conferences before submission of a one-family cluster request, and the submission of preliminary Site Plans before the public hearing. The Planning Commission shall make a preliminary determination as to whether or not a parcel qualifies for the cluster option.
- (c) Within a reasonable time following the public hearings, the Planning Commission shall meet for final consideration of the request, and shall deny, approve, or approve with conditions, the request. If the Planning Commission is satisfied that the proposal meets the letter and spirit of the Zoning Ordinance and should be approved, it shall give tentative approval with the conditions upon which such approval should be based. Final approvals may be granted on each phase of a multi-phased one-family cluster development if each phase contains the necessary components to insure protection of natural resources and the health, safety and welfare of the users of the one-family cluster development and the residents of the surrounding area. If the Planning Commission is not satisfied that the proposal meets the letter and spirit of the Zoning Ordinance, or finds that approval of the proposal would be detrimental to existing development in the general area and should not be approved, it shall record the reasons therefore, in the minutes of the Planning Commission meeting. It shall prepare a report stating its conclusions on the request for a one-family cluster development, the basis for its decision, the decision, and any conditions relating to an affirmative decision.
- (d) Notice of approval or disapproval of the proposal together with copies of all layouts and other relevant information shall be forwarded to the City Clerk. If the proposal has been approved by the Planning Commission, the Clerk shall place the matter upon the agenda of the City Council and the report, a summary of comments received at the public hearing, minutes of all proceedings, and all documents related to the one-family cluster development request, shall be transmitted to the City Council for consideration in making a final decision. If disapproved, the applicant shall be entitled to a hearing before the City Council, if he requests one in writing within thirty (30) days after action by the Planning Commission.
- (e) The City Council shall conduct a public hearing on the proposed open space plan and Site Plan for the Cluster Option and shall give notice in accordance with Article 27 (Public Hearing). If the City Council approves the plans, it shall instruct the City Attorney to prepare a contract, setting forth the conditions upon which such approval is based, which contract, after approval by the City Council, shall be entered into between the City and the applicant prior to the issuance of a building permit for any construction in accordance with Site Plans. As a condition for the approval of the Site Plan and open space plan by the City Council, the applicant shall deposit cash, a certified check, irrevocable letter of credit, or surety bond in the amount of the estimated cost of the proposed improvements to the



ARTICLE 18 - SCHEDULE OF DEVELOPMENT STANDARDS (CONT'D)

open land guaranteeing the completion of such improvement within a time to be set by City Council. Actual development of the open space shall be carried out concurrently with the construction of dwelling units.



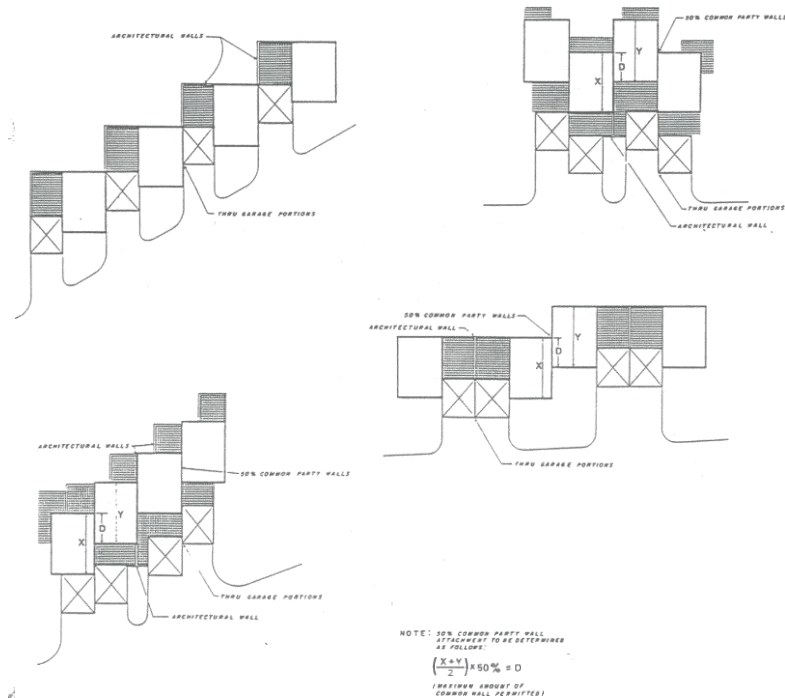
CONVENTIONAL

OPEN SPACE

SUBDIVISION

OPEN SPACE

EXAMPLE



NOTE: 50% COMMON PARTY WALL ATTACHMENT TO BE DETERMINED AS FOLLOWS:  

$$\left(\frac{X+Y}{2}\right) \times 50\% = D$$
  
 (SMALLER AMOUNT OF COMMON WALL PERMITTED)

CLUSTER EXAMPLE

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## **ARTICLE 19 - GENERAL PROVISIONS**

### **SECTION 1900 FRONTAGE ON A PUBLIC STREET**

No lot shall be used for any purpose permitted by this Ordinance unless said lot abuts a public street, unless otherwise provided for in this ordinance. All garages must have access to a dedicated and improved public right-of-way.

### **SECTION 1901 ACCESS TO MAJOR THOROUGHFARE OR COLLECTOR STREET**

For uses making reference to this section, vehicular access shall be provided only to an existing or planned major thoroughfare, freeway service drive, or collector street. Provided, however, that access driveways may be permitted to other than a major thoroughfare, freeway service drive, or collector street where such access is provided to a street where the property directly across the street between the driveway and the major thoroughfare, freeway service drive, or collector street is zoned for multiple-family use or any nonresidential uses, is developed with permanent uses other than single-family residences or is an area which, in the opinion of the Planning Commission, will be used for other than single-family purposes in the future. This exception shall apply only if the Planning Commission finds that there are special circumstances which indicate that there will be a substantial improvement in traffic safety by reducing the number of driveways to a thoroughfare.

### **SECTION 1902 LOTS ADJOINING ALLEYS**

In calculating the area of a lot that adjoins an alley for the purpose of applying lot area and setback requirements of this Ordinance, one-half (½) the width of such alley abutting the lot shall be considered as part of such lot.

### **SECTION 1903 YARD REGULATIONS**

When yard regulations cannot reasonably be complied with, or where their application cannot be determined on lots of peculiar shape, topography or due to architectural or site arrangement, such regulations may be modified or determined by the Board of Appeals.

### **SECTION 1904 PROJECTIONS INTO YARDS**

Architectural features, not including vertical projections, may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard; and may extend or project into a required front yard or rear yard not more than three (3) feet.

### **SECTION 1905 ACCESS THROUGH YARDS**

For the purpose of this Ordinance, access drives may be placed in the required front or side yards so as to provide access to rear yards or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace or other surface servicing a like function, and not in excess of

twelve (12) inches above the grade upon which placed, shall, for the purpose of this Ordinance, not be considered to be a structure, and shall be permitted in any required yard.

**SECTION 1906 LOTS HAVING WATER FRONTAGE**

Those residential lots or parcels having water frontage and abutting a public thoroughfare shall maintain the yard on the water side as an open un-obscured yard, excepting that an uncovered boat well shall be permitted after review and approval of plans by the Planning Commission, after conducting a public hearing as described in Article 27. Accessory structures shall be permitted in the setback between the abutting road right-of-way and the main building providing the front yard setback required in Article 17 (Schedule of Development Standards) of this Ordinance is met.

**SECTION 1907 ESSENTIAL SERVICES**

Essential services serving the City of Luna Pier shall be permitted as authorized and regulated by law and other ordinances of the Municipality. Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the Municipality shall receive and approval, after a public hearing, held in accordance with Article 27 (Public Hearing) by the Board of Appeals. Such review of the Board of Appeals shall consider abutting property and uses as they relate to easements, right-of-ways, overhead lines, poles and towers and further, shall consider injurious effects on property abutting or adjacent thereto and on the orderly appearance of the City.

**SECTION 1908 VOTING PLACE**

The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

**SECTION 1909 HEIGHT LIMIT**

The height limitations of this Ordinance shall not apply to farm buildings, chimneys, church spires, flag poles, public monuments or wireless transmission towers; provided, however, that the Board of Appeals may specify a height limit for any such structure when such structure requires authorization as a conditional use.

**SECTION 1910 EXTERIOR LIGHTING**

1. All outdoor lighting in all Use Districts used to light the general area of a specific site shall be shielded to reduce glare and shall be so arranged as to reflect lights away from all adjacent residential districts or adjacent residences.
2. All outdoor lighting in all Use Districts shall be directed toward and confined to the ground areas of lawns or parking lots.
3. All lighting in nonresidential districts used for the external illumination of buildings, so as to feature said buildings, shall be placed and shielded so as not to interfere with the vision of persons on adjacent highways or adjacent property.
4. Illumination of signs shall be directed or shaded downward so as not to interfere with the vision of persons on the adjacent highways or adjacent property.

5. All illumination of signs and any other outdoor feature shall not be of a flashing, moving or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.

**SECTION 1911 RESIDENTIAL ENTRANCEWAY**

In all Residential Districts, so called entranceway structures including but not limited to walls, columns, and gates marking entrances to single family subdivision or multiple housing projects may be permitted and may be located in a required yard, except as provided in Section 1912 (Corner Clearance), provided that such entranceway structures shall comply to all codes of the municipality and shall be approved by the Building Department and a permit issued.

**SECTION 1912 CORNER CLEARANCE**

No fence, wall, shrubbery, sign or other obstruction to vision above a height of two (2) feet from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection.

**SECTION 1913 CREATION OF NEW LOTS**

No new lot or parcel of land may be created unless such lot conforms to the required lot size and frontage requirements defined in the applicable zoning district.

**Section 1914 PORCHES, TERRACES AND DECKS**

An, open unenclosed and uncovered porch, paved terrace or deck may project into a required front yard for a distance of ten feet, but this shall not be interpreted to include or permit fixed canopies or roofs. An, open unenclosed and covered porch, terrace or deck may project into a required front yard for a distance of not more than five feet. Decks at or not exceeding 36 inches above grade may project into the required rear yard, and any yard on waterfront side of lot, not to exceed a depth of 50 percent of the depth of the required rear yard. Railings shall be permitted so long as they remain open and are constructed according to the provisions of the city's adopted building code. **(Amended by Ord. 214, 9-13-12)**

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## **ARTICLE 20 - NONCONFORMITIES**

### **SECTION 2000 INTENT**

It is the intent of this Ordinance to permit legal nonconforming lots, structures or uses to continue until they are removed, but not to encourage their survival.

1. It is recognized that there exists within the districts established by this Ordinance and subsequent amendments, lots, structures and uses of land and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated or restricted under the terms of this Ordinance or future amendments.
2. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
3. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by addition of other uses of a nature which would not be permitted generally in the district involved.
4. It is further recognized that certain nonconforming uses and structures do not significantly depress the value of nearby properties and are not to be contrary to the public health, safety and welfare and that such use or structure was lawful at the time of its inception and that no useful purpose would be served by the strict applications or requirements for nonconformities under this Ordinance and, therefore, two classes of nonconforming use and structure are designated, being Class A and Class B.
5. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

### **SECTION 2001 CLASS "A" NONCONFORMING USES OR STRUCTURES**

1. Those nonconforming uses or structures which have been designated by the Planning Commission, after hearing, shall be designated Class A providing findings that the following conditions exist with respect to the use or structure:
  - (a) The use or structure was lawful at its inception.
  - (b) Continuance of the use or structure does not significantly depress property values or nearby properties.

## ARTICLE 20 – NONCONFORMITIES (CONT'D)

- (c) Continuance of the use or structure would not be contrary to the public health, safety or welfare or the spirit of the Ordinance.
  - (d) No useful purpose would be served by strict application of the provisions of this Ordinance with which the use or structure does not conform.
2. The decision to grant a Class A designation shall be made in writing setting forth the findings and reasons on which it is based. Conditions may be attached, including time limits where deemed necessary to assure the use or structure does not become contrary to the public health, safety or welfare or the spirit and purpose of the Ordinance.
- (a) No Class A nonconforming use or structure shall be resumed if it has been discontinued for six (6) consecutive months or eighteen (18) months in any three (3) year period.
  - (b) No Class A nonconforming use or structure shall be used, altered, or enlarged in violation of any condition imposed in its designation.
3. Revocation of Class “A” Designation: Any Class A designation shall be revoked, following the same procedure required for designation, upon a finding that as a result of any change of conditions or circumstances the use or structure no longer qualifies for Class A designation.

### **SECTION 2002 CLASS “B” NONCONFORMING USES OR STRUCTURES**

All nonconforming uses or structures, not designated Class A, shall be Class B, nonconforming uses or structures, Class B nonconforming uses and structures shall comply with all the provisions of this Ordinance relative to nonconforming uses and structures.

### **SECTION 2003 NONCONFORMING USES OF LAND**

Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- 1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
- 2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance;
- 3. If such nonconforming use of land ceases for any reason for a period of more than thirty (30) days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

### **SECTION 2004 NONCONFORMING STRUCTURES**

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:



## ARTICLE 20 – NONCONFORMITIES (CONT'D)

1. No such structure may be enlarged or altered in a way which increases its nonconformity. Such structures may be enlarged or altered in a way which does not increase its nonconformity.
2. Should such structure be destroyed by any means to an extent of more than sixty (60) percent of its replacement costs, exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this Ordinance.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is removed.

### **SECTION 2005 NONCONFORMING USES OF STRUCTURES AND LAND:**

If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be permitted in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any nonconforming use of a structure, or structure and land in combination, may be changed to another nonconforming use of the same or a more restricted classification. In those instances where uncertainty exists with respect to a change in use, the Board of Appeals, by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Appeals may require conditions and safeguards in accord with the purpose and intent of this Ordinance. Where a nonconforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.
4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
5. When a nonconforming use of a structure, or structure and land in combination, is discontinued or ceases to exist for six (6) consecutive months or for eighteen (18) months during any three (3) year period, the structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations for the district in which it is located. Structures occupied by seasonal uses shall be excepted from this provision.
6. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
7. Repairs and Maintenance: On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding fifty (50) percent of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall be increased.
8. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

## ARTICLE 20 – NONCONFORMITIES (CONT'D)

9. Any existing use for which a special exception or a “use permitted subject to special conditions” is permitted as provided in this Ordinance shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use in such district.
10. There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, of structures or of structures and land in combination.

### **SECTION 2006 REMOVAL OF NONCONFORMING USES BY ACQUISITION**

The City may acquire, by purchase, condemnation, or otherwise, private property or an interest in private property for the removal of nonconforming uses and structures.

1. The City may provide that the cost and expense of acquiring private property may be paid from general funds or assessed to a special district in accordance with the applicable state statutory provisions relating to the creation and operation of special assessment districts for public improvements in local units of government.
2. The City may institute proceedings for condemnation of nonconforming uses and structures under 1911 PA 149, MCL 213.21 to 213.25.
3. Property acquired under this section shall not be used for public housing.

