

**ORDINANCE #2007-1**

**ZONING ORDINANCE**

**COUNTY OF PRESQUE ISLE**  
**STATE OF MICHIGAN**

**ADOPTED BY:**  
**PRESQUE ISLE COUNTY BOARD OF COMMISSIONERS**  
**ON APRIL 27, 2007**

**EFFECTIVE DATE: JUNE 15, 2007**

## Amendments

<i>Year</i>	<i>Section</i>	<i>Amendment</i>	<i>Adopted/Effective Date</i>
<b>2010</b>	Section 9.3 Agricultural District Uses Allowed by Special Permit	Add uses permitted under B-1	9-8-10; 10-1-10
<b>2010</b>	Section 23.12 Use Variances	Strike "jurisdiction in use variance" text. Add 23.13 Use variances allowed and standards.	9-24-10; 10-7-10
<b>2012</b>	Section 9.2 Agricultural District Permitted Uses	Add Hunting, fishing and other unorganized recreational activities. Add Hunting cabins subject to county building requirements. Min. 5 acres and 200 square foot size of cabin.	6-29-12; 7-27-12
<b>2014</b>	Section 17.1 (O) 5.3, 6.3, 7.3, 8.3, 9.3, 10.3	Add Home Occupations as permitted (delete special use) and replace Home Occupation text in 17.1 (O).	10-14-14
<b>2014</b>	Section 3.20 Outdoor Wood Burning Furnaces	Add standards	10-14-14
<b>2018</b>	Section 2.2, 8.3, 9.3, 10.3, 11.3, 12.3, 17.1 Z	Medical Marihuana amendments	5-25-18
<b>2018</b>	Section 2.2, 8.3, 9.3, 12.3, 13.3. and 17.1	Solar Energy Facilities	10-10-18; 10-25-18
<b>2018</b>	Section 2.2, 5.2, 6.2, 7.2, 8.2, 8.3, 9.2, 9.3, 10.2, 11.2, 12.2, 12.3, 13.2, 13.3, and 17.1	Wind Energy Facilities	10-10-18; 10-25-18
<b>2019</b>	Section 2.2, 8.3, 9.3, 10.3, 11.3, 12.3, and 17.1	Marihuana Establishments (Adult Use)	10-25-19; 11-15-19

# TABLE OF CONTENTS

Article 1	Short Title and Purpose.....	1-1
	1.1 Short Title .....	1-1
	1.2 Purposes.....	1-1
Article 2	Definitions.....	2-1
	2.1 Construction of Language .....	2-1
	2.2 Definitions .....	2-1
Article 3	General Provisions .....	3-1
	3.1 Effect of Zoning.....	3-1
	3.2 Essential Public Services .....	3-1
	3.3 Nuisances .....	3-2
	3.4 Prohibited Uses.....	3-2
	3.5 Fencing of Outdoor Storage Areas.....	3-3
	3.6 Required Water Supply and Sewage Disposal Facilities .....	3-3
	3.7 Highways .....	3-3
	3.8 Temporary Dwelling Structures .....	3-3
	3.9 Fees.....	3-4
	3.10 Open Space Preservation .....	3-5
	3.11 Lot/Building Relationship.....	3-5
	3.12 Conflicting Regulations .....	3-6
	3.13 Grades .....	3-6
	3.14 Greenbelts on Waterfront Property.....	3-6
	3.15 High Transport Corridor .....	3-6
	3.16 Accessory Buildings .....	3-8
	3.17 Permitted Yard Encroachments.....	3-8
	3.18 Stormwater Retention .....	3-9
	3.19 Use of Recreational Vehicles .....	3-9
	3.20 Outdoor Wood Burning Furnaces.....	3-9
Article 4	Establishment of Zoning Districts.....	4-1
	4.1 Districts.....	4-1
	4.2 Zoning Map.....	4-1
	4.3 District Boundaries.....	4-1
	4.4 Zoning District Changes.....	4-1
Article 5	Low Density Residential District (R-1).....	5-1
	5.1 Intent.....	5-1
	5.2 Permitted Uses .....	5-1
	5.3 Uses Allowed by Special Permit.....	5-1
Article 6	Medium Density Residential District (R-2).....	6-1
	6.1 Intent.....	6-1
	6.2 Permitted Uses .....	6-1
	6.3 Uses Allowed by Special Permit.....	6-1

Article 7	Restricted Residential District (R-3) .....	7-1
	7.1 Intent.....	7-1
	7.2 Permitted Uses .....	7-1
	7.3 Uses Allowed by Special Permit.....	7-1
Article 8	Forest/Recreation District (FR) .....	8-1
	8.1 Intent.....	8-1
	8.2 Permitted Uses .....	8-1
	8.3 Uses Allowed by Special Permit.....	8-1
Article 9	Agricultural Resources District (AR).....	9-1
	9.1 Intent.....	9-1
	9.2 Permitted Uses .....	9-1
	9.3 Uses Allowed by Special Permit.....	9-1
Article 10	Neighborhood Business District (B-1) .....	10-1
	10.1 Intent.....	10-1
	10.2 Permitted Uses .....	10-1
	10.3 Uses Allowed by Special Permit.....	10-1
Article 11	General Business District (B-2).....	11-1
	11.1 Intent.....	11-1
	11.2 Permitted Uses .....	11-1
	11.3 Uses Allowed by Special Permit.....	11-1
Article 12	Manufacturing District (M-1).....	12-1
	12.1 Intent.....	12-1
	12.2 Permitted Uses .....	12-1
	12.3 Uses Allowed by Special Permit.....	12-1
Article 13	Extractive Industry District (I-1) .....	13-1
	13.1 Intent.....	13-1
	13.2 Permitted Uses .....	13-1
	13.3 Uses Allowed by Special Permit.....	13-1
	13.4 Existing Gravel Pits .....	13-1
Article 14	Schedule of Regulations .....	14-1
	Footnotes to Schedule of Regulations.....	14-2
Article 15	Site Plan Review.....	15-1
	15.1 Purpose .....	15-1
	15.2 Circumstances Requiring a Site Plan .....	15-1
	15.3 Site Plan Data Required.....	15-1
	15.4 Submittal and Approval Procedures .....	15-2
	15.5 Site Plan Amendments.....	15-3
	15.6 Administrative Fees.....	15-3
	15.7 Revocation .....	15-3
	15.8 Expiration.....	15-3

Article 16	Special Use Permits.....	16-1
	16.1 Purpose .....	16-1
	16.2 Application .....	16-1
	16.3 Public Hearing and Notice Requirements.....	16-1
	16.4 Planning Commission Action.....	16-2
	16.5 Basis for Determination.....	16-2
	16.6 Reapplication .....	16-2
	16.7 Special Use Permit Validity .....	16-2
	16.8 Jurisdiction of Zoning Board of Appeals .....	16-3
Article 17	Site Development Requirements .....	17-1
	17.1 Site Development Requirements for Specific Uses .....	17-1
Article 18	Off-Street Parking, Loading, and Unloading Requirements.....	18-1
	18.1 Vehicular Parking Spaces and Access Thereto.....	18-1
	18.2 Off-Street Loading and Unloading.....	18-4
Article 19	Signs .....	19-1
	19.1 Signs and Billboards .....	19-1
	19.2 Definitions .....	19-2
Article 20	Mobile Home Regulations .....	20-1
	20.1 Scope.....	20-1
	20.2 Regulations.....	20.1
Article 21	Planned Unit Development .....	21-1
	21.1 Purpose .....	21-1
	21.2 Procedures for Application and Approval .....	21-1
	21.3 Concept Plan Requirement .....	21-1
	21.4 Preliminary Plan Requirements .....	21-1
	21.5 Final Plan Requirements.....	21-2
	21.6 Approval of Final Plan .....	21-2
	21.7 Design Requirements.....	21-3
	21.8 Density.....	21-3
	21.9 Lot Size Variations .....	21-3
	21.10 Open Space.....	21.4
	21.11 Homeowners Association.....	21-4
	21.12 Environmental Design Requirements .....	21-5
	21.13 Traffic Circulation .....	21-5
	21.14 Private Streets .....	21-5
	21.15 Parking Standards.....	21-6
	21.16 Perimeter Treatment .....	21-6
	21.17 General Standards.....	21-6
	21.18 Building Spacing .....	21-6
	21.19 Front Yard Requirements.....	21-6
	21.20 Lot Width Requirements.....	21-6
	21.21 Building Heights .....	21-7
	21.22 Jurisdiction of Zoning Board of Appeals .....	21-7

Article 22	Non-conformities.....	22-1
	22.1 Scope.....	22-1
	22.2 Intent.....	22-1
	22.3 Non-conforming Lots.....	22-1
	22.4 Non-conforming Use of Land .....	22-1
	22.5 Non-conforming Structures .....	22-2
	22.6 Non-conforming Use of Structures and Land.....	22-2
	22.7 Repairs and Maintenance .....	22-3
	22.8 Exceptions for Non-conforming Use Category.....	22-3
	22.9 Change of Tenancy or Ownership.....	22-3
Article 23	Zoning Board of Appeals .....	23-1
	23.1 Creation and Duties .....	23-1
	23.2 Membership .....	23-1
	23.3 Expenses .....	23-1
	23.4 Terms of Office .....	23-1
	23.5 Required Hearings .....	23-2
	23.6 Meetings .....	23-2
	23.7 Appeals.....	23-2
	23.8 Grounds for Appeal.....	23-2
	23.9 Timing of Appeal .....	23-2
	23.10 Stays.....	23-2
	23.11 Interpretations.....	23-2
	23.12 Variances.....	23-2
	23.13 Use Variances.....	23-3
	23.14 Time, Notice, Appearance.....	23-3
	23.15 Powers of the Zoning Board of Appeals .....	23-4
	23.16 Approval Periods.....	23-4
	23.17 Final Action on Appeals.....	23-4
	23.18 Fees.....	23-4
Article 24	Administration and Enforcement .....	24-1
	24.1 Administration .....	24-1
	24.2 Additional Duties of the Zoning Administrator.....	24-1
	24.3 Zoning Permit and Compliance .....	24-1
Article 25	Interpretation, Severability, Penalties, Amendments, Rights and Remedies, General Responsibilities, Repeal of Prior Ordinance, and Enactment and Effective Date .....	25-1
	25.1 Interpretation.....	25-1
	25.2 Severability .....	25-1
	25.3 Violation, Penalty .....	25-1
	25.4 Amendment to this Ordinance.....	25-1
	25.5 Processing an Amendment .....	25-1
	25.6 Rights and Remedies.....	25-2
	25.7 General Responsibilities.....	25-2
	25.8 Repeal of Prior Ordinance.....	25-2
	25.9 Enactment and Effective Date .....	25-2

# ZONING ORDINANCE COUNTY OF PRESQUE ISLE STATE OF MICHIGAN

AN ORDINANCE enacted under Act 110, Public Acts of 2006, as amended, governing the lands and waters lying outside the limits of incorporated cities and villages within Presque Isle County, Michigan, except for Allis, Krakow, and Presque Isle Townships, to regulate and restrict the locations and use of buildings, structures, and land for trade, industry, residence, and public and semi-public, or other specified uses; to regulate and limit the height and bulk of buildings and other structure; to regulate and to determine the size of yards, courts, and open spaces; to regulate and limit the density of population; to divide the County into districts and establish the boundaries thereof; to provide for changes in the regulations, restrictions, and boundaries of the districts; to define certain terms used in this Ordinance; to provide for enforcement; to establish a Zoning Board of Appeals; and to impose penalties for the violation of this Ordinance.

## **Enacting Clause**

The Board of Commissioners, County of Presque Isle, State of Michigan ordains:

## **ARTICLE 1 SHORT TITLE AND PURPOSE**

- 1.1 Short Title.** This Ordinance shall be known as the “Presque Isle County Zoning Ordinance”.
- 1.2 Purposes.** The purposes of this Ordinance shall be to:
- A. Promote and protect the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the County.
  - B. Protect and conserve the character and social and economic stability of the residential, commercial, industrial, and other use areas.
  - C. Encourage the use of land in accordance with the character and adaptability and limit improper use of land.
  - D. Prevent overcrowding the land and undue congestion of population.
  - E. Provide adequate light, air, and reasonable access.
  - F. Facilitate adequate and economical provision of transportation, safe and adequate water supply, sewage disposal, education, recreation, and other public utilities, facilities, and services.
  - G. Encourage resource protection, farming, and forestry activities.
  - H. Conserve the expenditures of tax monies and other funds for public improvements and services through their conformity with planned uses of land, resources, and properties.
  - I. Implement the *Presque Isle County Comprehensive Plan*.

## **ARTICLE 2 DEFINITIONS**

- 2.1 Construction of Language.** The following rules of construction apply to the text of this Ordinance:
- A. The particular shall control the general
  - B. In case of a difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
  - C. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and the plural shall include the singular, unless the context clearly indicates the contrary.
  - D. A “building” or “structure” includes any part thereof.
  - E. The phrase “used for” includes “arranged for”, “designed for”, “intended for”, “maintained for”, or “occupied for”.
  - F. The word “person” includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
  - G. Terms not defined in this Ordinance shall have the meaning customarily assigned to them.
  - H. The term “including” means “included but not limited to”. It is a term which introduces examples but does not limit the provisions to only those examples.
  - I. The word “shall” is mandatory; the word “may” is permissive.
  - J. The word “lot” includes “plot” or “parcel”.
  - K. If any activity, use, building, structure, or part thereof is placed upon a parcel of property in violation of this Ordinance, the activity, use, building, or structure shall be declared a nuisance and may be required to be vacated, dismantled, abated, or cease operations by any available legal or equitable means, and such activity, use, building, or structure shall not be occupied or operated until it complies with this Ordinance.

**2.2 Definitions.**

**ACCESSORY BUILDING OR STRUCTURE:** A building or structure or portion thereof, supplementary and subordinate to a main building on the same lot occupied by or devoted exclusively to an accessory use. Where an accessory building is attached to a main building in a substantial manner, such as by a wall or roof, the accessory building shall be considered a part of the main building.

**ACCESSORY USE:** A use naturally or normally incidental and subordinate to and devoted exclusively to the main use of the land or building.

**ADULT ARCADE:** Any place to which the public is permitted or invited where coin-operated or slug-operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by depicting or describing Specified Sexual Activities or Specified Anatomical Areas.



**ADULT BOOKSTORE OR ADULT VIDEO STORE:** A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration one or more of the following:

1. Books, magazines, periodicals, or other printed matter or photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or
2. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises thirty-five percent (35%) or more of sales volume or occupies thirty-five percent (35%) or more of the floor area or visible inventory within the establishment.

**ADULT CABARET:** A nightclub, bar, restaurant, or similar commercial establishment that regularly features:

1. Persons who appear in a state of nudity;
2. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
3. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
4. Persons who engage in lewd, lascivious, or erotic dancing or performances that are intended for the sexual interests or titillation of an audience of customers.

**ADULT MOTEL:** A hotel, motel, or similar commercial establishment that:

1. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way that advertises the availability of any of the above;
2. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

**ADULT MOTION PICTURE THEATER:** A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, or other photographic reproductions or visual media that are characterized by depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

**ADULT THEATER:** A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Anatomical Areas or by Specified Sexual Activities.

**ADULT FOSTER CARE FACILITY:** As defined by the Adult Foster Care Facility Licensing Act (PA 218 of 1979, as amended): a governmental or nongovernmental establishment that provides foster care to adults. Adult foster care facility includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis, but who do not require continuous nursing care.

**ADULT FOSTER CARE HOME, FAMILY:** A private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for five (5) or more days a week for two (2) or more consecutive weeks. The licensee shall be a member of the household and an occupant of the residence.

**ADULT FOSTER CARE HOME, SMALL GROUP:** An adult foster care facility with the approved capacity to receive twelve (12) or fewer adults to be provided with foster care for five (5) or more days a week for two (2) or more consecutive weeks.

**ADULT FOSTER CARE HOME, LARGE GROUP:** An adult foster care facility with the approved capacity to receive at least thirteen (13), but not more than twenty (20) adults to be provided with foster care for five (5) or more days a week for two (2) or more consecutive weeks.

**ADULT FOSTER CARE CONGREGATE FACILITY:** An adult foster care facility with the approved capacity to receive more than twenty (20) adults to be provided with foster care.

**ALTERNATIVE TOWER STRUCTURE:** Clock towers, bell steeples, light poles, water towers and other similar alternative-design mounting structures that camouflage or conceal the presence of communication antennas.

**ANTENNA:** Any exterior transmitting or receiving device mounted on a tower, building or alternative tower structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals. This definition does not include satellite dish antennas.

**BASEMENT:** That portion of a building which is partly or wholly below grade but so located that the vertical distance from average grade to the floor is greater than the vertical distance from the average grade to the ceiling. If the vertical distance from the grade to the ceiling is over five (5) feet, such basement shall be rated as a first story.

**BED AND BREAKFAST FACILITY:** Any dwelling used or designed in such a manner that certain rooms in excess of those used by the family and occupied as a dwelling unit are rented to the public for compensation and shall cater primarily to the public traveling by motor vehicle.

**BOTTOMLAND:** The land area of an inland lake or stream that lies below the ordinary high water mark and that may or may not be covered by water.

**BUILDING:** Any structure, either temporary or permanent, having a roof supported by columns or walls and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind. This shall include tents, awnings, vehicles, whether mounted on wheels or not, and situated on private property and used for purposes of a building.

**BUILDING HEIGHT:** The vertical distance measured from the established grade of the center of the front of the building to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs; and the average height between the lowest point and the highest point on a shed or salt box roof. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

**BUILDING LINE:** A line formed by the face of the building, and for the purposes of this Ordinance, a building line is the same as a front setback line.

**BUILDING, MAIN:** A building in which is conducted the principal use of the lot on which it is situated.

**CABIN:** Any building or similar structure which is maintained, offered, or used for dwelling or sleeping quarters for transient or temporary residence, but shall not include what are commonly designated a hotels, lodging houses, or tourist homes.

**CHANGE OF USE:** The alteration, addition to, or replacement of an existing use with a new use belonging to a different zoning classification. For the purpose of this definition, zoning classifications are those enumerated as separate items or categories within the lists of principal permitted or special approval uses within each zoning district of this Ordinance.

**CHILD CARE ORGANIZATION:** As defined by the Child Care Organizations Act (PA 116 of 1973, as amended): a governmental or nongovernmental organization having as its principal function the receiving of minor children for care, maintenance, training and supervision, notwithstanding that educational instruction may be given. Child care organizations include organizations, agencies, children's camps, child care centers, day care centers, nursery schools, parent cooperative preschools, foster homes, day care group homes or day care family homes.

**CO-LOCATION:** The use of a wireless communication tower by more than one wireless communication provider.

**COMMUNICATIONS TOWERS:** All structures and accessory facilities, including alternative tower structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

**COUNTY:** County of Presque Isle, Michigan.

**DAY CARE HOME, FAMILY:** A private home in which one (1) but fewer than seven (7) minor children are received for care and supervision for periods less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Care is given for more than four (4) weeks during a calendar year.

**DAY CARE HOME, GROUP:** A private home in which more than six (6) but not more than (12) minor children are given care and supervision for periods less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Care is given for more than four (4) weeks during a calendar year.

**DAY CARE CENTER:** A facility other than a private residence receiving one (1) or more preschool or school-age children for periods of less than twenty-four (24) hours a day and where parents or guardians are not immediately available to the child. Care is provided more than two (2) consecutive weeks, regardless of the number of hours of care per day. May also be referred to as a child care center, day nursery, nursery school, parent cooperative preschool, play group or drop-in center.

**DWELLING UNIT:** A building, or portion thereof, designed for occupancy by one (1) family for residential purposes and having sleeping and cooking facilities, except for motels, cabins, and similar transient facilities.

**DWELLING, SINGLE-FAMILY:** A building, or portion thereof, designed exclusively for and occupied exclusively by one (1) family.

**DWELLING, TWO-FAMILY:** A building, or portion thereof, designed exclusively for occupancy by two (2) families, living independently of each other.

**DWELLING, MULTIPLE-FAMILY:** A building, or portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each other.

**ERECTED:** Includes built, construction, reconstructed, moved upon, or any physical operations on the land required for the building. Excavations, fill, drainage, and the like shall be considered part of erection.

**ESCORT:** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**ESCORT AGENCY:** A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

**ESSENTIAL SERVICES:** The erection, construction, alteration, or maintenance of public utilities or municipal facilities for underground, surface or overhead gas, electrical, steam, fuel, or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm or police call boxes, traffic signals, hydrants and similar accessories in connection therewith, but not including buildings, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety or welfare. Communications towers and facilities, alternative tower structures, and wireless communication antennas and wind turbine generators are not included within this definition.

**FAMILY:** An individual or two (2) or more persons occupying the premises and living as a single non-profit housekeeping unit.

**FARM:** All of the contiguous land of ten (10) acres or more operated as a single unit on which bona fide agriculture 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.

**FARM BUILDING:** Any building or structure other than a dwelling or a private garage moved upon, maintained, used, or built on a farm, which is essential and customarily used on farms for the pursuit of agricultural activities.

**FARM OPERATIONS:** Activities which occur on a farm in connection with the commercial production of farm products, and includes, but is not limited to: marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor. However, the keeping of game, fish hatcheries, dog kennels, stockyards, slaughterhouses, stone quarries, gravel or sand pits, removal and sale of topsoil, fertilizer works, boneyards, or places for the disposal of garbage, sewage, rubbish, junk, or offal, shall not constitute farm operations and the resulting products shall not constitute farm products.

**FARM PRODUCTS:** Those plants and animals useful to humans and includes, but is not limited to: forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock including breeding and grazing, fruits, vegetables, flowers, seeds, grasses, trees, fish, apiaries, equine and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur.

**FLOOR AREA:** The floor area of a residential dwelling unit is the sum of the horizontal areas of each story of the building as measured from the exterior walls; exclusive, of areas of basements, unfinished attics, attached garages, breezeways and enclosed and unenclosed porches.

**FLOOR AREA, USABLE:** (For the purposes of computing parking) is all ground and non-ground floor area used for, or intended to be used for, the sale of merchandise or services or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing merchandise, or for utilities, shall be excluded from this computation of "Usable Floor Area." For the purposes of computing parking for those uses not enclosed within a building, the area used for the sale of merchandise, display of merchandise, and/or area used to serve patrons or clients shall be measured to determine necessary parking spaces.

**GAS AND OIL PROCESSING FACILITIES:** Any facility and/or structure used for, or in connection with, the production, processing, or transmitting of natural gas, oil, or allied products or substances, and the injection of same into the ground for storage or disposal, not under the exclusive jurisdiction or control of the Geological Survey Division, Michigan Department of Environmental Quality or Michigan Public Service Commission; not including industrial facilities such as cracking plants, large oil storage facilities, and heavy industrial operations and facilities.

