



# Luce County Zoning Ordinance

**July 06, 2022**

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## **RURAL ZONING ORDINANCE**

### **STATE OF MICHIGAN-LUCE COUNTY**

An ordinance, to establish zoning districts and provisions governing the unincorporated portions of Luce County, State of Michigan, except the Village of Newberry, enacted in accordance with Act 183 of the Michigan Public Acts of 1943, The County Rural Zoning Act, as amended; to provide nonconforming uses of lands, buildings and structures, for a Board of Appeals, for amendments, and for the administrations of this ordinance.

**THE COUNTY BOARD OF COMMISSIONERS OF LUCE COUNTY, STATE OF MICHIGAN, HEREBY ORDAINS:**

### **ARTICLE 1**

#### **PURPOSE AND LIMITATIONS**

##### **SECTION 1.01 THE ZONING PLAN**

###### **1.01.A PURPOSE**

To codify the inherent principles expressed in the Constitutions of the United States and the State of Michigan, and otherwise legally establish through usage and court decrees relating to the rights of private ownership of property, including the protection of its value from corrosive practices and policies of all sources, and to governmentally accept the burden of legal responsibility for these protections through the enactment of this ordinance.

###### **1.01.B HUMAN NEEDS**

An important aspect in the establishment of a County Zoning Ordinance is in the consideration of the needs and well being of the county's total population.

Through proper planning and administration of a Zoning Ordinance, the county can provide more adequately for traffic circulation, schools, parks, sewage disposal, fire and police protection, and other community facilities, utilities and services. It is the coordination of these facilities, utilities and services, in a planned and orderly fashion that can best provide for the general health, safety and welfare of the people in Luce County.

### **1.01.C ECONOMIC CONSIDERATIONS**

The process of zoning will help preserve the established and potential tax base of the county, by preventing the devaluation of an individual's property through the undesirable use of adjoining properties. Establishment of a stable tax base, along with the improved coordination of public facilities, utilities and services brought by Zoning, enables the tax payer to gain maximum benefit from his tax dollar.

Increased desirability as a place to live, through orderly development, will all increase the ability of the county to attract forms of industry, recreational, commercial, manufacturing and etc., which will allow the county to realize its full economic potential.

### **1.01.D CURRENT DEVELOPMENT OF LAND USE IN LUCE COUNTY**

With the increasing population and people seeking a rural life from the urban megalopolis, our land is at a premium. Past and present land development has taken place without defined goals or patterns. A zoning ordinance insures that a systematic and orderly way of developing our land will be continually carried on to insure that the best possible needs and interest of the people will be met for now, and the future. Planning provides necessary land use in an orderly fashion, whereby the county can realize continual growth and development without ruination of its natural environment and aesthetics.

### **1.01.E DESIRED DEVELOPMENT OF LAND USE IN THE COUNTY**

To encourage and facilitate the practice of land use in accordance with its character, location and adaptability, and, to prevent depreciate practices relating to land, water, and air; overcrowding, congestion of roads, streets, and byways; and the development of such other conditions as may be hazardous to life, the general welfare, and the pursuit of happiness within the bounds of this jurisdictional entity; and to protect the public's eminent interest in the real values of its domain.

### **1.01.F PHYSICAL CHARACTERISTICS OF THE COUNTY**

Luce County is a county blessed with lakes, streams and forests. There are approximately 703 lakes in the county and approximately 1,200 miles of rivers and streams. These are very valuable assets to the county.

The land, air and water of Luce County are non-renewable resources governed by unchangeable natural laws, which ultimately determine their physical characteristics. People, however, determine the use of these resources. Proper use, a variable, must work within the confines of the physical environment, an invariable. Therefore, one of the reasons for a zoning

ordinance is to adapt the variable to the invariable in such a manner as to provide for the optimum and continued utilization of the land.

## **1.01.G INVENTORY OF OWNERSHIP PATTERNS, HIGHWAYS, UNINCORPORATED RURAL RESIDENTIAL AREAS**

There is a direct relationship between the primary and secondary highway routes and ownership patterns throughout the county. A high percentage of private ownership, as well as unincorporated rural residential areas, lie within two (2) miles of main highway routes in Luce County.

Most of the ownership two (2) miles north of M-28, other than the Newberry-Dollarville area, is held by the State of Michigan and large land and forestry-oriented companies, such as Cleveland Cliffs Iron Company, Calumet & Hecla & Goodman, Mead Corporation, and Kimberly Clark. This is most natural with Luce County being almost 93% forested.

McMillan, on M-28 and Dollarville, on old M-28, are the only two unincorporated rural residential areas as such, but other rural residential areas approaching this standard are the Lakefield area surrounding the Manistique Lakes and Roberts Corners location on M-28.

## **SECTION 1.02 LIMITATIONS OF ORDINANCE**

### **1.02.A EXISTING USE OF LANDS, BUILDINGS AND STRUCTURES**

At the discretion of the property owner, the lawful use of any dwelling, building or structure, and of any land or premises as existing and lawful on the date of enactment of this ordinance may be continued, even though such use may not be in conformity with the provisions of this ordinance. If any non-conforming use is discontinued for a period of one year or more, then any re-use shall be in conformance with this ordinance.

### **1.02.B EXEMPTION OF AGRICULTURAL, ACCESSORY BUILDINGS AND STRUCTURES**

The provisions of this ordinance shall not apply to the erection or repair of any agricultural accessory, building or structure, such as barns, sheds, pens, fences and the like, provided however, that no building or structure other than open fences through which there shall be clear vision be erected or moved less than fifty (50) feet from any abutting highway right-of-way line. The above accessory building or structure, related to husbandry, shall not be erected closer than 300 feet from adjacent property owner's residences.

## ARTICLE 2

### ZONING DISTRICTS

#### SECTION 2.01 CLASSIFICATION OF DISTRICTS

To achieve the purposes set forth in the preamble, the unincorporated area of Luce County is hereby divided into the following districts:

- a. Residential (R-1)
- b. Agricultural-Residential (A-R)
- c. Recreational-Forest (R-F)
- d. Commercial (C-1)
- e. Industrial (M)
- f. Lakes (L-1, L-2, L-3, L-4)
- g. Streams (S)
- h. Rural-Residential (RR-1)
- i. Residential/Retail Commercial (R-RC)

#### SECTION 2.02 ZONING DISTRICTS MAP

The location of areas included in said Zoning District are depicted upon the Zoning Map of Luce County, available for public inspection in the offices of the County Clerk and Zoning Administrator. Attached zoning map is a part of the ordinance.



## ARTICLE 3

### RESIDENTIAL DISTRICTS (R-1)/ (R-RC)

The following provisions shall apply to all Residential Districts, R-1:

#### SECTION 3.01 PURPOSE

The purpose of creating Residential Districts, R-1, is to provide areas in the County dedicated primarily to residential uses in which each dwelling is located on an individual lot or premises, adequate in size and shape to provide safe water supply and sewage disposal facilities, to minimize hazards of spreading fires, and to require set-back from the public throughfare to facilitate safe exit and entrance to the premises.

The requirements are intended to protect and stabilize the basic qualities of each such district, and to provide suitable and safe conditions for residential living. Each district is established in conformity with existing residential developments, including areas in which it appears desirable that further similar development take place.

Since various other uses of land, buildings and structures are generally accepted as compatible with residential uses, if properly integrated, the inclusion of such uses, is provided by special approval.

#### SECTION 3.02 PROPERTY USES

Except as provided by Section 1.02, or as may hereafter be provided by due amendment, no land or premises shall hereafter be used, and no building or structure erected, as used, or altered for other than the following purposes:

##### 3.02.A PRIMARY USES (Without Special Approval)

1. One or two-family dwellings (*see dwelling regulations 21.01.A and definition of dwelling, 15.02.A and dwelling unit 15.02.B*), including a private garage.
2. Lodging, boarding and tourist homes. (Contained within private residences.)
3. Primary or secondary schools.
4. Churches and other buildings of a religious nature, but not including tents or other temporary structures
5. Public owned parks and playgrounds.
6. Customary home occupations, such as dressmaking, hairdressing, real estate and insurance sales, bookkeeping, dentist, chiropractor, osteopath, attorney, engineer, architect, and similar recognized professions. Such occupation or professional shall be

limited to a resident within his dwelling, and shall not be pursued in an accessory building or structures on the premises, nor with the assistance of more than (1) non-residing employee. Such use shall not occupy more than twenty-five (25) percent of the floor space exclusive of attic or basement. It shall show no external indication of such use or any change in the appearance of the building or premises from a dwelling, except that one non-illuminated sign not exceeding three hundred (300) square inches in area may be attached flat on the front wall of the dwelling to advertise the activity.

7. Trailer Coaches as provided by section 11.05.C
8. Accessory buildings, structures and uses customarily incidental to any primary use, or approved use, which do not alter the primary character of the District, but not including any structure for dwelling purposes either temporarily or otherwise.

### 3.02.B CONDITIONAL USES (As provided by Section 11.08)

1. Hospitals and clinics for human service, including nursing homes, nursery schools, day nurseries and child care.
2. Community-center buildings.
3. Social and recreational uses, when not operated for profit.
4. Community colleges, including dormitory facilities.
5. Libraries.
6. Multiple dwellings.

## 3.03 RESIDENTIAL/RETAIL COMMERCIAL DISTRICT (R-RC)

### 3.03 (1) A. PURPOSE

The purpose of creating the residential/retail commercial district is intended to establish and preserve a mixed-use district for single family homes and for retail commercial uses that are compatible with a mixed use setting and serve the residence and tourists. This district is designed for small unincorporated urban concentrated areas where a mix of residential and retail commercial is in accord with established patterns of use and the needs of nearby residents.

Minimal road frontage, one hundred feet (100) minimal depth, two hundred feet (200).

### 3.03 (2) B.

#### **The Permitted Uses by right are:**

1. Single-family dwelling.
2. Duplexes.
3. Multiple-family housing units.
4. Bed and Breakfast Facilities, lodging.
5. Home Occupations
6. Retail establishments, including grocery, pharmacy, gift, convenience, hardware, and sporting goods store.

7. Offices
8. Barber and beauty Shops.
9. Financial Institutions.
10. Restaurants.
11. Laundromats.
12. Gas stations and car washes.
13. Funeral homes.
14. Nursing homes.
15. Storage buildings under 3001 square feet.
16. Repair garages.
17. Recreational vehicle and boat sales.
18. Trailer Coaches as provided by section 11.05.C

**3.03 (3) C.**

**The Conditional Uses by Planning Commission approval are:**

1. Motor vehicle sales and repair facilities.
2. Bars and Nightclubs
3. Motels/Hotels
4. Retail propane sales and distribution.
5. Adult foster care home serving more than six (6) persons.
6. Adult foster care congregate facilities.
7. State licensed family day care home.
8. Group, day care home.
9. Group, day care centers.

## ARTICLE 4

### AGRICULTURAL-RESIDENTIAL DISTRICTS A-R

The following provision shall apply to all Agricultural-Residential Districts, A-R:

#### SECTION 4.01 PURPOSE

The predominant land uses in the Agricultural-Residential Districts are agricultural in character. It is the primary intent of this ordinance to conserve and promote this character in a general way. However, the provisions of this Article recognize the changes taking place-a gradual increase in non-farm residence and other developments in the District, and the importance of establishing safe and desirable standards for such developments.

Since various property uses, buildings and structures are generally accepted as compatible with agricultural and residential property uses, if property integrated, the inclusion of certain additional uses is provided by Special Approval.