## **ARTICLE 21 - ACCESSORY BUILDINGS AND USES**

### **SECTION 2100 GENERAL STANDARDS**

Accessory buildings, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

1. Where the accessory building is structurally attached to a main building, it shall be subject to, and conform to, all regulations of this Ordinance applicable to the main building.
2. Setbacks and Coverage: Accessory buildings shall not be erected in a required front yard. In residential zoning districts, a building accessory to a residential structure shall not occupy more than twenty-five (25) percent of the area between the principal structure and the rear lot line. Additionally, in all districts, the combined areas of all accessory buildings shall not exceed the ground floor area of the principal building and accessory buildings may not occupy lot area such that the total lot coverage restrictions of the applicable zoning district would be exceeded.
3. In no instance shall an accessory building be located within an easement or dedicated rights-of-way.
4. No detached accessory building in any district shall exceed one (1) story or fifteen (15) feet in height.
5. When a building accessory to a residential building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard setback required on the lot to the rear of such corner lot. In no instance shall an accessory building be located nearer than twenty (20) feet to a street right-of-way line.
6. An accessory building must be located on the same lot (or groups of contiguous lots not separated by a public right-of-way) as the principal or main building, unless prior approval by the Planning Commission is granted, after a public hearing is conducted in accordance with Article 27. Prior Planning Commission approval, of an accessory building on a lot that is separated from the principal or main building by a public right-of-way, shall require consideration of the degree to which the proposed accessory structure blends with the style and character of any adjacent residence(s). This includes consideration of roof pitches, building mass, building height, exterior materials and exterior colors. Areas around such accessory structures shall be landscaped in a manner similar to adjacent property. Proposed accessory structures located on such lots must meet all setbacks required for a principal structure, and must be under construction or constructed after the principal or main building is constructed.
7. When an accessory building in any Residence, Business, or Office district is intended for other than the storage of private motor vehicles or use as a storage shed as specified in Section 2101 (Storage Sheds), the accessory use shall be subject to the approval of the Planning Commission. Such approval may be granted if the Planning Commission determines that the proposed use is not inconsistent with the permitted uses allowed in the applicable zoning district and that the proposed accessory structure blends with the style and character of adjacent structures in the same manner as described in #6 above.
8. All accessory structures (with the exception of permanently installed carports) must be enclosed by permanent walls, windows and entrance features, unless prior approval is granted by the Planning Commission. All accessory structures must meet applicable building code requirements.
9. In no case may an accessory structure may be constructed on any lot (or combination of contiguous lots) unless associated with principal or main building also under construction or constructed after the principal or main building is constructed. As provided in #6 above, accessory buildings may be approved on lots

## ARTICLE 21 – ACCESSORY BUILDINGS AND USES (CONT'D)

separated by a public right-of-way, with prior Planning Commission approval, following a public hearing conducted in accordance with Article 27. Any storage structure, intended or designed to be temporary, placed on a lot for moving purposes or the temporary storage of household belongings during construction, or similar uses must be removed within 14 days.

### **SECTION 2101 STORAGE SHEDS**

Storage sheds on residential properties are permitted as an accessory building subject to all requirements of this Article and further subject to the following:

1. Storage sheds with a ground floor area of twenty (20) square feet or less shall be permitted subject to the following:
  - (a) The shed shall be located a minimum of three (3) feet from side and rear property lines.
  - (b) The shed may be located without a minimum setback from principal structures provided the wall of the shed adjacent to the principal structure contains no openings.
  - (c) The shed shall not exceed six (6) feet in height.
  - (d) Not more than two (2) sheds shall be permitted.
  - (e) Such sheds shall not require a permit.
2. Storage sheds with a ground floor area of forty (40) square feet or less shall be permitted subject to the following:
  - (a) The shed shall be located a minimum of three (3) feet from side and rear property lines.
  - (b) The shed may be located without a minimum setback from principal structures provided the wall of the shed adjacent to the principal structure contains no openings and is non-combustible inside the shed.
  - (c) The shed shall not exceed ten (10) feet in height.
  - (d) Such shed shall require a permit.
3. Storage sheds with a ground floor area of eighty (80) square feet or less shall be permitted subject to the following:
  - (a) The shed shall be located a minimum of three (3) feet from side and rear property lines.
  - (b) The shed shall be located a minimum of four (4) feet from principal structures provided the wall of the shed contains no openings on the side nearest the principal structure.
  - (c) The shed shall not exceed ten (10) feet in height.
  - (d) Such shed shall require a permit.
4. Storage sheds with a ground floor area greater than eighty (80) square feet (but less than 200 square feet) shall be subject to the following:
  - (a) The shed shall be located a minimum of five (5) feet from the side and rear property lines.
  - (b) The shed shall be located a minimum of ten (10) feet from the principal structure.
  - (c) The shed shall be located no closer than twenty-five (25) feet to any street.
  - (d) The shed shall not exceed one (1) story and fifteen (15) feet in height.
  - (e) Such shed shall require a permit.
  - (f) Any shed exceeding two hundred (200) square feet shall additionally require a building permit.

## ARTICLE 21 – ACCESSORY BUILDINGS AND USES (CONT'D)

5. Storage sheds (not including residential garages) with a ground floor area greater than two hundred (200) square feet shall be reviewed by the Planning Commission with respect to placement.

### **SECTION 2102 RECREATIONALEQUIPMENTANDVEHICLES**

Recreational equipment and recreational vehicles owned by residents of the City may be stored on property subject to the following requirements:

1. Recreational equipment and recreational vehicles may not be stored on a property such that any part of such recreational equipment or recreational vehicle is closer to the road right of way than the principal structure on the lot.
2. Recreational equipment and recreational vehicles may not be stored within 3 feet of any side lot line, or 5 feet of any rear lot line.
3. Except between May 1 and September 30, stored recreational equipment and recreational vehicles may not occupy more than 200 square feet of lot area, or 8 percent of the total lot area of a parcel or parcels under single ownership, whichever is greater. This maximum area excludes parts of a trailer extending out beyond the recreational equipment or recreational vehicle itself.
4. All recreational equipment and recreational vehicles stored on a lot must have a current and appropriate license and be fully movable and otherwise operable.
5. Any number of recreational equipment items or recreational vehicles may be stored on one parcel or contiguous parcels under common ownership, subject to other restrictions contained in this section.
6. Recreational equipment and vehicles may be parked in a front yard only on the driveway portion of such yard for a period of not to exceed seventy-two (72) hours.
7. All recreational equipment and vehicles parked or stored shall not be connected to sanitary facilities and shall not be occupied.
8. In addition to storing recreational equipment and recreational vehicles on the same lot, and on contiguous lots as the principal residence, residents of the City of Luna Pier may also store recreational equipment and recreational vehicles on a lot that is not contiguous to a principal residence provided that the storage area, and means of vehicular access, is improved with material such as stones, gravel, or another type of hard surface.

### **SECTION 2103 SALEORREPAIROFVEHICLES**

- (a) A resident of a dwelling unit may have not more than one (1) motorized vehicle for sale on the site of such dwelling unit at any time and in no instance shall vacant residential lots or parcels be utilized for the sale of vehicles.
- (b) A resident may repair vehicles of the resident on the property of the resident's dwelling unit; however, in no instance shall a resident repair the vehicles of other than a resident of the dwelling unit on said property.
- (c) In no instance shall vehicles for sale be displayed or repaired in a front yard other than on the driveway portion of such yard.

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## **ARTICLE 22 - OFF-STREET PARKING REQUIREMENTS**

### **SECTION 2200 GENERAL REQUIREMENTS**

Except for areas zoned DM, there shall be provided in all districts, at the time of erection or enlargement of any principal building, off-street parking spaces, in conjunction with all land or building uses shall be provided, prior to the issuance of a certificate of occupancy, as hereinafter prescribed:

1. Off-street parking spaces may be located within a rear yard or within a side yard which is in excess of the minimum side yard setback unless otherwise provided in this Ordinance. Off-street parking shall not be permitted within a front yard or within a minimum side yard setback unless otherwise provided in this ordinance.
2. Off-street parking for other than residential use shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for use as parking by the applicant.
3. Required residential off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve, and subject to the provisions of Article 21 (Accessory Buildings and Uses) of this Ordinance.
4. Required off-street parking for single - and two-family dwellings may be provided in a stacking configuration in a driveway or garage or combination thereof. Lawn and yard areas, other than designated parking areas, shall not be utilized for off-street parking. Required off-street parking for all other uses shall consist of an unencumbered parking stall or strip, parking bay, vehicle maneuvering space or driveway, garage or combinations thereof. All residential parking shall be located on the premises it is intended to serve. Parking garages or structures when accessory to a principal use shall be subject to the applicable provisions of this Ordinance.
5. Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal parking facilities are provided elsewhere.
6. Off-street parking existing at the effective date of this Ordinance, in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.
7. Two (2) or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.
8. In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the Board of Appeals may grant an exception.
9. The storage of merchandise, motor vehicles for sale, trucks or the repair of vehicles is prohibited.
10. The sale or storage of construction trailers, merchandise, motor vehicles, or trailers for sale or rent, trucks, or the repair of vehicles is prohibited on off-street parking lots.

**SECTION 2201 MINIMUM PARKING SPACES REQUIRED**

The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule.

1. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which is similar in type.
2. When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half (½) shall be disregarded and fractions over one-half (½) shall require one (1) parking space.
3. For the purpose of computing the number of parking spaces required, except as otherwise regulated herein, the definition of “Usable Floor Area” shall govern.

Land Use	Number of Minimum Parking Spaces Per Unit of Measure
<b>RESIDENTIAL</b>	
Residential, One-Family and Two-Family	Two (2) for each dwelling unit.
Residential, Multiple-Family	Two (2) for each dwelling unit having two (2) or less bedrooms and two and one-half (2 ½) for each dwelling unit having three (3) or more bedrooms.
Housing for the elderly	One (1) for each three (3) units, and one (1) for each employee. Should units revert to general occupancy, then two (2) spaces per unit shall be provided.
Mobile home park	Two (2) for each mobile home site and one (1) for each employee of the mobile home park.
Boarding and rooming houses	Two (2) for the owner-occupant and one (1) space for each roomer.
<b>INSTITUTIONAL</b>	
Churches and temples	One (1) for each three (3) seats or six (6) feet of pews in the main unit of worship.
Hospitals	Two (2) for each one (1) bed plus parking for related uses.
Convalescent and/or Nursing Homes	One (1) for each four (4) beds.
Educational Facilities, Elementary/Junior high	One (1) for each one (1) teacher, employee, or schools administrator in addition to the requirements of auditorium.
Educational Facilities, Senior High Schools	One (1) for each one (1) teacher, employee, or administrator, and one (1) for each ten (10) students, in addition to the requirements of the auditorium.
Educational Facilities, Vocational or Trade School	One (1) for each one (1) teacher, employee, or administrator, and one (1) for each ten (10) students.
Private clubs or lodge halls	One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county, or state fire, building or health codes.
Private golf clubs, swimming pool clubs, tennis clubs, or other similar uses	One (1) for each two (2) members families or individuals plus spaces required for each accessory use such as a restaurant or bar.
Golf courses open to the general public, except miniature or “par-3” courses	Six (6) for each one (1) golf hole and one (1) for each one (1) employee, plus spaces required for each accessory use, such as a restaurant or bar.
Fraternity or sorority	One (1) for each five (5) permitted active members, or one (1) for each two (2) beds, whichever is greater.
Stadium, sports arena or similar place of outdoor assembly	One (1) for each three (3) seats or five (5) feet of benches.
Theaters and auditoriums	One (1) for each three (3) seats plus one (1) for each two (2) employees.



ARTICLE 22 – OFF-STREET PARKING REQUIREMENTS (CONT'D)

<b>Land Use</b>	<b>Number of Minimum Parking Spaces Per Unit of Measure</b>
Child care homes or centers, nursery schools, or day nurseries	One (1) for each three hundred and fifty (350) square feet of usable floor area plus one (1) space for each employee.
Library, museum, post office	One (1) for each one hundred and fifty (150) square feet of usable floor area.
<b><u>BUSINESSANDCOMMERCIAL</u></b>	
Planned commercial or shopping center	One (1) for each two hundred (200) square feet of usable floor area.
Auto wash (automatic)	One (1) for each one (1) employee. In addition, vehicular stacking shall be provided equal in number to three (3) times the maximum capacity of the auto wash. Maximum capacity of the auto wash shall mean the greatest number of automobiles possible undergoing washing at the same time.
Auto wash (self-service or coin operated)	Four (4) vehicular stacking spaces for each washing stall, in addition to the stall itself.
Beauty parlor or barber shop	Three (3) spaces for each of the first two (2) beauty or barber chairs, and one and one-half (1 ½) spaces for each additional chair.
Bowling alleys	Five (5) for each one (1) bowling lane.
Dance halls, pool or billiard parlors, roller skating rinks, exhibition halls, and assembly halls without fixed seats	One (1) for each two (2) persons allowed within the maximum occupancy load as established by local, county, or state fire, building or health codes.
Drive-in restaurant	One (1) for each serving stall, plus one for each employee on the maximum work shift.
Carry-out (with no eating on premises)	One (1) for each one hundred (100) square feet of usable floor area with a minimum of four (4) spaces.
Establishment for sale and consumption on the premises of beverages, food or refreshments	One (1) for each two (2) persons allowed within the maximum occupancy land as established by local, county, or state fire, building, or health codes, whichever is the greater.
Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair, and other similar uses.	One (1) for each eight hundred (800) square feet of usable floor area. (For that floor area used in processing, one (1) additional space shall be provided for each two (2) persons employed therein.)
Automobile service stations (full service)	Two (2) for each lubrication stall, rack or pit; and one (1) for each vehicle used as part of the equipment of the automobile service station.
Automobile filling stations (self-service)	One and one-half (1 ½) spaces for each fuel nozzle. In addition one (1) parking space shall be provided for each fifty (50) square feet of usable floor area in the cashier's and office areas. In no instance shall such a facility provide less than three (3) parking spaces. In no instance shall a required parking space or its maneuvering area conflict with vehicles being fueled or awaiting fuel.
Ice skating or roller rink	One (1) for each seat or six (6) feet of benches, or one (1) for each one hundred fifty (150) square feet of skating area, whichever is the greater.
Laundromats and coin operated dry cleaners	One (1) for each two (2) washing and dry cleaning machines.
Miniature or "par-3" golf courses	Three (3) for each one (1) hole plus one (1) for each one (1) employee.
Mortuary establishments	One (1) for each fifty (50) square feet of usable floor area.
Motel, hotel or other commercial lodging establishments	One (1) for each one (1) occupancy unit plus one (1) for each one (1) employee.