**HIGHWAY:** Any public thoroughfare, road, or street, except alleys, including county, federal, and state roads and highways.

**HOME OCCUPATION:** An occupation or profession carried on by an occupant of a dwelling unit as a secondary use which is clearly subservient to the use of the dwelling for residential

purposes.

**JUNKYARD:** An area of land, with or without a building, used for the storage, outside a completely enclosed building, of used or discarded materials, included, but not limited to: waste paper, rags, metal, building materials, home furnishings, machinery, vehicles or vehicle parts, with or without the dismantling, processing, salvage, sale or other use or disposition. The deposit or storage of three or more wrecked, dismantled, partially dismantled, or inoperable vehicles, or major part of three or more such vehicles, shall be considered a junkyard.

**LEASE UNIT BOUNDARY:** One (1) or more parcels for which there is a lease or easement for development of a Solar Energy Facility or Wind Energy Facility and a parcel(s) for which there is a non-development lease or easement for a Solar Energy Facility or Wind Energy Facility located in proximity to a Wind Energy Facility or Solar Energy Facility. *(Amended 10/10/18; Effective 10/25/18)*

**LOT:** A platted lot of record or an unplatted parcel of land described by metes and bounds upon which could be occupied by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such open spaces as are required under the provisions of this Ordinance.

**LOT AREA:** The total horizontal area within the lot lines of the lot.

**LOT OF RECORD:** A lot or parcel of land, the dimensions of which are shown on a document or map on file with the County, and which actually exists as so shown, or any part of such parcel held in record ownership separate from that of the remainder thereof.

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

**LOT, DOUBLE FRONTAGE:** Is any interior lot having frontage on two more or less parallel streets, as distinguished from a corner lot.

**LOT, INTERIOR:** Any lot other than a corner lot.

**LOT COVERAGE:** The part of percent of the lot occupied by buildings, including accessory buildings.

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

**LOT LINES:** The lines bounding a lot as defined herein:

**LOT LINE, FRONT:** In the case of an interior lot, the line separating the lot from the road right-of-way. In the case of a corner lot, the front lot line is that line separating the lot from the road right-of-way which is designated as the front road/street in the plat and in the application for a building permit or zoning occupancy permit. In the case of a waterfront lot, the ordinary high water mark shall be treated as the front lot line.

LOT LINE, REAR: The lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.

LOT LINE, SIDE: Any lot lines other than the front lot line or rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

LOT WIDTH: The horizontal distance between the side lot lines measured at the two points where the building line or setback intersects the side lot lines.

MEDICAL MARIHUANA DEFINITIONS: *(Amended 5-25-18 and 10-25-19)*

AFFILIATE: Means any person that controls, is controlled by, or is under common control with; is in a partnership or joint venture relationship with; or is a co-shareholder of a corporation, a co-member of a limited liability company, or a co-partner in a limited liability partnership with a licensee or applicant.

COMMERCIAL FACILITY, MARIHUANA FACILITY OR FACILITY: Means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marihuana grower, marihuana provisioning center, marihuana secure transporter, marihuana processing center, marihuana safety compliance facility. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

CULTIVATE: Means as that term is defined in Initiated Act 1 of 2018, Michigan Regulation and Taxation of Marihuana Act ("MRTMA").

DEPARTMENT: Means the Michigan State Department of Licensing and Regulatory Affairs or any authorized designated Michigan agency authorized to regulate, issue or administer a Michigan License for a Commercial Marihuana Facility or a Marihuana Establishment.

GROWER: Means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.  
LICENSEE: Means a person holding a state operating license under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

LICENSE: Means a current and valid License for a Commercial Medical Marihuana Facility or Marihuana Establishment issued by the State of Michigan.

LICENSEE: Means a person holding a state operating license under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. or Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq.

MARIHUANA: Means that the term as defined in the Public Health Code. MCL 333.1101 et seq.; the Medical Marihuana Act MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracing MCL 333.27901 et seq. For the purpose of this ordinance, the spellings are interchangeable.

MARIHUANA ESTABLISHMENT” OR “ESTABLISHMENT: Means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the department under the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq.

1. MARIHUANA GROWER: Means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments; and
2. MARIHUANA MICROBUSINESS: Means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments; and
3. MARIHUANA PROCESSOR: Means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments; and
4. MARIHUANA RETAILER: Means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older; and
5. MARIHUANA SECURE TRANSPORTER: Means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments; and
6. MARIHUANA SAFETY COMPLIANCE FACILITY: Means a person licensed to test marihuana, including certification for potency and the presence of contaminants.

MARIHUANA PLANT: Means any plant of the species Cannabis sativa L.

MARIHUANA-INFUSED PRODUCT: Means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation.

MICHIGAN MEDICAL MARIHUANA ACT: Means the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430.

MUNICIPAL LICENSE: Means a license issued by a municipality that allows a person to operate a marihuana establishment in that municipality.

PARAPHERNALIA: Means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marihuana.

PERMIT: Means a current and valid permit for a Commercial Medical Marihuana Facility or Marihuana Establishment issued under this Ordinance, which shall be granted to a Permit Holder only for and limited to a specific Permitted Premises and a specific Permitted Property.



**PERMITTED PREMISES:** Means a particular building or buildings within which the Permit Holder will be authorized to conduct the Facility's or Establishment's activities.

**PERMITTED PROPERTY:** Means the real property comprised of a lot, parcel or other designated unit of real property upon which a Permitted Premises is situated.

**PERSON:** Means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, other legal entity or any joint venture for a common purpose.

**PROCESS OR PROCESSING:** Means to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

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

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

**REGISTERED PRIMARY CAREGIVER:** Means a primary caregiver who has been issued a current registry identification card under the Michigan Medical Marihuana Act, MCL 333.26423.

**REGISTERED QUALIFYING PATIENT:** Means a qualifying patient who has been issued a current registry identification card under the Michigan Medical Marihuana Act or a visiting qualifying patient as that term is defined in Section 3 of the Michigan Medical Marihuana Act, MCL 333.26423.

**REGISTRY IDENTIFICATION CARD:** Means that term as defined in Section 3 of the Michigan Medical Marihuana Act, MCL 333.26423.

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

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

**STATE OPERATING LICENSE:** Or, unless the context requires a different meaning, license means a license that is issued under the Medical Marihuana Facilities Licensing Act, MCL

333.27101, et seq. or the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq.

**MOBILE HOME:** As defined by The Mobile Home Commission Act (PA 96 of 1987, as amended), a structure transportable in one or more section, which is built on a chassis and designed to be used as a dwelling with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

**MOBILE HOME PARK:** As defined by The Mobile Home Commission Act (PA 96 of 1987, as amended), a parcel or tract of land under the control of an individual, partnership, association, trust, corporation, or any other legal entity or combination of legal entities, upon which three or more mobile homes are located on a continual, non-recreational basis, and which is offered to the public for that purpose regardless of whether a charge is made, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

**MOTEL:** A building or group of buildings made up of two or more separate living or sleeping quarters used independently of each other and used principally for overnight accommodations.

**NUDE MODEL STUDIO:** Any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an educational institution funded, chartered, or recognized by the State of Michigan.

**NUDITY OR A STATE OF NUDITY:** Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

1. A woman breastfeeding a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
2. Material as defined in Section 2 of Act No. 343 of the Public Acts of 1984, being section 752.362 of the Michigan Compiled Laws.
3. Sexually explicit visual material as defined in Section 3 of Act No. 33 of Public Acts of 1978, being section 722.673 of the Michigan Compiled Laws.

**ORDINARY HIGH WATER MARK:** As defined by the Natural Resources and Environmental Protection Act (PA 451 of 1994, as amended), the line between upland and bottomland that persists though successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.

On an inland lake that has a level established by law, it means the high established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high water mark.

On Lake Huron, the ordinary high water mark is established by the U.S. Army Corps of Engineers as set by International Great Lakes Datum.

**OWNER:** Any person having legal or equitable title to possession of or a possessory interest in any lot, including, without limitation, any agent or person having such ownership interest.

**PERSON:** Any individual, association, partnership, corporation, or any other legal entity.

**PLANNED UNIT DEVELOPMENT (PUD):** Land under unified control which allows a development to be planned and built as a unit and which permits upon review and approval, variations in many of the traditional controls related to density, land use, setbacks, open space, and other design elements, and the timing and sequencing of the development

**PLANNING COMMISSION:** The Planning Commission of Presque Isle County.

**PRACTICAL DIFFICULTY:** A situation whereby a property owner cannot establish a “minimum practical” legal use of a legal lot or parcel, meeting all of the dimensional standards of the zoning district within which the lot is located. Situations occurring due to the owner’s desire to establish a use greater than the “minimum practical” standard to enhance economic gain greater than associated with the “minimum practical” standards or created by an owner subsequent to the adoption of this Ordinance is not a Practical Difficulty. The Zoning Board of Appeals is responsible for determining Practical Difficulty.

**RECREATIONAL VEHICLE:** A vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pickup campers, fifth wheel trailers, travel trailers, and tent trailers. Any such vehicle or unit which is forty (40) feet or more in overall length shall be considered a mobile home and shall be subject to all regulations of this Ordinance applicable to a mobile home.

**ROADSIDE STAND:** A farm structure use, or intended to be used, solely by the owner or tenant of the farm on which it is located for the sale of only the seasonable farm products of the immediate locality on which such roadside stand is located.

**SEXUAL ENCOUNTER CENTER:** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
2. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.

**SEXUALLY ORIENTED BUSINESS:** A business or commercial enterprise engaging in any of the following: (1) adult arcade; (2) adult bookstore or adult video store; (3) adult cabaret; (4) adult motel; (5) adult motion picture theater; (6) adult theater; (7) escort agency; (8) nude model studio; or (9) sexual encounter center.

**SOLAR ENERGY FACILITY (UTILITY SCALE):** A facility designed to capture and utilize the energy of the sun to generate electrical power. A solar energy collection facility consists of solar collection devices used to collect solar rays and all associated ancillary and structural devices needed to support and convert/transmit the energy collected. *(Amended 10/10/18; Effective 10/25/18)*

**SPECIFIED ANATOMICAL AREAS:** Are defined as:

1. Less than completely and opaquely covered human genitals, pubic regions, buttocks, anus and female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES:** Means and includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic regions, buttocks or female breast;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

**STATE TRUNKLINES:** That part of State Highways U.S. 23, M-33, M-65, M-68, and M-211 within Presque Isle County.

**STRUCTURE:** Any production or pieces of work artificially built up or composed of parts joined together in some definite manner, any construction including dwellings, garages, building, signs and signboards, house trailers, trailer coaches, and mobile homes

**TELECOMMUNICATION TOWERS AND FACILITIES AND ALTERNATIVE TOWER STRUCTURES:** Includes transmitters, antenna structures, towers and supporting structures for all classes of communications services, including but not limited to AM, FM, CATV, microwave, TV, VHF, cellular telephone, and the like. Not included in this definition are: citizen band radio facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities, and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

**UPLAND:** The land area that lies above the ordinary high water mark.

**VEHICLE:** Any device in, upon, or by which any person or property is or may be transported or drawn upon a highway or road, except devices exclusively moved by human power.

**WIND ENERGY DEFINITIONS:** *(Amended 10/10/18; Effective 10/25/18)*

**AMBIENT:** Ambient is defined as the sound pressure level exceeded ninety (90) percent of the time.

**ANEMOMETER:** A device used to measure wind speed.

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

**DECIBEL:** The unit of measure used to express the magnitude of sound pressure and sound intensity.

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

**SMALL ON-SITE WIND ENERGY SYSTEMS:** A wind energy conversion system consisting of a wind turbine (horizontal or vertical axis), a tower, and associated control or conversion electronics which has a rated capacity of not more than one hundred (100) kW and which is intended to primarily replace or reduce on-site consumption of utility power.

**SOUND PRESSURE:** Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

**SOUND PRESSURE LEVEL:** The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

**UTILITY-SCALE WIND ENERGY FACILITY.** Wind energy facilities whose main purpose is to supply electricity to off-site customers

**WIND ENERGY FACILITY:** A power generating facility consisting of one or more wind turbines under common ownership or operation control, and includes substations, MET towers, cables/wires, and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customers.

**WIND TURBINE GENERATOR:** A wind energy conversion system which converts wind energy into power. May include a tower, pylon, or other structure, including all accessory facilities, upon which any, all, or some combination of the following are mounted.

1. A wind vane, blade, or series of wind vanes or blades, or other devices mounted on a rotor for the purpose of converting wind into electrical or mechanical energy.
2. A shaft, gear, belt, or coupling device used to connect the rotor to a generator, alternator, or other electrical or mechanical energy-producing device.
3. A generator, alternator, or other device used to convert the energy created by the rotation of the rotor into electrical or mechanical energy.

**WIND TURBINE (HORIZONTAL AXIS):** A wind energy system in which the rotor(s) rotate around a horizontal shaft.

**WIND TURBINE (VERTICAL AXIS):** A wind energy system in which the rotor rotates around a vertical shaft.

**WIND TURBINE GENERATOR TOTAL HEIGHT:**

1. **HORIZONTAL AXIS WIND TURBINE ROTORS:** The distance between the ground and the highest point of the wind turbine generator, plus the length by which the rotor wind vanes or blades mounted on a horizontal axis wind turbine rotor exceeds the height of the wind turbine generator.
2. **VERTICAL AXIS WIND TURBINE:** The distance between the ground and the highest point of the wind turbine generator.

**YARD:** A space open to the sky and unoccupied or unobstructed on the same lot with buildings or structures. Yard measurements shall be the minimum horizontal distances.

**YARD, FRONT:** A yard extending the full width of the lot between the front lot line and the nearest line of the main building or accessory building.

**YARD, REAR:** A yard extending the full width of the lot between the rear lot line and the nearest line of the main building or accessory building.

**YARD, SIDE:** A yard extending from the front yard to the rear yard between the side lot line and the nearest line of the building or of accessory building.

**ZONING ADMINISTRATOR:** The administrator of this Ordinance appointed by the County Board of Commissioners.

**ZONING BOARD OF APPEALS:** The Presque Isle County Zoning Board of Appeals, whose duties and powers are detailed in Article 23.

**ZONING PERMIT:** A permit issued by the County Zoning Administrator which states that a proposed use and/or structure meets all the requirements of this Ordinance.

## **ARTICLE 3 GENERAL PROVISIONS**

### **3.1 Effect of Zoning.**

- A. In order to carry out the intent of this Ordinance, no use or activity on a parcel of land shall be allowed or maintained, no building or structure or part thereof shall be allowed to be used, constructed, remodeled, altered, or moved upon any property unless it conforms with the requirements and intent of this Ordinance regarding the specific zoning district in which it is located.
- B. If any activity, use, building, structure, or part thereof is placed upon a parcel of land in violation of this Ordinance, the activity, use, building, or structure shall be declared a nuisance and may be required to be vacated, dismantled, abated, or cease operations by any available legal or equitable means, and such activity, use, building, or structure shall not be occupied or operated until it complies with this Ordinance.
- C. The County Planning Commission shall have power on written request of a property owner in any zoning district to classify a use not listed with a comparable permitted use in the district and grant a permit for the use, giving due consideration to the intent of this Ordinance. Petition for such classification and permit shall be made through the office of the Zoning Administrator. In granting permit of such classified use, the Planning Commission may attach conditions and safeguards as may be necessary for the protection of the public welfare and for the proper development of the general neighborhood and adjacent properties. If the use is deemed incompatible, the use may only be provided by amendment to the Ordinance.
- D. Unless provided elsewhere in this Ordinance, or a variance is granted by the Zoning Board of Appeals, no building shall be erected or altered to exceed the height limitations or occupy a greater percentage of lot area, or intrude upon the required yards, or accommodate a greater number of dwelling units, or provide less space per dwelling unit than is specified for the district in which the building is located.
- E. No lot area, yard, parking area, or other required space shall be divided, altered, reduced, or diminished to create an area or dimension less than the minimum required under this Ordinance, except where the reduction has been brought about by the expansion or acquisition of public rights-of-way for a street, road, or highway. If a required lot is already less than the minimum required under this Ordinance, the lot shall not be further divided or reduced.

- 3.2 Essential Public Services.** Essential services, as defined, shall be permitted as authorized and regulated by law, public policy, and specific zoning regulations in any district. It is the intention otherwise to exempt the erection, construction, alteration, and maintenance from the application of this Ordinance. However, electric, telephone, and other electronic communications distribution networks are encouraged to be underground whenever possible. Telecommunication towers and wind turbine generation facilities shall be regulated and permitted pursuant to this Ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.

### **3.3 Nuisances.**

- A. The conduct of any activity or the storage, display, or keeping of any goods, materials, or substances in such a way:
1. As to endanger the safety, health, comfort, or repose of the public or obstruct, interfere with or render dangerous any road, highway, navigable lake or stream, or other public place.
  2. As to be dangerous or detrimental to human, animal, or plant life.
  3. Which does, would, or has the potential to cause the deposit or run-off of water, waste, soil, or other materials across neighboring properties.
  4. Which does, would, or tend to exploit, waste, or restrict the productive, beneficial development or extraction of a natural resource, mineral, ore, or substance.
  5. Which does, would, or have the potential to pollute or contaminate any natural resource, including air, surface or ground water, and/or soil.
  6. Which attracts mice, rats, termites, flies, fleas, roaches, ants, or other pests or vermin.
  7. Which violates any provisions of this Ordinance.

whether the activity or condition is created by reason of odors, fumes, dust, smoke, fog, icing, condensation, evaporation, heat, seepage, noise, sight, vibration, excavation, or other causes, it shall be deemed a nuisance per se and shall not be permitted in any building or upon or under any land in any zoning district in this County.

- B. Any building, residence, or structure found to be allowed for a period of sixty (60) days or more, to remain in a condition of disrepair, dilapidation, structural failure, or collapse from whatever cause; or deemed by the District Health Department to be unsanitary or otherwise detrimental to human health; or deemed by any state or local fire department official to be a fire hazard; or found by the Zoning Administrator to come within the provisions of this section; shall be deemed a nuisance per se and shall be subject to abatement upon the complaint and/or petition of the Zoning Administrator or any interested person.
- C. This section shall not be interpreted or construed to restrict any normal activity common to farm operations and the production of farm products.
- D. Nothing in this section shall be deemed to prohibit any activity or land use which has been permitted or licensed in compliance with any other provisions of this Ordinance.

### **3.4 Prohibited Uses.**

- A. The following uses and activities are deemed to be a nuisance per se and of danger to the health, safety, and general welfare of the general public, as well as detrimental to property values and the full development of permitted uses of land in the County, and shall not be permitted within the County.
1. Radioactive substances or waste storage, disposal sites or facilities, whether such items are liquid, solid, gaseous, or consist of contaminated animals, materials, fixtures, or equipment, and whether or not containerized, except as permitted by P.A. 113 of 1978 (Radioactive Waste), as amended.
  2. Toxic chemical wastes or contaminants or hazardous substances storage or disposal sites or facilities, whether such items are liquid, gaseous, or consist of contaminated animals, materials, fixtures, or equipment, and whether or not containerized.



B. The preceding provisions of this section shall not be effective to the extent that the provisions conflict with existing state law, except that any such use allowed due to such conflict is deemed to be a special use and is subject to special use permit, fee schedule, and investigative costs assessment provisions in effect at the time.

**3.5 Fencing of Outdoor Storage Areas.** Applications for zoning permits for industrial or commercial uses may be forwarded to the Planning Commission for consideration of the need for fencing or screening if the Zoning Administrator determines that provision of fencing and/or screening may be necessary to protect the health, safety, and welfare of County residents. Prior to the issuance of any zoning permit, the Zoning Administrator may require, subject to the applicant's right to review and recommendation by the Planning Commission, adequate fencing and/or screening of a type to be determined by guidelines adopted from time to time by resolution of the Planning Commission of outdoor storage areas used by industrial or commercial facilities.

**3.6 Required Water Supply and Sewage Disposal Facilities.** Every building erected, altered, or moved upon any premises and used in whole or in part as dwellings (year-round or seasonal), recreational, institutional, business, commercial, or industrial purposes, including churches, schools, and other buildings in which persons customarily congregate, shall be provided with a safe and sanitary water supply system and with means of collecting and disposing of all domestic, commercial, and industrial wastewater, and other wastes that may adversely affect health conditions, subject to written approval of and following the requirements of the District Health Department.

**3.7 Highways.** Along any of the Presque Isle County primary roads, state trunklines, and U.S. routes, as listed on the Road Commission Primary Road Map, any principal use listed in the B-1 and B-2 Districts may be established in the FR and AR Districts, without a zoning variance or a special use permit, if the building or structure in which the use occurs is in excess of five hundred (500) feet distance from any existing residence.

**3.8 Temporary Dwelling Structures.** A garage home, basement home, camper, travel trailer, recreational vehicle, or mobile home not installed according to the requirements of this Ordinance may be used as a temporary dwelling by the owner of the premises during the period when a dwelling conforming to the provisions of this Ordinance is in the process of erection or completion on the same lot, subject to the following provisions:

- A. Compliance with Section 3.6 of this Ordinance shall precede occupancy of the temporary dwelling.
- B. The location of the temporary dwelling shall conform to all yard setback limitations of the zoning district where located.
- C. The use of the temporary dwelling shall not be hazardous to the health, safety, or public welfare.
- D. The use of the temporary dwelling shall be limited to twelve (12) months, beginning with the date of issuance. One (1) additional twelve (12) month extension may be obtained from the Zoning Administrator.
- E. Application for the erection or use of a temporary dwelling shall be made with the Zoning Administrator at the time of zoning permit application for the permanent dwelling.
- F. Except in the case of a camper, travel trailer, or recreational vehicle, which will be stored on the premises, the temporary dwelling shall be removed upon completion of construction of a dwelling complying with the requirements of this Ordinance.

- 3.9 Fees.** All fees required to be paid under this Ordinance shall be deposited by the County Treasurer in the County's general fund. No approval or permit issued under this Ordinance shall become effective until the required fees are paid in full.
- A. To assist in defraying the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the County, the Board of Commissioners may from time to time adopt by resolution a Fee Schedule establishing basic zoning fees related to the following:
1. Zoning permits.
  2. Special use permits.
  3. Appeals to or requests for interpretations by the Zoning Board of Appeals. Appeals and requests for interpretations initiated by the Board of Commissioners, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
  4. Classification of unlisted property uses.
  5. Requests to change a nonconforming use to another nonconforming use.
  6. Requests for variances from the Zoning Board of Appeals.
  7. Requests for rezoning of property by individual property owners or amendments to the Zoning Ordinance text. Rezoning of property or text amendments initiated by the Board of Commissioners, the Planning Commission, the Zoning Board of Appeals, or the Zoning Administrator shall not be subject to a zoning fee.
  8. Site plan reviews.
  9. Requests for a planned unit development (PUD).
  10. Any other discretionary decisions by the Planning Commission, Zoning Board of Appeals, or Board of Commissioners.
- B. The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when the applicant withdraws an application or appeal.
- C. If the Zoning Administrator, Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Zoning Administrator, Planning Commission, or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the County Treasurer such additional zoning fees in an amount determined by the Zoning Administrator equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit, and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Zoning Administrator to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective, thereby justifying the

denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the County in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or prior to the final decision on an appeal.