#### SECTION 4.02 PROPERTY USES

Except as provided by Section 1.02, or as may hereafter be provided by due amendment, no land or premises shall hereafter be used, and no building or structure erected, used or altered for other than one of the following purposes:

##### 4.02.A PRIMARY USES (Without Special Approval)

1. Dwellings (*see dwelling regulations 21.01.a and definition of dwelling, 15.02.A and dwelling unit 15.02B*).
2. Farms, including production of all fields, fruit, truck and hay crops, domestic, livestock, pasture, wood lots and farm forestry.
3. Plant nurseries. Greenhouses.
4. All farm buildings and structures customarily utilized in the farming operations.
5. Roadside stands for the sale of farm products produced on the premises, provided, that the location of the stand and the facilities for parking, entry and exit from the public road be approved by the County Road Commission as safe and adequate.
6. Publicly owned and operated parks and playgrounds, including customary buildings and structures.
7. Home occupations and professional offices, as provided by paragraph 6 of Subsection 3.02.A.
8. Boarding Houses.

9. Primary and secondary schools and colleges.
10. Churches, parsonages and parish houses, but not including tents or other temporary structures.
11. Hospitals and clinics for human services, including nursing homes, nursery schools, day nurseries and child care.
12. Community buildings.
13. Libraries
14. Occupancy of a trailer coach by the owner of a premises during the construction of his dwelling on the premises as here in after provided. (Cf. Section 11.05.B)
15. Trailer Coaches as provided by Section 11.05.C

#### **4.02.B CONDITIONAL USES (As provided by Section 11.08)**

1. Drive-in theaters. Drive-in food and/or drink services.
2. Motels.
3. Trailer coach parks.
4. Used car lots.
5. Junkyards.
6. Gun Clubs.
7. Bowling alleys.
8. Veterinary services and hospitals, including kennels.
9. Agencies for sale and service of boats, farm machinery, fertilizers and other farm supplies
10. Private parks and playgrounds.
11. Mobile home parks.
12. Other similar commercial activities.

#### **4.02.C ACCESSORY USES**

Accessory buildings, structures and uses customarily incidental to any permitted or approved use, but not including any structure for dwelling purposes.

## ARTICLE 5

### RECREATION-FOREST DISTRICTS, R-F:

The following provisions shall apply to all Recreation-Forest Districts, R-F:

#### SECTION 5.01 PURPOSE

These districts are designed to promote the proper use, enjoyment and conservation of the forest, water and land (topographic, geologic, historic) and other resources of the county, particularly adapted to recreational uses and/or forest industries. To facilitate such uses, certain commercial and other services may be permitted by Special Approval.

#### SECTION 5.02 PROPERTY USES

Except as provided by Section 1.02, or as may hereafter be provided by due amendment, no land or premises shall hereafter be used, and no building or structure erected, used or altered for other than the following purposes:

##### 5.02.A PRIMARY USES (Without Special Approval)

1. Seasonal dwellings (*see dwelling regulations 21.01.B and definition of dwelling, 15.02.A and dwelling unit 15.02.B*), cottages and tourist cabins.
2. Hunting, fishing and trapping, including cabins therefore (HFT Cabins; see written policy)
3. Archery and shooting ranges.
4. Forest industries.
5. Production of forest products.
6. Harvesting of any native or wild crop permitted by law, such as marsh hay, berries and seeds.
7. Trailer coaches.
8. Accessory buildings, structures and uses customarily incidental to any primary use, or Approved use, but not including any structure for dwelling purposes.

##### 5.02.B CONDITIONAL USES (As provided by Section 11.08)

1. Hydroelectric plants, dams and wash areas.
2. Trailer coach parks.
3. Restaurants, resort lodges, motels, retail stores, and other similar commercial activities.
4. Asphalt plants, sand and gravel extraction and other similar temporary uses.

## ARTICLE 6

### COMMERCIAL DISTRICTS C-1

The following provisions shall apply to all Commercial Districts, C-1:

#### SECTION 6.01 PURPOSE

The purposes of Commercial Districts are to provide accommodations primary devoted to retail stores and shops, commercial enterprises, professional and other services, generally associated with local business districts. As in other Districts, provision is also made by Special Approval for inclusion of enterprises and activities having special problems or conditions.

#### SECTION 6.02 PROPERTY USES

Except as provided by Section 1.02, or as may be provided by due amendment, no land or premises shall hereafter be used, and no building or structure erected, used or altered for other than the following purposes:

##### 6.02.A PRIMARY USES (Without Special Approval)

1. Retail stores and shops offering chiefly new merchandise when conducted primarily within buildings having four walls and a roof, but not excluding antique shops.
2. Personal service shops, such as beauty parlors, barber shops, tailor shops, shoe repair and the like.
3. Motor vehicle and boat repair shops.
4. Professional offices, such as doctors, lawyers, dentists, engineers and architects.
5. Restaurants, food and drink services, but not including drive-ins.
6. Banks. Showrooms. Undertaking establishments.
7. Recreational facilities, but not including drive-ins.
8. Public buildings.
9. Civic, social and fraternal buildings.
10. Accessory buildings, structures and uses customarily incidental to any Permitted Use or Approved Use, but not including any building or structure for dwelling purposes.
11. Motels. 3/16/89

##### 6.02.B. CONDITIONAL USES (As provided by Section 11.10 and Article 18)

1. Gasoline stations. Garages
2. Parking lots. Used car lots.

3. Drive-in establishments.
4. Trailer coach parks.
5. Veterinary services and hospitals, but not including dog kennels.
6. Dry cleaning. Self-service laundries.
7. Dance halls.
8. Transformer stations and substations, but not including service or storage yards.
9. Warehouses, storage buildings.
10. Light manufacturing when housed within buildings, for the repair, alteration, finishing, assembling or fabrication of goods primarily for local or retail sale.
11. Dwellings (*see dwelling regulations 21.01.A and definition of dwelling, 15.02.A and dwelling unit 15.02.B*).

## SECTION 6.03 STANDARDS OF PERFORMANCE

1. No use shall constitute a nuisance to adjacent premises.
2. No use shall discharge any produced dust, odorous matter, or noxious, corrosive or toxic fumes, or physical vibration and excessive noise, or heat or glare beyond the premises whereon located. Consideration shall also be given to the intensity of the use, its hours of operation and potential traffic generation, and the impact of these factors on adjacent land use and zoning districts.
3. Minimum yard requirements will be in accordance with the appropriate standards on page 45, except that the zoning commission may require yard requirements greater than the prescribed minimum in order to insure compliance with subsections 1 and 2 above, with consideration for preserving the intent and health, safety and welfare objectives of this ordinance.
4. On premises, parking and loading space shall be provided for all owned and leased vehicles. Parking space no less in proportion than (1) space for every two (2) employees for each working shift shall be provided on the premises. The total number of intended employees shall be specified.

## SECTION 6.04 DRAWINGS

In addition to the requirements of Section 1.02, the drawings shall include the location of all parking areas and loading facilities; all waste disposal areas; all outdoor storage areas; all roads and drives on the premises; all fences, enclosure walls and barriers; and all special construction on the premises.

## **SECTION 6.05 STATEMENT OF OPERATING CONDITIONS**

The application shall include a written statement of the effects of the operation on traffic in the neighborhood; on water and air pollution; on noise and glare conditions; on fire and safety hazards; on emission of dangerous or obnoxious matter; and on the proposed treatment of any such conditions. It shall show plans for the disposal of sewage and all industrial waste; with such plans being approved by the Health Department. It shall specify the plans for smoke and pollution controls.

## **SECTION 6.06 DETERMINATION BY COUNTY ZONING COMMISSION**

Following receipt of an application, the Zoning Administrator shall file his/her recommendation with the County Zoning Commission which shall make the determination thereof. The Commission shall take actions within thirty (30) days or the application will be considered approved. However, it is the applicant's responsibility to make application at least ten (10) days prior to the Zoning Commission's regularly scheduled meeting.

## ARTICLE 7

### INDUSTRIAL DISTRICTS, M

The following provisions shall apply to all Industrial Districts M.

#### SECTION 7.01 PURPOSE

The primary purpose of Industrial Districts, is to provide areas for the encouragement and conduct of industry; for processing raw and semi-finished materials, for storage of industrial products; and for location of wholesale establishments.

#### SECTION 7.02 PROPERTY USES

Except as provided by Section 1.02, or as may be provided by due amendment, no land or premises shall hereafter be used, and no building or structures erected, used or altered for other than the following purposes:

1. The manufacture and testing of any product, goods, or materials, including repair, storage and sale at wholesale of such products or materials.
2. Wholesale commercial establishments, including contractors' yards and buildings, but without retail activities.
3. Reduction, conversion and disposal of waste goods and materials.
4. Junkyards, including baling and disposal of scrap materials, but, not as dumps (These junkyards must conform to any existing or future County or State Junkyard Ordinances.)
5. Public utility buildings and structures.
6. Lumber and coal yards, and storage of similar materials.
7. Accessory uses customarily incidental to any permitted or approved use including office facilities, food services for employees and caretaker's facilities.
8. Manufacture of Forest Products 3/16/89

#### SECTION 7.03 STANDARDS OF PERFORMANCE

1. No use shall constitute a nuisance to adjacent premises.
2. No use shall discharge any produced dust, odorous matter, or noxious, corrosive or toxic fumes, or physical vibration and excessive noise, or heat or glare beyond the

premises whereon located. Consideration shall also be given to the intensity of the use, its hours of operation and potential traffic generation, and the impact of these factors on adjacent land use and zoning districts.

3. Minimum yard requirements will be in accordance with the appropriate standards on page 45, except that the zoning commission may require yard requirements greater than the prescribed minimum in order to insure compliance with subsections 1 and 2 above, with consideration for preserving the intent and health, safety and welfare objectives of this ordinance.
4. On premises, parking and loading space shall be provided for all owned and leased vehicles. Parking space no less in proportion than (1) space for every two (2) employees for each working shift shall be provided on the premises. The total number of intended employees shall be specified.

## SECTION 7.04 DRAWINGS

In addition to the requirements of Section 12.02.A, the drawings shall include the location of all parking areas and loading facilities; all waste disposal areas; all outdoor storage areas; all roads and drives on the premises; all fences, enclosure walls and barriers; and all special construction on the premises.

## SECTION 7.05 STATEMENT OF OPERATING CONDITIONS

The application shall include a written statement of the effects of the operation on traffic in the neighborhood; on water and air pollution; on noise and glare conditions; on fire and safety hazards; on emission of dangerous or obnoxious matter; and on the proposed treatment of any such conditions. It shall show plans for the disposal of sewage and all industrial waste; with such plans being approved by the Health Department. It shall specify the plans for smoke and pollution controls.

## SECTION 7.06 DETERMINATION BY COUNTY ZONING COMMISSION

Following receipt of an application, the Zoning Administrator shall file his/her recommendation with the County Zoning Commission which shall make the determination thereof. The Commission shall take actions within thirty (30) days or the application will be considered approved. However, it is the applicant's responsibility to make application at least ten (10) days prior to the Zoning Commission's regularly scheduled meeting.

## ARTICLE 8

### LAKE DISTRICTS, L-1, L-2, L-3, L-4

#### SECTION 8.01 PURPOSE

These districts are established to promote the proper use and conservation of Lake Frontage of the County, particularly adapted to recreational uses. The lot requirements are intended, among other things, to provide adequate conditions for safety in water supplies and in disposal of sewage, and to reduce spread of fire in the event of conflagration, and to maintain the aesthetics of the area.