ARTICLE 22 – OFF-STREET PARKING REQUIREMENTS (CONT'D)

<b>Land Use</b>	<b>Number of Minimum Parking Spaces Per Unit of Measure</b>
Motor vehicle sales and service establishments	One (1) for each two hundred (200) square feet of usable floor area of sales room and one (1) for each one (1) auto service stall in the service room.
Retail stores except as otherwise specified herein	One (1) for each two hundred and twenty-five (225) square feet of usable floor area.
Public utility structures	One (1) for each employee on the maximum work shift.
Indoor tennis facility	Five (5) for each court plus spaces as required for each accessory use such as a full service bar or restaurant.
Amusement arcade	One (1) for each one (1) game table and one (1) for each amusement device.
Athletic clubs, exercise establishments, health studios, sauna baths, judo clubs and other similar uses	One (1) parking space for each three (3) persons allowed within the maximum occupancy load as established by local, county, or state fire, building or health codes plus one (1) space per employee. In those instances where memberships are provided for, not less than one (1) space per each three (3) memberships shall be provided plus one (1) space per employee.
Marina	One (1) for each boat well.
<b><u>OFFICES</u></b>	
Banks	One (1) for each one hundred (100) square feet of usable floor area.
Banks (drive-in)	One (1) for each employee. In addition, reservoir waiting spaces at each service window or station shall be provided at the rate of three (3) for each service window or station. Each waiting space shall measure not less than twenty (20) feet in length.
Business offices or professional offices, except as indicated in the following item (4)	One (1) for each two hundred fifty (250) square feet of usable floor area.
Professional office of doctors, dentists and similar professions	One (1) for each twenty-five (25) square feet of usable floor area in waiting rooms, and one (1) for each examining room, dental chair, office, laboratory, x-ray therapy room or similar use area.
<b><u>INDUSTRIAL</u></b>	
Industrial or research establishments and related accessory offices	Five (5) plus one (1) for every one and one-half (1-½) employees in the largest working shift. Space on site shall also be provided for all construction workers during periods of plant construction.
Warehouses and wholesale establishments and related accessory offices	Five (5) plus one (1) for every one (1) employee in the largest working shift, or five (5) plus one (1) for every seventeen hundred (1,700) square feet of usable floor space, whichever is the greater.

**SECTION 2202 PARKING FOR HANDICAPPED (ALL DISTRICTS)**

Off-street parking facilities shall provided spaces for the handicapped in accord with the provisions of Act 230 of the Public Acts of the State of Michigan 1972, as amended. Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements except as modified by Act 230 (parking space width requirement of not less than twelve (12) feet):

ARTICLE 22 – OFF-STREET PARKING REQUIREMENTS (CONT'D)

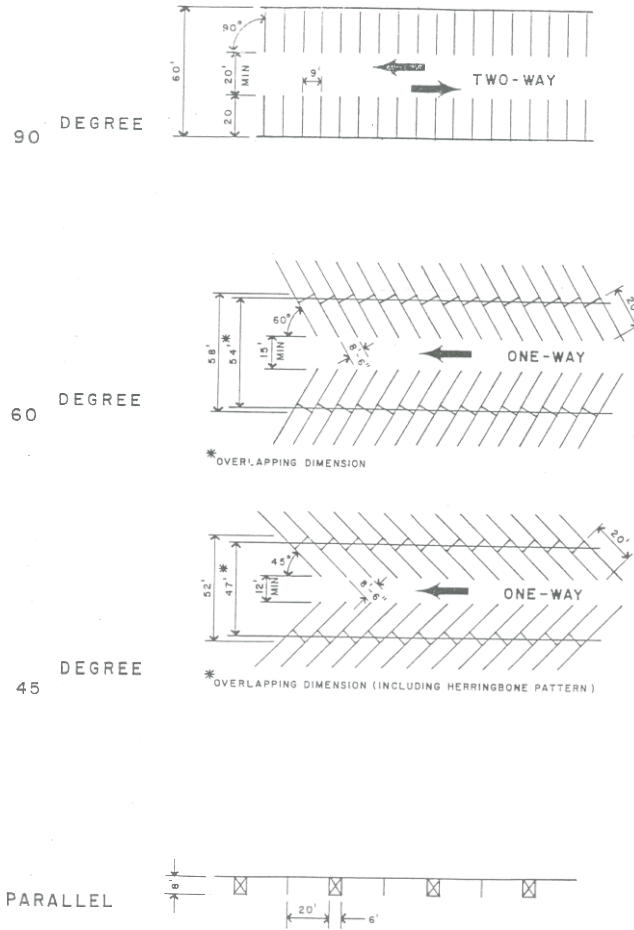
Total parking In Lot	Required Number of Accessible Spaces
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
Over 1,000	20 plus 1 for each 100 over 1,000

**SECTION 2203 PARKING SPACE DESIGN STANDARDS AND MAINTENANCE**

Whenever the off-street parking requirements in this Ordinance require the building of an off-street parking facility, or where P-1 Vehicular Parking Districts are provided, such off-street parking lots shall be laid out, constructed and maintained in accordance with the following standards and regulations:

1. No parking lot shall be constructed unless and until a permit therefore is issued. Applications for a permit shall be submitted with two (2) sets of Site Plans for the development and construction of the parking lot showing that the provisions of this section will be fully complied with.

ARTICLE 22 – OFF-STREET PARKING REQUIREMENTS (CONT'D)



Parking Layouts

Parking Pattern	Maneuvering Lane Width	Parking Space Width	Parking Space Length	Total Width of One Tier Of Spaces Plus Maneuvering Lane	Total Width of Two Tier Of Spaces Plus Maneuvering Lane
0° (parallel parking)	12 ft.	8 ft.	23 ft.	20 ft.	28 ft.
30° to 53°	12 ft.	8 ft.- 6 in.	20 ft.	32 ft.	52 ft.
54° to 74°	15 ft.	8 ft.- 6 in.	20 ft.	36 ft.- 6 in.	58 ft.
75° to 90°	20 ft.	9 ft.	20 ft.	40 ft.	60 ft.

2. Access. Adequate ingress and egress to a parking lot by means of clearly limited and defined drives shall be provided for all vehicles.
  - (a) Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use.

ARTICLE 22 – OFF-STREET PARKING REQUIREMENTS (CONT'D)

- (b) Each entrance to and exit from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least twenty-five (25) feet distant from adjacent property located in any single-family residential district.
- (c) In all cases where a wall extends to an alley which is a means of ingress and egress to an off-street parking area, it shall be permissible to end the wall not more than ten (10) feet from such alley line in order to permit a wider means of access to the parking area.
- 3. Maneuvering Lanes. All spaces shall be provided adequate access by means of maneuvering lanes.
  - (a) Backing directly onto a street shall be prohibited.
  - (b) All maneuvering lane widths shall permit one-way traffic movement, except that the 90° pattern may permit two-way movement.
- 4. Screening. The off-street parking area shall be provided with a continuous and obscuring wall not less than four feet six inches (4'-6") in height measured from the surface of the parking area. This wall shall be provided on all sides where the next zoning district is designated as a residential district.
  - (a) When a front yard setback is required, all land between said wall and the front property line or street right-of-way line shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material and ornamental trees. The ground area shall be planted and kept in lawn. All such landscaping and planting shall be maintained in a healthy, growing condition, neat and orderly in appearance.
  - (b) The parking area shall be so designed as to provide a tree planing plan showing an even distribution of trees throughout the plan. Trees of two (2) inch caliper or greater shall be planted at the rate of one (1) tree for each eight (8) vehicles to be provided for. The trees shall be planted prior to the issuance of a Certification of Occupancy. All trees shall be maintained in a healthy, growing condition.
- 5. Surface Material. The entire parking area, including parking spaces and maneuvering lanes required under this section, shall be provided with asphaltic or concrete surfacing in accordance with specifications approved by the City. The parking area shall be surfaced within one (1) year of the date the occupancy permit is issued.
- 6. Drainage. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings.
- 7. Lighting. All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only.
- 8. The City, upon application by the property owner of the off-street parking area, may modify the yard or wall requirements where, in unusual circumstances, no good purpose would be served by compliance with the requirements of this section.

**SECTION 2204 OFF-STREET LOADING AND UNLOADING**

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

- 1. Within an I District, all off-street loading and unloading spaces shall be laid out in the dimension of at least ten by fifty (10 x 50) feet, or five hundred (500) square feet in area, with a clearance of at least fourteen (14) feet in height. Loading dock approaches shall be provided with a pavement having an asphaltic or Portland

ARTICLE 22 – OFF-STREET PARKING REQUIREMENTS (CONT'D)

cement binder so as to provide a permanent, durable, and dustless surface. All spaces in I Districts shall be provided in the following ratio of spaces to floor area:

<b>GROSS FLOOR AREA (INSQUAREFEET)</b>	<b>LOADING, UNLOADING SPACEREQUIRED</b>
0 - 1,400	None
1,401 - 20, 000	One (1) space
20,001 - 100,000	One (1) space plus one (1) space for each twenty thousand (20,000) square feet in excess of twenty thousand and one (20,001) square feet.
100,001 and over	Five (5) spaces

2. All loading and unloading in an I District shall be provided off-street in the rear yard or interior side yard, and shall in no instance be permitted in the front yard. In those instances where exterior side yards have a common relationship with an industrial district across a public thoroughfare, loading and unloading may take place in said exterior side yard when the setback is equal to at least fifty (50) feet.

## ARTICLE 23 - PLANT MATERIALS

### SECTION 2300 COMPLETION OF PLANTING

Whenever in this Ordinance a greenbelt or planting is required, it shall be planted to completion within three (3) months, and no later than November 30, from the date of issuance of a certificate of occupancy if said certificate is issued during the April 1 - September 30 period; if the certificate is issued during the October 1 - March 31 period, the planting shall be completed no later than the ensuing May 31; plantings shall thereafter be reasonably maintained, including permanence and health of plant materials to provide a screen to abutting properties and including the absence of weeds and refuse.

### SECTION 2301 PLANT MATERIAL SPACING AND SIZE

Spacing and minimum plant size requirements, as required by this section, shall be provided in any greenbelt or planting.

1. Plant material shall not be located within four (4) feet of the property line.
2. Where plant materials are placed in two (2) or more rows, plantings shall be staggered in rows.
3. Shrubs: Large shrubs shall not be less than thirty (30) inches in height. When planted informally, they shall be spaced not more than six (6) feet on centers. When planted in rows, they shall not be more than four (4) feet on centers. Small shrubs shall not be less than thirty (30) inches in spread. They shall be planted not more than four (4) feet on centers.
4. Evergreens: Evergreen trees shall not be less than seven (7) feet in height. When planted informally, they shall be spaced not more than twenty (20) feet on centers. When planted in rows, they shall be spaced not more than twelve (12) feet on centers. Narrow evergreen trees shall not be less than five (5) feet in height. When planted informally, they shall be spaced not more than ten (10) feet on centers. When planted in rows, they shall be planted not more than five (5) feet on centers.
5. Deciduous Trees: Large deciduous trees shall not be less than two (2) inches in caliper. When placed informally, they shall be planted not more than thirty (30) feet on centers. Small deciduous trees shall not be less than one and one-half (1 ½) inches in caliper. When planted informally, they shall be spaced not more than fifteen (15) feet on centers.
6. Plant materials used together informally shall meet the following on-center minimum spacing requirements:

MINIMUM DISTANCE BETWEEN PLANT MATERIALS						
Plant Material Types	<u>Evergreen Trees</u>	<u>Narrow Evergreen Trees</u>	<u>Large Deciduous Trees</u>	<u>Small Deciduous Trees</u>	<u>Large Shrubs</u>	<u>Small Shrubs</u>
Evergreen Trees	Min. 10'	Min. 12'	Min. 20'	Min. 12'	Min. 6'	Min. 5'

ARTICLE 23 – PLANT MATERIALS (CONT'D)

Narrow Evergreen Trees	Min. 12'	Min. 5'	Min. 15'	Min. 10'	Min. 5'	Min. 4'
Large Deciduous Trees	Min. 20'	Min. 15'	Min. 20'	Min. 15'	Min. 5'	Min. 3'
Small Deciduous Trees	Min. 12'	Min. 10'	Min. 15'	Min. 8'	Min. 6'	Min. 3'
Large Shrubs	Min. 6'	Min. 5'	Min. 5'	Min. 6'	Min. 4'	Min. 5'
Small Shrubs	Min. 5'	Min. 4'	Min. 3'	Min. 3'	Min. 5'	Min. 3'

**SECTION 2302 PLANT MATERIALS**

A mixture of plant materials (evergreen and deciduous trees and shrubs) is suggested in all landscape plans as a protective measure against disease and insect infestation. The following tables provide suggestions for desired and prohibited plant materials.

SUGGESTED PLANT MATERIALS	
EVERGREEN TREES:	Fir Spruce, Pine Hemlock, Douglas Fir
NARROW EVERGREEN TREES:	Red Cedar, Arborvitae, Junipers
LARGE DECIDUOUS TREES:	Oaks Hard Maples Beech Lindens Ginkgo (male only) Honeylocust (seedless and thornless varieties) Birch
SMALL DECIDUOUS TREES:	Flowering Dogwood Hawthorn Red bud Magnolia Mountain Ash Hornbeam Russian Olive Flowering Crabapple (disease resistant varieties)
<b>LARGE SHRUBS:</b>	
Deciduous:	Honeysuckle Lilac Border Privet Sumac Buckthorn Pyracantha Flowering Quince Barberry Forsythia Cotoneaster (Perkin, Spreading) Sargent Crabapple Dogwood (Red Osier, Grey)
Evergreen:	Irish Yew Hicks Yew Mugo Pine Pfitzer Juniper Savin Juniper



ARTICLE 23 – PLANT MATERIALS (CONT'D)

SUGGESTED PLANT MATERIALS		
<b>SMALL SHRUBS:</b>		
	Deciduous:	Compact Burning Bush Regal Privet Fragrant Sumac
	Evergreen:	Spreading Yews (Dense, Brown's, Ward, etc.) Low Spreading Junipers (Andora, Hughes, Tamarack, etc.)
		Japanese Quince Cotoneaster (Cranberry, Rockspray) Potentilla Dwarf Mugo Pine Big Leaf Wintercreeper

<b><u>TREES NOT PERMITTED</u></b>
Ash Box Elder Catalpa Elms Horse Chestnut (nut bearing) Poplars Soft Maples (Red, Silver) Trees of Heaven Willows



## **ARTICLE 24 - SIGNS**

### **SECTION 2400 GENERAL SIGNAGE STANDARDS**

The following conditions shall apply to all signs erected or located in any use district:

1. All signs shall conform to all applicable codes and ordinances of the Municipality and, where required, shall be approved by the Building/Zoning Official, and a permit issued.
2. No sign, except those established and maintained by the City, County, State or Federal governments shall be located in, project into, or overhang a public right-of-way or dedicated public easement.
3. No sign otherwise permitted shall project above or beyond the maximum height limitation of the use district in which located, except that for a planned commercial or shopping center development involving five (5) acres or more under one ownership, the Board of Appeals may modify the height limitation. The Board shall; however, respect all yards and setbacks in modifying height requirements.
4. All directional signs required for the purpose of orientation, when established by the City, County, State or Federal government shall be permitted in all use districts.
5. Accessory signs shall be permitted in any use district.
6. Non-accessory signs shall be permitted only in I-1 and I-2 Industrial Districts; except that non-accessory signs pertaining to real estate development located within the Municipality and designed to promote the sale of lots or homes within a subdivision located within the Municipality may be permitted on a temporary basis in any use district, but shall not be located upon subdivided land unless such land is part of the subdivision being advertised for sale and shall be subject to the requirements and conditions of all applicable codes and ordinances of the Municipality, approved by the Building/Zoning Official and a temporary permit issued.
7. Signs used for advertising land or building for rent, lease, and/or for sale shall be permitted when located on the land or building intended to be rented, leased and/or sold.
8. Freestanding accessory signs may be located in the required front yard except as otherwise provided herein.