**3.10 Open Space Preservation.** In the R-1, FR, and AR Districts, 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 as would be allowed for the buildable portion of the entire parcel. Not more than fifty percent (50%) of the buildable land may be allowed for development. Unbuildable areas, such as wetlands, areas within the 100-year floodplain, or slopes greater than twenty-five percent (25%) shall not count toward the fifty percent (50%) open space minimum, as provided in subsection B below. Land may be developed for residential use under the open space preservation option following the provisions of Article 16 Special Use Permits if all of the following apply:

- A. The land is zoned at a density equivalent to two (2) or fewer dwelling units per acre, or if the land is served by a public sewer system, three (3) or fewer dwelling units per acre.
- B. A percentage of the buildable land area, but not less than fifty percent (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. "Undeveloped state" means a natural state preserving natural resources, natural features, or scenic woodlands; agricultural use; open space; or similar use or condition. This term does not include a golf course, but may include a recreational trail, picnic area, children's play area, greenway, or linear park.
- C. The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land under conventional zoning would also depend upon such extension. In cases where the extension of public sewer or public water is necessary, the developer shall bear the costs associated with the extension.
- D. The option provided by this section has not previously been exercised with respect to the land.
- E. Minimum yard setbacks, lot size, and lot width requirements may be reduced accordingly to accommodate the number of dwellings allowed. However, the lot width to depth ratio of 1:4 requirement shall not be changed to allow narrower lots.
- F. Development of land under this section is subject to all other applicable ordinances, laws, rules, including, but not limited to:
  1. The Land Division Act.
  2. Any ordinance regulating the division of land, the platting of land into subdivisions, or the creation of a site condominium project.
  3. Rules relating to suitability for groundwater for on-site water supply for land lot served by public water.
  4. Rules relating to suitability for soils for on-site sewage disposal for land not served by public sewers.

**3.11 Lot/Building Relationship.** Every building erected, altered, or moved shall be located on a zoning lot, as defined, and except in the case of an approved multiple dwelling development, there shall be no more than one (1) principal building and its permitted accessory structures located on each zoning lot in any district where residential use is permitted, except as permitted in the AR District.

**3.12 Conflicting Regulations.** Wherever in Presque Isle County, there are provisions in two (2) or more laws or ordinances concerning identical subjects and there are conflicts between the provisions, the law or ordinance with the more stringent requirements, regulations, restrictions, or limitations shall govern.

**3.13 Grades.** No premises shall be filled or graded in a way that surface runoff is discharged onto abutting premises that will cause inconvenience or damage to adjacent properties or waterways. When property is developed adjacent to previously developed properties, existing grades shall have priority. All grading shall comply with the provisions of Part 91 of P.A. 451 of 1994 (Soil Erosion and Sedimentation Control).

**3.14 Greenbelts on Waterfront Property.** To preserve natural resources, water quality, aesthetics, property values, and recreational values, a greenbelt shall be established and maintained on all property located within thirty (30) feet of the ordinary high water mark of a lake, river, or stream. The greenbelt is required to help stabilize the shoreline or riverbank, minimize erosion from surface run-off, provide screening of manmade elements, and protect fisheries and wildlife habitat. Within the greenbelt, the following development or use restrictions shall apply:

- A. No structures are allowed, except for boat launching and docking facilities.
- B. No dredging or filling is allowed except for reasonable sanding of beaches where permitted by state or federal law.
- C. The use of asphalt, concrete, or other impervious surfaces shall be limited to walkways necessary for water access or boat launch ramps.
- D. The use of pesticides, herbicides, and fertilizers is prohibited.
- E. Leaves, grass clipping, and similar yard and garden wastes shall not be burned or stored within the greenbelt.
- F. Septic tanks and septic system drain fields shall not be located within the greenbelt.
- G. Natural vegetation cover, including trees, shrubs, and grasses shall be maintained on at least sixty percent (60%) of the water frontage within the greenbelt. Beach sand, gravel, cobblestone, or rock may be substituted for vegetated areas where these materials naturally exist in the greenbelt portion of the site.
- H. Dead, diseased, unsafe, or fallen trees, shrubs, or noxious plants, including poison ivy, poison sumac, and other plants regarded as common nuisance may be removed.
- I. Trees and shrubs may be pruned for a filtered view of the water.
- J. The greenbelt shall be shown on any plot plan or site plan submitted for approval during the process of developing a water frontage lot or parcel.

**3.15 High Transport Corridor.**

A. Legislative Findings and Purpose.

- 1. The County of Presque Isle in cooperation with the Michigan Economic Development Commission (MEDC) has planned, designed, arranged payment for, and constructed a twenty eight (28) feet high barrier free east/west corridor over thirty three (33) miles of currently existing roadways. Within this corridor, overhead utility lines have been relocated, either by burying them or by raising them to provide the minimum twenty eight (28) feet of clearance. The high transport corridor was able to be constructed through the cooperation of the seven different utility companies which had affected wires, and in coordination with the Michigan Department of Transportation and the Presque Isle County Road Commission.

2. Businesses benefiting from this high transport corridor are anticipating to create substantial new employment, thereby helping to alleviate persistent above-average levels of unemployment in this County. The County has determined that it is a necessary improvement to preserve and maintain this high transport corridor so that local business enterprises may be assured of access to the deep water Port of Calcite for economical water transport.
  3. The relocation (raising or burying) of utility wires along this corridor was accomplished after study and public meetings and substantial coordination, and was achieved only at great cost to funding sources, both public and private, and without expense to the utilities.
  4. The governmental functions and purposes of the preservation of this corridor include, but are not limited to, the following public health, safety, and welfare concerns of the County.
    - a. To remove and to prevent re-imposition of barriers such as are adversely affecting or retarding the development and expansion of area industry and commerce;
    - b. To advance and support economic expansion within the County and region, including the creation of additional employment opportunities;
    - c. To enhance and improve competitive opportunities for local businesses through this transportation corridor improvement, thereby promoting both existing and potential economic development;
    - d. To open access to and promote greater utilization of the deep water Port of Calcite;
    - e. To open, promote, and encourage the expansion and development of markets for products of the County and region;
    - f. To make more available the various County resources, in accordance with present and anticipated future needs, and to best coordinate and utilize ingress and egress routes, including overland and water-based transportation systems; and
    - g. To exercise the County's general police power to protect the public health, safety, and general welfare, as there would be an immediate danger posed to transporters of freight, their equipment, and also to nearby citizens in the event that a cable or wire should be placed within the clearance of the high transport corridor.
- B. Height Clearance Directed.
- All public utility providers and all other entities, including individuals, firms, partnerships, associations, companies, corporations, public or private, who own, lease, operate, construct, and/or maintain overhead lines and wires, poles and/or related overhead facilities or equipment located along, across, over, and/or adjacent to the designated high transport corridor, are hereby directed to maintain each and every such line or facility with no less than twenty eight (28) feet of clearance above the road surface.
- C. Cost of Maintenance.
1. Both public and private funding has been provided to meet the actual cost incurred by the utilities and other entities in raising or burying pre-existing lines to accomplish the high transport corridor.
  2. Expenses attributable to maintenance and preservation of this corridor shall be the responsibility of the respective utility, corporation, entity, or individual, as set forth in B, above.
- D. Corridor Route.
1. The high transport corridor is described as follows:

Commencing at M-68 and County Line Road, thence south on County Line Road to W 638 Hwy; east on W 638 Hwy to Glasier Road; north on Glasier Road to M-68; east on M-68 to Ward Branch Road; south on Ward Branch Road to Heythaler Hwy; east on Heythaler Hwy to Petersville Road; north on Petersville Road to US-23; continuing north on Business US-23 to the city limits of the City of Rogers City.

2. The County Clerk shall maintain an accurate and current map of the corridor route as adopted by this Ordinance and/or as amended by future action of the County.
- E. Retention of Control of Public Places.  
Nothing contained herein shall be construed to alienate the title of the public in and to any public rights-of-way or any portion thereof, nor shall anything herein be construed in any manner as constituting a surrender by the County of its general powers with respect to the subject matter hereof, not to any other matter, nor does anything herein limit the right of the County to regulate the use of and the access to any public rights-of-way within its jurisdiction, nor to otherwise exercise its police powers with respect to protection of the public health, safety, and welfare.

### **3.16 Accessory Buildings.**

- A. An accessory building, whether attached or detached to a main building, shall be subject to all yard regulations applicable to the main building for the zoning district where located.
- B. Detached accessory buildings shall not be located closer than six (6) feet to any main building or other accessory building.
- C. An accessory apartment or guest quarters may be built on the same lot as a principal dwelling or commercial use. However, the accessory apartment or guest quarters shall only be used by the owner or operator and is not intended for rental purposes.
- D. Construction of an accessory building in all districts may occur prior to the associated main building only when building and zoning permits for the main building have been approved.
- E. Agricultural buildings and structures incidental to farming uses are exempt from the requirements of this section.
- F. Structures such as mobile homes, recreational vehicles, semi-truck trailers, shipping containers, and the like shall not be used for storage or accessory buildings.
- G. In the R-1, R-2, and R-3 Districts and on lots in all other districts which do not meet the minimum lot size requirement in Article 14, Schedule of Regulations, the total floor area of all detached residential accessory buildings may not exceed two hundred percent (200%) of the ground floor area of the main building. The main building may contain an attached garage which does not count toward the two hundred percent (200%) limitation.

- 3.17 Permitted Yard Encroachments.** The yard requirements of all districts are subject to the following permitted encroachments: chimneys, flues, cornices, gutters, bay windows, and similar features may project into any required yard a maximum of twenty-four (24) inches.

**3.18 Stormwater Retention.** The property owner or developer is required to retain on site all storm water drainage in excess of natural conditions. This provision may require storm water retention or detention ponds where necessary. An exception can be made for water leaving the site via an existing storm water pipe, or through other storm water facilities which will be developed at the same time as the proposed new use. All storm water facilities, including detention or retention ponds shall be designed at minimum to handle a storm with the projected frequency of once every twenty-five (25) years.

**3.19 Use of Recreational Vehicles.** No person shall use or permit the use of any recreational vehicle, as defined in this Ordinance, for temporary living arrangement on any vacant lot, parcel, field, or tract of land not specifically licensed as a recreational vehicle park or campground for more than thirty (30) days in a ninety (90) day period and no more than ninety (90) days per calendar year. The recreational vehicle shall be self-contained, or sanitary facilities meeting the requirements of District Health Department shall be provided when in use. If located in the R-1, R-2, and R-3 districts or on parcels less than ten (10) acres in the AR and FR districts, the recreational vehicle shall either be removed from the site or stored in a completely enclosed building when it is not in use. If located on parcels of ten (10) or more acres in the AR and FR districts, the recreational vehicle need not be removed from the site when not in use. An exception to these regulations may be made during the actual construction of a permanent dwelling on the premises, as regulated under Section 3.8.

**3.20 Outdoor Wood Burning Furnaces.**

- A. Intent. Although outdoor wood burning furnaces may provide an alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. This section is intended to ensure that outdoor wood burning furnaces are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety, and general welfare of the residents of Presque Isle County.
- B. Permit Required. No person shall cause, allow, or maintain the use of an outdoor wood burning furnace in Presque Isle County without first having obtained (1) a zoning permit from the County Zoning Administrator, (2) a mechanical permit from the State Mechanical Inspector, and (3) an electrical permit from the County Electrical Inspector.
- C. Specific Requirements.
  - 1. Permitted Fuel. Only firewood or untreated lumber are permitted to be burned in an outdoor wood burning furnace. The burning of all other materials is prohibited.
  - 2. Permitted Districts. Outdoor wood burning furnaces shall be permitted in all districts, provided the provisions of subsections 3, and 4 below are met.
  - 3. Minimum Lot Size. Outdoor wood burning furnaces shall be permitted on lots of one (1) acre or more.
  - 4. Setbacks. Outdoor wood burning furnaces shall be set back at least 50 (fifty) feet from the side and rear lot lines, setback at least 150 (one hundred fifty) feet from any adjacent dwelling, and shall not be sited in the front yard. Setbacks and placement requirements may be adjusted in the FR and AR districts, when after review of the zoning application the zoning administrator determines that strict adherence to the standards will serve no purpose and waiver from the standards will not detrimentally impact neighboring properties as developed at the time of application. Article 22 E. - Nonconformities apply to outdoor wood burning furnaces. *(Amended 10-14-14)*

D. Effect of Other Regulations. Nothing contained in this section shall authorize or allow burning which is prohibited by codes, laws, rules, or regulations promulgated by the United States Environmental Protection Agency, Michigan Department of Environmental Quality, Michigan Department of Natural Resources, or any other federal, state, regional, or local agency. Outdoor wood burning furnaces and any electrical, plumbing, or other apparatus or device used in connection with an outdoor wood burning furnace, shall be installed, operated, and maintained in conformity with the manufacturer's specifications and recommendations, and all local, state, and federal codes, laws, rules, and regulations.



## **ARTICLE 4 ESTABLISHMENT OF ZONING DISTRICTS**

### **4.1 Districts.**

For the purpose of this Ordinance, the following zoning districts shall be established in Presque Isle County:

R-1	Low Density Residential
R-2	Medium Density Residential
R-3	Restricted Residential
FR	Forest/Recreation
AR	Agricultural Resource
B-1	Neighborhood Business
B-2	General Business
M-1	Manufacturing
I-1	Extractive Industry

### **4.2 Zoning Map.**

Zoning districts are illustrated on a map entitled “Zoning Map of Presque Isle County, Michigan”, which with all notations, references, and other information shown on the map, shall be made a part of this Ordinance.

### **4.3 District Boundaries.**

Unless otherwise specified, zoning district boundary lines shall be interpreted as following along the lines of customary subdivision of sections, such as quarter and eighth lines; the center lines of highways, streets, or railroads; the shorelines of bodies of water; the boundaries of incorporated places; or the boundaries of recorded plats or subdivisions. If there are any questions as to the determination of district boundaries, the Presque Isle County Zoning Board of Appeals shall interpret the boundaries.

### **4.4 Zoning District Changes.**

When re-zoning of district boundaries occur, any nonconforming use may be continued subject to all other applicable provisions of this Ordinance

## **ARTICLE 5**

### **LOW DENSITY RESIDENTIAL DISTRICT (R-1)**

- 5.1 Intent.** The Low Density Residential (R-1) District is intended to create and preserve residential environments throughout Presque Isle County in a rural setting.
- 5.2 Permitted Uses.**
- A. Single-family dwellings.
  - B. Two-family dwellings.
  - C. Parks and open space.
  - D. Adult foster care homes, family.
  - E. Day care homes, family.
  - F. Accessory uses and facilities incidental to the permitted uses.
  - G. Small On-Site Wind Energy Systems *(Amended 10-10-18)*
  - H. Home occupations, subject to the limitations of this Ordinance.*(Amended 10-14-14)*
- 5.3 Uses Allowed by Special Permit.**
- A. Churches, public libraries, and educational institutions.
  - B. Cemeteries and funeral homes.
  - C. Non-commercial recreational facilities, indoor and outdoor.
  - D. Golf courses, driving ranges, and miniature golf courses.
  - E. Farms and other agricultural activities, including plant nurseries.
  - F. Planned unit developments and campgrounds.
  - G. Private clubs, lodges, and hunting camps.
  - H. Adult foster care homes, small group or large group.
  - I. Day care homes, group.
  - J. Bed and breakfast establishments.
  - K. Marinas.
  - L. Accessory uses and facilities incidental to the special permit uses.

## **ARTICLE 6**

### **MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2)**

- 6.1 Intent.** The Medium Density Residential (R-2) District is established for the purpose of providing a residential living environment, similar to the R-1 District, but located in areas capable of sustaining smaller lots and closer to the more populated centers in Presque Isle County. Additionally, the uses permitted in this district are considered to be compatible with residential activities, while conflicting land uses are prohibited.
- 6.2 Permitted Uses.**
- A. Single-family dwellings.
  - B. Parks and open space.
  - C. Adult foster care homes, family.
  - D. Day care homes, family.
  - E. Home occupations, subject to the limitations of this Ordinance. *(Amended 10-14-14)*
  - F. Accessory uses and facilities incidental to the permitted uses.
  - G. Small On-Site Wind Energy Systems *(Amended 10-10-18)*
- 6.3 Uses Allowed by Special Permit.**
- A. Churches, public libraries, and educational institutions.
  - B. Cemeteries and funeral homes.
  - C. Non-commercial recreational facilities, indoor and outdoor.
  - D. Golf courses, driving ranges, and miniature golf courses.
  - E. Planned unit developments.
  - F. Professional offices.
  - G. Two-family dwellings, multiple-family dwellings, condominiums, and mobile home parks.
  - H. Adult foster care homes, small group or large group.
  - I. Day care homes, group.
  - J. Bed and breakfast establishments.
  - K. Commercial resorts, campgrounds and marinas.
  - L. Accessory uses and facilities incidental to the special permit uses.

## **ARTICLE 7 RESTRICTED RESIDENTIAL DISTRICT (R-3)**

**7.1 Intent.** The Restricted Residential (R-3) District is established for the purpose of providing a residential living environment that will preserve the integrity of the existing area including its natural resources of land, air, and water quality with the flavor and culture of the area. It is intended that these resources will be preserved by following limitations with regard to the density and that additionally, the uses permitted in this district are considered compatible with residential activities while conflicting land uses are prohibited. The majority of lands in this district were originally platted with substantial restrictions and covenants on use in the original platting documents.

**7.2 Permitted Uses.**

- A. Single-family dwellings.
- B. Parks and open space.
- C. Adult foster care homes, family.
- D. Day care homes, family.
- E. Home occupations, subject to the limitations of this Ordinance. *(Amended 10-14-14)*
- F. Accessory uses and facilities incidental to the permitted uses.
- G. Small On-Site Wind Energy Systems *(Amended 10-10-18)*

**7.3 Uses Allowed by Special Permit.**

- A. Non-commercial recreational facilities, indoor and outdoor.
- B. Professional offices.
- C. Adult foster care homes, small group or large group.
- D. Day care homes, group.
- E. Bed and breakfast establishments.
- F. Marinas.
- G. Churches.
- H. Accessory uses and facilities incidental to the special permit uses.

## ARTICLE 8 FOREST/RECREATION DISTRICT (FR)

**8.1 Intent.** The Forest/Recreation (FR) District is established to preserve the rural, undeveloped and natural areas of Presque Isle County in a manner that will retain the attractiveness of these areas for recreation and resource management activities while recognizing the need for minimal, low density residential development on private lands within the district.

**8.2 Permitted Uses.**

- A. Growing and harvesting of timber, fruits, and vegetables.
- B. Hunting, fishing, camping, and other unorganized recreational activities.
- C. Hunting cabins, subject to County building requirements.
- D. Wildlife management.
- E. Kennels and animal hospitals, meeting the requirements of the County Animal Control Ordinance.
- F. Portable sawmills.
- G. Permanent sawmills, planing mills, veneer mills, and other forest industry-related operations.
- H. Single-family dwellings.
- I. Two-family dwellings.
- J. Private clubs and lodges.
- K. Airports and aircraft landing fields.
- L. Campgrounds.
- M. Commercial resorts.
- N. Golf courses.
- O. Adult foster care homes, family.
- P. Day care homes, family.
- Q. Home occupations, subject to the limitations of this Ordinance. *(Amended 10-14-14)*
- R. Storage facilities, private.
- S. Bed and breakfast facilities.
- T. Commercial riding stables.
- U. Small On-Site Wind Energy Systems *(Amended 10-10-18)*
- V. Accessory uses and facilities incidental to the permitted uses.

**8.3 Uses Allowed by Special Permit.**

- A. Gas and oil processing facilities.
- B. Communications towers.
- C. Adult foster care homes, small group and large group.
- D. Day care homes, group.
- E. Churches.
- F. *Reserved*
- A. Commercial Marihuana Secure Transporter *(defined under "Marihuana Facility" - Amended 5-25-18)*
- B. Marihuana Secure Transporter *(defined under "Marihuana Establishment" - Amended 10-25-19)*
- G. Utility Scale Wind Energy Facilities and Anemometer Towers *(Amended 10-10-18)*
- H. Solar Energy Facilities (Utility Scale) *(Amended 10-10-18)*
- I. Accessory uses and facilities incidental to the special permit uses.

## **ARTICLE 9 AGRICULTURAL RESOURCE DISTRICT (AR)**

**9.1 Intent.** The purpose of the Agricultural Resource (AR) District is to encourage farm production and preserve agricultural lands, which, because of their soil characteristics and other factors, are especially well suited for the growing, raising, or production of food and fiber. It is further intended that this district protect productive agricultural lands from uses having a negative impact on them.