#### SECTION 8.02 PROPERTY USES

Except as provided by Section 1.02, or as may hereafter be provided by due amendment, no land or premises shall hereafter be used, and no building or structure erected, used or altered for other than the following purposes:

##### 802.A PRIMARY USES (Without Special Approval)

1. Year-round and seasonal dwelling (*see dwelling regulations 21.01C and definition of dwelling, 15.02A and dwelling unit 15.02B*), cottages and tourist cabins.
2. Trailer Coaches as provided by section 11.05.C
3. Accessory buildings, structures, and uses, customarily incidental to any permitted use.

##### 802.B CONDITIONAL USES (As provided by Section 11.08)

1. Seasonal campground.
2. Boat liveries, seasonally operated.
3. Parks, playgrounds.
4. Retail stores and shops, restaurants, motels, cabin courts, gasoline stations garages and resort lodges.
5. Trailer coach parks.

#### SECTION 8.03 LOT SIZES

##### 8.03.A L-1 Districts (Lakes of over 640 acres in size.)

Except for properties presently containing lesser lot sizes on descriptions record in the County Register of Deeds Office on the date of adoption of this ordinance, all L-1 lake property lots

shall consist of a minimum of one hundred (100) feet lake frontage (side lines of lot shall be one hundred (100) feet apart at lake front), with a minimum lot size area of 20,000 square feet (.46 acres).

#### 8.03.B L-2 Districts (Lakes between 100 and 640 acres in size)

All requirements for L-2 lake property lots shall be the same as found in 8.03.A, except, that lots shall consist of a minimum of one hundred fifty (150) feet of lake frontage and have a minimum lot size area of 40,000 square feet (.9 acres). 150' x 267' min.

#### 8.03.C L-3 Districts (Lakes between 20 and 99 acres in size)

All requirement for L-3 property lots shall be the same as found in 8.03.A, except, that lots shall consist of a minimum of three hundred and thirty (330) feet of lake frontage and have a minimum lot size area of 108,900 square feet (2 ½ acres). 330' x 330' lot min.

#### 8.03.D L-4 Districts (Lakes between 5 and 19 acres in size)

All requirements for L-4 lake property lots shall be the same as found in 8.03.A, except, that lots shall consist of a minimum lot size of 435,600 square feet (10 acres).

### SECTION 8.04 SETBACKS

1. Setback requirements for buildings and structures shall by (50) feet from the water's edge.
2. A four hundred- (400) foot setback shall be required for the extraction of sand, gravel or other minerals.
3. Every use shall establish and maintain the following:  
L-1, L-2, L-3, L-4 Districts, a "greenbelt" thirty (30) feet wide from the water's edge, consisting of 20% of the natural tree and shrub condition. Trees and shrubs within the "green belt" may be trimmed or pruned to afford a view of the fronting waters and for access to any boat dock. No clear cutting shall be permitted.
4. Cropping or livestock rearing together with fencing shall not be permitted in an area within two hundred (200) feet of the water's edge.

## 8.04.A FLOOD AREAS AND GROUND WATER PROTECTION

No dwelling may be constructed on lands that are subject to flooding or on land with less than six (6) feet between the finished grade level of the ground surface and the water table. Land filling may be permitted to meet the minimum requirements under the following conditions:

- a. A permit must be secured from the Department of Natural Resources, under Act 346, P.A. 1972 (Inland Lakes and Streams Act) and/or Act 347, P.A. 1974 (Soil Erosion and Sedimentation Act).
- b. The "green belt", as above, shall be maintained.
- c. No material is allowed to enter the water, either by erosion or other mechanical means.
- d. Fill material is of a type recommended by the Department of Health or Soil Conservation Service, or any other pertinent agency.
- e. Filled areas shall be planted and maintained with native perennial vegetation.

## 8.04.B ROADS OR TRAILS FOR MOTORIZED TRAVEL

No roads or trails will be built within two hundred (200) feet of the water's edge. However, driveways to cottages are permitted outside the "green belt".

## ARTICLE 9

### STREAM DISTRICTS, S

The following provisions shall apply to all Stream District I areas:

#### SECTION 9.01 PURPOSE

The primary purpose of this zoning district is to preserve and enhance the wilderness characteristics of all stream and river systems, as defined herein, for the benefit of present and future generations, to protect the fish, wildlife and forest resources, water quality, scenic and aesthetic qualities and historical and recreational values. The secondary purpose of this district is to provide low density seasonal cottage or cabin use on lots of sufficient area to accommodate the safe and healthful use of on-site water and waste disposal facilities. Upon receiving any application for the same, instruct the applicant of the primary use of the area and its incidental wilderness characteristics. If development is to occur, the administrator, in accord with the stated purposes, shall insure that said development is compatible with the wilderness characteristics of the area and shall consult with the Department of Natural Resources District Fisheries Executive and Area Forester to insure that said development does not damage the natural river resources.

#### SECTION 9.02 PROPERTY USES

Except as provided by Section 1.02, or as may hereafter be provided by due amendment, no land or premises shall hereafter be used, and no building or structure erected, used, or altered for other than the following purposes:

##### 9.02A PRIMARY USES (Without Special Approval)

1. Hunting, fishing, trapping and other recreational activities not restricted by statutes, including cabins thereof (HFT Cabins; request a written policy for off-grid uses).
2. Commercial timber harvest beyond *one-hundred (100) feet* of the water's edge.
3. Reforestation.
4. Seasonal cottages
5. Accessory buildings, structures, and uses customarily incidental to any permitted use, but not including any structure for dwelling purposes.
6. Trailer Coaches as provided by Section 11.05.C

#### SECTION 9.03 LOT SIZES

Except for properties presently containing lessor lot sizes on descriptions recorded in the County Register of Deed's Office on the date of adoption of this ordinance, all stream district lots shall consist of a minimum of three hundred and thirty (330) feet of stream frontage (side lines of lot shall be three hundred and thirty (330) feet apart at stream front) with a minimum lot size of 435,600 square feet (10 acres).

## SECTION 9.04 SETBACKS

1. New buildings and structures shall be setback a minimum of 100 feet from the ordinary high water mark. Variances may be granted in cases of hardship or unusual circumstances.
2. A four hundred (400) foot setback shall be required for the extraction of sand, gravel or other minerals.
3. A greenbelt of natural vegetation consisting of natural trees, shrubs and other vegetation, one hundred (100) feet wide horizontally from the river's edge shall be maintained in its natural condition. Trees and shrubs may be pruned to afford a view of the river. Clear cutting shall not be permitted. The above cutting provisions will not be deemed to prevent the removal of dead or diseased trees.

## SECTION 9.05 FLOOD AREAS AND GROUND WATER PROTECTION

No dwelling may be constructed on lands which are subject to flooding. There shall be at least six (6) feet between the finished grade level of the ground surface and the water table. Land filling may be permitted to meet the minimum requirements under the following conditions excepting the Fox River:

1. A permit must be secured from the Department of Environmental Quality under Parts 31 and 301 of 1994 PA 451 (Inland Lakes and Stream), Part 303 of 1994 PA 451 (Wetlands) and/or from Luce County Planning and Development under Part 91 of 1994 PA 451 (Soil Erosion and Sedimentation).
2. The "greenbelt", as above, shall be maintained.
3. No material is allowed to enter the water, either by erosion or mechanical means.
4. Fill material is a type of recommended by the Department of Health, Soil Conservation Service, or any other regulatory agency.
5. Filled areas shall be planted and maintained with native perennial vegetation.

*For properties located on the Fox River, dredging, grading and filling is prohibited in the floodplain.*

## 9.05.A ROADS OR TRAILS FOR MOTORIZED TRAVEL

No roads or trails will be built within three hundred (300) feet of the water's edge. However, driveways to cottages are permitted outside the "greenbelt".

## 9.06 WATER SUPPLY AND SEWAGE DISPOSAL-STREAM DISTRICT STANDARDS

Stream Districts are subject to additional Septic System Setbacks above and beyond that of Section 11.06A of this ordinance.

1. Septic systems shall be setback a minimum of 150 feet from the ordinary high water mark and 100 feet from any other surface or subsurface drainage system that discharges to the river.

## ARTICLE 10

### RURAL RESIDENTIAL RR-1

The following provisions shall apply to all Rural-Residential Districts, RR-1:

#### **10.01 PURPOSE**

The purpose of this District is to provide areas within the country where a property owner may engage in limited agricultural activities as a way of providing for his/her immediate family's personal needs.

#### **10.02 PROPERTY USES**

Except as provided by Section 1.02, or as may hereafter be provided by due amendment, no land or premises shall hereafter be used, and no building or structure erected, used or altered for other than one of the following purposes:

##### **10.02A PRIMARY USES (Without Special Approval)**

1. One or two-family dwellings (*see dwelling regulations 21.01.A and definition of dwelling, 15.02A and dwelling unit 15.02.B*), including a private garage.
2. Primary and secondary schools.
3. Churches and other buildings or a religious nature.
4. Public owned Parks and Playgrounds.
5. Customary home occupations such as dressmaking, hairdressing, real estate, insurance sales, bookkeeping, dentist, chiropractor, osteopath, attorney, engineer, architect, and similar recognized professions. Such occupation or profession shall be limited to a resident within his dwelling and shall not be pursued in an accessory building or structures on the premises, nor with the assistance of more than one non-residing employee. Such use shall not occupy more than twenty-five (25) percent of the floor space exclusive of attic or basement. It shall show no external indication of such use nor any change in the appearance of the building or premises from a dwelling, except that one non-illuminated sign not exceeding three hundred (300) square inches in area may be attached flat on the front wall of the dwelling to advertise the activity.
6. Trailer Coaches as provided by 11.05.C
7. Agricultural Uses: Beekeeping; tree plantations; livestock raising; poultry raising; orchards; or other similar activities established and maintained for the property owner's and his immediate family's use.
8. Accessory Buildings and Structures: Both agricultural and non-agricultural related accessory buildings and structures may be erected if in compliance with provisions hereinafter set forth. Any building existing at the time of the provisions of this Article

are enacted may be converted to agricultural use regardless of size. However, the square footage to be used for animal husbandry may not exceed the legal limits set forth below.

#### **10.02.B CONDITIONAL USES (As provide for in Section 11.08)**

1. Community-center buildings.
2. Social and recreational uses, when not operated for profit.
3. Community colleges, including dormitory facilities.
4. Mobile Home parks.
5. Veterinary services and hospitals, including kennels.
6. Roadside stands.

#### **10.03 MINIMUM LOT SIZE**

Except for properties presently containing lesser lot sizes on descriptions recorded in the County Register of Deeds Office on the date of adoption of this Article, the minimum lot size in Rural Residential District shall be 330 feet of road frontage by 660 feet in depth.

#### **10.04 AGRICULTURAL ACCESSORY STRUCTURE SIZE LIMIT**

The total square footage of any agricultural accessory building(s), or portions thereof, to be used for animal husbandry may not exceed the maximum size as determined by using the following formula: one hundred and fifty (150) square feet, plus fifty (50) square feet for each one (1) acre in lot size.

#### **10.05 SETBACKS**

Setbacks within Rural Residential Districts shall be the same as in residential R-1, except that, agricultural accessory structures used for animal husbandry, loafing sheds, hog houses, pens, and the like shall be located no closer than three hundred (300) feet to a residence located on adjacent properties, nor no closer than one hundred (100) feet from lot lines of same adjacent properties, if such properties are located in Residential or non-Agricultural Residential District.

## ARTICLE 11

### GENERAL PROVISIONS

#### SECTION 11.01 LAND, YARD AND FLOOR REQUIREMENTS

Every building hereafter erected shall be located on a lot or premises in conformity with the following minimum or maximum limitations as the case may be (Appendix A-Zoning Setbacks).