### **SECTION 2401 SIGN REQUIREMENTS BY DISTRICT**

In addition to Section 2400 (General Signage Standards) above, the following requirements shall apply to signs in the various use districts as follows:

1. R Districts (R-1 through R-3)
  - (a) For each dwelling unit, one name plate not exceeding two (2) square feet in area, indicated name of occupant.
  - (b) For structures other than dwelling units, one identification sign not exceeding eighteen (18) square feet of sign area.
2. RM District
  - (a) For each dwelling unit, one name plate not exceeding two (2) square feet in area, indicated name of occupant.

ARTICLE 24 – SIGNS (CONT'D)

- (b) For structures other than dwelling units, one identification sign not exceeding eighteen (18) square feet of sign area.
  - (c) For rental and/or management offices, one identification sign not exceeding six (6) square feet of sign area.
  - (d) Signs indicating the name of the multiple housing projects not exceeding sixty (60) square feet of sign area provided that no such sign shall be located closer than one hundred (100) feet to any property line in any adjacent single-family district.
3. B-1 District
- (a) No sign shall project beyond or overhang the wall, or any permanent architectural feature, by more than one (1) foot, and shall not project above or beyond the highest point of the roof or parapet except awning or canopy signs may project not to exceed six (6) feet beyond a building wall.
  - (b) The total surface area of wall, awning and canopy signs shall not exceed ten (10%) percent of the front face of the building (including doors and windows).
  - (c) Freestanding signs may only be monument signs and shall not exceed fifty (50) square feet in sign area or exceed six (6) feet in height.
  - (d) Freestanding accessory signs or advertising pylons shall not be placed closer than one hundred (100) feet to any adjacent residential district.
4. DM District
- (a) No sign shall project beyond or overhang the wall, or any permanent architectural feature, by more than five (5) feet, and shall not project above or beyond the highest point of the roof or parapet except awning or canopy signs may project not to exceed six (6) feet beyond a building wall.
  - (b) The total surface area of wall, awning and canopy signs shall not exceed ten (10%) percent of the front face of the building (including doors and windows).
  - (c) Freestanding signs are not permitted in the DM district.
  - (d) Window signs may only exceed 20% of the window area if reviewed by and approved by the planning commission to be harmonious with the district. ***Amended by Ord. 221, 2-13-14***
  - (e) Signage related to residential uses permitted in the DM district are not permitted, except for, “for sale” or, “for rent” signs.
5. B-2 District
- (a) Freestanding signs may be monument-style signs or pole-mounted signs and shall not exceed seventy-five (75) square feet in area per sign face. Monument-style signs shall not exceed six (6) feet in height and shall be located no closer to the public right of way than a distance equal to its height. Pole-mounted signs may not exceed seventy-five (75) square feet in area per sign face and fifteen (15) feet in height. Pole mounted signs shall not be located closer to the public right of way than a distance equal to its height.
  - (b) The total surface area of wall, awning and canopy signs shall not exceed ten (10%) percent of the front face of the building (including doors and windows).
  - (c) Freestanding monument-style or pole mounted signs shall not be placed closer than fifty (50) feet to any adjacent residential zoning district.
6. ES District
- (a) Freestanding signs shall not exceed one hundred and fifty (150) square feet in sign area shall not exceed the height of the principal building on the lot.

## ARTICLE 24 – SIGNS (CONT'D)

- (b) The total surface area of wall, awning and canopy signs shall not exceed ten (10%) percent of the front face of the building (including doors and windows).
- (c) Freestanding signs shall not be placed closer than one hundred (100) feet to any adjacent residential district.

### 7. WM District

- (a) No sign shall project beyond or overhang the wall, or any permanent architectural feature, by more than one (1) foot, and shall not project above or beyond the highest point of the roof or parapet except awning or canopy signs may project not to exceed six (6) feet beyond a building wall.
- (b) The total surface area of wall, awning and canopy signs shall not exceed ten (10%) percent of the front face of the building (including doors and windows).
- (c) Freestanding signs may only be monument signs and shall not exceed fifty (50) square feet in sign area or exceed six (6) feet in height.
- (d) Freestanding accessory signs or advertising pylons shall not be placed closer than one hundred (100) feet to any adjacent residential district.

### 8. MU District

- (a) Freestanding signs may only be monument-style signs shall not exceed seventy-five (75) square feet in area per sign face and shall not exceed six (6) feet in height.
- (b) The total surface area of wall, awning and canopy signs shall not exceed ten (10%) percent of the front face of the building (including doors and windows).
- (c) Freestanding signs shall not be placed closer than one hundred (100) feet to any adjacent residential district.

### 9. I-1 District

- (a) Freestanding signs shall not exceed one hundred fifty (150) square feet in area per sign face and shall not exceed twenty (20) feet in height.
- (b) Freestanding advertising signs are allowed but shall comply with all requirements of Article 18 (Schedule of Development Standards), of this Ordinance.
- (c) Advertising signs shall be spaced no closer than 1,000 feet between signs on the same right-of-way.

### 10. I-2 District

- (a) Freestanding signs shall not exceed two hundred (200) square feet in area per sign face and shall not exceed thirty (30) feet in height.
- (b) Freestanding advertising signs are allowed but shall comply with all requirements of Article 18 (Schedule of Development Standards), of this Ordinance.
- (c) Non-accessory signs shall be spaced no closer than 1,000 feet between signs on the same right-of-way.

### 11. Temporary Signs. Temporary signs in the B-1, B-2, E-S, I-1 and I-2 Districts shall be subject to the following:

- (a) A display period of not to exceed thirty (30) days in a four month period and not to exceed two (2) such display periods in any twelve (12) months period.
- (b) A total surface area of not to exceed five (5) percent of the front face of the building (including doors and windows) shall be the maximum size for the total of all temporary signs allowed for any zoning lot.

ARTICLE 24 – SIGNS (CONT'D)

- (c) Temporary signs shall be removed promptly at the end of the display period provided for above.
- (d) Any temporary sign found by the Building/Zoning Official to be in a torn, damaged, or unsafe condition shall be removed by the owner within three (3) days of receipt of notice to do so.
- (e) Temporary political signs may not be located within the public right-of-way, or on any public property. All temporary political signs must be removed within 5 days following an election.

## **ARTICLE 25 - WALLS AND FENCES**

### **SECTION 2500 WALLS**

1. For those Use Districts and uses listed below, there shall be provided and maintained on those sides abutting or adjacent to a residential district an obscuring wall as required below (except otherwise required in subsection 6 and subsection 7 of this section.)

<b><u>USE</u></b>	<b><u>REQUIREMENTS</u></b>
a. P-1 Vehicular Parking District	4' - 6" high wall
b. Off-Street Parking Area (Other than P-1 Districts)	4' - 6" high wall
c. OS-1, B-1, CBD, and B-2 Districts	4' - 6" high wall
d. I-1 and I-2 Districts - open storage areas, loading or unloading areas, service areas	6' to 8' high wall or fence. (Height shall provide the most complete obscuring possible)
e. Auto wash, drive-in restaurants	6' - 0" high wall
f. Hospital - ambulance and delivery areas.	6' - 0" high wall
g. Utility buildings, stations and/or substations	6' - 0" high wall

2. Chain link or other wire fence utilizing metal, plastic, or wood slats shall not be considered an obscuring wall for the purpose of this Ordinance unless such materials are approved and permitted by the Planning Commission. The City may in its review of Site Plans for specific uses allow or require the provision of a greenbelt planting consisting of trees and shrubs to serve as an obscuring wall, where such obscuring walls are required under this Ordinance, and where conditions are such that a more effective and harmonious development with abutting or neighboring land uses would result. Review and approval shall be required by the City of types of plant materials and their location in such greenbelt.
3. Required walls shall be located on the lot line except where underground utilities interfere and except in instances where this Ordinance requires conformance with front yard setback lines in abutting residential districts. Upon review of the Site Plan, the City may approve an alternate location for the wall or may waive the wall requirement if in specific cases it would not serve the purposes of screening the parking area effectively. Required walls may, upon approval of the Board of Appeals, be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone when mutually agreeable to affected property owners. The continuity of the required wall on a given block will be a major consideration of the Board of Appeals in reviewing such request.
4. Such walls and screening barrier shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this Ordinance and except such openings as may be approved by the Chief of Police and the Building/Zoning Official. All walls herein required shall be constructed of materials approved by the Building/Zoning Official to be durable, weather resistant, rustproof and shall be maintained by the property

## ARTICLE 25 – WALLS AND FENCES (CONT'D)

owner or tenant at all times equal in condition to the completed structure at the time of initial installation. Wood or wood products, when utilized, shall be treated and/or painted and shall be so maintained at all times.

Walls may be constructed with openings which do not in any square section (height and width) exceed twenty (20) percent of the surface. Where walls are so pierced, the openings shall be so spaced as to maintain the obscuring character required, and shall not reduce the minimum height requirement. The arrangement of the openings shall be reviewed and approved by the Building/Zoning Official.

5. The City may require that suitable maintenance guarantee be provided for the continued maintenance of walls required under this Ordinance.
6. The requirement of an obscuring wall between off-street parking areas or outdoor storage areas, and any abutting residential districts shall not be required when such areas are located more than two hundred (200) feet distant from such abutting residential district.
7. The Board of Appeals may waive or modify the foregoing requirements where cause can be shown that no good purpose would be served, provided that in no instance shall a required wall be permitted to be less than four feet six inches (4' - 6") in height except where Section 1912 (Corner Clearance) applies.

In consideration of request to waive wall requirements between nonresidential and residential districts, the Board shall refer the request to the Planning Commission for a determination as to whether or not the residential district is considered to be an area in transition and will become nonresidential in the future. In such cases as the Planning Commission determines the residential district to be a future nonresidential area, the Board may temporarily waive wall requirements for an initial period not to exceed twelve (12) months. Granting of subsequent waivers shall be permitted, provided that the Planning Commission shall make a determination as hereinafter described, for each subsequent waiver prior to the granting of such waiver by the Board.

### **SECTION 2501 FENCES (RESIDENTIAL)**

All fences of any nature, type or description hereafter erected or constructed within the residential districts of the City of Luna Pier shall conform to the following regulations:

1. No fence shall hereafter be erected in the front yard, or yard within 25 feet of Lake Erie, more than three (3) feet in height of solid or board type (50% or more opaque), nor more than forty-eight (48) inches if of chain or ornamental (less than 50% opaque).
2. No fence shall be erected in the side yard or more than six (6) feet forty-eight (48) inches in height.
3. No fence shall be erected in the rear yard of more than six (6) feet forty-eight (48) inches in height.
4. No solid, board or privacy type fence or wall (50% or more opaque) shall be erected closer than one (1) foot to any sidewalk or five (5) feet to any street.
5. No open, split rail or chain link type of fence or wall (less than 50% opaque) shall be erected closer than one (1) foot to any side walk or two (2) feet to any street.

There shall be no variance, unless written approval is obtained from the Zoning Board of Appeals after application to the Building Inspector in accordance with Article 28.

No fence, wall structure or planting shall be erected, established or maintained on any corner lot which will obstruct the view of a driver of a motor vehicle approaching the intersection and/or shall be installed so as to provide for a minimum of ten (10) feet for solid, board or privacy type fence or wall or



ARTICLE 22 – WALLS AND FENCES (cont'd)

five (5) feet for open, split rail, chain link type fence or wall from the corner of the intersection nearest the abutting property.

Hedges, ornamental shrubs, trees, bushes and all kind of plants shall be considered fences for the purposes of this ordinance when placed in a manner or position to serve as a fence.

Barbed wire, spikes, nails, or any other sharply pointed material used in the construction of a fence shall be prohibited within residential areas of the city: chain link fences shall be constructed with the pointed ends facing the ground.

All fences that do not meet the requirements of this Section are deemed non-conforming and subject to the requirements of Article 20.

Any person violating the provisions of this Section is subject to the enforcement provisions of Section 2608.



## **ARTICLE 26 - ADMINISTRATION AND ENFORCEMENT**

### **SECTION 2600 ENFORCEMENT**

The provisions of this Ordinance shall be administered and enforced by the Building/Zoning Official or by such deputies of his department as the Building/Zoning Official may delegate to enforce the provisions of this Ordinance.

### **SECTION 2601 DUTIES OF BUILDING/ZONING OFFICIAL**

1. The Building/Zoning Official shall have the power to grant Zoning Compliance and Occupancy Permits and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance. It shall be unlawful for the Building/Zoning Official to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform to this Ordinance.
2. The Building/Zoning Official shall record all nonconforming uses existing at the effective date of this Ordinance for the purpose of carrying out the provisions of Article 20 (Nonconformities).
3. The Building/Zoning Official is not authorized to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out his duties as Building/Zoning Official.
4. The Building/Zoning Official shall not refuse to issue a permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit.

### **SECTION 2602 FEES**

Fees for permits or certificates or copies thereof required or issued under the provisions of this Ordinance shall be collected by the Building/Zoning Official at the time of application. Until all applicable fees, charges, and expenses have been paid in full, no application is "complete" and no action shall be taken on any application or appeal. Unless specified in the schedule of fees, charges, and expenses, all fees shall be non-refundable to the applicant. The amount of such fees shall be established by resolution of the City Council and shall cover the City's cost of administration, administrative reviews, publication of notice, and similar matters resulting from enforcement of this Ordinance. When the Planning Commission, Zoning Board of Appeals, or City Council finds it necessary to maintain a strict record of public hearing procedures, or deem it necessary to cause special studies to be made, the applicant shall bear all direct and related costs. All fees collected by the Zoning Inspector shall be forwarded to the City Treasurer to the credit of the general revenue fund of the City of Luna Pier.

### **SECTION 2603 PLOT PLAN**

1. The Building/Zoning Official shall require that all applications for permits and certificates shall be accompanied by plans and specifications. Where a Site Plan is not applicable pursuant to [Section 2700](#) (Site Plan Required), a Plot Plan in triplicate, drawn to scale, shall be submitted showing the following:

- (f) The actual shape, location, and dimensions of the lot.
  - (g) The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of any building or other structures already on the lot.
  - (h) The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
  - (i) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.
2. The Plot Plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved Plot Plan, unless a change conforming to the Zoning Ordinance receives the mutual agreement of the landowner and the body or official that initially approved the Plot plan.