**9.2 Permitted Uses.**

- A. Agricultural production operations, including crop cultivation, pastures, orchards, and similar uses.
- B. Feedlots and the raising of farm livestock, including poultry farms.
- C. Buildings for the storage or housing of machinery, equipment, crops, and/or livestock, including accessory structures for farm operations.
- D. Two single-family dwelling units are permitted on a single lot or parcel. However, each dwelling unit shall meet the applicable lot size/width, building size/height, and yard setbacks that would allow for a future lot split without creating a non-conformity.
- E. Single-family dwellings.
- F. Two-family dwellings.
- G. Adult foster care homes, family.
- H. Day care homes, family.
- I. Kennels and animal hospitals, meeting the requirements of the County Animal Control Ordinance.
- J. Portable sawmills.
- K. Storage facilities, private.
- L. Bed and breakfast facilities.
- M. Commercial riding stables.
- N. Accessory uses and facilities incidental to the permitted uses.
- O. Hunting, fishing, camping, and other unorganized recreational activities. *(Amended 6-29-12)*
- P. Hunting cabins subject to county building requirements. Minimum of five acres land required. Two hundred square foot minimum size of cabin. *(Amended 6-29-12)*
- Q. Small On-Site Wind Energy Systems *(Amended 10-10-18)*
- R. Home occupations, subject to the limitations of this Ordinance. *(Amended 10-14-14)*

**9.3 Uses Allowed by Special Permit.**

- A. Livestock auction yards.
- B. Animal slaughter houses.
- C. Nurseries for plants.
- D. Permanent sawmills, planing mills, veneer mills, and other forest industry-related operations.
- E. Gas and oil processing facilities.
- F. Communications towers.
- G. *Reserved*
- H. Adult foster care homes, small group or large group.
- I. Day care homes, group.
- J. Churches.
- K. Uses permitted under (B-1) Neighborhood Business. *(Amended 9-8-10)*

- L. Commercial Marihuana Growers. *(defined under "Marihuana Facility" - Amended 5-25-18)*
- M. Commercial Marihuana Secure Transporters. *(defined under "Marihuana Facility" - Amended 5-25-18)*
- N. Commercial Marihuana Safety Compliance Facilities. *(defined under "Marihuana Facility" - Amended 5-25-18)*
- O. Commercial Marihuana Provisioning Centers. *(defined under "Marihuana Facility" - Amended 5-25-18)*
- P. Commercial Marihuana Processing Centers. *(defined under "Marihuana Facility" - Amended 5-25-18)*
- Q. Accessory uses and facilities incidental to the special permit uses.
- R. Marihuana Establishments *(Amended 10-25-19)*
- S. Utility Scale Wind Energy Facilities and Anemometer Towers *(Amended 10-10-18)*
- T. Solar Energy Facilities (Utility Scale) *(Amended 10-10-18)*

## **ARTICLE 10 NEIGHBORHOOD BUSINESS DISTRICT (B-1)**

- 10.1 Intent.** The Neighborhood Business (B-1) District is intended to preserve small areas throughout Presque Isle County where a mixture of uses co-exist in a community setting, where there is no incorporated city or village government. Uses anticipated in this district include residential, small-scale commercial, and institutional.
- 10.2 Permitted Uses.**
- A. Single-family dwellings.
  - B. Two-family dwellings.
  - C. Parks and open space.
  - D. Retail business less than twelve thousand (12,000) square feet floor area.
  - E. Churches, cemeteries, schools, libraries, museums, and similar institutional uses.
  - F. Arts/crafts studios.
  - G. Personal service businesses.
  - H. Financial institutions.
  - I. Restaurants, bars, and lounges less than five thousand (5,000) square feet floor area.
  - J. Laundromats.
  - K. Bed and breakfast establishments.
  - L. Home occupations, subject to the limitations of this Ordinance.
  - M. Professional offices.
  - N. Adult foster care homes, family and small and large group homes.
  - O. Day care homes, family and group.
  - P. Adult foster care congregate facilities.
  - Q. Day care centers.
  - R. Accessory uses and facilities incidental to the permitted uses.
  - S. Small On-Site Wind Energy Systems (*Amended 10-10-18*)
- 10.3 Uses Allowed by Special Permit.**
- A. Gas station/convenience stores.
  - B. Motels, hotels, motor inns.
  - C. Multiple-family dwellings.
  - D. Commercial Marihuana Provisioning Centers (*defined under "Marihuana Facility" - Amended 5-25-18*)
  - E. Accessory uses and facilities incidental to the special permit uses.
  - F. Marihuana Retailer (*defined under "Marihuana Establishment" - Amended 10-25-19*)
  - G. Marihuana Microbusiness (*defined under "Marihuana Establishment" - Amended 10-25-19*)



## **ARTICLE 11 GENERAL BUSINESS DISTRICT (B-2)**

**11.1 Intent.** The General Business (B-2) District is established to provide areas within Presque Isle County for a variety of commercial developments to serve the needs of travelers, tourists, and vacationers, as well as the residents in localized areas along major roadways of the County.

**11.2 Permitted Uses.**

- A. Retail businesses.
- B. Arts/crafts studios.
- C. Personal service businesses.
- D. Financial institutions.
- E. Restaurants, bars, and lounges.
- F. Laundromats.
- G. Gas stations and auto repair, provided that outdoor storage of vehicles under repair be confined to the rear yard and screened from view.
- H. Motels, hotels, motor inns, cabin courts, tourist lodging facilities, museums, golf courses, driving ranges, and miniature golf.
- I. Sales, rentals, and service centers for vehicles, watercraft, and/or mobile homes, including new and used automobiles, trailers, motor homes, modular homes, manufactured homes, motorcycles, bicycles, boats, all-terrain vehicles, off-road vehicles, campers, and snowmobiles.
- J. Professional offices.
- K. Car wash establishments.
- L. Hospitals.
- M. Nursing homes.
- N. Adult foster care congregate facilities.
- O. Day care centers.
- P. Churches.
- Q. Accessory uses and facilities incidental to the permitted uses.
- R. Small On-Site Wind Energy Systems *(Amended 10-10-18)*

**11.3 Uses Allowed by Special Permit.**

- A. Kennels and animal hospitals, meeting the requirements of the County Animal Control Ordinance.
- B. Single-family dwellings.
- C. Two-family dwellings.
- D. Multiple-family dwellings.
- E. Sexually oriented businesses, as defined and regulated in this Ordinance.
- F. Commercial Marihuana Provisioning Centers *(Amended 5-25-18)*
- G. Accessory uses and facilities incidental to the special permit uses.
- H. Marihuana Retailer *(defined under "Marihuana Establishment" - Amended 10-25-19)*
- I. Marihuana Microbusiness *(defined under "Marihuana Establishment" - Amended 10-25-19)*

## **ARTICLE 12 MANUFACTURING DISTRICT (M-1)**

**12.1 Intent.** The Manufacturing (M-1) District is designed to provide sites for manufacturing and wholesale storage, and as a distribution area to retail stores and industrial users. These sites are located along state trunklines and primary or secondary County roads to accommodate traffic volume associated with permitted uses.

**12.2 Permitted Uses.**

- A. Wholesale storage with trucking facilities.
- B. Truck terminals with warehousing.
- C. Pre-fabrication shops for residential, commercial, and industrial equipment.
- D. Sales offices as an accessory use to the main use.
- E. Service and storage centers for trucks, watercraft, truck trailers, and miscellaneous motorized vehicles.
- F. Outside storage yards as an accessory use to the main use.
- G. Lumber yards, building material suppliers with pre-fabrication of wood parts.
- H. Bottling works, food packaging, and freezer plants.
- I. Research and experimental laboratories.
- J. Machine, plastic, and wood shops.
- K. Gas and oil processing facilities.
- L. Storage facilities (private or commercial use).
- M. Accessory uses and facilities incidental to the permitted uses.
- N. Small On-Site Wind Energy Systems

**12.3 Uses Allowed by Special Permit.**

- A. Slaughter houses and meat packing facilities.
- B. Junkyards.
- C. Utility Scale Wind Energy Facilities and Anemometer Towers. *(Amended 10-10-18)*
- D. Communications towers.
- E. Churches.
- F. Commercial Marihuana Growers. *(Amended 5-25-18)*
- G. Commercial Marihuana Safety Compliance Facilities. *(Amended 5-25-18)*
- H. Commercial Marihuana Processors. *(Amended 5-25-18)*
- I. Commercial Marihuana Secure Transporters. *(Amended 5-25-18)*
- J. Commercial Marihuana Provisioning Centers. *(Amended 5-25-18)*
- K. Accessory uses and facilities incidental to the special permit uses.
- L. Solar Energy Facilities. (Utility Scale) *(Amended 10-10-18)*
- M. Marihuana Establishments *(Amended 10-25-19)*

## **ARTICLE 13 EXTRACTIVE INDUSTRY DISTRICT (I-1)**

- 13.1 Intent.** Activities dependent upon natural resources can often operate more efficiently in close proximity to raw material supply sources. The processing of these raw materials can produce pollutants. Therefore, these types of activities are ideally separated from other land uses in the area. Consequently, this district is established to allow extractive industries to function without hindrance from less intensive uses, and at the same time protect surrounding areas from any negative effects of extractive operations.
- 13.2 Permitted Uses.**
- A. Sand, gravel, and limestone extraction, mining, quarrying, and processing and related activities.
  - B. Forest industries, including sawmills, planing mills, and veneer mills.
  - C. Gas and oil processing facilities.
  - D. Storage facilities (private or commercial use).
  - E. Accessory uses and facilities incidental to the permitted uses.
  - F. Small On-Site Wind Energy Systems. *(Amended 10-10-18)*
- 13.3 Uses Allowed by Special Permit.**
- A. Junkyards.
  - B. Solid waste disposal facilities and landfills.
  - C. Power generating facilities.
  - D. Communications towers.
  - E. Churches.
  - F. Single-family dwellings.
  - G. Accessory uses and facilities incidental to the special permit uses.
  - H. Utility Scale Wind Energy Facilities and Anemometer Towers. *(Amended 10-10-18)*
  - I. Solar Energy Facilities (Utility Scale). *(Amended 10-10-18)*
- 13.4 Existing Gravel Pits.** All existing gravel and sand pits shall be considered to be within this I-1 District.

**ARTICLE 14  
SCHEDULE OF REGULATIONS \***

District	Minimum Lot Area (f) (d)	Minimum Lot Width (feet) (f) (d)	Maximum Building Height		Minimum Yard Setback Requirements (feet)			Minimum Ground Floor Area per Dwelling (square feet)** (a)
			Stories (g)	Feet (g)	Front (d)	Side	Rear	
Low Density Residential (R-1)	0.5 A	100	3	45	30	(b)	15	600
Medium Density Residential (R-2)	12,000 s.f.	80	3	45	30	(b)	15	600
Restricted Residential (R-3)	12,000 s.f.	100	3	45	30 (e)	(b) (e)	15 (e)	750
Forest/ Recreation (FR)	0.5 A	100	3	45	40	(b)	15	450
Agricultural Resource (AR)	Farm 10 A	600	3	45	40	(b)	15	600
	Resid. 0.5 A	100						
Neighborhood Business (B-1)	12,000 s.f.	80	3	45	30	(b)	15	600
General Business (B-2)	0.5 A	100	3	45	50	15	15	600
Manufacturing (M-1)	1.0 A	100	None	None	100	25	50	None
Extractive Industry (I-1)	9.5 A	300	None	None	100	50	50	600

\* Except as otherwise provided in the Ordinance.

\*\* Applies to single-family detached dwellings only. For others see footnote (c).

## FOOTNOTES TO SCHEDULE OF REGULATIONS

(a) For dwellings, the minimum ground floor area requirements shall not include areas of basements, utility rooms, breezeways, porches, or attached garages.

(b) The minimum side yard setbacks in this district are as follows:

On lots which do not meet lot width requirements of this Ordinance, and as such are classified as non-conforming lots, the minimum side yard setbacks for all structures shall be ten percent (10%) of the lot width, but in no case less than five (5) feet.

On lots conforming to the lot width requirements of this Ordinance, the minimum side yard setback for all structures shall be ten (10) feet in the R-1, R-2, R-3 and B-1 Districts, and fifteen (15) feet in the FR and AR Districts.

(c) The minimum required floor space per dwelling unit, which is accessory to a principal use, shall be:

Efficiency	400 square feet
One-bedroom apartment	500 square feet
Two-bedroom apartment	700 square feet
Three-bedroom apartment	800 square feet

plus an additional eight (80) square feet for each bedroom in excess of three bedrooms in any dwelling unit.

Minimum floor areas for condominiums, duplexes, multiplexes, patio houses, townhouses, and atrium houses shall be the same as for single-family dwelling units.

(d) The following requirements apply to lots or parcels fronting on Lake Huron, inland lakes, rivers, or streams:

- (1) The waterfront side shall be considered the front yard.
- (2) Minimum lot size for any lot fronting on a lake, river, or stream in any district shall not be less than seventy-five (75) feet in width at the building site, and shall not be less than one hundred (100) feet in depth.
- (3) Front yard setback shall be measured from the ordinary high water mark (as defined in Article 2) of Lake Huron, inland lake, river, or stream. For High Risk Erosion Areas along Lake Huron as identified by Michigan Department of Environmental Quality, the front yard setback shall be measured from the top of the bluffline.
- (4) In the R-1, R-2, R-3, B-1, FR, and AR Districts, for existing lots one hundred (100) feet or less in depth, the front yard setback shall be the same as for other lots in the district.
- (5) In the R-1, R-2, R-3, and B-1 Districts, for existing lots greater than one hundred (100) feet in depth, the front yard setback shall be thirty percent (30%) of the lot depth or fifty (50) feet, whichever is less.
- (6) In the FR and AR Districts, for existing lots greater than one hundred (100) feet in depth, the front yard setback shall be the greater of forty (40) feet or thirty percent (30%) of the lot depth, but need not be greater than fifty (50) feet.

- (7) For new lots in R-1, R-2, R-3, B-1, FR, and AR Districts created after the effective date of this Ordinance, the front yard setback shall be fifty (50) feet from the ordinary high water mark.
  - (8) In the B-2 District, the front yard setback shall be fifty (50) feet regardless of lot depth.
  - (9) In the M-1 and I-1 Districts, the front yard setback shall be one hundred (100) feet regardless of lot depth.
  - (10) On an undeveloped lot, where existing buildings on both adjacent lots are within one hundred (100) feet of a proposed new building, and the existing buildings do not meet the waterfront setback standards, the waterfront setback for the new building shall be the average setback on the adjacent developed lots, or thirty (30) feet, whichever is greater.
  - (11) See also Section 3.14, Greenbelts on Waterfront Properties.
- (e) In the Restricted Residential (R-3) District, in areas where access is provided to multiple lots by communal lanes, private roads, ingress and egress easements, etc., that run at right angles to US-23, the following applies:
- (1) The minimum side yard setback shall be fifteen (15) feet for a one hundred fifty (150) feet or wider lot. For lots less than one hundred fifty (150) feet in width but greater than fifty (50) feet, the side yard setback shall be ten percent (10%) of the lot width at the building site, but in no case less than five (5) feet. The rear yard setback shall be ten (10) feet.
  - (2) The front yard setback shall be measured from the lot line in the center of the vehicular usable platted communal lane, private road, ingress and egress easement, etc. This includes any lake lots as well as back lots.
- (f) The following requirements apply to all districts:
- (1) These requirements shall not prevent the use, in accordance with Section 21.3, Non-conforming Lots, of a lot or parcel of land of lesser size, provided the lot or parcel was of legal record before the effective date of this Ordinance. An increase in lot size of an existing non-conforming lot is permissible, even if the newly created lot is still less than the minimum lot area and width requirements for the district where located.
  - (2) In all districts, lots or parcels created after the effective date of this Ordinance shall meet the minimum lot area and lot width requirements for the district where located.
  - (3) In all districts, the width of any lot, parcel, or land division created after the effective date of this Ordinance shall not be less than twenty five percent (25%) of the lot or parcel depth.
- (g) There are no height limitations on agricultural buildings and structures.

## **ARTICLE 15 SITE PLAN REVIEW**

- 15.1 Purpose.** Site plans give the Zoning Administrator or Planning Commission an opportunity to review development proposals in a concise and consistent manner. The use of a site plan ensures that physical changes in the property meet with local approval and that development actually occurs as it was promised by the developer.
- 15.2 Circumstances Requiring a Site Plan.** Site plans are required for the following reasons:
- A. All new uses except one-family and two-family dwellings or structures customarily accessory to dwellings. A plot plan sufficient to meet building permit application requirements is required for one-family and two-family dwellings.
  - B. Expansion or renovation of an existing use, other than one-family or two-family dwellings, which increases the existing floor space more than twenty-five percent (25%).
  - C. Changes of use for an existing structure other than one-family and two-family dwellings.
  - D. Uses which require five (5) or more parking spaces.
  - E. Special Permit Uses.
  - F. Planned Unit Developments.
  - G. Site Condominium Projects.
- 15.3 Site Plan Data Required.** Each site plan submitted shall contain the following information, unless specifically waived, in whole or in part, by the Zoning Administrator or Planning Commission.
- A. The date, north arrow, scale, and name of individual or firm responsible for preparing the plan. The scale must be at least one (1) inch=fifty (50) feet for parcels less than three (3) acres and not less than one (1) inch=one hundred (100) feet for parcels three (3) acres or more.
  - B. The boundary lines of the property, to include all dimensions and legal description.
  - C. The location of all existing and proposed structures on the site, including proposed drives, walkways, signs, exterior lighting, parking (showing the dimensions of a typical parking area), loading and unloading areas, common use areas, and recreational areas and facilities.
  - D. The location and width of all abutting rights-of-way.
  - E. The location of existing environmental features, such as streams, wetlands, shorelands, mature specimen trees, wooded areas, or any other unusual environmental features.
  - F. The location and identification of all existing structures within a two hundred (200) feet radius of the site.
  - G. The name and address of the property owner.
  - H. The existing zoning district in which the site is located and the zoning of adjacent parcels. In the case of a request for a zoning change, the classification of the proposed new district must be shown.
  - I. The location of all existing and proposed landscaping as well as all existing and proposed fences or walls.
  - J. A locational sketch of the proposed use or structure.
  - K. The type, location, and size of all existing and proposed utilities.
  - L. The location, size, and slope of all surface and subsurface drainage facilities.

- M. Summary tables, cross-sections, and/or floor plans should be included with site plans for proposed structures, giving the following information:
  - 1. The number of units proposed, by type, including a typical floor plan for each type of unit.
  - 2. The area of the proposed units in square feet, as well as area dimensions of driveways and staging areas.
  - 3. Typical elevation drawings of the front and rear of each building.
- N. The topography of the existing and finished site shall be shown by contours or spot elevations. Where the existing slope on any part of the site is ten percent (10%) or greater, contours shall be shown at height intervals of two (2) feet or less.
- O. Anticipated hours of operation for the proposed use. The Planning Commission may impose reasonable limits to hours of operation as a condition of site plan approval when warranted to assure compatibility with surrounding land uses.

**15.4 Submittal and Approval Procedures.** Ten copies of the proposed site plan, including all required additional or related information, shall be presented to the Zoning Administrator's Office by the petitioner, property owner, or designated agent at least fifteen days prior to the Planning Commission meeting where the site plan will be considered.

The Zoning Administrator or Planning Commission shall have the responsibility and authorization to approve, disapprove, or approve with conditions, the site plan in accordance with the requirements of the zoning district in which the proposed use is located and shall further consider the following criteria:

- A. The location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site, and in relation to pedestrian traffic.
- B. The traffic circulation features within the site and location of automobile parking areas; and may make requirements with respect to any matters that will assure:
  - 1. Safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets.
  - 2. Satisfactory and harmonious relationships between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.
- C. Whether the sewage disposal facilities, water supply, stormwater drainage, fire protection, and other utility provisions will be safe and adequate. Copies of permits for sewage disposal system and water well approved by the District Health Department shall be submitted with site plan. Stormwater drainage plan shall be reviewed and approved by the County Drain Commissioner if the Zoning Administrator or Planning Commission request.
- D. Whether the location, use, and the nature of the operation will be in conflict with the primary permitted uses of the district or neighborhood.
- E. Whether the use will be objectionable to adjacent and nearby properties by reason of traffic, noise, vibration, dust, fumes, odor, fire-hazard, glare, flashing lights, disposal of waste or sewage, erosion, pollution, or negative effects upon significant environmental features.
- F. Whether the use will discourage or hinder the appropriate development and use of adjacent premises and neighborhood.

The Zoning Administrator shall review and act upon site plans, except for Special Use Permits, Planned Unit Developments, and Site Condominium Projects. Site plans for these exceptions shall be forwarded by the Zoning Administrator to the Planning



Commission for review and action. In addition, at the request of the Zoning Administrator or Planning Commission, a site plan for a listed Permitted Use may be submitted for Planning Commission review and action. The Zoning Administrator and Planning Commission have the authority to approve, deny, or grant conditional approval for any site plan submitted under the provisions of this Ordinance. The Zoning Administrator may hold, or the Planning Commission may table a site plan, pending further information or addition, reasonably needed to complete a site plan or comply with requirements of this Ordinance.

A site plan shall be approved if it contains the information required by this Ordinance and is in compliance with this Ordinance, the conditions imposed under this Ordinance, other applicable ordinances, and state and federal statutes.

Where a site plan is submitted for Planning Commission review and action, any conditions or modifications desired by the Planning Commission shall be recorded in the minutes of the appropriate Planning Commission meeting. When approved, at least two (2) copies of the final approved site plan shall be signed and dated by the Chair of the Planning Commission and the petitioner, or if Zoning Administrator reviewed the site plan, then the Zoning Administrator's signature is required. One of these two (2) approved copies shall be kept on file in the Zoning Administrator's Office, and the other approved copy shall be returned to the petitioner or his designated representative.

- 15.5 Site Plan Amendments.** An approved site plan may be submitted for minor amendment to the Zoning Administrator provided that the changes conform to the Zoning Ordinance, and the applicant agrees. No additional fees will be charged for minor amendments. If, in the judgment of either the Zoning Administrator or the Planning Commission Chair, the site plan amendment is major, the provisions of Section 15.4 "Submittal and Approval Procedures" shall be followed. Installing more than three thousand (3,000) additional square feet of impervious paving shall require a site plan amendment to review stormwater management, per the standards of Section 3.18 unless the paving was included in a previously approved site plan.
- 15.6 Administrative Fees.** Any site plan application shall be accompanied by a fee, in an amount to be determined by the County Board of Commissioners. Such fee shall be for the purpose of payment for the administrative costs and services expended by the County in the implementation of this article and the processing of the application. The fee may be used to reimburse another party retained by the County to provide expert consultation and advise regarding the application. The County shall return any unused portion of the fee to the applicant. Any costs of special meetings called to review a site plan shall be borne by the applicant. See also Section 3.9.
- 15.7 Revocation.** If the Zoning Administrator finds that the conditions of an approved site plan are not being adhered to, notice shall be given to the applicant of intent to revoke the approved site plan. Intent to revoke a site plan shall be made in writing ten (10) days prior to the stated date of revocation and shall contain the reasons for revocation.
- 15.8 Expiration.** Site plan approval shall expire if the authorized work is not commenced within twenty-four (24) months after approval; if work is suspended or abandoned for a period of twelve (12) months after the work is commenced; or if conditions of site plan approval are not adhered to within six (6) months after approval.