#### SECTION 11.02 SUPPLEMENTARY LAND AND YARD PROVISIONS

##### 11.02.A LOTS OF RECORD

Every dwelling hereafter erected or altered shall be located on a lot or premises, the description of the boundaries of which are on record at the office of the County Register of Deeds, or in the case of land contract, on file with satisfactory to the Zoning Administrator, as identifying the location of the premises.

##### 11.02.B AREA AND YARD LIMITATIONS

A second dwelling may be permitted by Special Approval only if size of parcel is sufficient to meet minimum lot requirements for each dwelling.

##### 11.02.C EXISTING SUBSTANDARD LOTS

If the area or width of any lot on public record on the date of enactment of this ordinance in any District permitting the erection of dwellings is less than the minimum required, the lot may be used for a one family dwelling and the required width of each side yard reduced not more than fifty (50) percent of the requirement, but not less than five (5) feet in any instance.

##### 11.02.D REDUCTION OF MINIMUM WIDTHS AND AREAS

On existing legal non-conforming (Sub-Standard Lots) parcels as defined in 11.02 C of this ordinance the minimum lot area and width requirements for any dwelling may be reduced not more than twenty five (25) percent if connection is made to a public water supply and to not more than forty (40) percent if to both a public water supply and sewage disposal system but in no case, shall a lot be less than sixty (60) feet in width.

## **11.02.E USE OF YARD SPACE**

No yard encompassing a dwelling shall hereafter be used for the open-air storage, wrecking, parking, dismantling, accumulation, or abandonment, either temporarily or otherwise, of any disused, discarded, or dismantled vehicle, machinery, apparatus, implement, furniture, appliance, junk or similar property.

## **11.02.F ROAD OR HIGHWAY INTERSECTION**

No building or structure, tree, bush, or other vegetation or obstruction shall be erected, planted or maintained less than fifty (50) feet from the intersection of the right-of-way lines of any public road or highway with that of any other public road or highway.

## **11.02.G ACCESSORY BUILDINGS**

All attached accessory buildings and structures, including garages, open porches and breezeways shall be considered a part of the main building in determining yard requirements. All attached buildings shall be located no less than ten (10) feet from any side lot line, and not less than the required setback of the main building on the premises.

## **11.02. H DRIVEWAYS**

All driveways shall be a minimum of ten (10) feet from any lot line, unless, written permission is obtained from the adjacent property owner(s).

## **SECTION 11.03 NONCONFORMING USES**

### **11.03.A DELETED**

### **11.03.B. CHANGE**

No non-conforming use shall be changed to other than a conforming use, nor shall any conforming use be reverted to a former non-conforming use, after the use has been changed to a conforming use.

## **SECTION 11.04 NONCONFORMING BUILDINGS AND STRUCTURES**

### **11.04.A DELETED**

### **11.04.B MINOR REPAIRS**

Nothing in this ordinance shall prevent such minor repairs of a non-conforming building existing on the date of enactment of this ordinance as may be reasonably necessary to secure advantageous use thereof during its natural life. Provide that, no such repair shall result in change or enlargement of use, and provided, further, that the owner obtains a certificate of approval therefore, as hereinafter provided.

### **11.04.C RECONSTRUCTION OF DAMAGED NONCONFORMING BUILDINGS**

No non-conforming building damaged by fire, explosion, storm, earthquake or similar uncontrollable cause shall be restored, except in conformity with the provisions of this ordinance.

## **SECTION 11.05 TRAILER COACHES**

### **11.05.A GENERAL LIMITATIONS**

The location and occupancy of trailer coaches, recreational vehicles, park model seasonal homes, tents and similar portable facilities shall be limited to licensed trailer coach parks (campground section 15.15 LCZO) and as set forth in section 11.05.C LCZO, except that such facilities may be utilized for seasonal dwelling purposes without such limitations when located in the Recreational-Forest Zoning District, Lake-4 District and Stream Districts without availability of franchised electrical grid power.

## **11.05.B USE OF TRAILER COACH DURING CONSTRUCTION OF DWELLING**

A property owner in any District may be permitted to erect or move not more than one trailer coach upon any premises which qualifies for a dwelling, and occupy the same for dwelling purposes during the actual construction of his dwelling thereon. Period of occupancy may not exceed twelve (12) consecutive months from the date of issuance of a certificate of compliance for such construction. Extensions may be granted, however, in extenuating circumstances. Granting of a certificate of compliance shall be contingent upon compliance with the following conditions:

1. Installation of water supply and sewage disposal facilities in conformity with the Requirements of Section 11.06, and approval of the same by LUCE-MACKINAC HEALTH DEPARTMENT shall precede occupancy of the trailer coach.
2. In a space provided on a copy of the certificate of compliance retained for filing, the applicant shall affix his signature indicating he has full knowledge of the limitation of the certificate, including penalties that may be imposed in violation of the terms thereof.
3. Up to three (3), twelve-month extensions may be granted, however, under proven extenuating circumstances.

SECTION 11.05.C PARKING, STORAGE, and OCCASIONAL and SEASONAL USE of RECREATIONAL VEHICLES; AS WELL AS PARK MODEL SEASONAL RECREATIONAL HOMES with up to a maximum of 560 square feet of factory constructed living area

A. Definition of Recreational Vehicle. For the purpose of this section, a recreational vehicle (RV) means any self-propelled or capable of being self-propelled or capable of being towed and primarily designed and constructed to provide recreational uses, or provide temporary living quarters for camping, or recreational travel, which normally would be required to be licensed by the State of Michigan but not designated as a park model recreational vehicle or mobile home on the Certificate of Title. A recreational vehicle includes but is not limited to; utility trailer utilized for recreational equipment, trailer coach; camping trailer; full tent trailer; motor vehicle (ATV). Where recreational vehicle(s) are placed on or within a utility trailer, they will be together considered one (1) recreational vehicle.

AA. Definition of a Park Model Seasonal Recreational Home. For the purpose of this section, a park model recreational seasonal home (PMRSH) is designed to provide temporary accommodations for seasonal use. They are built on a single chassis, mounted on wheels and have a gross trailer area not exceeding five hundred sixty (560) square feet in the set-up mode and comply with the ANSI A119.5 Standard for use as a seasonal, recreational or camping use only.

B. Storage and Temporary Occupancy

A person may temporarily park, store, or temporarily occupy, as an accessory use, an RV in a residential type land use district, subject to the following conditions:

- Permitted Location: only one RV, may be stored or temporarily occupied beyond the front plane of an approved structure conforming to the front zoning setback requirements at the location. Additional recreational vehicles shall be stored behind the front plane of the structure. Only one (1) RV shall temporarily be occupied on vacant land without the approval of the local Health Department per Section 15.15 of the Luce County Zoning Ordinance (LCZO) for a “trailer coach park”, provided a trailer coach park has been listed as a conditional use for the district and approved by the Luce County Planning Commission at a public hearing.
- Setback: An RV shall be placed at least ten (10) feet from the front, side or rear property lines, drainage ditches, granted easements or Right-of-Ways.

- State Licensed and Vehicle Conditions: An RV shall be owned, rented, or leased by an owner or occupant of the property on which the recreational vehicles are temporarily parked, stored or temporarily occupied and shall have a current license from the Michigan Department of State. All recreational vehicles parked, stored or temporarily occupied outside of an enclosed accessory structure shall be kept in a state of proper repair and secured to prevent unauthorized entry. No RV may have the wheels removed or be affixed to the ground so-as-to prevent the immediate, ready removal of the RV.
- Temporary Occupancy: Only one RV per lot or parcel, may be temporarily occupied for a maximum of one hundred eighty (180) days of total occupancy per calendar year. A RV, owned by the property owner or tenant, shall not be rented out for occupancy, on the property, as any type of rental unit. A RV may be temporarily connected to a potable water supply, septic system and electricity that has been approved by the local Health Department and a franchised electrical power supplier.
- Use Fee: A copy of a “Recreational Vehicle Occasional Use Permit” for each occasional use occupancy period, must be obtained from the Luce County Zoning Department Office. The permit may indicate the dates of use for each permitted occupancy separately, or for the planned occupancies up to the maximum allowed per year beginning Jan 1<sup>st</sup> and ending December 31<sup>st</sup>. The address specific permit shall include a home mailing address, a contact phone number and a signature of the applicant, attesting to the understanding of the standards of this section of the LCZO and the County’s authority from Section 13.02 PENALTIES, for the enforcement of non-conforming violations. The fee for the permit shall be fifteen dollars (\$15.00) (the Luce County Board of Commissioners may adjust this amount from time to time) per use, up to the maximum days allowed (one permit may be issued for planned dates throughout the entire year or may be issued separately for each use period, as requested). The permit SHALL BE POSTED in a **protected** and an easily **visible** location, near the right-of-way at the property entrance, for verification by a Sheriff Deputy or Code Enforcement Officer while responding to a complaint. Permits will be kept as public record at the Zoning Department Office, as public record, for code enforcement purposes. Violations of this section and other applicable sections of the LCZO shall be enforced as set forth in Article 13 VIOLATIONS AND ENFORCEMENT of the LCZO.
- Seasonal Occupancy: Only one PMSRH per lot or parcel, may be seasonably occupied as defined in Section 15.09 “SEASONAL”; LCZO. A PMSRH shall not be placed until an approved zoning, septic, well and building set-up permit (soil and sedimentation and wetlands permits where required) has been issued for the location. A copy of the Michigan Certificate of Title verifying the applicant as the owner, with the serial numbers matching the PMSRH, shall be submitted with the building permit application.
- Non-titled or non-traditional vehicles; conversions: Non-traditional type recreational vehicles including, but not limited to, converted busses, converted trucks, converted step vans/box trucks, converted mobile homes, converted storage trailers and

containers, and so forth, shall be prohibited to be occupied as recreational vehicles, without sealed and approved design drawings and specifications from an Architect or Engineer licensed to do business in the State of Michigan.

- Non-Conforming Use: A RV or PMSRH shall not be used as permanent living quarters or a permanent dwelling of any kind, in any manner other than the standards listed in this section.

An RV or PMSRH shall not be permitted to have any type of addition constructed and connected to the RV or PMSRH. Free standing structures without permanent roof systems (decks) may be permitted when in conformity and in compliance with the Luce County Zoning Ordinance and the Michigan Residential Building Code, as well as any other applicable jurisdiction of authority.

Free standing roof covers (carports) for seasonal protection may be permitted, if the RV can be immediately removed without disassembling the protective roof cover.

## **SECTION 11.06 WATER, SUPPLY AND SEWAGE DISPOSAL**

### **11.06.A GENERAL STANDARDS**

Every building or structure hereafter erected on any premises and used in whole or in part for human occupancy or frequency shall be provided with a safe and sanitary water supply, a septic tank system of sewage disposal, and a system of waste disposal erected and maintained in accordance with the standards of material and installation recommended by the Michigan Department of Health, provided, that, an outside privy erected and maintained in accordance with standards, recommended by the Michigan Department of Health may be permitted in Forestry and Recreation Districts. Stream Districts are further regulated by Article 9 Section 9.06.

## **SECTION 11.07 VEHICULAR PARKING**

Off street parking space with adequate access to all such spaces hereafter be provided in all districts at the time of erection of enlargement of any main building or structure for the parking, loading and unloading of vehicles in proportions no less than shown in the following table. Approval of each exit and entrance shall be obtained from the County Road Commission, such approval shall include the design and construction thereof in the interests of safety, adequate drainage and other public requirement. Adequate space shall be included in the parking area to facilitate turning of vehicles so that entry on the highway may be in a forward manner, and not by backing onto the highway.