### **SECTION 2604 PERMITS**

The following shall apply in the issuance of any permit:

- 1. Permits not to be issued: No building / zoning permit shall be issued for the erection, alteration, or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this Ordinance.
- 2. Permits for New Use of Land: No land heretofore vacant shall hereafter be used or, no existing use of land may be hereafter changed to a use of different type unless a zoning permit is first obtained for the new or different use.
- 3. Permits for New Use of Buildings: No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.
- 4. Permits Required: No building or structure, or part thereof, shall be hereafter erected, altered, moved, or repaired unless a building permit shall have been first issued for such work. The terms “altered” and “repaired” shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the City of Luna Pier, Building Code, Housing Law, or this Ordinance, except for minor repairs or changes not involving any of the aforesaid features.

### **SECTION 2605 CERTIFICATES**

No land, building, or part thereof, shall be occupied by or for any use unless and until a certificate of occupancy shall have been issued for such use. The following shall apply in the issuance of any certificate:

- 1. Certificate Not To Be Issued: No certificate of occupancy shall be issued for any building, structure or part thereof, or for the use of any land, which is not in accordance with all the provisions of this Ordinance.
- 2. Certificate Required: No building or structure, or parts thereof, which is hereafter erected, or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.

3. Certificates Including Zoning: Certificates of occupancy as required by the City Building Code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing building or structures, shall also constitute certificates of occupancy as required by this Ordinance.
4. Certificates for Existing Buildings: Certificates of occupancy shall be issued for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, it is found that such buildings, structures, or parts thereof, of such use of land, are in conformity with the provisions of this Ordinance.
5. Record of Certificates: A record of all certificates issued shall be kept on file in the office of the Building/Zoning Official, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.
  - (j) Certificates for Dwelling Accessory Buildings: Buildings or structure accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.
  - (k) Application for Certificates: Application for certificates of occupancy shall be made in writing to the Building/Zoning Official on forms furnished by that Department, and such certificates shall be issued within five (5) days after receipt of such application if it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this Ordinance. If such certificate is refused for cause, the applicant therefore shall be notified of such refusal and cause thereof, within the aforesaid five (5) day period.
6. Temporary Certificates: Temporary certificates of occupancy may be issued for site improvements which are included on an approved Site Plan, or which are otherwise required by this or other ordinances of the city and shall be limited to a period not to exceed six (6) months. Failure to finish and obtain approval of the improvement constitutes a violation of this ordinance. Temporary certificates of occupancy may be issued in those instances where site improvements and landscape planting cannot be completed due to winter weather conditions. Temporary certificates shall only be issued for a period to allow for time necessary to complete landscape and site improvements within a period specified and in no instance shall such temporary certificate exceed a six (6) month period. Whenever an applicant seeks a temporary occupancy permit for a premises prior to completion of site work or landscaping, the applicant shall deposit cash, certified check or such other instrument suitable to the city, all forfeitable to the city, an amount equal to one hundred fifty (150) percent of the estimated cost of the remaining improvements pursuant to the Site Plan and the requirements of this and other ordinances of the city. The estimate of the cost shall be solely in the discretion of the city.

#### **SECTION 2606 PERFORMANCE GUARANTEES**

Where a performance guarantee is required as a condition for approval of a permit or certificate:

1. The cash deposit, certified check, irrevocable bank letter of credit or surety bond shall run to the City and shall be forfeitable by its terms and conditions, automatically, fifteen (15) days after notice to the applicant that the requirements of the Site Plan or this Ordinance have not been according to the terms of the temporary certificate or a time specified in the building permit.
2. The cash deposit, certified check, irrevocable bank letter of credit or bond shall be considered posted with the condition that upon passage of the fifteen (15) days after such notice in writing by first class mail at the last known address of the applicant, such amount shall automatically be transferred to the city or otherwise enforceable by the city by any means available. Thereafter, the City shall be authorized to go onto the property and complete the construction in accordance with the Site Plan requirements with the funds available.

3. The City may retain twenty (20) percent of the cost of such completion as the city construction administrative expense and refund any balance to the applicant.
4. No part of an irrevocable bank letter of credit or surety bond shall be released until all of the work is completed.
5. In the case of deposit of cash or certified check, portions of the amount may be rebated as work progresses at reasonable intervals, provided that all times the amount of deposit equals one hundred fifty (150) percent of the cost of the work to be completed.

### **SECTION 2607 FINAL INSPECTION**

The holder of every building permit for the construction, erection, alteration, repair, or moving of any building structure or part thereof, shall notify the Building/Zoning Official immediately upon the completion of the work authorized by such permit, for a final inspection.

### **SECTION 2608 ENFORCEMENT PENALTIES AND OTHER REMEDIES**

1. Public Nuisance Per Se. Except as otherwise provided by law, any use of land or a dwelling, building, or structure, including a tent or recreational vehicle, which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se. Any court of competent jurisdiction may order the nuisance abated, and the owner or agent in charge of the dwelling, building, structure, tent, recreational vehicle, or land held liable for maintaining a nuisance per se.
2. Violations. Any person, firm or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than five hundred (\$500) dollars and the costs of prosecution or, in default of the payment thereof, shall be punished by imprisonment in the County Jail for a period not to exceed ninety (90) days for each offense, or by both such fine and imprisonment in the discretion of the court, together with the costs of such prosecution.
3. Fines, Imprisonment. The owner of any building, structure or premises or part thereof, where any condition in violation of this Ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.
4. Each Day a Separate Offense. A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.
5. Rights and Remedies are Cumulative. The right and remedies provided herein are cumulative and in addition to any other remedies provided by law.

## **ARTICLE 27 - PUBLIC HEARINGS**

### **SECTION 2700 NOTICE OF PUBLIC HEARINGS**

Whenever any section of this Ordinance refers to this section, notice of public hearings shall be given in accordance with Section 103 of Act 110, Public Acts of 2006 (M.C.L. 125.3101 et seq.), as amended and as follows:

1. Notice of public hearings shall be published in newspaper(s) of general circulation in Luna Pier as determined by the City Council.
2. Notice shall also be sent by mail or personal delivery to the applicants/owners of property for which approval is being considered.
3. Notice shall also be sent to all persons to whom real property is assessed within three hundred (300) feet of the property and to the occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.
  - (a) 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 individuals, partnerships, businesses or organizations, one (1) occupant of each unit or spatial area shall receive notice.
  - (b) If the name of the occupant is not known, the term "occupant" may be used in making notification.
4. The notice shall be given not less than fifteen (15) days before the date the application will be considered for approval.
5. The notice shall do all of the following:
  - (a) Describe the nature of the request.
  - (b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
  - (c) State when and where the request will be considered.
  - (d) Indicate when and where written comments will be received concerning the request.





## **ARTICLE 28 - ZONING BOARD OF APPEALS**

### **SECTION 2800 ESTABLISHMENT**

There is hereby established a Zoning Board of Appeals, which shall perform its duties and exercise its powers as provided in Act 110, Public Acts of 2006 (M.C.L. 125.3101 et seq.), as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and substantial justice done.

### **SECTION 2801 MEMBERS**

1. The Zoning Board of Appeals shall consist of three (3) regular members appointed by the City Council. Two (2) alternate members may also be appointed by City Council.
  - (a) One (1) member shall be a member of the Planning Commission.
  - (b) The remaining members, and any alternate members, shall be selected from the electors residing within the City of Luna Pier. The members selected shall be representative of the population distribution and of the various interests present in the City. Only one (1) member may be a member of City Council. An employee or contractor of the City may not serve as a member of the Zoning Board of Appeals.

### **SECTION 2802 COMPENSATION**

The compensation of the appointed members of the Zoning Board of Appeals may be fixed by the City Council. A member of the Zoning Board of Appeals may be paid a reasonable per diem and reimbursed for expenses actually incurred in the discharge of his or her duties.

### **SECTION 2803 TERMS**

The terms of office for members appointed to the zoning board of appeals shall be for 3 years, except for members serving because of their membership on the Planning Commission or City Council, whose terms shall be limited to the time they are members of those bodies. When members are first appointed, the appointments may be for less than 3 years to provide for staggered terms. A successor shall be appointed not more than 1 month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.

### **SECTION 2804 REMOVAL OF MEMBERS & CONFLICT OF INTEREST**

A member of the zoning board of appeals may be removed by the legislative body for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

**SECTION 2805 OFFICERS AND STAFF**

The Zoning Board of Appeals shall annually elect its own Chairman, Vice Chairman, and Secretary. A member of City Council shall not serve as Chairman of the Zoning Board of Appeals. The City Clerk, or his representatives, shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall keep records of its hearings and other official action.

**SECTION 2806 MEETINGS**

1. All meeting of the Board of Appeals shall be held at the call of the Chairman and at such times as such Board may determine. All hearings conducted by said Board shall be open to the public and any writing prepared, owned, used, in the possession of, or retained as required by this act shall be made available to the public in compliance with the Freedom Of Information Act (1976 PA 442, M.C.L. 15.231 to 15.246).
2. Quorum. A zoning board of appeals shall not conduct business unless a majority of the regular members of the zoning board of appeals are present. An alternate member may be called as specified to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. When called into service, an alternate member has the same voting rights as a regular member of the Zoning Board of Appeals.
3. Notice. The Board shall make no recommendation except in a specific case and after a public hearing conducted by the Board where notice of the hearing is given pursuant to Section 2700 (Notice of Public Hearings).
4. Pre-Hearing Conference. Prior to the scheduling of a hearing, the applicant may contact the City for the purpose of scheduling a pre-hearing conference. The purpose of the pre-hearing conference shall be to:
  - (a) Review the procedure for the hearing and identify all persons who will testify (directly or through affidavit) and the evidence to be offered on behalf of the applicant.
  - (b) Attempt to secure a statement of agreed-upon facts to be used to narrow the matters of dispute and shorten the hearing.
  - (c) Explore alternative means of providing relief to the applicant, especially where a variance to the Zoning Ordinance is to be considered, or other relief which may require action by persons or bodies other than the Zoning Board of Appeals which will afford an adequate remedy for the applicant.
  - (d) Discuss the need, desirability, and the terms of providing, a verbatim record of the hearing.
5. Hearing Procedure
  - (a) The applicant shall have the burden of proof. The applicant may present witnesses, including the applicant, or may submit affidavits, for the purpose of attempting to prove facts or conclusions. The applicant shall have the burden of proof. The applicant shall be provided with the opportunity to present all testimony and evidence proposed to be presented at the pre-hearing conference, either through witnesses or affidavits, however, the chairperson of the Zoning Board of Appeals may restrict testimony and evidence which would result in unreasonable duplication. In addition, by motion made on its own or at the request of a person at the hearing, the Zoning Board of Appeals may require that presence of any witness who has offered either testimony by affidavit on a material question of fact or testimony of an expert nature, with the view of permitting members of the Zoning Board of Appeals to ask questions of such witnesses.

ARTICLE 28 – ZONING BOARD OF APPEALS (CONT'D)

- (b) At the conclusion of applicant's presentation, interested person attending the hearing shall be provided with the opportunity to present testimony and evidence in the same manner and subject to requiring the presence and questioning of witnesses, as provided above for the applicant.
  - (c) When interested persons have completed their presentations, at the same meeting and/or at the adjourned meeting date, testimony, and evidence may be presented on behalf of the community in the same manner, and subject to requiring the presence and questioning of witnesses, as provided above for the applicant.
  - (d) If testimony or evidence has been offered by or on behalf of interested persons and/or the community, the applicant shall have the opportunity to present rebuttal, restricted to responding to the points raised by interested persons and the community. The manner of presenting witnesses, and requirement of this presence and questioning, shall be the same as provided above for the applicant's principal case.
  - (e) At the hearing, the Zoning Board of Appeals may determine to establish other rules of procedure, such as meeting hours on any given day, procedure for presentations by interested persons and/or on behalf of the community, or other rules found to be necessary or appropriate by the board.
  - (f) If a hearing is not completed at a given meeting within the time-period allowed by the Zoning Board of Appeals, the Board shall adjourn the hearing to a date certain for continuation.
6. Decision of the Zoning Board of Appeals
- (a) The Zoning Board of Appeals may deem it appropriate in any given case to provide an opportunity for anyone presenting testimony or evidence to submit proposed findings of fact and conclusions.
  - (b) At the conclusion of the hearing, the zoning board of appeals may make its decision at that meeting, or it may adjourn the hearing to a new date for the purpose of reviewing the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its decision.
  - (c) The Zoning Board of Appeals shall state the grounds of any determination made by the Board. For purposes of appeal of the decision of the Zoning Board of Appeals, the Board shall ensure the complete record is preserved in its entirety, that it contains all material evidence, and provides a well-reasoned explanation why additional material evidence was not presented or accepted by the Board.
  - (d) In exercising its powers, the Board may reverse or affirm wholly or partly, or may modify the orders, requirements decision or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the Building/Zoning Official from whom the appeal is taken.
  - (e) The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirements, decision, or determination of the Building/Zoning Official, or to decide in favor of the applicant any matter upon which they are required to pass under this Ordinance or to affect a variation in this Ordinance except that a concurring vote of two-thirds (2/3) of the members of the Board shall be necessary to grant a variance from uses of land permitted in this Ordinance. Nothing herein contained shall be construed to give or grant to the Board the power or authority to alter or change this Ordinance or the Zoning Map, such power and authority being reserved to the City Council of the City of Luna Pier, in the manner provided by law.
  - (f) The decision of the Zoning Board of Appeals shall be final. A party aggrieved by the decision may appeal to the circuit court for Monroe County as provided under Act 110, Public Acts of 2006 (M.C.L. 125.3606 et seq.), as amended. Such appeal shall be filed within thirty (30) days after the Zoning

## ARTICLE 28 – ZONING BOARD OF APPEALS (CONT'D)

Board of Appeals certifies its decision in writing or approves the minutes of its decision. Appeal may be had from the decision of any Circuit Court to the Court Of Appeals.

7. Termination of Board Orders
  - (a) No order of the Board permitting the erection of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration attained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
  - (b) No order of the Board permitting a use of a building or premises shall be valid for a period longer than one (1) year unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

### **SECTION 2807 POWERS AND DUTIES**

1. The Zoning Board of Appeals shall have administrative review authority to hear and decide requests for:
  - (a) Appeals of any administrative order, requirement, decision, or determination of the Building/Zoning Official, pursuant to Section 2806;
  - (b) A Non-Use Variance as defined in Section 2807;
  - (c) Interpretation of the Zoning Map, or special approval situations, as defined in Section 2808.
2. The Chairman or, in his or her absence, the acting Chairman shall have the power to administer oaths, subpoena and require the attendance of witnesses, and to compel testimony and the production of books, papers, files and other evidence pertinent to the matters before the Board.
3. However, the implementation of these administrative reviews shall not include authority to:
  - (a) Alter or change the zoning district classification of any property, nor to permit any use in a district in which it is not permitted, nor to make any change in the terms of this Ordinance unless specifically permitted herein,
  - (b) Review applications, or review upon appeal a decision of the Planning Commission, for “uses permitted subject to special conditions” or planned unit developments.