## **ARTICLE 16 SPECIAL USE PERMITS**

- 16.1 Purpose.** Certain land use activities entitled “Special Permit Uses” may be authorized in the various zoning districts, only if adequate safeguards are provided to ensure the protection of the public health, safety, and general welfare. The uses that may be authorized are listed in the “Special Permit Uses” section of each zoning district. Special uses are authorized by the County Planning Commission by the issuance of a special use permit provided:
- A. The proposed use is one listed as a “Special Permit Use” for the district in which the use is to be located or if the use is similar to one listed.
  - B. The provisions of this Article are complied with.
  - C. The standards for the particular use as stated in the provisions for that district in which the use is located are fulfilled, and all other applicable standards or other requirements of this Ordinance are met.
- 16.2 Application.** Ten copies of an application for a special use permit authorized in this Ordinance shall be submitted to the Zoning Administrator on a form supplied for such purposes. Application shall be accompanied by the payment of the fee established by the Board of Commissioners and a site plan meeting the requirements of Article 15. The Zoning Administrator shall forward the complete application and supporting data to the Planning Commission. If all required information is not provided, the Zoning Administrator may deny the application on that basis.
- 16.3 Public Hearing and Notice Requirements.** Following receipt of a complete special use permit application, the Planning Commission shall hold at least one (1) public hearing.
- A. One (1) notice that a request for special use permit has been received shall be published in a newspaper which circulates in the County not less than fifteen (15) before the date the special use permit will be considered. The notice shall:
    - 1. Describe the nature of the special use permit request.
    - 2. Indicate the property which is the subject of the special use permit request, including street address.
    - 3. State when and where the special use permit request will be considered.
    - 4. Indicate when and where written comments will be received concerning the request.
  - B. The notice shall also be sent by first class mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. If the name of the occupant is not known, the term “occupant” may be used in making notifications. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area, each shall receive notice. In the case of a single structure containing more than four (4) dwelling units, individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

- 16.4 Planning Commission Action.** The Planning Commission shall review the proposed special use permit request in terms of the standards stated within this Ordinance and may deny, approve, or approve with conditions the special use permit. The Planning Commission's decision must:
- A. Be made in writing and include a finding of fact describing how the special use permit does or does not comply with the provisions of this Ordinance.
  - B. Clearly specify any conditions attached to an approval of a special use permit and the basis for those conditions.
  - C. If the Planning Commission denies the application, the reasons for its denial must be clearly specified.
  - D. A copy of the Planning Commission's decision must be provided to the applicant.
- 16.5 Basis for Determination.** The special use permit request and required site plan shall be subject to the following special requirements, in addition to the requirements and standards of the zoning district where located:
- A. The use will be designed, constructed, operated, and maintained to be harmonious with the existing or intended character of the general vicinity, and the use will not change the essential character of the area in which it is proposed to be located. The provision for fencing, walls, and/or landscaping may be required as a screening device to minimize adverse affects on the neighborhood.
  - B. Natural features of the landscape, including but not limited to, ponds, streams, hills, and wooded areas, shall be retained where they afford a barrier or buffer from adjoining properties.
  - C. The landscape shall be preserved in its natural state, as far as practical, by minimizing tree and soil removal, and any grade or slope changes shall be in keeping with the general appearance of the neighborhood.
  - D. The use will not be hazardous or disturbing to existing or future nearby uses.
  - E. The use will be served adequately by essential public services and facilities or that the persons responsible for the establishment of the proposed use will provide adequately any such service or facility.
  - F. The use will not create excessive additional public costs and will not be detrimental to the economic welfare of the County.
  - G. The use will be consistent with the intent and purposes of this Ordinance and meet the goals and objectives of the *Presque Isle County Comprehensive Plan*.
- 16.6 Reapplication.** No application for a special use permit which has been denied wholly or in part shall be resubmitted until the expiration of one (1) year or more from the date of the denial, except on grounds of newly discovered evidence or proof of changed conditions found by the Zoning Administrator to be sufficient to justify reconsideration by the Planning Commission.
- 16.7 Special Use Permit Validity.**
- A. Approval of a special use permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by any subsequent owner.
  - B. In instances where development authorized by a special use permit has not commenced within twenty four (24) months from the date of issuance, the permit shall expire.
  - C. A special use permit shall become invalid when the use of the property for which the permit was granted is discontinued for a period of six (6) months. However, the Planning Commission shall not invalidate a special use permit unless intent to

discontinue the operation is evident. Intent to discontinue is demonstrated by disconnected utilities, sign removal, fixture and furniture removal, or inventory removal.

- 16.8 Jurisdiction of Zoning Board of Appeals.** The Zoning Board of Appeals shall have no jurisdiction over decisions of the Planning Commission in regard to matters concerning the denial or revocation of special use permits, except to determine if correct procedures were followed.

## **ARTICLE 17 SITE DEVELOPMENT REQUIREMENTS**

**17.1 Site Development Requirements for Specific Uses.** Those permitted uses and special permit uses enumerated in any specific zoning district, and if included below, shall be subject to the requirements of this Article, in addition to those of the zoning district in which the use is located, along with provisions located elsewhere in this Ordinance.

### **A. AIRPORTS, AIRCRAFT LANDING FIELDS**

1. Privately owned and maintained non-commercial aircraft landing strips, more or less parallel to a public road, shall be set back from the road a minimum of seventy-five (75) feet. Where a privately owned landing strip is situated more or less perpendicular to a public road, the landing strip shall be separated from the road by a minimum of one hundred (100) feet.
2. All privately owned and maintained landing strips shall be at least four hundred (400) feet from the nearest residential dwelling and at least four hundred (400) feet from all other buildings not designated as accessory structures for the landing field.
3. All other aircraft landing fields or airports must conform to the applicable federal and state regulations and be approved by appropriate federal and state agencies prior to submittal of a site plan to the Planning Commission.

### **B. BED AND BREAKFAST FACILITIES**

While this subsection is established to enable single-family dwelling units to be used as bed and breakfast facilities, it is the intent of the Planning Commission to preserve the character of the residential district in which the operation is located. A bed and breakfast operation is a subordinate use to a single-family dwelling unit subject to the following conditions:

1. The operator shall live on the premises when the operation is active.
2. A special use permit is required prior to commencing use. The special use permit shall allow annual inspection by the Zoning Administrator at a convenient time.
3. Bed and breakfast facilities will operate in compliance with all local, state, and federal requirements.
4. The number of rooms available for guests shall be limited to five (5). Each guest room shall be equipped with a separate functioning smoke detector alarm, and a fire extinguisher in proper working order shall be installed and maintained on every floor. Guests shall have access to lavatory and bathing facilities.
5. The maximum length of stay for guests shall be fourteen (14) consecutive days.
6. Two (2) off-street paved or graded gravel parking spaces shall be provided for the operator of the facility, plus one (1) parking space for each available guest room and one (1) for any non-resident employed.
7. The dwelling unit has no exterior evidence, other than a sign meeting the requirements of Article 19, to indicate that the dwelling is being utilized for any purpose other than as a residence.
8. Breakfast may be served only to overnight guests, in accordance with state public health regulations regarding bed and breakfast facilities.
9. The bed and breakfast operation shall produce no excessive noise, traffic, glare, or other nuisance that would be detrimental to the character of the neighborhood.

C. CAMPGROUNDS

1. Minimum lot size shall be adequate to meet health code standards.
2. All sanitary facilities shall be designed and constructed in strict conformance with all applicable health regulations.
3. A twenty-five (25) foot buffer area shall be provided between the sites adjacent to neighboring properties and residential dwellings on those properties.

D. CAR WASH FACILITIES

1. Vacuuming activities shall be carried out in the rear yard and at least fifty (50) feet distance from any adjoining residential use.
2. The entrances and exits of the car wash bays shall be from within the lot and not directly to or from adjoining street or alley. A street or alley shall not be used as maneuvering or parking spaces for vehicles waiting for service.

E. CARE FACILITIES

1. All care facilities, including family, group or convalescent homes for the care of persons of all ages (children and adults) shall be licensed by the appropriate agency of the State of Michigan, and shall provide a copy of the license to Presque Isle County before operation of the care facility proceeds.
2. Convalescent homes, nursing homes, extended care facilities and similar uses shall be located so that the site has direct ingress and egress to a major street or a minor street no more than four hundred (400) feet from its intersection with a major street. No building shall be located closer than thirty (30) feet to any lot line. Service entrances shall be screened from the view of adjacent residential property.

F. CEMETERIES

Minimum lot size shall be five (5) acres. A fence or suitable screening shall be placed around the perimeter of the cemetery site. The owner, lessee, agent, or designated representative shall agree to maintain the premises in an orderly fashion.

G. CHURCHES OR PLACES OF WORSHIP

1. Minimum lot area shall be two (2) acres.
2. Minimum lot width shall be one hundred fifty (150) feet.
3. For every one (1) foot of height (excluding spire) above the maximum building height allowable for the district in which the church is located, an additional one (1) foot setback on all sides of the main structure shall be required.
4. Proper vehicular ingress, egress and off-street parking requirements shall be maintained according to Article 18.

H. COMMERCIAL AND INDUSTRIAL USES WITH OUTDOOR STORAGE

Outside storage of equipment or materials shall be located in the rear or side yards, screened from view, and vehicular access to such storage shall be maintained.

I. COMMERCIAL KENNELS AND ANIMAL HOSPITALS

1. All kennels and animal hospitals shall be operated in conformity with all pertinent county and state regulations.
2. The kennel and runs must be located a minimum of two hundred fifty (250) feet from an occupied dwelling or any adjacent building used by the public, and shall not be located in any required setback areas.

3. A visual and noise barrier between the kennel area and adjoining property shall be maintained.
4. The sale of pet supplies is allowed provided it is clearly incidental and subordinate to the kennel.
5. One non-illuminated sign meeting the requirements of Article 19 is permitted.
6. The kennel shall be operated in conjunction with a single-family dwelling occupied by the kennel owner.

J. FARMS

Regulated by the Right to Farm Act.

K. FUNERAL HOMES

1. Minimum lot size shall be one (1) acre.
2. A well-designed and landscaped off-street vehicle assembly area for funeral processions shall be maintained in addition to required off-street parking and related vehicle maneuvering space.
3. A caretaker's residence may be located inside the main facility.

L. GAS AND OIL PROCESSING FACILITIES

1. The facility shall comply with all federal, state and local building, environmental and health codes and regulations.
2. The applicant shall provide copies of the application for permit to drill, permit to drill, survey record of well location, and plat, as provided to the Supervisor of Wells, Department of Environmental Quality, as part of the permit process for the location and erection of oil and gas processing facilities.
3. The Planning Commission may impose reasonable conditions in order to comply with the Zoning Ordinance standards.
4. The facility may incorporate surface land owned or leased by the oil and/or gas company. If leased, the lease documents shall be submitted to the Planning Commission, and they shall be informed of the length of the lease.
5. Because the subject facilities are industrial in nature, the required site plan shall also show adequate visual and sound privacy from adjacent property and public roads. Forested greenbelt, berms, attractive fence screen, landscaping, mufflers, insulation, or other contrivances may be used to insure compliance with visual and sound privacy of the adjacent properties.
6. In the event the facility is no longer required or is not used for two (2) years, the existing facility shall be removed and the area restored to its original state. Further, the area shall be checked by an agency concerned with environmental protection to insure that it is clear of pollutants.
7. The sound level of the facility shall not exceed sixty (60) decibels as measured four hundred and fifty (450) feet in any direction from the facility.
8. The facility shall be built no closer than four hundred fifty (450) feet from an existing dwelling.
9. The facility shall be built no closer than one hundred (100) feet from any public road.

M. GASOLINE/SERVICE STATIONS

1. No ingress or egress to an automobile service station, repair garage, or filling station, shall be closer than twenty-five (25) feet from any intersection or residential property line abutting the property on which the facility is located.

2. The entire lot, excluding those areas occupied by a building or landscaped areas, shall be hard-surfaced with concrete or a plant mixed bituminous material.
3. All lubrication equipment, hydraulic hoists, and pits shall be completely enclosed within a building. All gasoline pumps and canopy overhang shall be located not less than twenty-five (25) feet from any lot line and shall be arranged so that motor vehicles may be provided easy egress and ingress to and from the adjoining street, and so that no portion of the vehicle while it is stopped for service, shall overhang onto a sidewalk, curb, street, or public right-of-way.
4. All outside storage areas for trash, used tires, auto parts, and the like shall be enclosed by a (6) foot totally obscuring wall. Outside storage or parking of disabled, wrecked or partially dismantled vehicles shall be allowed for a period not to exceed fifteen (15) days.
5. The property on which the automobile service station, repair garage or filling station is located shall be no closer than five hundred (500) feet from a vehicular entrance or exit to a hospital, library, museum, public or private school, playground, church, or park.
6. All exterior lighting, including signs, shall be hooded or shielded so that glare is directed downward and away from the view of adjacent properties.

#### N. GOLF COURSES

Vehicular parking areas shall be maintained on site. Adequate parking space shall be provided for all anticipated rates of course usage or capacity.

#### O. HOME OCCUPATIONS *(Amended 10-14-14)*

The purpose of the home occupation provision is to allow the operation of home occupations for supplemental income purposes in residential areas. Home occupations are limited to those uses, which may be conducted within an occupied residential dwelling or in an accessory building without changing the appearance or condition of the residence in any way. Home occupations are a permitted use, requiring a zoning permit, in all districts that allow single or two family dwellings. The following criteria shall be employed by the Planning Commission to determine a valid home occupation.

1. The structures on the property shall not show any external indication of the home occupation, or any change in the appearance of the buildings or premises from a dwelling, except that one non-illuminated sign meeting the requirements of Article 19 may be erected to advertise the activity.
2. The use shall not generate pedestrian or vehicular traffic beyond that which is normal to the residential areas.
3. No more than twenty five percent (25%) of the dwelling's ground floor area may be used for the home occupation, except for bed and breakfast facilities. There is no limit on the accessory building floor area to be used in the home occupation.
4. In no way shall the appearance of the residence be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character by the use of colors, materials, construction, lighting, or the emission, of sounds, noises, odors ,or vibrations.



5. There shall be no use of community facilities beyond that normal to the use of the property for residential purposes.
6. The display of goods produced or services performed on the premises shall not be evident from the exterior of the residence..
7. If a home occupation meets any of the following criteria a special use permit is required
  - a. If a home occupation employs more than three total employees.
  - b. Vehicles greater then 10,001 lbs.
  - c. Requires more than 4 customer and employee parking spots.
  - d. Hours of operation are outside of 8am to 9pm.
  - e. Outdoor storage in R-1. R-2. R-3.

**P. JUNKYARDS**

Use of premises for the operation of a junkyard shall be subject to the following special requirements, in addition to the requirements and standards of the zoning district where located, in order to prevent conflict with or impairment of the principal permitted uses of the district.

1. Written application for a Special Use Permit shall be presented to the Zoning Administrator who shall refer the application to the Planning Commission.
2. The Zoning Administrator shall make an investigation as to the suitability of the proposed site.
3. A suitable site shall provide a front yard of not less than one hundred (100) feet. The required front yard shall not be used for parking, storage, burning, wrecking or dismantling of any junk or refuse material.
4. The site shall be adequately screened with a solid uniformly finished wall or fence or an adequately maintained evergreen hedge not less than eight (8) feet in height, and in no case less than that of the enclosed material.
5. Issuance of a permit shall in no way exempt the applicant from any additional laws or regulations of the State of Michigan or of the township where located.

**Q. MARINAS**

1. All fuel storage and pumping facilities shall be separated from all other structures in accordance with appropriate state regulations.
2. Signs indicating the location of fuel and other flammable material shall be place in appropriate locations and be clearly visible for a distance of at least fifty (50) feet.
3. Marina facilities, including fuel storage and pumping stations, shall have a minimum seventy-five (75) feet separation from adjacent residential property or residentially zoned districts.
4. If swimming facilities are present, they shall be designated by appropriate signs.
5. Boat docking and launching facilities shall have a minimum fifty (50) feet separation form designated swimming areas.

**R. MULTIPLE-FAMILY DWELLING DEVELOPMENTS**

1. Ingress, egress, and off-street parking facilities shall conform to the standards set forth in Article 18.
2. The lot on which the multiple-family development is situated shall abut at least on one side a major roadway.

3. When a multiple-family development is located adjacent to commercial, industrial, or single-family residential lot, a greenbelt and protective screening shall be provided.
4. Where a multiple-family building exceeds the allowable maximum height of the district in which it is located, for every one (1) foot of excess height, one (1) foot of additional setback on all sides shall be required.
5. Vehicular access to the rear of the site for the provision of services shall be provided.
6. Trash and garbage collection facilities shall be located to the rear of the lot.

S. PLANT OR LANDSCAPE NURSERIES

1. Storage or display areas shall meet all applicable yard setbacks and parking requirements of this Ordinance.
2. Organic plant food, soil, or fertilizer shall be sufficiently packed or stored to avoid adverse health effects or odors for neighboring property owners.
3. An office and/or storage building may be constructed on the premises. Any building shall conform to all applicable yard setbacks.
4. Minimum lot size shall be one (1) acres.
5. The premises may be surrounded by fencing or screening.
6. Off-street loading and parking facilities meeting the requirements of Article 18 shall be provided.

T. STABLES FOR HORSES

1. For breeding, rearing, and/or housing of horses, the minimum lot size, including a residential dwelling, shall be one (1) animal per acre.
2. Structures used as stables shall not be located closer than sixty (60) feet from any property line or less than one hundred (100) feet from any residential dwelling.
3. Animals shall be paddocked in a suitably fenced area surrounding or adjacent to the stable. The fencing shall not be nearer than sixty (60) feet from any residential dwelling.
4. Stable and corral facilities shall be constructed in a way that dust, noise, odor, and drainage problems will be minimized to avoid nuisance or hazard to the premises on the same lot or on adjoining properties.

U. TELECOMMUNICATION TOWERS AND FACILITIES AND ALTERNATIVE TOWER STRUCTURES

Antenna towers and masts for cellular phone and other personal or business communications services, public utility microwaves and TV transmission may be authorized with a special approval use permit by the Planning Commission in the Agriculture Resource, Forest/ Recreation, Manufacturing, and Extractive Industry zoning district(s) only. Antenna towers and masts erected and operated as a residential accessory use, and not more than fifty (50) feet in height as measured between the tower's base at grade and its highest point are exempt from these regulations.

A site plan and other materials normally required for special approval use permits must be submitted with the application.

In considering authorization of such towers and masts, the Planning Commission shall apply the standards and procedures of Article 15 and the following specific standards:

1. The applicant shall provide documentation to the Planning Commission that clearly establishes the legal ownership of the tower. The applicant, agents, or successors shall report to the Planning Commission any changes in the legal ownership of the tower within thirty (30) days of the effective date of the change.
2. The application for special approval for the tower shall include a visual impact analysis, prepared by the applicant, which includes graphic depiction of the anticipated visual appearance of the tower from important vantage points in the surrounding area. Methods used in preparing the analysis shall be reviewed and approved by the Planning Commission during its first consideration of the application for special approval before the public hearing.
3. The antenna tower shall be exempt from building height limits established by zoning district regulations, provided that the tower height shall not exceed the minimum height necessary to serve its intended functions.
4. Whether or not it is feasible to provide equivalent service by locating the antenna on an existing tower or other alternative structure in the vicinity or on an existing tower or other alternative structure located in neighboring communities.
5. Landscape screening may be required by the Planning Commission to screen ancillary equipment buildings from public view.
6. Guy cables and anchors shall comply with applicable zoning district setback requirements.
7. The applicant shall provide documentation of any lighting to be installed on the tower. If tower lighting is required or proposed, the tower may not be approved unless the Planning Commission determines that it will not have a significant adverse impact on properties and residents of the surrounding area.
8. The painting of towers in alternate bands of orange and white shall be permitted only if specifically required by Federal Communications Commission (FCC) or Federal Aviation Administration (FAA) regulations. If alternate band painting is required by FCC or FAA regulations, the applicant shall provide documentation of such requirements and regulations.
9. The applicant shall provide documentation of conformance with any FCC and FAA regulations.
10. The owner/operator of the tower shall agree to permit use of the tower by other personal or business communications services providers, including local government agencies, on reasonable terms, so long as such use does not interfere with the owner/operator's reasonable use of the tower. The addition of other user's equipment to the tower shall be permitted so long as the engineered design capacity of the tower or mast is not exceeded.
11. As a condition of approval, the Planning Commission may require an owner to deposit funds in escrow with the County, or provide an insurance bond satisfactory to the County's Attorney to assure the removal of towers and masts as prescribed herein. If required, such escrow deposit or insurance bond shall be in an amount equal to one and one-quarter ( $1 \frac{1}{4}$ ) times the estimated cost of removal of the tower at the time of approval. Such escrow deposit or bond shall be maintained by successor owners.

12. If the tower ceases operation for its original use or is abandoned for any reason, the County may order the owner to remove the tower within nine (9) months of notification by the County.
13. The tower shall be located centrally on a continuous parcel of not less than one (1) times the height of the tower measured from the base of tower to all points on each property line. A fence not less than six (6) feet in height with anti-climb features shall be constructed around the base of the tower.

#### V. VEHICLE SALES, RENTAL, AND SERVICE CENTERS

Vehicles shall include new or used automobiles, trucks, watercraft, recreational vehicles, motor bikes, boats, ATV's, campers, snowmobiles, and trailers, provided:

1. Ingress and egress to the use shall be at least sixty (60) feet from the intersection of any two streets.
2. Display areas shall be surfaced with concrete, asphalt, or a similar durable, smooth and dustless surface.
3. The arrangement of vehicles stored in the open shall be uniform, following the patterns established for off-street parking lots.
4. Sales or display areas shall set back a minimum of twenty (20) feet from any public or private street or road right-of-way.
5. Service areas shall be in completely enclosed buildings and storage areas for vehicles that are being serviced must be in the rear yard and screened from adjacent properties.

#### W. SEXUALLY ORIENTED BUSINESS

1. No sexually oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within one thousand (1,000) feet of any principal or accessory structure of another sexually oriented business.
2. No sexually oriented business shall be established on a parcel that is within one thousand (1,000) feet of any parcel zoned R-1, R-2, and R-3.
3. No sexually oriented business shall be established on a parcel that is within one thousand (1,000) feet of any residence, park, school, childcare facility, or place of worship in any zoning district. The distance shall be measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of the residence, park, school, childcare facility, or place of worship.
4. The proposed use shall conform to all specific density and setback regulations, etc. of the zoning district in which it is located.
5. The proposed use must meet all applicable written and duly adopted standards of Presque Isle County and other governments or governmental agencies having jurisdiction, and that to the extent required, the approval of these governments and/or governmental agencies has been obtained or is reasonably assured.
6. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not be visible from neighboring properties or adjacent roadways.
7. Any sign or signs proposed for the sexually oriented business must comply with the provisions of this Ordinance, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.
8. Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business. Lettering no less than two (2) inches in height shall state: 1)

"Persons under the age of 18 are not permitted to enter the premises", and 2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."

9. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.
10. Hours of operation shall be limited to 12:00 noon to 12:00 midnight.
11. All off-street parking areas shall be illuminated during all hours of operation of the sexually oriented business, and until one hour after the business closes.
12. Any booth, room, or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities:
  - a. Is handicap accessible to the extent required by the Americans with Disabilities Act;
  - b. Is unobstructed by any door, lock, or other entrance and exit control device;
  - c. Has at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
  - d. Is illuminated by a light bulb of wattage of no less than twenty-five (25) watts;
  - e. Has no holes or openings in any side or rear walls.