### **SECTION 11.07.A USE**

1. Business offices, and professional offices of architects, engineers, lawyers and similar professions.
2. Barber shops and beauty parlors.
3. Bowling alleys.
4. Churches, theaters and auditoriums.
5. Community clubs, dance halls, fraternal organizations, private clubs.
6. Dwellings.
7. Hospitals, clinics and similar establishments.
8. Laundromats.

9. Professional offices: Doctors, Dentists and similar professions, Banks.
10. Restaurants and similar establishments for sale and service of food and drinks.
11. Retail stores.
12. Tourist, boarding and lodging homes.
13. Loading and unloading space.

#### **SECTION 11.07.B MINIMUM NUMBER OF SPACES PER UNIT (SEE 11.07A USE)**

1. One for each four hundred (400) square feet of usable office or business space.
2. Two (2) for each beauty or barber shop chair.
3. Five for each bowling lane.
4. One for each hundred (100) square feet of usable floor space.
5. One for each one hundred (100) square feet of usable floor space.
6. One for each family.
7. One for each four (4) beds, and one for each two (2) employees and/or staff members.
8. One for each two (2) wash machines.
9. One for each one hundred (100) square feet of usable floor area, and not less than four (4) spaces, whichever is greater.
10. One for each one hundred (100) square feet of usable floor space.
11. One for each one hundred fifty (150) square feet of usable floor space.
12. One for each guest room.
13. Every building or structure engaged in loading and unloading goods shall provide space on the premises in addition to that required for parking as herein provided, for the loading, unloading and standing of all vehicles, to avoid undue interference with public use of the public highway.

## **SECTION 11.08 USES BY SPECIAL APPROVAL**

### **11.08.A GENERAL REQUIREMENTS**

Uses by Special Approval where required, shall be subject to the provisions of the Zoning District wherein located to the provisions of this section, to prevent conflict with or impairment of the primary uses of the district. Each such use shall be considered an individual case.

### **11.08.B SPECIFIC REQUIREMENTS**

1. Written application to the County Planning Commission shall be made through the office of the Planning Director, and shall include the following:
  - a. Name of applicant and owner of premises.
  - b. Legally recorded description of premises.
  - c. Description of proposed use, including parking facilities, if required, and any exceptional traffic situation that the use may occasion. Also, a copy of an approved drive-way permit, if required.
  - d. Sketch drawn to scale showing size of building or structure and location of premises.
  - e. Sewage and waste disposal and water supply facilities, existent or proposed for installation.
  - f. Use of premises on all adjacent properties.
  - g. A statement by applicant appraising the effect of the proposed use on adjacent properties and the general development of the neighborhood.
2. The Planning Director shall file his recommendations with the Planning Commission which shall then make determination. The Commission may hold a public hearing upon the application. In reaching its determination, the Commission shall consider the following, among other things:
  - a. Whether the sewage disposal facilities and water supply will be safe and adequate.
  - b. Whether the location, use and the nature of the operation will be in conflict with the primary permitted uses of the district or neighborhood.
  - c. Whether the use will be more objectionable to adjacent and nearby properties than the operation of the primary uses of the district, by reason of traffic, noise, vibration, dust, fumes, smoke, odor, fire hazard, glare, flashing lights, or disposal of waste or sewage.
  - d. Whether the use will discourage or hinder the appropriate development and use of adjacent premises and neighborhood.
  - e. Whether the use will create a major traffic problem or hazard.

## **SECTION 11.09 UNLISTED PROPERTY USES AND BUILDINGS**

The County Zoning Commission shall have the power, on written request of a property owner, to classify a use or building not specifically listed in any District with a comparable permitted or prohibited use specified in the ordinance, give due consideration to the purposes of this ordinance as expressed by Section 1.01. When found incomparable, such use may be provided only by due amendment to the ordinance.

## **SECTION 11.10 ESSENTIAL SERVICES**

The erection, construction, alteration, or maintenance by public utilities including railroads or municipal departments or commissions, of underground or overhead gas, electrical communications, streams, or water distribution or transmission systems, collection, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles and other similar equipment and accessories in connection therewith, but including buildings, reasonably necessary for the furnishings of adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare, shall be permitted as authorized and regulated by law and this zoning ordinance.

## **SECTION 11.11 PUBLIC UTILITY BUILDINGS AND PUBLIC BUILDINGS**

The County Zoning Commission may permit the erection and use in any Zoning District of a publicly owned building or a public utility building, if the Commission finds such building use reasonably necessary for the public convenience and service.

## ARTICLE 12

### ADMINISTRATION

#### SECTION 12.01 ZONING ADMINISTRATOR

The provisions of this ordinance shall be administered by a Zoning Administrator, who shall be appointed by the Board of Commissioners for such term and subject to such conditions as the Board of Commissioners deem desirable to carry out the provisions of this ordinance. He/She shall hold office at the pleasure of the board, and receive such compensation as shall be determined by the board.

#### SECTION 12.02 CERTIFICATE OF APPROVAL

##### 12.02.A APPLICATION FOR CERTIFICATE

Before proceeding with the erection, moving, or use of any building, or premises, subject to the provisions of this ordinance, the owner of the premises shall first apply for a Certificate of Approval from the Zoning Administrator. Application shall be accompanied by an acceptable description of the location of the premises, by evidence of ownership of all property to be covered by the certificate, and by a blue print or pen-and-ink sketch to scale, showing:

1. The shape, area, dimension and intended use of the premises.
2. The kind, dimensions, height and location of the building or structure to be erected or moved on the premises, including all yard dimensions and accessory buildings if any.
3. The location and type of sewage disposal system and water supply facilities.

##### 12.02.B. ISSUANCE AND LIMITATION OF CERTIFICATE

1. If the Zoning Administrator finds the application conforms to the requirements of the Ordinance and other applicable law, he/she shall mark both copies approved over his/her signature, including the date. Once copy shall be filed in his/her office. The other shall be delivered to the applicant together with a notice stating the terms of the certificate, which notice shall be displayed and remain on the premises during the progress of any construction authorized.
2. Any certificate under which no work has been done within twelve (12), consecutive months of issue, shall expire by limitation.
3. The Zoning Administrator shall have the power to revoke or cancel any certificate in case of failure to neglect to comply with provisions of this ordinance, or in the case of false statements or misrepresentation made in the application. The owner shall be given notice of liability of voiding action before revocation, which notice shall be in writing.

## 12.02.C INSPECTION

The erection of every building or structure may be subject to three inspections.

1. When use or building area is staked prior to excavation beginning.
2. When excavation for foundation is complete and building lines established.
3. On completion of the construction.
4. Failure to give proper notification shall automatically cancel the certificate and require issuance of a new certificate before construction may proceed or occupancy be permitted.

## 12.02.D FEES

For each permit application, a fee shall be paid to the County Treasurer. No permit application shall be valid until the required fee is paid. The schedule for fees required by this ordinance shall be established from time to time by the Board of Commissioners.

## ARTICLE 13

### VIOLATIONS AND ENFORCEMENT

#### SECTION 13.01 VIOLATIONS

Buildings and structures, erected, altered, moved or converted, or any use of land or premises carried on in violation of any provisions of this ordinance are declared to be a nuisance per se. The Planning Director shall inspect each alleged violation and shall order correction in writing to the owner of the premises of all conditions to found to be in violation.

#### SECTION 13.02 PENALTIES

Any person, persons, firm and corporation, or any others acting on behalf of said person, persons, firm or corporation, violating or failing to comply with any of the provisions of this Ordinance, or any of the regulations adopted in pursuance hereof, or who shall hamper, impede or interfere with the performance of the duties of any official or agent of the Zoning Administrator or other office under the provisions of this code, is responsible for a municipal infraction. The penalties for the violations shall be as follows:

- 1) The civil fine for a first violation shall be \$50 for the infraction, plus costs and other sanctions.
- 2) Increased fines shall be imposed for repeated violations of any requirement or provision of this code. As used in this Section "repeat offense" means a second (or any subsequent) municipal infraction violation of the same requirement or provision (i) committed by a person, persons, firm and corporation, and (ii) for which the person, persons, firm ad corporation, or any others acting on behalf of said person, persons, firm or corporation admits responsibility or is determined to be responsible. A party, as set forth above, who commits a "repeat offense" shall be guilty of a misdemeanor and
  - a) The fine for any offense that is a first repeat offense shall be \$100 and up to 90 days in jail.
  - b) The fine for any offense which is a second repeat offense of any subsequent repeat offense shall be \$200, up to 90 days in jail, and any equitable action necessary to remediate the violation, including, but not limited to clean up and assessment of costs for same together with collection against the property.

- 3) Each act of violation and every day upon which such violation shall occur shall constitute a separate offense. Abatements shall not be considered as payment or part of a violation's penalty. Attorney's fees or consultant costs incurred by the County as a result of enforcement under this code may be recoverable if the County prevails determined by the court.
- 4) The Luce County Planning Director is designated as the authorized County official to issue municipal civil infraction citations for violations of the Code.
- 5) The Luce County Prosecuting Attorney is designated as the prosecuting official for all "repeat-offense" violations.

## **SECTION 13.03 PROCEEDINGS**

The Zoning Administrator, upon notice by any means, may institute injunction, abatement, mandamus, or any other appropriate action or proceedings to prevent, enjoin, abate or remove any unlawful erection, alteration, maintenance or violation. The rights and remedies provided herein are cumulative in addition to all other remedies provided by law. The equitable remedies may include, but are not limited to, a lien against the real property that is the subject of the enforcement action. Said lien may include, but is not limited to, the ability to foreclose said lien after one (1) year from date of judgement. Said foreclosure may be by publication and shall include all necessary powers and rights, including but not limited to the power of sale and right of acceleration.

## ARTICLE 14

### ZONING BOARD OF APPEALS

#### SECTION 14.01 CREATION AND MEMBERSHIP

There is hereby established a Zoning Board of Appeals from electors of the County, as provided by Section 18 of the County Rural Zoning Act, as amended.

#### SECTION 14.02 POWERS

The duties and powers of the Board of Appeals shall include the following:

##### 14.02.A REVIEW

Hear and decide upon request for interpretation of the Zoning Administrator or other agent acting under the terms of the ordinance.

##### 14.02.B INTERPRET

Hear and decide upon request for interpretation of the provisions of the ordinance.

##### 14.03.C VARIANCES

Grant variances on appeal respecting any provisions of this ordinance if the same cause practical difficulties or undue hardship in conforming to the strict letter of the ordinance, to the end that the spirit of the ordinance is observed, equity achieved, and justice done, provided, however, that this provision shall not be construed as permitting the Board of Appeals to amend the ordinance, or change any use of property under guise of the variance.

#### SECTION 14.03 PROCEEDINGS

##### 14.03.A ADOPTION

The Board of Appeals shall adopt proceedings in accordance with the provision of Sections 20 to 23 inclusive of the County Rural Zoning Act, as amended.

#### **14.03.B WRITTEN REQUESTS**

All requests for variances, appeals or special exceptions shall be filed with the County Clerk (accompanied by a fee, which fee shall be fixed by the Board of Commissioners).

#### **14.03.C LIMITATIONS**

All appeals shall be made to the Board of Appeals within thirty (30) days after the date of any decision constituting the basis for appeal. Board of Appeals shall return a decision within thirty (30) days after a request or appeal has been filed and heard, unless additional time is agreed upon by all parties concerned.

#### **14.03.D RESUBMISSIONS**

No application for variances or special exceptions which have been denied shall be resubmitted with twelve (12) months from the last denial, except on grounds of newly discovered evidence or proof of change and conditions found to be valid.