### **SECTION 2808 APPEAL**

1. The Zoning Board of Appeals shall have the power to hear and decide appeals where it is alleged by any aggrieved person, firm, or corporation, or by an officer, department, board or bureau of the state or City affected by a decision of the Building/Zoning Official that there is an error in any order, requirement, permit, decision or refusal made by the Building/Zoning Official or any other administrative official in carrying out or enforcing any provisions of this Ordinance.
2. Such appeal shall be taken within such time as shall be prescribed by the Board of Appeals by general rule, by filing with the Building/Zoning Official and with the Board of Appeals a notice of appeal, specifying the grounds thereof.

3. The Building/Zoning Official shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.
4. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Building/Zoning Official certifies to the Board of Appeals after notice of appeal has been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by a court of record.
5. The Board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties pursuant to Article 27 (Public Hearings) and shall render a decision on the appeal without unreasonable delay.
6. Any person may appear and testify at the hearing, either in person or by duly authorized agent attorney.

### **SECTION 2809 NON-USE VARIANCE**

1. Jurisdiction. The Zoning Board of Appeals shall have the power to authorize, upon an appeal, a non-use variance from the strict application of the provisions of this Ordinance. Such relief may be in the form of modification of the height and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without such modification. In addition, a variance in the Zoning Ordinance may be applied for and granted under Section 4 of the Uniform Condemnation Procedures Act (1980 PA 87, MCL 213.54).
2. Application Requirements. An application for a non-use variance shall include:
  - (a) A plan drawn to scale detailing the specific use and improvements proposed by the applicant;
  - (b) A narrative summary of the facts which supports each of the criteria contained relevant Ordinance sections.
3. Review Criteria for Practical Difficulties.
  - (a) Before making any non-use variations from the Ordinance in a specific case, the Board shall first determine that the strict application of this Ordinance would result in practical difficulties upon the owner of a specific piece of property relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the Zoning Ordinance or to any other non-use related standard in the Ordinance
  - (b) In order to be entitled to relief, the applicant must demonstrate each of the criteria set forth hereafter: The alleged practical difficulties which will result from a failure to grant the variance include substantially more than mere inconvenience or inability to attain a higher financial return, or both. The alleged practical difficulties are due to unique circumstances exceptional and peculiar to the property of the person requesting the variance and not to general neighborhood conditions. The alleged practical difficulties are not self-created. Applicant's suggested non-use variance would not alter the essential character of the area. Relief may be granted without substantially impairing the purpose and intent of this Ordinance results in substantial justice being done.
  - (c) The Board shall also determine that the proposed variation will not: Impair an adequate supply of light and air to adjacent property; or Unreasonably increase the congestion in public streets; or Increase the danger of fire or endanger the public safety; or Unreasonably diminish or impair

established property values within the surrounding area; or In any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City of Luna Pier.

4. Decision. If the Zoning Board of Appeals adopts a motion to grant variance relief, such motion may be made as a tentative grant of relief, subject to review by the Planning Commission, planning director/consultant, engineer or other person or official with expertise, with a view of obtaining recommendations on any conditions that may be relevant and authorized by law, and for the further purpose on ensuring that the grant of relief would not violate applicable law. If such a tentative grant of relief is approved, the Zoning Board of Appeals shall request the completion of all reviews by other boards of persons by a specific date, so that relief may be expeditiously finalized.
  - (a) If the Zoning Board of Appeals determines to grant variance relief, it shall be the minimum relief required to allow reasonable use of the property, while maintaining the essential character of the area.
  - (b) In granting a variance the Board may attach thereto such conditions regarding the location, character, and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this Ordinance.
  - (c) In granting a variance, the Board shall state the grounds upon which it justifies the granting of a variance.

#### **SECTION 2810 INTERPRETATIONS AND SPECIAL APPROVALS**

The Zoning Board of Appeals shall have the power to hear and decide in accordance with the provisions of this Ordinance, requests for interpretations of the Zoning Map and for decisions on special approval situations on which this Ordinance specifically authorizes the Board to pass.

1. Interpretations of the Zoning Map shall carry out the intent and purpose of the plan, as shown upon the Zoning Map fixing the use districts, where street layout actually on the ground varies from the street layout as shown on the map aforesaid. Findings and decisions of the Board shall follow the interpretation guidelines defined in Section 301 (District Boundaries).
2. A Special Approval shall be subject to such conditions as the Board may require to preserve and promote the character of the zone district in question and otherwise promote the purpose of this Ordinance. The Board may review and approve the following:
  - (a) The erection and use of a building or use of premises for public utility purposes, upon recommendation of the Planning Commission.
  - (b) The modification of automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements.
  - (c) Temporary buildings and uses for periods not to exceed two (2) years in undeveloped sections of the City and for periods not to exceed six (6) months in developed sections.
  - (d) Temporary uses, not otherwise permitted in any district, not to exceed twelve (12) months with the granting of twelve (12) month extension being permissible: uses which do not require the erection of any capital improvement of a structural nature. The Board of Appeals, in granting approval and authorizing the issuance of a permit for temporary uses, shall do so under the following conditions: The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district nor to the property wherein the temporary use is permitted. The granting of the temporary use shall be granted in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of said temporary permit. All

ARTICLE 28 – ZONING BOARD OF APPEALS (CONT'D)

setbacks, land coverage, off-street parking, lighting, and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the City of Luna Pier shall be made at the discretion of the Board of Appeals. In classifying uses as not requiring capital improvement, the Board of Appeals shall determine that they are either demountable structures related to the permitted use of land; recreation developments, such as, but not limited to: golf driving ranges and outdoor archery courts; or structures which do not required foundations, heating systems or sanitary connections. The use shall be in harmony with the general character of the district. No temporary use permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held as further provided for in this Ordinance. Further, the Board of Appeals shall seek the review and recommendation of the Planning Commission prior to the taking of any action.





## **ARTICLE 29 - PLANNING COMMISSION**

### **SECTION 2900 ESTABLISHMENT OF PLANNING COMMISSION**

The Luna Pier Planning Commission is hereby created in accordance with the provisions of Act 285 of the Public Acts of 1931 (M.C.L. 125.31 et seq.) and Act 110, Public Acts of 2006 (M.C.L. 125.3101 et seq.), as amended.

### **SECTION 2901 MEMBERS**

The Luna Pier Planning Commission shall consist of seven (7) members selected upon the basis of the members' qualifications and fitness to serve and subject to the following:

1. Two (2) member shall be a member of City Council selected by resolution of City Council to serve as a member ex officio.
2. The remaining regular members shall be appointed by the Mayor, as provided in this section.
3. An appointment by the Mayor shall be subject to approval of City Council by majority vote.
4. An appointed member or employee of the Planning Commission shall not simultaneously hold an elected municipal office or serve as an employee of the City, except that two (2) appointed member shall be a member of City Council appointed as a member ex officio.
5. A vacancy shall be filled in the same manner as is provided under this section for the remainder of the unexpired term.
6. All ex officio members appointed under this subsection shall have full voting rights.
7. Members of the Planning Commission may be reimbursed for reasonable expenses actually incurred in the discharge of their duties and shall serve without compensation pursuant to City Charter Section 7.6.

*(Amended by Ord. 234, 12-14-17)*

### **SECTION 2902 TERMS**

1. The terms of each appointed member shall be three (3) years or until his or her successor takes office, except that the respective terms of two (2) of the members first appointed shall be for one (1) year and two (2) for two (2) years.
2. The term of the ex officio member shall be determined by the City Council and shall not be stated in the resolution selecting the ex officio member, but the term shall not exceed the member's term of office as a member of City Council.
3. Upon written charges and after a public hearing, a member other than the member selected by City Council may be removed by the Mayor for misfeasance, malfeasance, or nonfeasance in office. City Council, for like cause, may remove the member selected by City Council.

### **SECTION 2903 OFFICERS**

The Planning Commission shall elect from amongst the six (6) appointed members a Chairman, a Secretary, and other officers or committees it considers necessary, and the term of office shall be one (1) year. The Commission

may engage employees, including the services of a planning expert and other technical assistance, as approved by City Council.

**SECTION 2904 MEETINGS**

1. The Commission shall schedule at least one (1) regular meeting in each month and shall hold such meeting so long as the Commission has business and a quorum. The Planning Commission must hold at least four regular meetings each year.
2. The Planning Commission is subject to the Open Meetings Act (1976 PA 267, MCL 15.261 to 15.275) and any writing prepared, owned, used, in the possession of, or retained as required by this act shall be made available to the public in compliance with the Freedom Of Information Act (1976 PA 442, M.C.L. 15.231 to 15.246).

**SECTION 2905 CONFLICT OF INTEREST.**

A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

**SECTION 2906 RULES; RECORDS**

The Commission shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record.

**SECTION 2907 POWERS AND DUTIES**

1. The planning commission shall be vested with the powers and duties as set forth in Act Number 285 of the Public Acts of 1931 (M.C.L. 125.31 et seq.) and Act 110, Public Acts of 2006 (M.C.L. 125.3101 et seq.), as amended.
2. The Planning Commission shall consider any information and recommendations furnished by appropriate public officials, departments, or agencies.
3. The Planning Commission shall approve Site Plans as provided pursuant to Article 30 (Site Plan Review).
4. The Planning Commission shall have the authority to authorize permits for uses subject to special conditions and to attach conditions to a permit.
5. The Planning Commission shall at least once per year prepare for City Council a report on the administration and enforcement of the Zoning Ordinance and recommendations for amendments or supplements to the Ordinance.
6. It shall be the function and duty of the Planning Commission to make or update and adopt a Master Plan for the physical development of the municipality, including any areas outside of its boundaries, which in the Commission's judgment bears relation to the planning of such municipality.

**SECTION 2908 PLANNING COMMISSION APPROVALS**

1. In cases where the Planning Commission is empowered to approve certain use of premises under the provisions of this Ordinance, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said Commission for the proper consideration of the matter.
2. The Planning Commission shall investigate the circumstances of each such case and shall notify such parties, who may in its opinion be affected thereby, of the time and place of any hearing which may be held relative thereto as required under its rules of procedure.
3. The Planning Commission may impose such conditions or limitations in granting approval as may in its judgment be necessary to fulfill the spirit and purpose of this Ordinance.
4. Any approval given by the Planning Commission, under which premises are not used or work is not started within six (6) months or when such use or work has been abandoned for a period of six (6) months, shall lapse and cease to be in effect.



## **ARTICLE 30 - SITE PLAN REVIEW**

### **SECTION 3000 SITE PLAN REQUIRED**

Site plans are required to be submitted and approved when any of the following conditions are present:

1. A proposed development activity results in the need to provide new or expanded off-street parking pursuant to Article 22.
2. For all site changes to, or new developments of: multiple-family, commercial, office, industrial, and recreational uses, as well as for forms of single-family developments including subdivisions and Site Condominiums.
3. The proposed construction of a principal building is located in the DM Zoning District.
4. The proposed development involves an Open Space Plan pursuant to Section 1802, or a One-Family Clustering Option pursuant to Section 1803, or a Planned Unit Development pursuant to Article 15.
5. Unless otherwise dictated in this code, single and two family dwellings and accessory structures on individual lots do not require formal site plan review, but shall require administrative review by the Zoning Official.
6. The Zoning Official may at their discretion, refer any proposed project or change in use, because of its nature or for which appears to not conform to the intent of this code.

No work shall commence on any site involving any of the above circumstances, except as specifically permitted herein, no permits shall be issued until after Preliminary and Final Site Plan approval is granted unless otherwise approved by the Planning Commission. The Site Plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved Site Plan, unless a change conforming to the Zoning Ordinance receives the mutual agreement of the landowner and the Planning Commission.

### **SECTION 3001 SUBMISSION REQUIREMENTS**

A Preliminary and Final Site Plan shall be submitted for review in accord with the provisions of this Ordinance and such other rules and procedures established by the City. Site Plan review shall be initially conducted by the City and administrative and technical personnel as may be deemed necessary to properly evaluate a proposed plan. The following information shall be included on the Site Plan.

1. A scale of not less than 1" = 50' if the subject property is less than three (3) acres and 1" = 100' if three (3) acres or more.
2. Date, north point and scale.
3. The dimensions of all lot and property lines showing the relationship of the subject property to abutting properties.
4. The location of all existing and proposed structures on the subject property and all existing structures within one hundred (100) feet of the subject property.
5. The location of all existing and proposed drives and parking areas.
6. The location and right-of-way widths of all abutting streets and alleys.
7. The names and addresses of the architect, planner, designer, engineer, or person responsible for the preparation of the Site Plan. **(Amended by Ord. 229, 10-12-16)**

### **SECTION 3002 REVIEW PROCEDURE**

Following review by administrative and technical personnel, Site Plans shall be submitted to the Planning Commission for its review.

ARTICLE 30 – SITE PLAN REVIEW (CONT'D)

1. Evaluation Criteria. In the process of reviewing the Site Plan, the City shall consider:
  - (a) The location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site, and in relation to pedestrian traffic.
  - (b) The traffic circulation features within the site and location of automobile parking areas; and may make such requirements with respect to any matters as will assure: Safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets. Satisfactory and harmonious relationships between the development on the site and existing and prospective development of contiguous land and adjacent neighborhoods.
  - (c) The City may further require landscaping, fences and walls in pursuance of these objectives and same shall be provided and maintained as a condition of the establishment and the continued maintenance of any use to which they are appurtenant.
  - (d) In those instances wherein the City finds that an excessive number of ingress and/or egress points may occur with relation to major or secondary thoroughfares, thereby diminishing the carrying capacity of the thoroughfare, the City may require marginal access drives. For the narrow frontage, which will require a single outlet, the City may require that money be placed in escrow with the Municipality so as to provide for a marginal service drive equal in length to the frontage of the property involved. Occupancy permits shall not be issued until the improvement is physically provided, or monies have been deposited with the City Clerk.
  - (e) In cases where a proposed development involves the generation of more than 100 vehicle trip ends in a peak hour, the City of Luna Pier may require that an independent traffic impact study be prepared. Determination of expected vehicle trip ends in a peak hour shall be based on the most recent International Traffic Engineers (ITS) Trip Generation Manual. The traffic impact study shall examine proposed driveway locations, the need for turn lanes, deceleration lanes, traffic control devices, etc.
  - (f) In cases where “light spillover” may be a concern to adjacent property; photometric data may be required for all exterior lighting fixtures showing the lighting distribution in all angles around the fixture. Specifically, this information includes the location of all outdoor lighting fixtures proposed, the mounting or installation height, the overall illumination levels and uniformities, points where 0.5 horizontal foot candles occurs on the subject property or adjacent property at a distance four (4) feet above the ground.
2. Decision on Preliminary Site Plans. Obtaining preliminary site plan approval is optional, but highly recommended when large and complex developments are proposed. Approval of a Preliminary Site Plan by the Planning Commission establishes site development feasibility. The Planning Commission shall approve or recommend approval of a Preliminary Site Plan when all requirements for Preliminary Site Plan approval, as set forth herein, are met.
3. Decision on Final Site Plans. Final Site Plan approval may be given administratively when all conditions set forth herein for Final Site Plans are complied with. In the process of reviewing a Final Site Plan, the various reviewing agencies and departments shall consider that all local, county, and state requirements as may apply to the proposed use are met, along with all applicable engineering requirements.
4. Preliminary Movement of Soil. Upon request, the City may permit, when justifiable conditions are found to exist, and after Preliminary Site Plan approval has been given, the movement of soil on the site, prior to Final Site Plan approval, provided a grading plan, drawn to local specifications and when necessary to county specifications, has been reviewed and approved, and a soil erosion permit, when required, has been secured.