#### X. MINING AND EXTRACTIVE OPERATIONS

1. Minimum lot size shall be five (5) acres.
2. No open pit or mine shall be located closer than two hundred (200) feet to the right-of-way line of a public street or thoroughfare, or closer than two hundred (200) feet to the shoreline of any inland lake or stream. On property adjacent to Lake Huron, no open pit or mine shall be located closer than two hundred (200) feet to the ordinary high water mark of Lake Huron as established by the U.S. Army Corps of Engineers or lakeward of the five hundred eighty five (585) foot land surface elevation line. Within the setback from Lake Huron, no grading or changes in elevation shall result in an elevation less than five hundred eight five (585) feet. No open pit or mine shall be located closer than six hundred fifty (650) feet to a dwelling unit which existed on the date of ordinance adoption.
3. Safety fencing shall be provided, and any necessary fencing shall be shown on the site plan. Where property used for mining operations abuts property zoned for residential use or a public street, and when mining operations occur within view of such residential property or street, a visual buffer shall be established and maintained. The buffer shall be composed, at a minimum, a seventy-five (75) foot wide vegetated area including tree and shrub species native to the region and a twenty-five (25) foot wide vegetated berm at least eight (8) feet in height.
4. The applicant shall submit a reclamation plan to the Planning Commission.
5. The applicant shall give assurances acceptable to the Planning Commission of installing pollution or nuisance control devices or operational practices to minimize dust, smoke, noise, vibration, water pollution, surface water and groundwater level impacts, hazardous waste discharge or spills, or visual effects of such operations. The County may require a performance bond or similar assurance for such safeguards prior to approval.

6. If truck or heavy equipment traffic is anticipated to pass through residential areas, the site plan shall include measures to minimize negative traffic impacts, including consideration for alternative truck routes where possible.
7. Throughout the period of active mining, a citizen complaint process shall be established, publicized, and maintained. The purpose shall include, at minimum, a published address and phone number where County residents and property owners may direct written or oral complaints or questions about mining operations. Reasonable efforts shall be made to respond to and resolve valid complaints. A written record of all complaints and questions received, along with the response given, shall be maintained and summarized annually. Complaint records shall be available for public inspection at the owner's place of business, and the annual summary shall be submitted to the Zoning Administrator by March 1 of each year for the preceding calendar year.
8. The site plan shall be submitted prior to beginning mining activities and at five-year intervals thereafter, during the active life of the mine. For mines in active use at the time of ordinance adoption, the site plan need only cover areas of the site anticipated for future mining, and shall be submitted within six (6) months of the effective date of this ordinance provision.
9. A performance bond may be imposed at any time if the site plan and/or reclamation plan is not followed.

#### Y. WIND ENERGY SYSTEMS *(Amended 10-10-18)*

##### 1. Purpose and Goals.

The purpose of this section is to establish guidelines for siting wind energy systems and wind energy facilities. This section's goals are as follows:

- a. To promote the safe, effective, and efficient use of wind turbines and wind energy systems installed to reduce consumption of electricity supplied by utility companies and/or to produce power that will be directly supplied to the electric power grid system.
- b. To lessen potential adverse impacts that wind turbines and wind energy facilities may have on residential areas and land uses through careful design, siting, noise limitations, and innovative camouflaging techniques.
- c. To avoid potential damage to adjacent properties from turbine failure through proper siting of turbine structures.

##### 2. Technological Advances and Design Standards Flexibility.

The County recognizes the accelerated pace at which the technology of wind energy generation is constantly evolving, and the impact these technological changes may have on the use and placement of wind energy systems within the County. Consequently, in order to effectively incorporate new technology that may outpace the regulations established herein, the Planning Commission may approve wind energy systems that do not fully comply with the strict development standards of these regulations, if in the opinion of the Commission they comply with the intent of the regulations and do not create significant adverse impacts on the petitioned property, abutting properties or the immediate neighborhood.

### 3. Small On-Site Wind Energy Systems.

A wind energy conversion system which is intended to primarily serve the needs of the property upon which it is located shall be considered an accessory structure and shall be permitted by right. The following site development standards shall apply:

- a. Allowable Use. Small on-site wind energy systems shall be a permitted use in all districts.
- b. Design & Installation. All wind turbines (ground and roof-mounted) shall comply with building code. Wind turbines shall be installed by a licensed contractor and applications shall be accompanied by engineering drawings of the wind turbine structure including the tower, base, and footings. The installation of the wind turbine shall meet manufacturer's specifications.
- c. Site Plan Submittal. An application for the installation of a Small On-Site Wind Energy System shall include a site plan including the following information:
  - (1) Location of the proposed wind turbine.
  - (2) Location of all structures on the property and adjacent properties and the distance from the wind turbine.
  - (3) Distance from other wind turbines on adjacent lots, if applicable.
- d. Height. The maximum height shall be determined on a case by case basis dependent upon the site and manufacturer's specifications and recommendations. Wind energy system must be able to be contained on the property owner's lot in the event that it should fall.
- e. Number of Turbines (Horizontal or Vertical). The number of turbines shall be determined by the spacing requirement of the manufacturer.
- f. Rotor Clearance. A minimum fifteen (15) foot clearance from the ground shall be maintained for the vertical blade tip of a Horizontal Axis Wind Turbine and for the bottom of the rotating spire or helix of a Vertical Axis Wind Turbine.
- g. Guy Wires. The use of guy wires shall be prohibited.
- h. Noise. Small wind energy systems shall not cause a sound pressure level in excess of fifty-five (55) dB(A) or in excess of five (5) dBA above the background noise, whichever is greater, as measured at the nearest property line. This level may be exceeded during short-term events such as utility outages and severe wind storms.
- i. Vibration. Small wind energy systems shall not cause vibrations through the ground which are perceptible beyond the property line of the parcel on which it is located.

- j. Spacing. Minimum spacing between wind energy systems shall be per the manufacturer's specifications.
- k. Reception Interference. Small wind energy systems shall not cause interference with television, microwave, navigational or radio reception to neighboring areas.
- l. Shadow Flicker. The property owner of a wind turbine shall make reasonable efforts to minimize shadow flicker to any occupied building on nearby properties. Shadow flicker on occupied buildings shall occur no longer than thirty (30) minutes per day.
- m. Potential Ice Throw. Any potential ice throw or ice shedding from the wind turbine generator shall not cross the property lines of the site nor impinge on any right-of-way or overhead utility line.
- n. Visual Impact. All visible components of a small onsite wind energy system shall be painted a non-reflective, non-obtrusive neutral color and maintained in good repair in accordance with industry standards.
- o. Safety. A small on-site wind energy system shall have an automatic braking system to prevent uncontrolled rotation.
- p. Other Regulations. On-site use of wind energy systems shall comply with all applicable State construction and electrical codes, Federal Aviation Administration requirements, Michigan Aeronautics Commission requirements, P.A. 259 of 1959, as amended, (Michigan Tall Structures Act, being MCL 259.481 et. seq.) and the Michigan Public Service Commission and Federal Energy Regulatory Commission standards.
- q. Roof-Mounted Wind Energy Systems.
  - (1) Roof-mounted Vertical Axis Wind Turbines must be located on the rear half of the structure unless incorporated as an architectural design feature of the building.
  - (2) Horizontal Axis Wind Turbines shall not be roof-mounted, except for those specifically designed for such installation.

4. Utility-Scale Wind Energy Facilities and Anemometer Towers.

Anemometer towers and wind energy facilities consisting of one (1) or more wind turbines whose main purpose is to supply electricity to off-site customers shall be allowed as a Special Use and shall adhere to the following requirements in addition to the requirements contained in Articles 15 (Site Plan Review) and 16 (Special Use Permits).

- a. Principal or Accessory Use. A wind energy facility or anemometer tower may be considered either a principal Special Land Use or an accessory Special Land Use in the FR, AR, M-1 and I-1 Districts. A different existing use or an existing structure on the same parcel shall not preclude the installation of a wind energy facility or a part of such facility on such parcel. Wind energy facilities that are



constructed and installed in accordance with the provisions of this Section shall not be deemed to constitute the expansion of a nonconforming use or structure. A Special Use Permit shall be required for utility-scale wind energy facilities and anemometer towers as a principal or accessory use.

- b. Design & Installation. All wind turbine generators shall comply with building code. Wind turbines shall be installed by a licensed contractor and applications shall be accompanied by engineering drawings of the wind turbine structure including the tower, base, and footings. An engineering analysis of the tower showing compliance with the currently adopted building code and certified by a licensed professional engineer shall also be submitted.

Guy wires may be utilized to support a temporary (18 months or less) anemometer tower, if demonstrated by the applicant to be necessary to maintain the safety of the structure.

- c. Minimum Site Area. The minimum site area for a wind turbine generator or an anemometer tower erected prior to a wind turbine generator shall be as necessary to meet required wind energy setbacks and any other standards of this Section.
- d. Setbacks. Each proposed wind turbine generator or anemometer tower shall meet the following applicable setback requirements:
  - (1) Setback from Property Line. Each wind turbine generator shall be set back from any adjoining lot line a distance equal to the total height of the wind turbine generator including the top of the blade in its vertical position. If the adjoining property owned/leased for development by the applicant includes more than one (1) parcel or in the case of a Lease Unit Boundary, the properties may be considered in combination in determining setback. For the purposes of measuring setback, a Lease Unit Boundary shall not cross a road right-of-way.
  - (2) Setback from Road. In addition to the above, a wind turbine generator shall, in all cases, be set back from a public or private road right-of-way a minimum distance equal to the height of the wind turbine generator total height as defined in the Ordinance.
  - (3) Setback from Structures. Each wind turbine generator shall be setback from the nearest inhabited structure located on property not owned or leased by the applicant a distance not less than one and one-half (1 ½) times the total height of the wind turbine generator.
  - (4) Setback from Communication and Power Lines. Each wind turbine shall be set back from the nearest above-ground public electric power line or telephone line a distance of no less than four hundred (400) feet or one and one-half (1 ½) times the total wind turbine height, whichever is greater, determined from the existing power or communications lines.
  - (5) Building Setbacks. Setbacks for buildings accessory to a wind turbine generator shall conform to the setbacks of the district.

- e. Maximum Height.
  - (1) The maximum wind turbine generator or anemometer tower height shall be determined on a case by case basis dependent upon the site and manufacturer's specifications and recommendations.
  - (2) The applicant shall demonstrate compliance with the Michigan Tall Structures Act (P.A. 259 of 1959, as amended), FAA guidelines, and Michigan Aeronautics Commission guidelines as part of the approval process.
- f. Tower Separation. Wind turbine separation distance shall be based on 1) industry standards, 2) manufacturer recommendation, and 3) the characteristics (prevailing wind, topography, etc.) of the particular site location. Documents shall be submitted by the developer/manufacturer confirming specifications for tower separation.
- g. Minimum Ground Clearance. The lowest point of the arc created by rotating wind vanes or blades on a wind turbine generator shall be no less than fifty (50) feet.
- h. Maximum Noise Levels. The sound pressure level generated by the wind energy system shall not exceed sixty-five (65) dB(A) measured at neighboring property lines. If the ambient sound pressure level exceeds sixty-five (65) dB(A), the standard shall be ambient plus five (5) dB(A).
- i. Maximum Vibrations. Any proposed wind turbine generator shall not produce vibrations through the ground humanly perceptible beyond the parcel on which it is located.
- j. Potential Ice Throw. Any potential ice throw or ice shedding from a wind turbine generator shall not cross the property lines of the site nor impinge on any right-of-way or overhead utility line.
- k. Signal Interference. No wind turbine generator shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antennas for radio, television, navigation, wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No wind turbine generator shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference with the link's operation.
- l. Visual Impact, Lighting, Power Lines.
  - (1) Wind turbines shall be mounted on tubular towers, painted a non-reflective, non-obtrusive neutral color. The appearance of turbines, towers, and buildings shall be maintained throughout the life of the wind energy facility pursuant to industry standards (i.e. condition of exterior paint, signs, landscaping). A certified registered engineer and authorized factory representative shall certify that the construction and installation of the wind

energy facility meets or exceeds the manufacturer's construction and installation standards.

- (2) The design of the wind energy facility's buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening, and landscaping that will blend facility components with the natural setting and the environment existing at the time of installation.
- (3) Wind turbine generators shall not be artificially lighted, except to the extent required by the FAA or the MAC or other applicable authority, or otherwise necessary for the reasonable safety and security thereof. If lighting is required, the lighting alternatives and design chosen:
  - (a) Shall be the intensity required under State or federal regulations.
  - (b) Shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by State or federal regulations. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to State or federal regulations.
  - (c) All tower lighting required by State or federal regulations shall be shielded to the extent possible to reduce glare and visibility from the ground.
- (4) Wind turbines shall not be used to display any message except the reasonable identification of the manufacturer or operator of the wind energy facility.

m. Safety.

- (1) All collection system wiring shall comply with all applicable safety and stray voltage standards.
- (2) Wind energy facilities shall be enclosed by a fence or wall.
- (3) All access doors to wind turbine towers and electrical equipment shall be locked.
- (4) Appropriate warning signs shall be placed on wind turbine towers, electrical equipment, and facility entrances.
- (5) All wind turbine generators shall be equipped with controls to control the rotational speed of the blades within design limits for the specific wind turbine generator.
- (6) Wind turbine generators shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

- n. Additional State, Federal, or Local Requirements. Any proposed wind turbine generator anemometer tower shall meet or exceed any standards and

regulations of the Federal Aviation Administration (FAA), Michigan Aeronautics Commission (MAC), the Michigan Public Service Commission, National Electric Safety Code, Federal Energy Regulatory Commission, and any other agency of the state, federal, or local government with the authority to regulate wind turbine generators or other tall structures in effect at the time the Special Land Use application is approved.

- o. Approvals. All required approvals from other local, regional, state or federal agencies must be obtained prior to approval of a site plan. In the case where site plan approval is a requirement for other local, regional, state, or federal agency approval, evidence of such shall be submitted with the site plan, and such approval of the site plan by the Planning Commission shall be conditional upon the approval of all other required permits.
- p. Removal of Wind Turbine Generators.
  - (1) The applicant shall submit a decommissioning plan. The plan shall include:
    - (a) The anticipated life of the project.
    - (b) The estimated decommissioning costs in current dollars. Such costs shall not include credit for salvageable value of any materials.
    - (c) The method of ensuring that funds will be available for decommissioning and restoration.
    - (d) The anticipated manner in which the project will be decommissioned and the site restored.
  - (2) Abandonment. Any wind turbine generator or anemometer tower that is non-operational for a continuous period of twenty-four (24) months shall be considered abandoned, and the owner of such wind turbine generator or anemometer tower shall remove the same within one hundred eighty (180) days of receipt of notice of abandonment from the County. Failure to remove an abandoned wind turbine generator or anemometer tower within the one hundred eighty (180) day period provided in this subsection shall be grounds for the County to remove the wind turbine generator or anemometer tower at the owner's expense.
  - (3) In addition to removing the wind turbine generator, or anemometer tower, the owner shall restore the site of the wind turbine generator or anemometer tower to its original condition prior to location of the wind turbine generator or anemometer tower, subject to reasonable wear and tear. Any foundation associated with a wind generator or anemometer tower shall be removed to a minimum depth of five (5) feet below the final grade and site vegetation shall be restored.
- q. Performance Guarantee. As a condition of approval, the Planning Commission may require an owner to deposit funds in escrow with the County, or provide an insurance bond satisfactory to the County's Attorney to assure the removal of the wind energy facility as prescribed herein. If required, such escrow deposit or

insurance bond shall be in an amount equal to one and one quarter (1 ¼) times the estimated cost of removal of the wind energy facility at the time of approval. Such escrow deposit or bond shall be maintained by successor owners.

- r. Equipment Replacement. The wind turbine generator in its entirety or major components of the wind turbine generator may be replaced without a modification of the Special Use permit provided all regulations contained herein are adhered to.

## Z. COMMERCIAL MARIHUANA FACILITIES *(Amended 5-25-18)*

A marihuana grower, marihuana processor, marihuana provisioning center, marihuana secure transporter, and marihuana safety compliance facility, in accordance with the provisions of State law, may be permitted through the issuance of a special land use permit pursuant to Article XVI of the Presque Isle County Zoning Ordinance, in the specified zones, provided that:

1. At the time of application for the special land use permit, the marihuana facility must be in the licensing process with the State of Michigan, and then must be at all times in compliance with the laws of the State of Michigan including but not limited to the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the State of Michigan.
2. At the time of application for a Commercial Marihuana Facility Permit, the marihuana facility must have the Presque Isle County permit application concurrently in process with the special land use permit and site plan approval, and then must be at all times in compliance with the Zoning Ordinance of Presque Isle County.
3. All commercial marihuana facilities must be located within a municipality that has adopted an authorizing ordinance that allows facilities in their jurisdiction.
4. All commercial marihuana facilities located in the (FR), (AR), or (MI) zoning districts must be located at least 500 feet from any building used for residential, educational, or religious purposes.
5. All commercial marihuana facilities located in the (B1) or (B2) zoning districts must be located at least 50 feet from any building used for residential, educational, or religious purposes.
6. A copy of the Commercial Marihuana Facility Plan as required by MCL 333.27101 et seq. of 2016 must be provided to the Planning Commission in the application for a Special Use Permit.
7. The Presque Isle Planning Commission may impose such reasonable terms and conditions on a Commercial Marihuana Facility special use as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this ordinance and applicable law.

AA. Marihuana Establishments *(Amended 10-25-19)*

A marihuana establishment, in accordance with the provisions of Initiated Law 1 of 2018, the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., may be permitted through the issuance of a special land use permit pursuant to Article XVI of the Presque Isle County Zoning Ordinance, in the specified zones, provided that:

1. At the time of application for the special land use permit, the marihuana establishment must be in the licensing process with the State of Michigan, and then must be at all times in compliance with the laws of the State of Michigan and all other applicable rules promulgated by the State of Michigan.
2. At the time of application for a Marihuana Establishment Permit, the marihuana establishment must have the Presque Isle County permit application concurrently in process with the special land use permit and site plan approval, and then must be at all times in compliance with the Zoning Ordinance of Presque Isle County.
3. All marihuana establishments must be located within a municipality that has adopted Municipal License ordinance that allows facilities in their jurisdiction.
4. All marihuana establishments located in the (FR), (AR), or (MI) zoning districts must be located at least 500 feet from any building used for residential, educational, or religious purposes.
5. All marihuana establishments located in the (B1) or (B2) zoning districts must be located at least 50 feet from any building used for residential, educational, or religious purposes.
6. The Presque Isle Planning Commission may impose such reasonable terms and conditions on Marihuana Establishments special use as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this ordinance and applicable law.

BB. SOLAR ENERGY FACILITY (UTILITY-SCALE) *(Amended 10-10-18)*

A facility designed to capture and utilize the energy of the sun to generate electrical power. A solar energy collection facility consists of solar collection devices used to collect solar rays and all associated ancillary and structural devices needed to support and convert/transmit the energy collected.

A Utility Scale Solar Energy Facility is allowed as Special Use in the FR, AR, M-1, and I-1 Districts.

1. Reflection/Glare.

Attached, building-integrated or freestanding solar collection devices, or combination of devices, shall be designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard. This may be accomplished by both the placement and angle of the collection devices as well as human-made or environmental barriers. Glare intensity is considered

an issue if it measures more than 20% of the incident sun intensity. Plans to reduce glare may be required in the initial materials submitted.

2. Impervious Surface/Stormwater.

If more than 8,000 square feet of impervious surface will be located on the site, the application shall include a drainage plan prepared by a registered civil engineer showing how stormwater runoff will be managed. If detergents will be used to clean solar panels, details on the type of detergent, frequency and quantity of use, and stormwater quality protection measures shall be provided. Any necessary permits from outside agencies for off-site discharge shall be provided.

3. Screening.

Solar devices shall be screened from view from any residential use by use of a masonry screen wall, evergreen vegetation or other screening of a similar effectiveness and quality, as determined by the Planning Commission.

4. Setbacks.

The setbacks of all solar collection devices and ancillary equipment shall be at least 50 feet from all property lines. If the adjoining property owned/leased for development by the applicant includes more than one (1) parcel or in the case of a Lease Unit Boundary, the properties may be considered in combination in determining setback. For the purposes of measuring setback, a Lease Unit Boundary shall not cross a road right-of-way.

5. Abandonment.

Any freestanding solar collection site or device which is not used for twelve (12) months shall be deemed to be abandoned. The applicant/permit holder will be so notified in writing by the municipality and requested to dismantle the site and return it to its original state.

As a condition of approval, the Planning Commission may require an owner to deposit funds in escrow with the County, or provide an insurance bond satisfactory to the County's Attorney to assure the removal of the solar energy facility as prescribed herein. If required, such escrow deposit or insurance bond shall be in an amount equal to one and one quarter (1 ¼) times the estimated cost of removal of the solar energy facility at the time of approval. Such escrow deposit or bond shall be maintained by successor owners.