## ARTICLE 15

### DEFINITIONS

For the purpose of this ordinance, the following terms are herewith defined:

#### SECTION 15.01 ACCESORY BUILDING OR STRUCTURE

A building or structure on the same premises as the main building devoted exclusively to an accessory use, but not including garage homes, lodging, off-grid HFT cabins or sleeping quarters.

#### SECTION 15.02 DWELLING AND DWELLING UNIT

##### 15.02.A DWELLING

Any building that contains one or two dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.

##### 15.02.B DWELLING UNIT

A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

#### SECTION 15.03 ERECTED

Includes built, constructed, reconstructed, moved upon or any physical operation on the premises intended or required for a building or structure. Excavation, fill drainage, land clearing, and general property improvements shall not be considered as an erection.

#### SECTION 15.04 FARM

All of the un-platted, contiguous, neighboring or associated land operated as a single unit on which bona fide farming is carried on directly by the owner-operator, manager, or tenant farmer by his own labor, or with the assistance of members of his household or hired employees, provided, however, that land to be considered as farm hereunder shall include a contiguous un-platted parcel of not less than ten (10) acres in area; provided further, that greenhouses, nurseries, orchards, apiaries, slaughter houses, stone quarries, fur bearing animals, dog kennels, chicken hatcheries, stockyards, or commercial sand and gravel pits shall not be considered as farms hereunder; nor shall premises operated as fertilizer works, boneyards, or for the reduction of animal matter, or for the disposal of garbage, sewage, rubbish, offal or junk constitute a farm hereunder.

## **SECTION 15.05 HIGHWAY**

Any public thoroughfare, including roads and streets, but not alleys.

## **SECTION 15.06 JUNK**

Any personal property which is or may be salvaged for reuse, resale, reduction or similar use or disposition, or which is possessed, transported, owned, accumulated, dismantled or assorted, for any such reasons. Without limiting the definition of junk, the term shall include used or salvaged metals and their compounds or combinations, used or salvaged rope, bags, paper, glass, rubber, and similar articles and motor vehicles which are parked, deposited, employed, or possessed for the purpose of dismantling or salvaging any part thereof.

## **SECTION 15.07 JUNKYARD**

Any place at which a person engages in the handling, purchase, exchange, accumulation, receipt, storage, sale or disposition of any articles which may be reasonable be defined as junk, except this definition shall not apply to retail merchants who repossess their own merchandise sold on a title retaining contract or chattel mortgage basis.

## **SECTION 15.08 LOT OR PREMISES**

The parcel of land occupied or to be occupied by a building and its accessory building or structures together with such open spaces, minimum area, and width required by this ordinance for the District in which located, and having its frontage upon a public thoroughfare but not necessarily located in a subdivision.

## **SECTION 15.09 SEASONAL**

Year-round occasional use.

## **SECTION 15.10 SIGN**

Any construction, device or portion thereof upon which words, numerals, terms, figures, trademarks, or similar representations are employed for the purpose of conveying information to the public. Includes outdoor advertising media, bulletin boards, sale and rental signs, and the like.

## **SECTION 15.11 STRUCTURE**

Anything constructed, the use of which requires permanent location on the ground or attachment to an object having permanent location on the ground. The term shall include fences, advertising devices, mobile homes, and similar structure.

## **SECTION 15.12 PARK MODEL RECREATIONAL SEASONAL HOME (PMRSH)**

A vehicle designed to provide temporary accommodations for seasonal use. They are built on a single chassis, mounted on wheels, and have a gross trailer area not exceeding five hundred sixty (560) square feet in the set-up mode and comply with the ANSI A119.5 Standard for use as a seasonal recreational or camping use only.

## **SECTION 15.13 MOBILE HOME PARKS**

An area accommodating two or more mobile homes, approved as such by the State Health Department.

## **SECTION 15.14 TRAILER COACH AND CAMPERS**

Any vehicle designed and constructed for recreation, business, or storage purposes having no foundation other than wheels, blocks, skids, jacks, horses, or skirtings, which may be equipped with wheels or other devices for transporting the vehicles from place to place, whether by its own motive power or other means and licensable by the State of Michigan to travel upon highways.

## **SECTIONS 15.15 TRAILER COACH PARKS (CAMPGROUNDS)**

An area accommodating two or more trailer coaches, approved as such by the State Health Department.

## **SECTIONS 15.16 YARD**

A space open to the sky between a building and the lot or property lines of the parcel of land on which located, unoccupied or obstructed by an encroachment or structure except as otherwise provided by this ordinance.

## **SECTION 15.16A YARD, FRONT**

A yard across the full width of the lot or parcel of land extending from the front line of the principle building to the front lot line or highway right-of-way, as the case may be.

#### **SECTION 15.16B YARD, REAR**

A yard extending across the full width of the lot or parcel of land extending from the rear line of the principle building to the rear lot line.

#### **SECTION 15.16C YARD, SIDE**

A yard extending between the side lot line and the nearest side line of the building.

#### **SECTION 15.17 LAKE DISTRICT**

While it appears that various zoning districts, Residential, Recreation-Forest, etc., include some lake shore property, this is not the case. All lakes are included in one of four lake districts that have their own provisions for minimum lot sizes, setbacks, etc.

#### **SECTION 15.18 HUNTING FISHING AND TRAPPING CABINS (HFT)**

An off-grid cabin (where allowed), without indoor plumbing, measuring at least 14 feet x 14 feet with a designated sleeping area of not less than 120 square feet, to be inhabited for occasional stays only with a signed affidavit in the property file attesting to the complete understanding of the allowable uses.

## ARTICLE 16

### KEEPING OF ANIMALS

**Section 16.01 ANIMALS PROHIBITED EXCEPT AS ALLOWED:** The keeping of animals in the various zoning districts is regulated by the applicable provisions of this Article, and except as specifically allowed herein animals shall not be possessed, kept or raised on any premises in Luce County for any hobby, pleasure, commercial or other purpose.

**Section 16.02 DEFINITIONS:** For purposes of this Article the following words and terms shall have the designated meanings:

1. **Animal:** Any live non-human species of mammal and any species of reptile, amphibian, insect or bird.
2. **Animal Unit (or Animals Per Animal Unit):** For purposes of this Ordinance, an animal unit shall be construed as a unit of measure to compare relative differences in the odor producing characteristics of animal wastes, with the following equivalencies applicable to various animals:

#### Large Farm Animals:

a. Cattle:	1.00
b. Horses:	1.00
c. Swine:	1.00
d. Sheep/Goats:	0.50

**Small Farm Animals:**

e. Poultry/Fowl/Rabbits .10

The equivalency for types of livestock not specifically listed above shall be the stated equivalency for the type of animal which is most similar in terms of odor producing characteristics of animal wastes, as determined, if necessary, by the Zoning Board of Appeals.

3. **Domestic Animal:** Any live animal of a species indigenous to the State of Michigan and not a wild animal or farm animal, including dogs and cats, and also including birds, non-poisonous snakes and lizards, non-poisonous insects, and rabbits, kept as household pets.
4. **Exotic Animal:** Any live animal of a species not indigenous to the State of Michigan and not a domestic or a farm animal, including any hybrid animal which is part exotic animal.
5. **Farm Animal:** Any live animal (other than a domestic animal) of a species customarily and normally kept as livestock on a farm; as well as any other animal other than dogs, cats, exotic animals and wild animals, raised for commercial profit or slaughter.
  - a. **Large farm animals:** cows and other bovine, horses and other equine hogs and other swine, sheep and goats and other bovine, and other livestock animals of comparable size.
  - b. **Small farm animals:** chickens, and other poultry, turkeys, ducks, geese, and rabbits, and other livestock animals of comparable size.
6. **Wild Animal:** Any live animal of a species indigenous to the State of Michigan and not a domestic animal or a farm animal including any hybrid animal which is part wild animal.

**Section 16.03 EXOTIC ANIMALS:** Exotic animals are not allowed upon any premises in any zoning district, except in the following situations:

- 1) A public zoo or educational exhibition sponsored by a governmental entity.
- 2) A bona fide licensed circus.

**Section 16.04 WILD ANIMALS:** Wild animals are not allowed to be kept or raised upon any premises in any zoning district, except in the following situations:

- 1) A public zoo or educational exhibition sponsored by a governmental entity.

- 2) A bona fide licensed circus.
- 3) A veterinary clinic lawfully providing professional veterinarian services to a wild animal in need of those services.
- 4) Pursuant to a possession permit issued by the Michigan Department of Natural Resources authorizing temporary non-commercial shelter and/or treatment for an injured or abandoned wild animal until the animal can feasibly be released from captivity.
- 5) Permits to hold Wildlife in Captivity for personal or commercial use shall conform to all state and/or federal permit requirements. Also, the keeping of wild animals in any zoning district shall require a Conditional Use Permit.

## Section 16.05 FARM ANIMALS:

1. R-1 Single Family Residential District: In this zoning district farm animals are allowed as follows:
  - a. Large farm animals are allowed as an accessory use to a dwelling on the premises, subject to all applicable provisions of this Ordinance, including the following density, setback, and other requirements:
    - (1) The premises shall have a lot area of at least 5 acres and a lot frontage Width of a least 200 feet.
    - (2) No more than two large farm animals, only, shall be allowed, with allowance for additional animals on parcels with additional acreage. One additional full animal unit allowed per additional acre (See definition of "Animal Unit" in Section 16.2 of this Ordinance)
    - (3) Barns or shelters shall be located at least 100' feet from all existing residences on adjacent properties.
    - (4) All farm animals shall be confined to the property. Pens for holding livestock, and paddocks and riding rings, shall be located at least 100' feet from all existing residences on adjacent properties.
    - (5) Pastures used for grazing livestock shall be located at least 25' feet from all existing residences on adjacent properties.

- (6) Animal waste storage areas shall be located at least 150' feet from all existing residences on adjacent properties, and at least 75' feet from all adjoining property lines. Waste shall be properly disposed of at appropriate intervals sufficient to avoid the creation of obnoxious odors or insect problems perceptible beyond the boundaries of the subject property.
- (7) Odors, dust, noise and drainage shall be controlled so as to not become a nuisance, hazard or annoyance to adjoining residents or general public.
- (8) All recorded platted subdivisions are excluded from keeping farm animals.

b. Small farm animals are allowed as an accessory use to dwelling on the premises, subject all applicable provisions of this Ordinance, including the following density, setback, and other requirements:

- (1) The premises shall have a lot area of at least 5 acres and a lot frontage/width of at least 200 feet and no more than 50 combined small animals permitted.
- (2) The provisions of Section 16.5, subsection 1.a (1)-(8) of this Ordinance shall be complied with.

## **ARTICLE 17**

### **AMENDMENTS**

Amendments or supplements to this ordinance may be adopted from time to time in the same manner as provided by the County Rural Zoning Act for the enactment of the original ordinance.

#### **SECTION 17.01 INITIATION**

Proposals for amendment or supplements may originate with the County Board of Commissioners, the County Zoning Commission, or by written petition signed by no less than six (6) property owners in the County. Petition by property owners shall show the address of each signer and the location of his property in the County, including the Zoning District wherein located.

#### **SECTION 17.02 ACTION OF COUNTY ZONING COMMISSION**

All amendments or supplements shall be referred to the County Zoning Commission for study, recommendation and such action as provided by Sections 14 and 15 of the County Rural Zoning Act. Only the County Board of Commissioners shall have the power to amend or supplement any provisions of this ordinance.

#### **SECTION 17.03 PUBLICATION**

It shall be necessary to publish only the amended text to the Zoning Ordinance.