5. Preliminary Foundation Construction. Upon request, the City may permit, when justifiable conditions are found to exist, and after preliminary Site Plan approval has been given, the layout of footings and the construction of foundation walls prior to Final Site Plan approval, provided a soil erosion permit, when required, has been secured and footing and foundation design plans have been approved by all applicable state, county, and local departments and consultants.
6. Appeal. A Site Plan, by request of the applicant, needs an official denial in order to gain access to the Zoning Board of Appeals.
7. Record of Approval: the site plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan, unless a change conforming to this Zoning Ordinance is agreed to by the landowner and the body or official that initially approved the site plan

### **SECTION 3003 EXPIRATION OF SITE PLAN APPROVAL**

The approval by the City of any Site Plan under this provision shall expire one (1) year after the date of such approval, unless actual construction and development have been commenced in accordance with said Site Plan prior thereto. If such construction and development is commenced within said one (1) year period, then such approval shall continue for a period of five (5) years from the date thereof; provided, however, that a lapse of more than one (1) year if continuous substantial construction and development does not occur, in which event, said approval shall expire. The Building/Zoning Official shall not issue a building permit for any type of construction on the basis of the approved Site Plan after such approval has expired. Fees for review of expired Site Plans may be waived in those instances where no substantial change in conditions neither of the Site Plan nor of abutting uses has taken place. In those instances where conditions have changed, the fee for review of expired Site Plans or new Site Plans shall be the same as for the initial submittal.

ARTICLE 30 – SITE PLAN REVIEW (CONT'D)

<b><u>SITEPLANREVIEWCHECKLIST</u></b>		<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>N/A</u></b>
1.	Correct scale	( )	( )	( )
2.	Name of Person preparing plan. (Where property line surveys, topography, sewer, water, or storm drains are shown, the name of the registered engineer or land surveyor preparing such elements of the plan shall be indicated on the plan.)	( )	( )	( )
3.	Date, north point	( )	( )	( )
4.	Property line dimensions	( )	( )	( )
5.	Street right-of-way widths	( )	( )	( )
6.	Existing utilities (sewer, water, gas, etc.)	( )	( )	( )
7.	Show adjacent property & buildings	( )	( )	( )
8.	Existing topography, trees and other features	( )	( )	( )
9.	Off-site ground, parking lot, roadway, driveway and/or structure elevations for minimum distance of 50 feet	( )	( )	( )
10.	On-site grid of maximum 100 feet intervals each way (closer where rolling terrain warrants) & min. 2.0 feet contours	( )	( )	( )
11.	Location of new structures including side & front yard setbacks & building length & width (show a general floor plan)	( )	( )	( )
12.	Number of dwellings units per building	( )	( )	( )
13.	Height of structures	( )	( )	( )
14.	Percent one room apartments (efficiencies)	( )	( )	( )
15.	Total number of rooms if multiple family	( )	( )	( )
16.	Parking requirements met	( )	( )	( )
17.	Number of units and bedrooms each building	( )	( )	( )
18.	Parking lot layout (showing paved area) including ingress and egress and service area	( )	( )	( )
19.	Parking lot space dimensions	( )	( )	( )
20.	Loading and unloading space	( )	( )	( )
21.	Site grading & drainage plan (on-site elevations for pavements, drives, parking lots, curbs, sidewalks and finish grade at building)	( )	( )	( )
22.	Utility connections (sanitary sewer, water, storm sewers)	( )	( )	( )
23.	On-site storm water retention	( )	( )	( )
24.	Fire hydrants (on and off site)	( )	( )	( )
25.	Sidewalks and elevations	( )	( )	( )
26.	Sedimentation and erosion control plan	( )	( )	( )
27.	Landscape plan showing plant materials to be used	( )	( )	( )
28.	Sign requirements met	( )	( )	( )
29.	Require walls and fences or greenbelts	( )	( )	( )
30.	Corner clearance	( )	( )	( )
31.	Service drive needed	( )	( )	( )
32.	Acceleration lanes and traffic pattern	( )	( )	( )
33.	Trash receptacle locations	( )	( )	( )
34.	Mail box locations	( )	( )	( )
35.	Air conditioner unit locations	( )	( )	( )
36.	Special site features (play areas, pools, etc.)	( )	( )	( )
37.	Handicapped facilities	( )	( )	( )



## **ARTICLE 31 - USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

### **SECTION 3100 APPLICATION REQUIREMENTS**

An application for a Permit for a “use permitted subject to special conditions” shall be made by filing the application form, required information, and required fee with the building official. The fee for a Permit for a “use permitted subject to special conditions” shall be set by resolution by the City Council, except that no fee shall be required for the construction of a single-family residence or of any governmental body or agency. No part of the fee shall be returnable to the applicant. An application for a Permit for a “use permitted subject to special conditions” shall also contain all the elements required in a Site Plan pursuant to Article 30.

### **SECTION 3101 HEARINGS FOR USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

A Public Hearing with notification as required pursuant to Article 27 (Public Hearings) shall be held before a decision on the request for a “use permitted subject to special conditions.” The cost of such notification shall be born by the applicant for the proposed use.

### **SECTION 3102 GENERAL EVALUATION CRITERIA**

The Planning Commission shall review the particular circumstances and facts of each proposed use in terms of the following standards and required findings and with respect to any additional standards set forth in the ordinance. The Planning Commission shall find and report adequate data, information, and evidence showing that the proposed uses meets all required standards and:

1. Will be harmonious, and in accordance with the objectives, intent, and purpose of this ordinance; and
2. Will be compatible with a natural environment and existing and future land uses in the vicinity; and
3. Will be compatible with the City’s master plans; and
4. Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage ways and structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for such services; and
5. Will not be detrimental, hazardous, or disturbing to existing or future neighboring uses, persons, property, or the public welfare; and
6. Will not create additional requirements at public costs for public facilities and services that will be detrimental to the economic welfare of the community.

### **SECTION 3103 SPECIFIC EVALUATION CRITERIA**

In addition to the above general evaluation criteria, the following specific evaluation criteria is set forth for some certain specific uses as they may appear in a given Zoning District in Article 17.

1. **Child Care Group Homes:** Outdoor play area shall be provided on the site, the property shall be maintained consistent with the visible characteristics of adjacent homes and the neighborhood. Operations are only

conducted between the hours of 6 A.M. and 10 P.M. Screening and fencing of outdoor play area for the safety of the children in the child care group home shall be provided as required by the Planning Commission. Adequate off-street parking shall be provided to allow for direct drop-off and pick-up of children without requiring children to cross public streets.

2. **Child care centers, nursery schools, and day nurseries:** Outdoor play area shall be provided and shall be fenced and screened from any adjoining lot in any residential district.
3. **Private Noncommercial Recreation Areas (including recreation centers and nonprofit swimming pool clubs):** Any pool area shall be provided with a protective fence, six (6) feet in height, and entry shall be provided by means of a controlled gate.
4. **Bed and Breakfast Establishments:** A bed and breakfast establishment shall accommodate six (6) or fewer persons and be limited to three (3) or fewer rental sleeping rooms. There shall be no separate cooking facilities used for the bed and breakfast stay. The establishment shall be located within a residence which is the principal dwelling unit on the property and said dwelling is the principal residence of the establishment operator. The maximum stay for any occupant of the Bed and Breakfast sleeping rooms shall be seven (7) consecutive days. The Bed and Breakfast Establishment operator shall live on the premises when the Bed and Breakfast operation is active. No person other than the occupants of the dwelling unit may be employed in the operation of the Bed and Breakfast Establishment. Hard-surfaced, off-street parking areas and driveways will be provided to accommodate necessary parking. Each sleeping room used for the Bed and Breakfast operation shall have a separate smoke detector alarm, installed in accordance with the applicable building codes.
5. **Outdoor Combustible Burning Furnaces.** Outdoor furnaces shall meet the Special Use standards and requirements of Article 33. (Amended by Ord. 211-B, 12-12-19)
6. **Wind energy systems.** Wind Energy Systems shall meet the Special Use standards and requirements of Article 33. (Amended by Ord. 211-B, 12-12-19)
7. **Truck stops:** No such business shall be located on a site of less than 5 acres in area. All vehicle repairs except minor repair shall be conducted within a building. Outdoor storage parts or materials shall be prohibited unless such storage is within a fence and obscured area which meets all setback requirements.
8. **Solar Energy Systems.** Solar Energy Systems shall meet the Special Use standards and requirements of Article 33. (Amended by Ord. 211-B, 12-12-19)

**SECTION 3104 DECISION**

The Planning Commission may deny, approve, or approve with conditions, requests for “uses permitted subject to special conditions.” The decision shall specify the basis for the decision, and any condition imposed.

1. In granting a Permit for a “use permitted subject to special conditions”, the Planning Commission shall impose any conditions it deems necessary to achieve the objective and standards of this ordinance, the standards of the Michigan Zoning Enabling Act, (Act 110, Public Acts of 2006 (M.C.L. 125.3101 et seq.), as amended, and the public health, safety, and welfare of the City. Failure to comply with such conditions shall be considered a violation of the ordinance. Approval for a “use permitted subject to special conditions” runs with the land until such time as the use designated in the “approval” is changed by the occupant. The land then reverts back to only the uses permitted in that specific zoning district. An approved Permit for a “use permitted subject to special conditions” shall remain unchanged except upon the consent of the Planning Commission. Any such changes shall be entered into City records and recorded in the minutes of the Planning Commission meeting at which the action occurred. The procedures required for an original application shall be followed with respect to any proposed changes.
2. An application for a Permit for a “use permitted subject to special conditions” which has been denied wholly or in part by the Planning Commission should not be resubmitted for a period of three hundred sixty-five (365) days from the date of denial, except on grounds of new evidence or proof of changed conditions found by the Planning Commission.
3. The Planning Commission’s decision, the basis for their decisions, and all conditions imposed, shall be described in a written statement which shall be made a part of the record of the meeting.
4. Appeal. The decision of the Planning Commission with respect to a Permit for a “use subject to special conditions” shall not be appealable to the Board of Appeals.



## **ARTICLE 32 - CHANGES AND AMENDMENTS**

### **SECTION 3200 GENERAL REQUIREMENTS**

The City Council may from time to time, on recommendation from the Planning Commission or on petition, amend, supplement, or change the District Boundaries or the regulations herein or subsequently established herein pursuant to the authority and procedure established in Act 110, Public Acts of 2006 (M.C.L. 125.3101 et seq.), as amended.

1. A Zoning Ordinance amendment adopted after March 28, 2001 shall not increase any inconsistency that may exist between the Zoning Ordinance or structures or uses and any airport zoning regulations, airport layout plan, or airport approach plan.
2. City Council may refer any proposed amendments to the Planning Commission for consideration and comment within a time period specified by City Council.
  - (a) An amendment to conform a provision of the Zoning Ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by City Council and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for under this Ordinance.
  - (b) If City Council revises a proposed Zoning Ordinance amendment after review by the Planning Commission, it may adopt the revised version of the amendment without first referring it back to the Planning Commission for further consideration.

### **SECTION 3201 PLANNING COMMISSION REVIEW**

1. Before submitting its recommendations for a proposed zoning amendment to City Council, the Planning Commission shall hold at least one (1) public hearing.
2. Notice of the time and place of the public hearing shall be given as required under Section 3202 (Notice of Public Hearing for Zoning Text or Map Changes) for any proposed zoning text or map amendments.
3. Following the required public hearing, the Planning Commission shall transmit to City Council the proposed Zoning Amendment text including any zoning maps, its recommendations, and a summary of comments received at the hearing.

### **SECTION 3202 NOTICE OF PUBLIC HEARING FOR ZONING TEXT OR MAP CHANGES**

1. If an individual property or ten (10) or fewer adjacent properties are proposed for rezoning on the Zoning Map, a notice of the proposed public hearing shall be given in the same manner as required under Section 2700 (Notice of Public Hearings).
2. For zoning text amendments or if eleven (11) or more adjacent properties are proposed for rezoning on the Zoning Map, the notice of the proposed public hearing shall be given in the same manner as required under

Section 2700 (Notice of Public Hearings), except for the requirement of Section 2700 (3) and except that no individual addresses of properties are required to be listed under Section 2700 (5) (b).

3. Notice of the time and place of the public hearing shall also be given by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Luna Pier City Clerk for the purpose of receiving the notice of public hearing.
4. The notices required under this section shall include the places and times at which the text and any maps of the proposed Zoning Ordinance amendment may be examined.

### **SECTION 3203 ZONING AMENDMENT REVIEW BY CITY COUNCIL**

1. When Public Hearing Required
  - (a) After receiving a proposed Zoning Ordinance amendment or a recommendation on a proposed amendment from the Planning Commission under Section 3201 (Planning Commission Review), City Council may hold a public hearing if it considers it necessary or as may otherwise be required.
  - (b) City Council shall grant a hearing on a proposed ordinance provision to a property owner who requests a hearing by certified mail, addressed to the City Clerk.
2. Public Notice of Hearing. Notice of a public hearing to be held by City Council shall be given as required under Section 3202 (Notice of Public Hearing for Zoning Text or Map Changes) for any zoning text or map amendments.
3. Decision. After a public hearing when held as allowed under this section, City Council shall consider and vote upon the adoption of an amendment to the zoning ordinance, with or without modifications. A zoning amendment and any modifications shall be approved by a majority vote of the members of City Council.
4. Effective Date. Except as otherwise provided under Section 3205 (Amendment Subject To Protest Provision), a Zoning Ordinance amendment shall take effect upon the expiration of ten (10) days after publication as required by City Charter Section 6.3 or at such later date after publication as may be specified by City Council.
5. Notice of Adoption of Amendment. Following adoption of a Zoning Ordinance amendment by City Council, the Zoning Ordinance amendment shall be filed with the City Clerk, and a notice of the adoption of the Zoning Ordinance amendment shall be published in a newspaper of general circulation in the City within fifteen (15) days after adoption.
  - (a) A copy of the notice of adoption shall be mailed to the airport manager of an airport entitled to notice under Section 3202 (3).
  - (b) The notice of adoption shall include all of the following information: A summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment. The effective date of the ordinance or amendment. The place where and time when a copy of the ordinance or amendment may be purchased or inspected.