## ARTICLE 18 OFF-STREET PARKING, LOADING, AND UNLOADING REQUIREMENTS

**18.1 Vehicular Parking Space and Access Thereto.** For each dwelling, commercial, industrial, manufacturing, institutional, or other similar uses or service establishments erected, altered, or enlarged, there shall be provided and maintained suitable space for vehicle parking. The parking area shall be provided with safe entrance and exit from the road or street. The entrance and exit may be combined or provided separately. Approval for the location of the entrance and exit drive(s) shall be obtained from the Presque Isle County Road Commission, Michigan Department of Transportation, or other appropriate jurisdiction. The request for approval shall include the design and construction in the interest of safety, adequate drainage, and other public requirements. One vehicle parking space shall be a minimum of two hundred (200) square feet, exclusive of drives, entrances, and exits. The following additional requirements apply:

- A. Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.
- B. Two or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the individual uses computed separately.
- C. In the instance of dual function of off-street parking space where operating hours of buildings do not overlap, the Planning Commission or Zoning Administrator may grant an exception by reducing the total number of spaces required.
- D. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the Planning Commission or Zoning Administrator considers as being similar in type.
- E. For the purpose of computing the number of parking spaces required, the definition of USABLE FLOOR AREA shall govern.
- F. The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

Uses	Number of Minimum Parking Spaces per Unit of Measure
1. Residential One-Family Two-Family Multiple-Family Rooming Houses	- One (1) for each dwelling unit. - One (1) for each dwelling unit. - One (1) for each dwelling unit. - One (1) for the owner or resident manager and one (1) for each guest room
2. Banks	- One (1) for each three hundred (300) square feet of usable floor area
3. Business offices or professional offices except as indicated in the following item four (4)	- One (1) for each two hundred (200) square feet of usable floor area
4. Professional offices of doctors, dentists, or similar professions	- Three (3) for each doctor, dentist, or other medical professional



5. Retail stores except as otherwise specified	- One (1) for each four hundred (400) square feet of usable floor area
6. Furniture and appliance, hardware stores, household equipment repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair and other similar uses	- One (1) for each eight hundred (800) square feet of usable floor area
7. Supermarkets	- One (1) for each one hundred and fifty (150) square feet of usable floor area
8. Beauty parlor or barber shops	- One (1) for each beauty or barber shop chair
9. Mortuary, funeral establishments	- One (1) for each one hundred (100) square feet of assembly room space
10. Motor vehicle sales and service establishments	- One (1) for each four hundred (400) square feet of usable floor area of sales room and one (1) for each auto service stall in the service room
11. Pool hall or club	- One (1) for each one (1) game table <u>or</u> one (1) for each one hundred and fifty (150) square feet of usable floor space in game rooms, whichever is greater
12. Bowling alleys	- Four (4) for each bowling lane
13. Establishments for sale and consumption, on the premises, of beverages, food or refreshments	- One (1) for each six (6) seats
14. Churches, temples, or other places of worship	- One (1) for each six (6) seats in the main unit of worship
15. Theaters and auditoriums (except schools)	- One (1) for each six (6) seats
16. Elementary and junior high schools	- One (1) for each of two (2) teachers, employees or administrators
17. High school and college or university	- One (1) for each two (2) teachers, employees, or administrators, and one (1) for each ten (10) students
18. Laundromats and coin operated dry cleaning	- One (1) for each three (3) machines
19. Dance halls, roller rinks, exhibition halls, and assembly halls without fixed seats	- One (1) for each one hundred (100) square feet of usable floor area. Where legal capacity is established, one (1) for each four (4) persons of the established legal capacity
20. Private clubs or lodges	- One (1) for each four (4) members, <u>or</u> one (1) for each one hundred (100) square feet of usable floor area, whichever is the greater
21. Hospitals and similar institutions	- One (1) for each four (4) beds and one (1) for each two (2) employees and/or members of the staff
22. Homes for the aged and convalescent homes	- One (1) for each six (6) beds and one(1) for each two (2) employees and/or members of the staff

23. Housing for the elderly	- One (1) for each three (3) dwelling units
24. Hotels, motels, cabins and similar lodging facilities	- One (1) for each rental unit
25. Stadium and sports arena or similar outdoor places of assembly	- One (1) for each six (6) seats <u>or</u> one (1) for each twelve (12) feet of benches
26. Auto service stations	- One (1) for each service stall rack or pit; and one (1) for each one (1) single or dual gasoline pump
27. Auto wash	- Adequate waiting space shall be provided off the street right-of-way
28. Industrial or research establishments	- One (1) for each two (2) employees in the largest working shift
29. Wholesale establishments	- One (1) for every one (1) employee in the largest working shift, <u>or</u> one (1) for every seventeen hundred (1,700) square feet of usable floor space, whichever is greater
30. Mobile home parks	- One (1) for each mobile home site and one (1) for each employee of the park
31. Libraries	-One (1) for each five hundred (500) square feet of usable floor space
32. Open air business	One (1) for each eight hundred (800) square feet of gross lot area used for open air sales or display, <u>plus</u> additional parking space for any building used for retail sales
33. Plant nurseries	One (1) for each eight hundred (800) square feet of gross lot area used for open air sales display

G. Reduction of Spaces/Land Banking:

1. For development in any zoning district, the Planning Commission may approve a total reduction of not more than thirty percent (30%) of the required number of off-street parking spaces, where the applicant has demonstrated by study that adequate parking would be provided for the proposed use and the customary operation of the use.
2. When such reduction is approved, an area of sufficient size to accommodate the number of minimum required parking spaces stated in Subsection (F) shall be designated on the site plan, and no structure or impervious surface shall be permitted within the designated area. The area shall not be included in any required buffer area. The area shall be reserved to accommodate additional parking if needed in the future.

H. The number of parking spaces provided for any particular use shall not exceed a maximum of one hundred fifty percent (150%) of the required number of spaces as noted in Subjection (F). Where the applicant has demonstrated by study that additional parking is necessary for the operation of the use, the Planning Commission may approve not more than an additional fifty percent (50%) of the minimum parking requirement.

**18.2 Off-Street Loading and Unloading.** On the same premises with every building, structure or part thereof, involving the receipt or distribution of vehicles, material or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading, and unloading in order to avoid undue interferences with public use of dedicated streets or alleys.

Loading and unloading paces shall be laid out in the dimension of at least ten by fifty (10x50) feet, or five hundred (500) square feet in area, with a clearance of at least fourteen (14) feet in height. All spaces shall be provided in the following ratio of spaces to gross floor area:

Gross Floor Area (In square feet)	Loading and Unloading Space Required in Terms of Square Feet of Gross Floor Area
0 – 1,400	None
1,401 – 20,000	One (1) space
20,001 – 100,000	One (1) space plus one (1) space for each 20,000 square feet in excess of 20,000 square feet
100,000 and over	Five (5) spaces

## ARTICLE 19 SIGNS

### 19.1 Signs and Billboards.

- A. The size of any publicly displayed sign, symbol, or notice on a premise to indicate the name of the occupant, to advertise the business there transacted, or directing to some other locale, shall be regulated as follows:

Use District	Maximum Size of Sign per Side
R-1, R-2, and R-3	Four (4) square feet for single-family or two-family residences Sixteen (16) square feet for all other permitted and special permit uses
FR and AR	Sixteen (16) square feet
B-1	Thirty-two (32) square feet
B-2, M-1, and I-1	Eighty (80) square feet

- B. In addition to the size limitations stated in Subsection A, the following conditions shall apply to all signs and billboards erected in any use district:

1. No sign, except non-illuminated residential name plates, shall be erected or altered until approved by the Zoning Administrator or authorized by an approved site plan or building permit.
2. No signs or billboards shall be located on any street corner which would obscure the vision of drivers using said streets, or conflict with traffic control signals at the intersection of any streets. No signs shall obstruct the vision of drivers at any driveway, parking lot or other route providing ingress or egress to any premises.
3. Illumination of signs shall be directed, shaded or designed so as not to interfere with the vision of persons on the adjacent highway, streets or properties. Illuminated signs shall not be of the flashing, moving or intermittent type unless approved by the Zoning Administrator, who shall find that the lighting is non glaring, does not interfere with traffic control devices, and further does not involve the principal notice or message carried on the sign; hence, all intermittent lighting elements shall be designed as accessory to the sign.
4. In those instances where a business use or tourist service facility is not located directly on a major route, but is dependent upon passer-by traffic for support, not more than three (3) off-premises directory signs per business may be permitted in B-1, B-2, M-1, I-1, AR, and FR Districts subject to review and approval of location by the Zoning Administrator. Not more than one (1) off-premise sign per lot, or more than one (1) off-premise sign per one-hundred (100) feet of road frontage may be allowed. No off-premise signs shall be permitted in R-1, R-2, and R-3.
5. Freestanding signs, pole signs, or advertising pylons may be permitted in a required front yard, but in no case may any sign be permitted in the road right-of-way. No freestanding sign shall exceed twenty (20) feet in height.
6. All directional signs required for the purpose of orientation, when established by city, village, township, county, state, or federal governments, shall be permitted in all Districts.
7. Roof position signs are specifically prohibited.

8. The number of signs allowed will be decided by the Planning Commission or Zoning Administrator at the time of site plan review. Factors considered will include building size, location and length of street frontage, and lot size.
  9. In no case shall a sign or signs exceed a total of ten percent (10%) of the building face to which they are attached.
  10. The Board of Appeals may upon application by the property owner, modify the area of sign permitted where, in unusual circumstances, no good or practical purpose would be served by strict compliance with the requirements of this Section.
- C. Off-premise signs and billboards located on state highways regulated by the Michigan Department of Transportation under the Highway Advertising Act, P.A. Act 106 of 1972 and amendments, shall be subject to the limitations of Subsections A and B above.

## **19.2 Definitions.**

**SIGN:** Any structure or device designed or intended to convey information to the public in written or pictorial form.

**SIGN AREA:** The entire area within the continuous perimeter, enclosing the extreme limits of sign display, including any frame or border. Curved, spherical, or any other shaped sign face shall be computed on the basis of the actual surface area. The copy of signs composed of individual letters, numerals, or other devices shall be the sum of the area of the smallest reactance or other geometric figure encompassing each of the letters or devices. The calculation for a double-faced sign shall be the area of one face only. Double-faced signs shall be constructed so that the perimeter of both faces coincide and are parallel and not more than twenty four (24) inches apart.

**SIGN, AWNING or CANOPY:** A sign painted, stamped, perforated, stitched, or otherwise applied on the valance of an awning.

**SIGN, FREE STANDING:** A sign supported by one or more upright poles, columns, or braces placed in or on the ground and not attached to any building or structure.

**SIGN, OFF-PREMISES:** A sign that identifies or communicates a commercial or non-commercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located. Off-premise signs may also be referred to as a billboard.

**SIGN, ON-PREMISES:** A sign that identifies or communicated a commercial or non-commercial message related to an activity conducted, a service rendered, or a commodity sold at the same location where the sign is located.

**SIGN, ROOF:** Any sign erected upon, against, or directly above a roof or roof eave, or on top of or above the parapet, or on a functional architectural appendage above the roof or roof eave.

**SIGN, WALL:** A sign painted on the outside of the building, or attached to, and erected parallel to the face of a building and supported throughout its length by the building.

## **ARTICLE 20 MOBILE HOME REGULATIONS**

**20.1 Scope.** For the preservation of the interests of various types of residential developments which should be permitted in every community and for the protection of the residents of any manufactured dwelling unit, commonly known as a mobile home or mobile home park, these regulations are considered as minimum standards to be applied to all such development in the County.

**20.2 Regulations.**

- A. No mobile home park shall be located, operated, or constructed that conflicts with this Ordinance, The Mobile Home Commission Act (PA 96 of 1987, as amended), or rules promulgated by the Act.
- B. Preliminary plan review responsibility is delegated to the County Planning Commission, on behalf of the areas within Presque Isle County served by this Ordinance. Review responsibility is to ensure that mobile home parks are located in designated districts.
- C. Mobile homes on individual lots outside mobile home parks shall:
  - 1. Conform to all lot and yard regulations governing dwellings in the district where located;
  - 2. Provide minimum floor space conforming to the district where located;
  - 3. Meet all other requirements of this Ordinance pertaining to residential dwellings and comply with all state laws and codes;
  - 4. Compare favorably with other occupied housing in construction materials, roof live-loads, insulation, adequacy of plumbing, and living space;
  - 5. Be permanently attached to a foundation or basement and shall be anchored using a system meeting Mobile Home Commission requirements; wheels, axles, and towing assembly shall be removed from the mobile home before the unit is attached to the foundation; no mobile home shall have any exposed undercarriage or chassis;
  - 6. Contain a storage area in the basement located under the mobile home, in the attic area, in closet areas, or in a separate structure of standard construction similar to the principal dwelling; storage area shall be equal to ten percent (10%) of the square footage of the unit or one hundred fifty (150) square feet, whichever is less;
  - 7. Contain no additions, rooms, or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a required foundation; and
  - 8. Comply with all pertinent building and fire codes; all construction, plumbing, electrical apparatus, and insulation within and connected to the mobile home shall be of a type and quality conforming to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C 5401 to 5426, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

## ARTICLE 21 PLANNED UNIT DEVELOPMENT

**21.1 Purpose.** The purpose of a Planned Unit Development (PUD) is to permit and encourage design flexibility within existing R-1 and R-2 Zoning Districts, using the Special Use Permit procedure. It has the potential of eliminating the current, single family, large scale residential design and substituting in its place a diversity of types and location of dwellings, allowing more efficient use of land for circulation, open space, and utilities. It is also intended to minimize adverse environmental impacts by harmonious utilization of the existing physical identity of the area. The PUD approach provides for recreational facilities within the development, enhances the ability of designers to coordinate architectural design and building placement, and upgrades the overall quality of new residential construction.

**21.2 Procedures for Application and Approval.** The procedure for application and approval of a PUD shall include one or more informal conferences between the applicant and the Zoning Administrator. The applicant shall inform the Zoning Administrator of his/her general intentions. The Zoning Administrator may request representatives from county and township agencies (fire department, County Courthouse and Grounds Committee, County Sheriff, County Road Commission, and other relevant agencies) to attend these informal conferences.

After the informal conferences, the applicant shall then file a preliminary development plan with the Zoning Administrator for the purpose of obtaining a Special Use Permit. A public hearing on the application shall be scheduled within forty-five (45) days of the receipt of the preliminary plan, following the requirements of Article 16, Special Use Permits, of this Ordinance.

**21.3 Concept Plan Requirement.** During the pre-application conference, the applicant shall submit a concept plan including types and placement of residential structures, utilities and public facilities such as schools, fire departments, recreational facilities, minimum lot sizes, densities, environmental treatment, pedestrian and vehicular circulation, and commercial areas, if applicable, conformity of the proposed development with surrounding areas, type of homeowner organizations, if any, and all other information local administrative agencies and legislative bodies may require to gain a satisfactory understanding of the proposed development.

**21.4 Preliminary Plan Requirements.** Following the presentation of any deliberation pertinent to the concept plan, the applicant shall submit a preliminary plan. The preliminary plan is specifically intended to include enough detail for administrative and legislative analysis for approval or denial of a Special Use Permit.

The preliminary plan must be more detailed than the concept plan and contain the following:

- A. A written document giving the legal description of the property as indicated on the deed of ownership; a statement of the objectives of the PUD, including phasing of residential, public and commercial areas, and future selling and/or leasing intentions and accompanying management techniques;

- B. Graphic presentation, including a base map with topographic identification (preferably using five (5) feet contour levels) and important environmental features including water bodies, types of vegetation, location and floor area dimensions of buildings, areas to be dedicated for public use, existing and proposed pedestrian and vehicular circulation, off-street parking, layout of proposed and existing utility systems, general landscape plans, information pertinent to the identification of areas adjacent to the proposed development, and a general description of the PUD.
- C. Additional written information shall be contained in the preliminary plan, including tabulation of land area ratios, a comprehensive market analysis, environmental impact statements, and any contracts and deeds of indenture between the developer and home buyer.

**21.5 Final Plan Requirements.** Following approval of the preliminary plan, the applicant shall submit a final plan. The final plan shall encompass all elements of the preliminary plan, plus all changes and/or conditions stipulated by the Planning Commission at the public hearing for the preliminary plan. The final plan shall include enough detail in written and graphic presentation to assure the Planning Commission that the proposed PUD will conform to all state and local requirements, and, as closely as possible, reflect the finished PUD.

**21.6 Approval of Final Plan.** Upon submission of the preliminary plan to the Planning Commission and approval of a Special Use Permit by the Planning Commission, with or without recommended modification and conditions, the applicant must present the final PUD plan to the Zoning Administrator, within a period of three (3) months to one (1) year from the date of approval of the Special Use Permit. The Zoning Administrator shall submit the final, detailed plan to the Planning Commission, which shall review it within thirty (30) days of the submission.

The final plan should not deviate substantially from the approved preliminary plan. The final plan shall be in compliance with the preliminary plan if the following conditions have been met:

- A. The final plan does not violate the content of this Ordinance;
- B. The lot area requirement has not been changed by more than ten percent (10%);
- C. Land reserved for open space (common and usable) has not been reduced by more than ten percent (10%); and
- D. The total building coverage has not increased by more than five percent (5%).

The final plan should include site plans applicable to legal recording criteria and engineering drawings. Drawings and plans presented in a general fashion in the preliminary stage shall be presented in detail on the final plan.

Any modification not included in the preliminary plans must be reviewed by the Planning Commission, and legal documents, such as easements, agreements, the final draft of Articles of Incorporation, and any indentures, as well as dedications, shall be submitted by the applicant.

The final development plan shall be reviewed by the Planning Commission and members of other appropriate agencies. The Planning Commission shall then approve the final plan, disapprove it, or approve it with modifications. No public hearing is necessary and if the Planning Commission gives approval, the Register of Deeds shall



accept and record the site maps and plans, dedicated streets, properties and open spaces, rights-of-way, and additional dedications within the development.

If the Planning Commission disapproves the plan, reasons for the denial shall become part of the public record and presented to the developer in written form.

- 21.7 Design Requirements.** Since the PUD concept is to allow more flexibility in design while retaining control through review procedures, the design standards incorporated into a PUD ordinance should be less structured than found in a standard residential zone or subdivision regulation, yet formal enough to insure desired performances. These design requirements also offer incentives to developers to invest in PUD's.
- 21.8 Density.** Density increases may be allowed for a PUD over and above those allowed in the original R-1 and R-2 Zoning Districts. Since successful PUD design can occur in almost any sized area, the PUD shall not be allowed on any site of less than two (2) acres. It should be controlled by one (1) owner or group of owners and be planned and developed as a single unit.
- 21.9 Lot Size Variations.** Lot sizes shall be computed using gross acreage computations. Land utilized for public utilities such as easements and flood plain areas shall not be included in determining computations for gross development areas. A fixed percentage of streets within the proposed development shall be subtracted from the computed gross area figure, and the results shall be divided by the minimum lot requirements (after density bonuses have been arrived at by the method described below) of the zoning district where the PUD is located. The result shall define the maximum number of residential units allowed.

Density increases are to be permitted for the following amenities:

- A. Improved and unimproved common open space.
1. The first acre of common open space per twenty (20) acres of gross, if improved, permits a maximum increase of eight percent (8%); if first acre of common open space is unimproved six percent (6%) is allowed;
  2. The second acre of common open space per twenty (20) acres of gross, if improved, permits a maximum increase of four percent (4%); if unimproved, three percent (3%) is allowed; and
  3. Each additional acre of common open space per twenty (20) acres of gross, if improved permits a maximum increase of three percent (3%); if unimproved, two percent (2%) is allowed.
- B. Character, identity, architectural, and siting variation incorporated in a development shall be considered cause for density increases not to exceed fifteen percent (15%), provided these factors make a substantial contribution to the objectives of a PUD. The degree of distinctiveness and the desirable variation achieved shall govern the amount of density increases which the Planning Commission approves. Such variations may include, but are not limited to the following:
1. Landscaping: a maximum increase of five percent (5%);
  2. Visual focal points: use of existing physical features, such as topography, view, sun and wind orientation, circulation pattern, physical environment, variation in building setbacks, and building groups (such as clustering), a maximum increase of five percent (5%); and

3. Design features: maximum increase of five percent (5%), street sections, architectural styles, harmonious use of materials, parking areas broken by landscape features and varied use of house types.

**21.10 Open Space.** Open spaces are an important facet of the community's environment and character. The PUD approach is an efficient "tool" in preserving and enhancing open spaces, particularly recreational areas within residential developments. Open space shall be distinguished as private (for personal or family use), common (for use by all homeowners in the PUD), and public (open to all members of the general public).

The following open space requirements shall be adhered to in all PUD's to provide for the integration of efficient and extensive areas into the existing open space system of the community. These areas should be easily accessible to all residents of the PUD. Required open space shall comprise at least forty percent (40%) of the total gross area. Not less than fifty percent (50%) of the net area of the property shall be open space devoted to planting, patios, walkways, and recreational uses, but excluding areas covered by dwelling units, garages, carports, parking areas, or driveways. Net area is defined as the site area less all land covered by buildings, streets, parking lots or stalls, driveways and all other paved vehicular ways, and facilities. At least twenty percent (20%) of the total area shall be devoted to such properly planned permanent useable open space. Common open space shall comprise at least twenty-five percent (25%) of the gross area of the PUD to be used for recreational, park, or environmental amenity for collective enjoyment by occupants of the development, but shall not include public or private streets, driveways, or utility easements; provided, however, that up to fifty percent (50%) of the required open space may be composed of open space on privately owned properties dedicated by easement to assure that the open space will be permanent.

Active open space for recreational purposes shall not be less than six thousand (6,000) square feet in area.

Any portion of the PUD site, if deemed environmentally significant, may upon review of the Planning Commission, be preserved in a natural state.

**21.11 Homeowners Association.** Homeowners associations have the advantage of enabling the residents of a PUD to control, through ownership and maintenance, common space areas and private streets, thereby eliminating or substantially decreasing maintenance costs to the local government.

If the developer chooses to institute a homeowners association, the following minimum criteria shall be met:

- A. The homeowners association shall be set up before the dwellings are sold;
- B. Membership shall be mandatory for each dwelling buyer and any successive buyer;
- C. The open space restriction shall be permanent, not just for a period of years;
- D. The association shall be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities;
- E. Homeowners shall pay their proportional share of the cost; the assessment levied by the association may be a lien on the property; and
- F. The association shall be able to adjust the assessment to meet changing needs.

The above stipulations have the advantage of insuring the economic viability of the homeowners association and preserving open space areas within the community.

The developer shall file a restrictive covenant with the Register of Deeds at the time the final plan is approved, guaranteeing those open spaces included in the final plan will remain open for their designated purpose or for other open spaces uses desired by the homeowners association.

**21.12 Environmental Design Requirements.** The Planning Commission shall require the following in accordance with applicable provisions of this Ordinance: the preservation of existing trees, predominant shrubbery, waterways, scenic viewing areas, historic points, floodplain preservations, and the planting of vegetation or placement of protective cover on slopes of twenty percent (20%) or greater to minimize hillside erosion resulting from residential development and consequent streets and walkways.

**21.13 Traffic Circulation.** Internal circulation systems and points of ingress and egress with external traffic flow shall be coordinated within the PUD and in relation to the community as a whole. These systems should promote safety, convenience, easy access, separation of vehicles from pedestrians, and enhance the overall physical design of the PUD. Vehicular circulation systems in PUD's shall not be connected with external streets to encourage through traffic. Emergency access and safety standards shall be adhered to. These standards apply to the location of residences relative to the community and the overall design of the PUD.

**21.14 Private Streets.** Private streets, particularly in PUD's, shall be designed to accommodate anticipated traffic loads including volume, vehicular weight and size, speed, emergency vehicles, and turning radii. Those developments with homeowners associations may maintain private streets within the development through agreements of indenture. All private streets can deviate from existing public street standards if, upon review and recommendation, the Fire Chief, Sheriff, County Drain Commissioner, Road Commission, and the Planning Commission authorize such modifications within the PUD, and health, safety, and welfare requirements are met.

Private streets may be dedicated to the public street system if the owners of these streets fully agree to accept all expenses for any required upgrading to public street standards and agree to dedicate these streets without compensation by the local government. The following residential street standards should be adhered to, unless modification is permitted by the Planning Commission.