## SECTION 17.04 SEVERANCE CLAUSE

Should any article, section clause, or provision of this ordinance be declared by the courts to be invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

## ARTICLE 18

### CONDITIONAL USES PERMITS In COMMERCIAL ZONING DISTRICTS

#### Section 18.01 Veterinary Clinic and Animal Hospital:

- a. The facility shall have frontage on a county primary street.
- b. A facility with outside animal runs or other outside animal activities shall be situated at least 100 feet from any residentially zoned or used property.
- c. A fully enclosed facility without any outside animal runs or other outside animal activities shall be situated at least 100' feet from all property lines.
- d. All Kennel facilities associated with an animal hospital shall be subject to specific standards for a "Kennel" set forth in Section 18 subsection 2 of this Ordinance, except for the kennel facilities setback requirement in part a. of same, which is superseded by the applicable setback requirement in part b. or part c. above.

#### Section 18.02 Kennel:

- a. All kennel facilities, including animal run areas, shall be located at least 100' feet from all property lines. Each kennel facility shall provide sufficient square footage for each animal kept, boarded, bred or trained on the property, in accordance with applicable

state laws, and the recommendations of the Michigan Department of Agriculture and facilities shall have waste disposal systems adequate to handle all animal waste generated from the kennel facilities.

- b. Noise, odor, or other objectionable characteristics associated with the facility shall not be discernible beyond the boundaries of the premises upon which the facility is conducted.
- c. All kennel facilities shall be designed, constructed, operated and maintained in such a manner as to provide humane and sanitary conditions for each animal kept, boarded, bred or trained upon the premises.

## ARTICLE 19

### LAND ZONED FOR RESIDENTIAL DEVELOPMENT

The following provisions shall apply to all land zoned for residential development:

#### SECTION 19.01 PURPOSE

The primary purpose of this article is to enact Act No. 178 Public Acts of 2001, Enrolled House Bill No. 5028.

#### SECTION 19.02 ADDENDUM

Act No. 178 Public Acts of 2001 Approved by the Governor December 14, 2001, filed with the Secretary of State December 15, 2001, Enrolled House Bill No. 5028 is hereby attached and the language adopted in its entirety as governing language within this ordinance. See Addendum 19.02.1.

## ADDENDUM 19.02.1

### STATE OF MICHIGAN 91<sup>ST</sup> LEGISLATURE REGULAR SESSION OF 2001

**Introduced by Reps. Richardville, Ruth Johnson and Kolb**

#### **ENROLLED HOUSE BILL No. 5028**

AN ACT to amend 1943 PA 183, entitled "An act to provide for the establishment in portions of counties lying outside the limits of incorporated cities and villages of zoning districts within which the proper use of land and natural resources may be encouraged or regulated by ordinance, and for which districts provisions may also be adopted designating the location of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety and protective measures that are required for, and the maximum number of families that may be housed in dwellings, buildings, and structures that are erected or altered; to designate the use of certain state licensed residential facilities; to provide for a method for the adoption of ordinances and amendments to ordinances; to provide for emergency interim ordinances; to provide by ordinance for the acquisition by purchase, condemnation, or otherwise, of property that does not conform to the requirements of the zoning districts so provided; to provide for the administering of ordinances adopted; to provide for conflicts with other acts, ordinances, or regulations; to provide sanctions for violations; to provide for the assessment, levy, and collection of taxes; to provide for referenda; to provide for appeals; to authorize the purchase of development rights; to authorize the issuance of bonds and notes; to provide for special assessments; and to prescribe penalties and provide remedies," by amending section 40 (MCL 125.240), as amended by 2000 PA 385, and adding section 16h.

*The people of the State of Michigan enact:*

Sec. 16h. (1) Subject to subsection (4) and section 12, beginning 1 year after the effective date of the amendatory act that added this section, each qualified county shall provide in its zoning ordinance that land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a portion of the land specified in the zoning ordinance, but not more than 50%, that, as determined by the county, could otherwise be developed, under existing ordinances, laws, and rules, on the entire land areas, if all of the following apply:

- (a) The land is zoned at a density equivalent to 2 or fewer dwelling units per acre, or, if the land is served by a public sewer system, 3 or fewer dwelling units per acre.
- (b) A percentage of the land area specified in the zoning ordinance, but not less than 50%, will 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, as prescribed by the zoning ordinance.
- (c) 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 such an extension.
- (d) The option provided pursuant to this subsection has not previously been exercised with respect to that land.

(2) After a landowner exercises the option provided pursuant to subsection (1), the land may be rezoned accordingly.

(3) The development of land under subsection (1) 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.

(4) Subsection (1) does not apply to a qualified county if both of the following requirements are met:

- (a) Since on or before October 1, 2001, the county has had in effect a zoning ordinance provision providing for both of the following:
  - (i) Land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a portion of the land that, as determined by the county, could otherwise be developed, under existing ordinances, laws, and rules, on the entire land area.
  - (ii) If the landowner exercises the option provided by subparagraph (i), the portion of the land not developed will remain perpetually in an undeveloped state by means of a conservation easement, plant dedication, restrictive covenant, or other legal means that runs with the land.
- (b) On or before the enactment date of the amendatory act that added this section, a landowner exercised the option provided under the zoning ordinance provision referred to in

subdivision (a) with at least 50% of the land area remaining perpetually in an undeveloped state.

(5) As used in this section, "qualified county" means a county that meets all of the following requirement:

- (a) Has adopted a zoning ordinance.
- (b) Has a population of 1,800 or more.

(c) Has land that is not developed and that is zoned residential development at a density described in subsection (1)(a).

(6) The zoning ordinance provisions required by subsection (1) shall be known and may be cited as the "open space preservation" provisions of the zoning ordinance.

Sec. 40. (1) As used in this act:

(a) "Agricultural land" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including forage and sod crops; grains, feed crops, and field crops; dairy products; poultry and poultry products; livestock; including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.

(b) "Airport" means an airport licensed by the Michigan department of transportation, bureau of aeronautics under section 86 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.86.

(c) "Airport approach plan" means a plan, or an amendment to a plan, adopted under section 12 of the airport zoning act, 1950 (Excess) PA 23, MCL 259.442, and filed with the county zoning commission under section 151 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.151.

(d) "Airport layout plan" means a plan, or an amendment to a plan, that shows current or proposed layout of an airport, that is approved by the Michigan aeronautics commission, and that is filed with the county zoning commission under section 151 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.10.

(e) "Airport manager" means that term as defined in section 10 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.10.

(f) "Airport zoning regulations" means airport zoning regulations under the airport zoning act, 1950 (Ex Sess) PA 23, MCL 259.431 to 259.465, for an airport hazard area that lies in whole or part in the area affected by a zoning ordinance under this act.

(g) "Conservation easement" means that term as defined in section 2140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140.

(h) "Development rights" means the rights to develop land to the maximum intensity of development authorized by law.

(i) "Development rights ordinance" means an ordinance, which may compromise part of a zoning ordinance, adopted under section 31.

(j) "Greenway" means a contiguous or linear open space, including habitats, wildlife corridors, and trails, that link parks, nature reserves, cultural features, or historic sites with each other, for recreation and conversation purposes.

(k) "Intensity of development" means the height, bulk, area, density, setback, use and other similar characteristics of development.

- (l) "Other eligible land" means land that has a common property line with agricultural land from which development rights have been purchased and that is not divided from that agricultural land by a state or federal limited access highway.
- (m) "PDR program" means a program under section 32 for the purchase of development rights by a county.
- (n) "Undeveloped state" means a natural state preserving natural resources, natural features, or 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.

(2) This act shall be known and may be cited as the "county zoning act".

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Act No. 178

Public Acts of 2001

Approved by the Governor

December 14, 2001

Filed with the Secretary of State

December 15, 2001

EFFECTIVE DATE: December 15, 2001

## ARTICLE 20

### FENCE REGULATIONS

#### SECTION 20.01 PURPOSE

The purpose of this article is to permit such fences that will not, by their reason, size, location, construction or manner of display, endanger the public safety of individuals, obstruct the vision necessary for traffic safety or otherwise endanger public health, safety and morals; and to permit and regulate fences in such a way as to support and complement land use objectives and aesthetic purposes while protecting the rights of adjacent properties in light, air and view.

#### SECTION 20.02 HEIGHT

No fence or hedge shall materially obstruct the vision or motorists on adjacent streets or vision or motorist entering any street or other public way open to vehicular traffic from an adjacent driveway.

#### SECTION 20.03 MAINTENANCE

Any person erecting any fence or hedge shall be fully responsible for the care and maintenance of said fence or hedge and shall assume full responsibility for any damage arising due to the erection of such fence or hedge.

#### SECTION 20.04 SETBACKS

Normally required front, side and rear setbacks need not be met so long as the fence is not trespassing.

## ARTICLE 21

### DWELLING REGULATIONS

#### SECTION 21.01 MINIMUM SIZE OF DWELLINGS

##### 21.01.A RESIDENTIAL (R-1), AGRICULTURAL-RESIDENTIAL (A-R), COMMERCIAL (C-1), AND RURAL-RESIDENTIAL (RR-1) DISTRICTS

1. Every one family dwelling hereafter erected shall have a minimum width throughout the entire length of the dwelling of 14 feet measured between the exterior part of the walls having the greatest length and shall contain not less than 720 square feet of first floor space; every two-family dwelling shall have the same width and shall contain not less than 1,440 square feet of first floor space, which space for both dwellings shall be measured around the exterior of said dwelling each exclusive of an attached garage, open porches or other attached structures including breezeways, tongues and carports.

##### 21.01.B OFF-GRID RECREATIONAL-FOREST (R-F) DISTRICT, L-4 AND STREAM DIST.

1. Every one family seasonal dwelling hereafter erected shall have a minimum width throughout the entire length of the seasonal dwelling of 14 feet, measured between the exterior part of the walls having the greatest length and shall contain not less than 576 square feet of first floor space. Which space shall be measured around the exterior of said seasonal dwelling exclusive of an attached garage, open porches, or other attached structures including

breezeways, tongues and carports.

## 21.01.C LAKE (L-1, L-2, L-3, L-4) AND STREAM(S) DISTRICTS (on-grid properties)

1. Every one family dwelling hereafter erected shall have a minimum width throughout the entire length of the dwelling of 24 feet measured between the exterior part of the walls having the greatest length and shall contain not less than 720 square feet of first floor space which space shall be measured around the exterior of said dwelling exclusive of an attached garage, open porches or other attached structures including breezeways, tongues and carports.

## ARTICLE 22 WIRELESS COMMUNICATION FACILITIES (CELLULAR TOWERS)

### A. Purpose and Intent.

It is the general purpose and intent of the County to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems. However, it is the further purpose and intent of the County to provide for such authorization in a manner which will protect the public health, safety and welfare and retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this section, attempt has been made to balance these potentially competing interests.

- I. Definitions: For the purpose of this section, the following terms and phrases shall be defined as provided below.
  - a. Wireless communication facility; A facility for the purpose of repeat cellular voice, data and broadband internet signals.
  - b. Tower; A structure over two hundred (200) feet in height.
  - c. Pole; A structure two hundred (200) feet in height or less.

Recognizing the number of providers authorized to establish and operate wireless communication services and coverage, it is the further purpose and intent of this section to:

1. Facilitate adequate and efficient provision of sites for wireless communication facilities and ensure that wireless communication facilities are situated in appropriate locations and relationships to other land uses, structures and buildings.
2. Establish predetermined districts in the location, considered best for the establishment of wireless communication facilities, subject to applicable standards and conditions.
3. Recognize that operation of a wireless communication system may require the establishment of facilities in locations not within the predetermined districts. In such

cases, it has been determined that it is likely that there will be greater adverse impact upon neighborhoods and areas within the community. Consequently, more stringent standards and conditions should apply to the review, approval and use of such facilities.

4. Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems and other public services and facility needs.
5. Provide for adequate information about plans for wireless communication facilities in order to permit the community to effectively plan for the location of such facilities.
6. Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused/and or unnecessary facilities in a timely manner.
7. Minimize the negative visual impact of wireless communication facilities on neighborhoods, community land marks, historic sites and buildings, natural beauty areas and public rights-of-way. This contemplates the establishment of as few structures as reasonably feasible, the use of structures which are designed for compatibility, and the use of existing structures.

B. Authorization.

1. As a Conditional Use

In all Zoning Districts, a proposal to establish a new wireless communication facility shall be deemed a conditional use in the following circumstances, subject to the standards set forth in Subsections C, D and E.

- (a) An existing structure which will serve as an Attached Wireless Communication Facility within a nonresidential zoning district, where the existing structure is not, proposed to be either materially altered or changed in appearance.
- (b) A proposed collocation upon an Attached Wireless Communication Facility which has been approved by the County for such collocation.

- (c) An existing utility pole structure located within a right-of-way, which will also serve as an Attached Wireless Communication Facility where the existing pole is not proposed to be materially altered or changed in appearance.
- (d) If it is demonstrated by an applicant that a wireless communication facility in order to operate, is required to be established outside of an area identified in Subsection B.1, subject to the following:
  - 1) At the time of the submittal, the applicant shall demonstrate that a location within the districts identified in Subsection B.1 above cannot reasonably meet the coverage and/or capacity needs of the applicant.
  - 2) Wireless communication facilities shall be of a design such as, without limitation, a steeple, bell tower or the form which is compatible with the existing character of the proposed site, neighborhood, and general area, as approved by the County.
  - 3) Locations outside of the areas identified in Subsection B.1 above shall be permitted on the following sites, subject to application of all other standards contained in this section:
    - a) Municipally owned site.
    - b) Other governmentally owned site.
    - c) Religious or another institutional site.
    - d) Public or private school site.
  - 4) All other criteria and standards set forth in Subsection C and D are met.

## C. General Regulations.

### 1. Standards and Conditions Applicable to All Facilities

All applications for wireless communication facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed, and maintained in accordance with such standards and conditions.

- (a) Facilities shall not be demonstrably injurious to neighborhoods or otherwise detrimental to the public safety and welfare.

- (b) Facilities shall be located and designed to be compatible with the existing character of the proposed site and harmonious with surrounding areas.
- (c) Facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.
- (d) Applicants shall demonstrate an engineering justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights.
- (e) The following additional standards shall be met:
  - (1) The maximum height of the Cellular Tower and antenna shall not exceed five hundred (500) feet and shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant and by other entities to collocate on the structure.
  - (2) The setback of the support structure and accessory structures shall be five hundred (500) feet from the boundary of any residentially zoned property. Otherwise, the setback shall be equal to the height of the support structure from any existing or proposed rights-of-way or other publicly traveled roads shall be no less than the height of the support structure.
  - (3) There shall be unobstructed access to the support structure, for police, fire, and emergency vehicles, and, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement.
  - (4) The division of property for the purpose of locating a wireless communication facility is prohibited unless all zoning requirements and conditions are met.
  - (5) The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform to all district requirements for principal buildings, including yard setbacks. Where an attached wireless communication facility is proposed on the roof of a building, any equipment enclosure proposed as a roof appliance or penthouse on the building, shall be designed, constructed, and maintained to be architecturally compatible with the principal building.

- (6) The County shall, with respect to the color of the support structure and all accessory buildings, review and approve so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly condition. If lighting is required by the Federal Aviation Administration, Federal Communications Commission, Michigan Aeronautics Commission, or other government agencies, unless otherwise required, it shall be red between sunset and sunrise, white between sunrise and sunset, and shall blink or flash at the longest permitted intervals.
- (7) The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and statements indicating the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission and Michigan Aeronautics Commission shall be submitted by the applicant in the original application for approval. The applicant shall furnish a written certification from the manufacturer or designer of the support system that the support system has been evaluated by a registered professional engineer and that the support system can safely accommodate attached antennas under expected weather conditions.
- (8) A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard. Such plans shall include the names, pager number, if any, business and home telephone numbers, mobile telephone numbers, if any, and identify no fewer than two persons who can be contacted at any hour of the day or night who have full authority to act on behalf of the applicant in the event of a malfunction or emergency. Such list of persons shall be kept current and updated or confirmed to the County in writing at least every four months, and shall be posted prominently on the premises so as to afford convenient viewing to a person on the outside of the premises where the facility is located.

2. Standards and Conditions Applicable to Conditional Land Use Facilities.

Applications for wireless communication facilities which may be approved as conditional land uses shall be reviewed, and if approved, constructed and

maintained, in accordance with the standards and conditions in Subsection C.1 and in accordance with the following standards:

- (a) The applicant shall demonstrate the need for the proposed facility based upon one (1) or more of the following factors:
  - 1) Proximity to a major thoroughfare.
  - 2) Areas of population concentration.
  - 3) Concentration of commercial, industrial, and/or other business centers.
  - 4) Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions.
  - 5) Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.
  - 6) Other specifically identified reason creating in facility need.
- (b) The proposal shall be reviewed in conformity with the collocation requirements of this section.

D. Application Requirements.

- 1. A site plan showing the location, size, screening, lighting and design of all buildings and structures.
- 2. The site plan shall also include a detailed landscape plan. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure. In all cases, fencing of a minimum of six (6) feet in height shall be required for protection of the support structure and security from children and other persons who may otherwise access facilities.
- 3. The application shall include a description of security to be posted at the time of receiving a building permit to ensure removal of the facility when it has been abandoned or is no longer needed, as provided in Subsection F. In this regard, the security shall be posted and maintained in the form; (1) cash; (2) surety bond; (3) irrevocable letter or credit; or, (4) other security arrangement accepted by the County Board.

4. The application shall include a map showing existing and known proposed wireless communication facilities within the County, and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the County in the location, and in the area, which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the community, the applicant shall be required only to update as needed. Any proprietary information may be submitted with a request for confidentiality in connection with the development of governmental policy, in accordance with MCL 15.243(1)(f). This ordinance shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the community.
5. The name, address identity, home and business telephone numbers, email, and mobile phone number, if any, of the person to contact for engineering, maintenance, and other notice purposes. This information shall be continuously updated or confirmed in writing to the County no less than every four (4) months, during all time the facility is on the premises.

E. Collocation.

1. Statement of Policy:

It is the policy of the County to minimize the overall number of newly established locations for wireless communication facilities and Wireless Communication Support Structures within the community, and encourage the use of existing structures for Attached Wireless Communication Facility purposes, consistent with the statement of purpose and intent, set forth in Subsection A. Purpose and Intent above. Each licensed provider of a wireless communication facility must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress. However, particularly in light of the dramatic increase in the number of wireless communication facilities reasonably anticipated to occur as a result of the change of federal policy in and relating to the Federal Telecommunications Act of 1996, it is the policy of the County that all users should collocate on Attached Wireless Communication Facilities and Wireless Communication Support Structures in the interest of achieving the purposes and intent of this section, as stated above, and as stated in Subsection A Purpose and Intent. If a provider fails or refuses to permit collocation on a facility owned or otherwise controlled by it, where collocation is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the County. The

provisions of this subsection are designed to carry out and encourage conformity with the policy of the County.

2. Feasibility of collocation:

Collocation shall be deemed to be “feasible” for purposes of this section where all of the following are met:

- (a) The wireless communication provider entity under consideration for collocation will undertake to pay market rent or other market compensation for collocation.
- (b) The site on which collocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
- (c) The collocation being considered is technologically reasonable, e.g., the collocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas and the like.
- (d) The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the County, taking into consideration the several standards contained in Subsections B and C, above.

3. Requirements for Collocation:

- (a) The construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that a feasible collocation is not available for the coverage area and capacity needs.
- (b) All new and modified wireless communication facilities shall be designed and constructed so as to accommodate collocation.
- (c) The policy of the County is for collocation. Thus, if a party who owns or otherwise controls a facility shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible collocation, such facility shall thereupon and thereafter be deemed to be a non-conforming structure and use, and shall not be altered, expanded or extended in any respect.
- (d) If a party who owns or otherwise controls a facility shall fail or refuse to permit a reasonable collocation, and this requires the construction and/or use of a new facility, the party failing or refusing to permit a feasible collocation shall be

deemed to be in direct violation and contradiction of the policy, intent and purpose of the County, and, consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for a new wireless communication support structure within the County for a period of five years from the date of failure or refusal to permit the collocation. Such a party may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

**F. Removal.**

1. A wireless communication facility must furnish reasonable evidence of ongoing operation at any time after the construction of an approved tower.
2. A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:
  - (a) When the facility has not been used for one hundred-eighty (180) days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.
  - (b) Six (6) months after new technology is available at reasonable cost as determined by the County Board, which permits the operation of the communication system without the requirement of the support structure.
3. The situations in which removal of a facility is required, as set forth in paragraph 1 above, may be applied and limited to portions of a facility.
4. Upon the occurrence of one (1) or more of the events requiring removal, specified in paragraph 1 above, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determine by the Zoning Administrator.

5. If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the County may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected from the security posted at the time of application was made for establishing the facility.
6. If the proposed site location of a facility is denied by the majority of the board members due to not meeting any one of the standards set forth in this article, Luce County will not assume responsibility for any costs associated with the relocation of the facility to another site for approval.

**APPENDIX B**  
**CELLULAR TOWER**

Decommissioning Fees

<b>TASKS</b>	<b>COST</b>
<b>Remove Electrical Equipment</b>	
<b>Breakup and Remove Concrete Pads or Ballast</b>	
<b>Remove Tower</b>	
<b>Remove Cables</b>	
<b>Remove Ground Screws and Ground Anchors</b>	
<b>Remove Fence</b>	
<b>Grading</b>	
<b>Seed Disturbed Area</b>	
<b>Truck to Recycling Center or Landfill</b>	
<b>Current Total</b>	
<b>Total after 20 years at current inflation rate</b>	

Zoning Districts	Min (Sq Ft.) Lot Area	Min Ft. Lot Width	Ave (Ft.) Depth	Min Ft. Setback	Min (Ft.) Side Yard	Min (Ft.) Depth Rear	Min (Ft.) Yard Permitted	Max (%) Permitted	Max (%) Lot Coverage
R-1 Dwellings: Non-Dwellings Accessory Bldgs.	20,000	100	200	50*	10	25	25	25	25
A-R Dwellings: Non-Dwellings Accessory Bldgs.	20,000	100	200	50*	10	25	25	50	15
C-1 All Buildings									
I-1 All Buildings									
R-F Seasonal Dwellings: Non-Dwellings Accessory Bldgs.	435,600	330	1320	50*	10	25	25	25	25
<b>LAKES</b>									
L-1 Dwellings: 640+ Acres	20,000	100	200	50**	10	25	25	25	25
L-2 Dwellings: 100-640A Acres	40,000	150	267	50**	10	25	25	25	15
L-3 Dwellings: 20-99A Acres	108,900	330	330	50**	10	25	25	25	15
L-4 Dwellings: 5 to 19 Acres	435,600	330	1320	50**	10	25	25	25	15
<b>STREAMS</b>									
S-1 Dwellings: Non Dwellings Accessory Bldgs. Sewer/Septic Sys.	435,600	330	1320	100	10	25	25	25	25

10

50 Feet from edge of  
fronting roadway

50 Feet from high water mark