ARTICLE 32 – CHANGES AND AMENDMENTS (CONT'D)

**SECTION 3204 USE AND DEVELOPMENT OF LAND AS A CONDITION TO REZONING**

1. An owner of land may voluntarily offer in writing, and City Council may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.
2. In approving the conditions offered by the owner of land, City Council may establish a time period during which the conditions apply to the land. City Council shall not add to or alter the approved conditions during the time period specified.
3. If the approved conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification, although the time period specified under this subsection may be extended upon the application of the landowner and approval of City Council.
4. A landowner shall not be required to offer any conditions as a requirement for rezoning. The lack of an offer of conditions by a landowner under this section shall not otherwise affect a landowner's rights under City ordinances or any other laws of this state.

**SECTION 3205 AMENDMENTS SUBJECT TO PROTEST PROVISION**

An amendment to the Luna Pier Zoning Ordinance is subject to a protest petition under Act 110, Michigan Public Acts of 2006 (M.C.L. 125.3403), as amended.

## **Article 33 - Alternative Energy Structure Regulations** (Amended by Ord. 211-B, 12-12-19)

### **3300 Purpose**

With volatile energy prices and increasing interest in environmental sustainability, a growing number of energy production systems are in demand and are evident in communities at various scales of production and use. The purpose of this Article is to provide basic and essential regulations to address various levels of local energy production in terms of both accessory uses and as principal uses. These regulations are focused principally on limiting off-site impacts to surrounding property and on preserving and protecting property values. These regulations shall also rely on standards and procedures required by Plot Plan and Site Plan review requirements (Article 26 & Article 30) and Special Land Use requirements in certain cases (Article 31).

### **3301 Outdoor Furnaces**

Outdoor furnaces are permitted in any district as an accessory use subject to the following requirements:

- (A) Type of materials burned.** The following types of materials shall not be burned within an outdoor furnace: leaves, rubbish or garbage, waste oil or other oily wastes; asphalt and products containing asphalt, chemically-treated or painted wood, any plastic material, rubber and synthetic rubber-like products, or any material treated with petroleum products or chemicals.
- (B) Performance.** An outdoor furnace shall be installed in accordance with the manufacturers recommendations and comply with all applicable federal, state and local standards governing air quality, emissions and fire safety.
- (C) Placement.** An outdoor furnace shall not be placed between the principal structure and the road right of way, nor closer than 40 feet to the side or rear property line of the parcel on which it is located. An outdoor furnace shall also not be located closer than 50 feet from any outdoor propane tank, principal structure, outdoor shed, garage or any other structure on the lot.
- (D) Locations of burnable stockpiles:** Stockpiles of burnable materials may be kept inside of a building or out of doors. If kept indoors, the building may not also house the outdoor furnace. If kept out of doors, the stockpiles may not be located between the principal structure and the road right of way, less than 25 feet to the side lot line, or less than 5 feet from a rear property line. If the burnable stockpiles includes corn, or other edible materials, stockpiles shall be stored in a vermin-proof container. In any Residential District, stockpiles of burnable material may not exceed more space than is required to contain 2 full cords of wood (a full cord of wood is defined as 4 feet wide, 4 feet high and 8 feet long), or an equal volume of other burnable material
- (E) Venting stack heights:** The vents of outdoor furnaces shall be designed in accordance with the following table:

Distance to Closest Residence Not Served By An Outdoor Furnace	Minimum Height
50 feet or less	The height of the roof peak of the adjacent residence plus 2 feet.
More than 50 feet, but less than 100 feet	75 percent of the height of the roof peak of the adjacent residence plus 2 feet.
More than 100 feet but less than 150 feet	50 percent of the height of the roof peak of the adjacent residence plus 2 feet
More than 150 feet	25 percent of the height of the roof peak of the adjacent residence plus 2 feet



### **3302 Accessory Wind Energy Systems – General Requirements.**

The requirements of this Article apply to accessory wind energy systems as defined in Article 2. Any system that has been installed, but not used for two consecutive years, may not be subsequently used without meeting the requirements of this Section. No pre-existing system shall be altered in any manner that would increase the degree of non-conformity with the requirements of this Chapter and no alterations shall be made to a non-conforming, pre-existing system during its life which exceeds 50 percent of its fair market value. If such system is destroyed or damaged to the extent of more than 50 percent of its fair market value at the time of destruction or damage, it shall not be reconstructed except in conformity with this Chapter.

### **3303 Accessory Wind Energy Systems – Specific Requirements.**

- (A) Permitted Location.** An accessory wind energy system is permitted in any Industrial Zoning District (I-1,I-2), provided all other requirements listed hereunder are met. If one or more of the following specific requirements are not met, such accessory wind energy system is reclassified as a special use pursuant to Section 31.
- (B) Minimum Lot Size.** No wind energy system shall be erected on any lot less than ten acres in size.
- (C) Total Height.** For property sizes between one acre and two acres, the total height of any tower shall not exceed 30 feet. For property sizes between two and five acres, the total height shall not exceed 40 feet. For property sizes greater than five acres, the total height shall not exceed 50 feet. Total height means the distance measured from ground level to the blade extended at its highest point or to the top of the tower, whichever is the highest.
- (D) Location on a Lot:** No accessory wind energy system shall be located within 300 feet of a property line in any front or side yard, and must be set back from the nearest property line, public road right-of-way and communication and electrical line a distance that is not less than 1.1 times its total height. Further, an accessory wind energy system shall be set back from the nearest inhabited building a distance not less than 1.5 times its total height.
- (E) Design Standards:** The design of the accessory wind energy system or tower shall be of a monopole or freestanding design without guy wires.
- (F) Turbine Blade:** The minimum height of the lowest extent of a turbine blade shall be 20 feet above the ground or 30 feet above any structure or obstacle within 100 feet from the tower.
- (G) Climbing Apparatus:** No tower shall have a climbing apparatus within 15 feet of the ground. All access doors or access ways to towers and electrical equipment shall be able to be locked.
- (H) Noise:** No accessory wind energy system shall exceed 60 dBA as measured at the property line or 50 dBA as measured at the nearest neighboring habitable building.
- (I) Finish:** Accessory wind energy system towers shall be finished in a rust-resistant, non-obtrusive finish and color that is non-reflective. No accessory wind energy system or tower shall be lighted unless required by the FAA. No flags, streamers, decorations, advertising signs of any kind or nature whatsoever shall be permitted on any accessory wind energy system and/or tower.
- (J) Electrical Connections:** All electrical interconnection or distribution lines shall be underground and comply with all applicable codes and public utility requirements.
- (K) Interference:** No accessory wind energy system or tower shall cause permanent and material interference with television or other communication signals.
- (L) Speed Controls:** Every accessory wind energy system shall be equipped with both manual and automatic over-speed controls.

### 3304 Commercial Wind Energy Systems – General Requirements.

Commercial wind energy systems, as defined in Article 2, is a permitted use in certain zoning districts subject to the requirements listed hereunder are met.

- (A) **Minimum Lot Size.** There is no minimum lot size, provided all required setbacks and other requirements are met.
- (B) **Setbacks from Occupied Buildings:** Each commercial wind energy system shall be set back from the nearest residence, school, hospital, church or public library, or any other occupied buildings a distance no less than the greater of (a) two (2) times its Hub Height, or (b) one thousand (1,000) feet, whichever is greater.
- (C) **Setbacks from Lot Lines:** Commercial wind energy systems shall not be located within 1.5 times the Hub Height of a property line associated with land owned by an individual or entity that is not related to commercial wind energy system facility.
- (D) **Setbacks from Public Roads:** Commercial wind energy systems shall be set back from the nearest public road a distance no less than 400 feet or 1.5 times its Hub Height, whichever is greater.
- (E) **Setbacks from Railroads:** Each commercial wind energy system shall be set back from the nearest Railroad no less than 400 feet or 1.5 times its Hub Height, whichever is greater.
- (F) **Location on a Lot:** Commercial wind energy systems may be located anywhere on a lot provided all setback requirements are met. The Planning Commission shall review the placement of all commercial wind energy systems in terms of mitigating off-site noise and visual impacts to surrounding property as part of the site plan review process. Commercial wind energy systems and associated access roads shall be located so as to minimize the disruption to agricultural activity and, therefore, the location of towers and access routes is encouraged along internal property lines.
- (G) **Total Height.** Commercial wind energy systems shall demonstrate compliance with the Michigan Tall Structure Act (MCL 259.481 and following), FAA guidelines, and any related regulations as part of the approval process.
- (H) **Design Standards:** Tubular towers associated with commercial wind energy systems shall be painted with a non-reflective and subdued color. The appearance of the commercial wind energy system, equipment and related buildings shall be maintained throughout the life of the wind energy facility (i.e., condition of paint, signs, landscaping, etc). Commercial wind energy systems shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof. Commercial wind energy systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the system. The electrical collection system shall be placed underground at a depth designed to accommodate the existing agricultural land use to the maximum extent practicable.
- (I) **Noise:** Commercial wind energy systems shall not exceed 50 db(A) at the habitable structure closest to the wind energy system. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 50 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).
- (J) **Shadow Flicker:** Commercial wind energy systems shall be located in such a manner so as to not generate shadow flicker on any habitable building.

### 3305 Freestanding Accessory Solar Energy Systems

The following standards shall apply to the Freestanding Accessory Solar Energy Systems which are allowed in any zoning district. To be considered to be an accessory solar energy systems it must be associated with a habited or non-habited building which represents a principal use of the subject property. All freestanding accessory solar energy systems shall be located on the same Lot as the building being served. Where there is no principal building, an accessory solar energy system is not allowed.

- (A) **Location:** Freestanding accessory solar energy systems are permitted in certain zoning districts as shown in Table 10-2. If one or more of the following requirements are not met, such freestanding accessory solar energy systems are reclassified as a special use pursuant to Section 11.31.
- (B) **Setbacks:** Freestanding accessory solar energy systems may not be located between the front lot line and the principal building on the lot, and must meet all applicable setbacks associated the principal building on the lot.
- (C) **Height:** Freestanding accessory solar energy systems may not exceed 6 feet in height. The height may be increased by up to 50% when the setback is 25 feet or greater, and the height may be increased by up to 100% when the setback is 50 feet or greater. The height shall be measured from the grade at system base to the highest peak, including the highest position of any adjustable system or associated apparatus.
- (D) **Size of Freestanding Accessory Solar Energy System:** Systems shall be included in, and not exceed the maximum permitted lot coverage for all structures (table 10-3) if the property is zoned for residential purposes. When property is zoned for non-residential purposes, systems may not occupy more than five percent of the parcel upon which it is located, or one-half (1/2) of the footprint of the principal building served, whichever is greater.

### 3306 Attached Accessory Solar Energy Systems

The following standards shall apply to the Attached Accessory Solar Energy Systems which are allowed in any zoning district. To be considered to be an accessory solar energy systems it must be associated with a habited or non-habited building which represents a principal use of the subject property. All accessory freestanding accessory solar energy systems shall be located on the same lot as the building being served. Where there is no principal building, an accessory solar energy system is not allowed.

- (A) **Wall Mounted:** In the case of wall mounting, no part of the system shall project more than five (5) feet from the building. No part of the system shall extend into any required side or rear setback, and no part of the system shall extend into any required front setback.
- (B) **Roof Attached Systems:** Roof attached systems may be mounted on principal and accessory building roofs provided they conform to the maximum height standards established in the zoning district. Systems shall be mounted parallel to the pitch of the roof and shall be no higher than 12 inches from the roof surface, if visible from the road right of way, or any residentially-zoned property. When roof attached systems are not visible from any residentially-zoned property, such systems may include racks and similar structural supports to tilt such solar panels to a desired angle for maximum solar gain. No part of the system shall project more than ten (10) feet from the roof, and no part of the system shall exceed the maximum height permitted for the accessory structure to which it is attached.
- (C) **Exemptions:** Attached Accessory Solar Energy Systems which have a total surface area of ten (10) square feet or less are exempt from zoning approvals.

### 3307 Solar Power Plant

A Solar Power Plant is a utility-scale commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or various experimental solar technologies, for the primary purpose of wholesale or retail sales of generated electricity. Solar Power Plants are permitted or special uses in zoning districts in accordance with Article 10, are subject to site plan review pursuant to Article 4 and must meet the following development requirements:

- (A) **Maximum Height:** The maximum height for all structures associated with a Solar Power Plant is equal to the maximum permitted height of principal structures in the district it is located in.
- (B) **Setbacks:** Solar power plant structures shall be set back from all property lines and public road rights-of-way at least thirty feet, or one and one-half times the height of the structure, whichever is greater. In addition, solar power plant structures must be located at least one hundred feet from all residentially zoned lots and existing residences. Additional setbacks may be required to mitigate noise and glare impacts, or to provide for designated road or utility corridors, as identified through the site plan review process.
- (C) **Safety/Access:** An appropriate security fence (height and material to be established through the site plan review process) shall be placed around the perimeter of the solar power plant. Knox boxes and keys shall be provided at locked entrances for emergency personnel access.
- (D) **Noise:** No operating solar power plant shall produce noise that exceeds 50 dBA, as measured at the property line of any residentially-zoned lot (R-1, R-2, R-3, R-4, R-5), or 60 dBA as measured at any other property lines. Adequate setbacks shall be provided to comply with these limitations.
- (E) **Visual Appearance:** Solar power plant buildings and accessory structures shall, to the extent reasonably possible, use materials, colors, and textures that will blend the facility into the existing environment. Appropriate landscaping and/or screening materials may be required to help screen the solar power plant and accessory structures from major roads and neighboring residences. No solar power plant tower or other tall structure associated with a solar power plant shall be lighted unless required by the Federal Aviation Administration (FAA). When lighting is required by FAA, it shall be the red, intermittent, glowing-style, rather than the white, strobe-style, unless disclosed and justified through the application review process. Aircraft sensor systems to turn the lights on only when low-flying aircraft are in the area may be required.
- (F) **Lighting:** Lighting of the solar power plant and accessory structures shall be limited to the minimum necessary and full cut-off lighting may be required when determined necessary to mitigate visual impacts.
- (G) **Glare:** No solar power plant shall produce glare that would constitute a nuisance to occupants of neighboring properties or persons traveling neighboring roads.
- (H) **Electrical Interconnections.** All electrical interconnection and distribution lines within the project boundary shall be underground, unless determined otherwise by the planning commission because of severe environmental constraints (e.g. wetlands, cliffs, hard bedrock), and except for power lines that leave the project or are within the substation. All electrical interconnections and distribution components must comply with all applicable codes and public utility requirements.