Type of Street	Uses Served	Required R-O-W	Width of Pavement
Residential dead end or local street	1-6 dwellings	40'	24'
	7-20 dwellings	40'	24'
	21-50 dwellings	50'	30'
Residential collector	51-200 dwellings	60'	36'
Neighborhood collector	Over 200 dwellings, or any commercial use	60'	
These standards are commensurate with traffic flows and safety standards for various densities.			

- 21.15 Parking Standards.** Parking standards are an important element of a PUD design process and shall adhere to high design and safety standards. The following minimum requirements shall be adhered to:
- A. For each dwelling unit, there shall be one off-street parking space consisting of not less than two hundred (200) square feet;
  - B. Parking areas shall be arranged to prevent through traffic to other parking areas;
  - C. Parking areas shall be screened to prevent through traffic to other parking areas;
  - D. No more than fifteen (15) parking spaces shall be permitted in a continuous row without being interrupted by landscaping;
  - E. No more than sixty (60) parking spaces shall be accommodated in any single parking area;
  - F. All streets and any off-street loading area shall be paved and the design approved by the Planning Commission; all areas shall be marked to provide for orderly and safe loading, parking, and storage; and
  - G. All parking areas shall be adequately graded and drained to dispose of surface water without erosion, flooding, or draining onto adjacent properties.
- 21.16 Perimeter Treatment.** To provide adequate separation between the PUD and the surrounding community, a minimum thirty (30) foot buffer zone shall be established on the perimeter of the development, in which no structures are to be located and adequate screening and landscaping or protection by natural features shall be established. In those cases where, because of natural topography, this screening and landscaping requirement cannot be met and adequate privacy and separation is not possible, the Planning Commission may require structures on the perimeter to be set back in accordance with the requirements established for the zoning district in which the PUD is located. Those structures within this category should be adequately screened or landscaped.
- 21.17 General Standards.** The principle advantage of a PUD, flexibility in design, shall be followed in determining the general building and site standards. These shall conform to minimum performance criteria rather than in established residential zones. The following guidelines shall be established in the determination of structural siting on lots; reduction of spacing is based upon standards within the existing zoning districts.
- 21.18 Building Spacing.** When the building is designed to provide adequate privacy to its residents, including adequate window space, there may be a reduction in the spacing of buildings. Those residences which have no windows or windows at higher levels and have adequate light and ventilation from other areas of the room may decrease building spacing. Residences incorporating effective utility spaces in side yards should be eligible for reduced separation between buildings. Where building configurations incorporate the above criteria and have unusual shapes, the spacing of structures may be reduced.
- 21.19 Front Yard Requirements.** In those areas where street design reduces traffic flow, adequate screening or landscaping is provided, the residence is facing onto a common open space, or through interior room design minimizing use of the front yard, front yard requirements may be reduced.
- 21.20 Lot Width Requirements.** Those lots which have an awkward configuration yet allow adequate light and ventilation between structures may reduce their lot width requirements while maintaining adequate light, ventilation, and access.

- 21.21 Building Heights.** To insure adequate light, ventilation, and open space amenities in the PUD while allowing a variety of building types and densities, building heights shall be part of the review process. However, to protect the character of the area, a maximum building height of thirty (30) feet shall be instituted.
- 21.22 Jurisdiction of Zoning Board of Appeals.** The Zoning Board of Appeals shall have no jurisdiction over decisions of the Planning Commission in regard to matters concerning the denial or revocation of PUD permits, except to determine if correct procedures were followed.

## ARTICLE 22 NON-CONFORMITIES

**22.1 Scope.** No building or structure, or part thereof, shall hereafter be erected, constructed, altered, or maintained, and no new use or change shall be made to any building, structure, or land, or part thereof, except in conformity with the provisions of this Ordinance.

**22.2 Intent.** It is recognized that there exists within the zoning districts established by this Ordinance or amendments that may later be adopted, lots, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment.

It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this Ordinance to be compatible with permitted uses in the districts involved. It is further the intent of this Ordinance, that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction. Construction shall be completed within two (2) years from the effective date of this Ordinance or amendment.

**22.3 Non-conforming Lots.** In any district in which one-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a one-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though the lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which the lot is located. Variance to yard requirements, if needed, shall be obtained through the Board of Appeals.

Where two (2) or more adjoining non-conforming lots are existing under single ownership, the lots shall be combined to provide a parcel which meets, where possible, at least the minimum lot size for the district where located.

**22.4 Non-conforming Use of Land.** Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible, under the

terms of this Ordinance as enacted or amended, the use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. A non-conforming use shall not be enlarged, increased, or extended beyond the boundaries of the original parcel of land of record as of the effective date of adoption or amendment of this Ordinance.
- B. If a non-conforming use of land ceases for any reason, other than because of the seasonal nature of the business or operation, for a period of more than two (2) years, any subsequent use of the land shall conform to the regulations specified by this Ordinance for the district on which the land is located.
- C. A non-conforming use shall not be moved in whole or in part to any other portion of the lot or parcel occupied by the use at the effective date of adoption or amendment of this Ordinance.

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

- A. The structure shall not be enlarged or altered in a way which increases its non-conformity. However, the structure may be enlarged or altered in a way which does not increase its structural non-conformity.
- B. If the structure is destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
- C. If the structure is moved for any reason for any distance whatever, it shall conform to the regulations for the district in which it is located after it is moved.

**22.6 Non-conforming Uses of Structures and Land.** If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. An existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. Any non-conforming use may be carried on throughout any parts of a building which were arranged or designed for the use, and which existed at the time of adoption or amendment of this Ordinance, but the use shall not be extended to occupy any land outside such building.
- C. If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided that the Zoning Board of Appeals either by general rule or by making findings of the specific case, finds that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Zoning Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Ordinance.
- D. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which the structure is located, and the non-conforming use shall not thereafter be resumed.

- E. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or ceases to exist for two (2) continuous years, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be exempted from this provision.
- F. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

**22.7 Repairs and Maintenance.** On any building devoted in whole or in part to any non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty (50) percent of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this Ordinance is not be increased.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of the official.

**22.8 Exceptions for Non-conforming Use Category.** General exceptions or special permit uses approved under other provisions of this Ordinance shall not be considered non-conforming uses.

**22.9. Change of Tenancy or Ownership.** There may be a change of tenancy, ownership, or management of any existing non-conforming use of land, structure, and premises provided there is no change in the nature or character of the non-conforming use.



## ARTICLE 23 ZONING BOARD OF APPEALS

**23.1 Creation and Duties.** A Zoning Board of Appeals is hereby created which shall perform its duties and exercise its powers as provided by the Michigan Zoning Enabling Act, PA 110 of 2006, as may from time to time be amended, and by the provisions of this Ordinance, and such a way that the objectives of this Ordinance are observed, public safety and general welfare are secured, and substantial justice is done.

**23.2 Membership.** The Presque Isle County Zoning Board of Appeals shall consist of five (5) members appointed by the County Board of Commissioners. One member shall be a member of the Planning Commission. The remaining members shall be selected from the electors of Presque Isle County residing within the zoning jurisdiction of the County. Members selected shall be representative of the population distribution and of the various interests present in the County. One regular member may be a member of the County Board of Commissioners, but shall not serve as chairman. An employee or contractor of the County may not serve as a member of the Zoning Board of Appeals.

The County Board of Commissioners may appoint not more than two (2) alternate members for the same term as regular members. An alternate member may be called to serve as a member in the absence of a regular member, if the regular member is unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which a regular member has abstained for reasons of conflict. The alternate member shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member.

A member of the Zoning Board of Appeals may be removed by the County Board of Commissioners for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself/herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself/herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

**23.3 Expenses.** The total amount allowed for the Zoning Board of Appeals in one (1) year as per diem or as expenses actually incurred in the discharge of its duties shall be appropriated annually by the County Board of Commissioners.

**23.4 Terms of Office.** The terms of office for each member of the Zoning Board of Appeals shall be three (3) years, except for members serving because of their membership on the Planning Commission or Board of Commissioners, whose term shall be limited to the time they are members of those bodies. When members are first appointed, the appointments may be for less than three (3) years to provide for staggered terms. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.

- 23.5 Required Hearings.** The Zoning Board of Appeals shall hear and decide questions that arise in the administration of this Ordinance, including the interpretation of the Zoning Map and considering variances. It shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcing this Ordinance.
- 23.6 Meetings.** The Zoning Board of Appeals shall hold one organizational meeting each year, preferably in the first quarter to select officers. The Zoning Board of appeals shall not conduct business unless a majority of the regular members are present. Meetings shall be held at the call of the chairperson and at other times as the Zoning Board of Appeals in its rules of procedure may specify. The Zoning Board of Appeals shall maintain a record of its proceedings, which shall be filed in the office of the County Clerk. All meetings shall be open to the public. The Zoning Board of Appeals shall adopt its own rules of procedure for meetings.
- 23.7 Appeals.** An appeal to the Zoning Board of Appeals may be taken by a person aggrieved or by an officer, department, board, or bureau of the state or Presque Isle County. The Zoning Board of Appeals shall have no jurisdiction over decisions of the Planning Commission in regard to matters concerning the denial or revocation of special use or PUD permits, except to determine if correct procedures were followed.
- 23.8 Grounds for Appeal.** The grounds for any determination shall be stated in the records of the Zoning Board of Appeals proceedings.
- 23.9. Timing of Appeal.** An appeal shall be taken within such time as prescribed by the Zoning Board of Appeals by general rule, by filing with the officer from whom the appeal is taken and with the Zoning Board of Appeals of a notice of appeal specifying the grounds for the appeal. The body or officer from whom the appeal is taken shall immediately transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- 23.10 Stays.** An appeal stays all proceedings in furtherance of the action appealed from unless the body or officer from whom the appeal is taken certifies to the Zoning Board of Appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, in which case proceedings may be stayed by a restraining order issued by the Zoning Board of Appeals or a Circuit Court.
- 23.11 Interpretations.** The Zoning Board of Appeals shall have the power to hear and decide upon requests for interpretation of the provisions of this Ordinance and accompanying Zoning Map.
- 23.12 Variances.** The Zoning Board of Appeals shall have the power to grant non-use or dimensional variances relating to the construction, structural changes, or alterations of buildings or structures, so that the spirit of the Ordinance is observed, public safety secured, and substantial justice done. A dimensional variance may be granted only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing the following:
- A. That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic difficulty.

- B. That the need for the requested variance is not the result of action of the property owner or previous property owners (self-created).
- C. That strict compliance with regulations governing area, setback, frontage, height, bulk, density, or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
- D. That the requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the neighborhood or zoning district.
- E. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

**23.13 Use Variances.** The Zoning Board of Appeals shall have the power to grant use variances. A vote of 2/3 of the members of the Zoning Board of Appeals is required to approve a use variance. The Zoning Board of Appeals may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act, PA 110 of 2006, as amended. A use variance may be granted only in cases where the property owner has established unnecessary hardship. To conclude that a property owner has established unnecessary hardship the Zoning Board of Appeals must find on the basis of substantial evidence that: *(Section 23.13 Amended 9/24/10; Effective 10/7/10)*

- A. The property cannot reasonably be used in a manner consistent with existing zoning.
- B. The property owner's plight is due to unique circumstances and not to general conditions in the neighborhood that may reflect the unreasonableness of the zoning;
- C. A use authorized by the variance will not alter the essential character of the locality.
- D. The hardship is not the result of the property owner's own actions.

Unnecessary Hardship: A situation that exists when due to conditions peculiar to a parcel of land, the parcel cannot be reasonably used in a manner consistent with the zoning ordinance.

**23.14 Time, Notice, Appearance.** Following written request concerning an appeal of an administrative decision, a request for an interpretation of the Zoning Ordinance or Zoning Map, or a request for a variance, the Zoning Board of Appeals shall fix a reasonable time for the hearing, after giving the following applicable notice:

- A. For a request for a variance, a notice shall be published in a newspaper of general circulation in the County not less than fifteen (15) days before the date the application will be considered. The notice shall describe the nature of the request, indicate the address of the property in question, state when and where the request will be considered, and indicate when and where written commits will be received. Notice shall also be sent to the owners of the property in question, by mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the property in question, and to the occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.
- B. For an interpretation or an appeal, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation in the County not less than fifteen (15) days before the hearing date and shall be sent to the person requesting the interpretation or appeal. If the request for an interpretation or appeal involves a specific parcel, written notice stating the nature of the request and the

time, date, and place of the public hearing shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question.

Any party may appear at the hearing in person or may be represented by his/her agent or attorney. The Zoning Board of Appeals shall render a decision within a reasonable period of time, not to exceed forty-five (45) days.

In deciding upon matters referred to, or upon which it is required to act under this Ordinance, the Zoning Board of Appeals shall after public notice and hearing, take into consideration the public health, safety, and general welfare and apply appropriate conditions and safeguards in conformity with the general purpose and intent of this Ordinance.

**23.15 Powers of the Zoning Board of Appeals.** The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit.

**23.16 Approval Periods.** No order of the Zoning Board of Appeals permitting the erection of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with the terms of the permit.

**23.17 Final Action on Appeals.** The decision of the Zoning Board of Appeals shall be final. Any party aggrieved by the decision may appeal to the Circuit Court for Presque Isle County. An appeal under this section shall be filed within thirty (30) days after the Zoning Board of Appeals certifies its decision in writing or approves the minutes of its decision.

**23.18 Fees.** Refer to Section 3.9.

## **ARTICLE 24 ADMINISTRATION AND ENFORCEMENT**

- 24.1 Administration.** The administration and enforcement of this Ordinance shall be the responsibility of the Zoning Administrator, appointed by the County Board of Commissioners for such term and subject to such conditions as the Board determines as reasonable. For the purpose of this Ordinance, the Zoning Administrator shall have the power of a law enforcement officer.
- 24.2 Additional Duties of the Zoning Administrator.** The Zoning Administrator shall also be appointed as the Presque Isle County Building Official pursuant to P.A. 230 or 1972, as amended, and is hereby empowered and legally authorized to issue appearance tickets for any violations of the State Construction Code, in addition to violations of this Ordinance.
- 24.3 Zoning Permit and Compliance.**
- A. No building structure, use, activity, or condition subject to the provisions of this Ordinance shall hereafter be erected, altered, reconstructed, used, moved, permitted, or conducted upon any premises until application for a Zoning Permit has been filed with the County Zoning Administrator on forms provided by the County, and the Zoning Administrator has issued such permit. No such permit shall be required for any lawful use of any building, structure, or premises in effect at the time of passage of this Ordinance. The zoning permit shall be displayed by the owner or agent in a prominent position on the location of said construction, remodeling, moving, etc.
  - B. The application shall be signed by the owner of the premises or his/her agent, and shall certify that all provisions of this Ordinance and other applicable laws and requirements are to be complied with. The application shall be filed not less than ten (10) days prior to the intended initiation of any work on the premises and shall be accompanied by:
    - 1. A sketch showing the location and dimensions of the premises, including the boundary lines of all parcels of land under separate ownership, the size, dimensions, location on the premises and height of all buildings or structures to be erected or altered, and the extent, volume, etc. of all uses, activities, or conditions sought to be permitted, the location and dimensions of sewage disposal facilities to be erected on the premises under consideration, and the location of all wells to be constructed on the premises; and
    - 2. Such approvals of other agencies as may be required to determine compliance with this Ordinance, and all state and federal laws and regulations.
  - C. Whenever the building, structure, or uses as set forth in the application are in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue the owner a zoning permit within ten (10) days of such action. In any case where a permit is refused, the cause shall be stated in writing to the applicant. No permit shall be transferable.
  - D. Any zoning permit under which no work is done within twelve (12) months from the date of issuance, shall expire by limitation; but shall be renewable under reapplication and on payment of one-half (1/2) the original fee; subject, however, to the provisions of all ordinances in effect at the time of renewal.

- E. The Zoning Administrator shall have the power to revoke or cancel any zoning permit in the event of failure to comply with the provisions of this Ordinance, or in the case of false statement or misrepresentation made in the application. The owner shall be notified of such revocation in writing.
- F. Within ten (10) days of receipt of notification of compliance with the provisions of this Ordinance, the Zoning Administrator shall inspect the premises and issue a Certificate of Compliance of the building, structure, and use in conformity with this Ordinance.
- G. For each zoning permit, the required fees shall be paid to the Zoning Administrator. No certificate shall be valid until the required fees have been paid. Fees shall be placed by the County Treasurer in the general fund. No separate fee shall be required for accessory buildings or structures when application is made at the same time as the principal building or structure. No fees shall be required for a Certificate of Compliance. See Section 3.9 for requirements regarding fees.
- H. It shall be the duty of all architects, contractors, and other persons having charge of erection, reconstruction, or movement of a building or structure, or for the commencement, preparation, or undertaking of any use, activity, or condition subject to the provisions of this Ordinance, before undertaking any such work, to determine that a proper zoning permit has been granted.
- I. All exterior remodeling, alterations, additions, outbuildings, etc., consisting of one hundred fifty (150) square feet or more of floor space shall require a zoning permit and building permit.
- J. All uses of buildings, structures, or premises for the purpose of storing, keeping, or disposal of any hazardous, harmful, or noxious substance, chemical or material as specified in Article 3, whether radioactive or non-radioactive, whether allowed by Special Use Permit or otherwise, shall be subject to the fee schedule applicable to either special uses or cubic foot volume or displacement of emissions, discharges or storage, as determined by the Zoning Administrator, as well as any investigative costs assessments.
  - 1. This section shall apply to any building, structure, tower, pond, pit, well, cavern, tunnel, furnace, tank, stack, or other facility or device whether utilized or situated above, upon or below ground level, whether enclosed or open, whether man-made or natural, regardless of size, area, volume, or capacity.
  - 2. This section shall not apply to (a) agricultural activities and uses; (b) oil and gas exploration, production or storage activities, and uses; and (c) mining or extractive industries, including forestry.

**ARTICLE 25**  
**INTERPRETATION, SEVERABILITY, PENALTIES, AMENDMENTS,**  
**RIGHTS AND REMEDIES, GENERAL RESPONSIBILITY, REPEAL OF**  
**PRIOR ORDINANCE, AND ENACTMENT AND EFFECTIVE DATE**

- 25.1 Interpretation.** In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of public health, safety and general welfare. Where this Ordinance imposes a greater restriction that is required by existing ordinance or by rules, regulations, or permits, the provisions of this Ordinance shall control. Nothing in this Ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuance of any particular use, district, zoning classification or any permissible activities, therein, and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, or general welfare.
- 25.2 Severability.** This Ordinance and the various part, section, subsections, phrases, and clauses are declared to be severable. If only part, sentence, paragraph, section, subsection, phrase, or clause is adjudged unconstitutional or invalid, the remainder of the Ordinance shall not be affected.
- 25.3 Violation, Penalty.** Any person, firm, or corporation, including but not limited to property owners, builders, and contractors, who violate, neglect, or refuse to comply with or who resist the enforcement of any of the provisions of this Ordinance, or conditions of the Planning Commission, Zoning Board of Appeals, or Board of Commissioners shall be cited with a municipal civil infraction, which is enforced under the provisions of the Presque Isle County Municipal Civil Infraction Ordinance.
- 25.4 Amendment to this Ordinance.** The County Board of Commissioners is authorized and empowered to amend, supplement, or change this Ordinance and accompanying Zoning Map, according to the provisions of Act 110 of the Public Acts of 2006, as amended. Proposals for amendments to this Ordinance or Zoning Map may be initiated by the County Board of Commissioners, Planning Commission, or by petition of one or more property owners in the area of the County affected by a proposed amendment.
- 25.5 Processing an Amendment.** The procedures for amending this Ordinance or Zoning Map shall be as follows:
- A. Each petition shall be submitted to the Zoning Administrator, accompanied by the proper fee and then referred to the Planning Commission at the next regularly scheduled meeting or at a special meeting called for that purpose.
  - B. The Planning Commission shall conduct a public hearing, the notice of which shall be given by one publication in a newspaper of general circulation. The notice shall be published not less than fifteen (15) days prior to the public hearing.
  - C. If the property involved adjoins another unit of government, the proper officials shall be given notice not less than fifteen (15) days prior to the public hearing and shall be given an opportunity to comment on any coordinated action or review deemed necessary.
  - D. For Zoning Map amendments, notices of the public hearing shall be sent by first class mail to property owners as reflected on the County's tax rolls, or tenants of property within three hundred (300) feet of the boundary of the property to be

rezoned, as well as to any electric, gas, pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Presque Isle County Clerk for the purpose of receiving the notice of public hearing. The notice shall be given not less than fifteen (15) days prior to the hearing.

- E. Following the public hearing, the Planning Commission shall transmit a summary of comments received at the public hearing and its recommendations to the County Board of Commissioners. The Board of Commissioners may hold a public hearing if it considers it necessary, or if a property owner requests a hearing by certified mail, addressed to the Presque Isle County Clerk's office. Notice of the hearing shall be given as provided above in (B), (C), and (D).
- F. The Board of Commissioners shall not change an amendment recommended by the Planning Commission, although it may decline to adopt the amendment, until the Board has first submitted the amendment back to the Planning Commission for its advice or suggestions and provide the Planning Commission at least thirty (30) days to do so.
- G. Following amendment to this Ordinance or Zoning Map, the amendment shall be filed with the County Clerk, and a notice of adoption shall be published in a newspaper of general circulation within fifteen (15) days of adoption. The amendment shall take effect eight (8) days after publication or at such later date as may be specified by the Board of Commissioners.

**25.6 Rights and Remedies.** The rights and remedies provided in this Ordinance are cumulative and in addition to any other remedies provided by law.

**25.7 General Responsibility.** The County Board of Commissioners or its duly authorized representative is charged with the duty of enforcing this Ordinance, and the Board is empowered to begin and pursue any and all necessary and appropriate actions and/or proceedings to restrain and/or prevent any non-compliance or violation of any of the provisions of this Ordinance, and to correct, remedy, and/or abate any non-compliance or violation.

**25.8 Repeal of Prior Ordinance.** The Presque Isle County Zoning Ordinance (Ordinance #87-1) previously adopted by the Presque Isle County Board of Commissioners and all amendments thereto, are hereby repealed. The repeal of the above ordinance and its amendments does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired, or liability, penalty, forfeiture, or punishment incurred prior to the time enforced, prosecuted, or inflicted.

**25.9 Enactment and Effective Date.** This Zoning Ordinance and Zoning Map were adopted by the Presque Isle County Board of Commissioners on April 27, 2007, after recommendation of the same by the Presque Isle County Planning Commission on January 18, 2007, following a public hearing on November 6, 2006. Notice of adoption of this Ordinance and Zoning Map was published in newspapers of general distribution in the County on May 3 and May 4, 2007. This Zoning Ordinance and Zoning Map shall take effect June 15, 2007.

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Allan H. Bruder, Chairman  
Presque Isle County Board of Commissioners