

ORDINANCE NO. 163

ORDINANCE TO AMEND THE LUNA PIER ZONING ORDINANCE TO PREVENT FLOOD DAMAGE BY COMPLYING WITH THE NATIONAL FLOOD INSURANCE PROGRAM REQUIREMENTS. AND TO PROVIDE SUPPLEMENTARY DEFINITIONS. TO DEFINE ADMINISTRATIVE DUTIES , PERMITS APPLICATIONS, VARIANCE REQUIREMENTS AND MAPPING DISPUTES TO COMPLY WITH THE NATIONAL FLOOD INSURANCE PROGRAMS.

THE CITY OF LUNA PIER ORDAINS:

That in their entirety ordinance numbers 104, 105, 141, 142, and 143, are hereby repealed.

Section 1.0 Intent

- (1.1) it is the purpose of this Ordinance to significantly reduce hazards to the persons and damage to property as a result of flood conditions in the City of Luna Pier, and to comply with the provisions and requirements of the National Flood Insurance Act of 1968, and subsequent enactments and rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency, as published in the Federal Register, Vol. 41, No. 207, Tuesday, October 26, 1976, and Re-designated at 44 FR 31177, May 31, 1979.
- (1.2) Further, the objectives of this Ordinance include:
- A. the protection of human life, health and property from the dangerous and damaging effects of flood conditions;
 - B. the minimization of public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair of flood damaged public facilities and utilities, and the redevelopment of flood damaged homes, neighborhoods, commercial and industrial areas;
 - C. the prevention of private and public economic loss and social disruption as a result of flood conditions.
 - D. the maintenance of stable development patterns not subject to the blighting influence of flood damage.
 - E. to insure that the public has access to information indicating the location of land areas subject to periodic flooding; and
 - F. to preserve the ability of flood plains to carry and discharge a base flood.

Section 2.0 Definitions

The Luna Pier Zoning Ordinance Is Amended Adding the following definitions:

- (2.1) **“Area of Shallow Flooding”** means a designated AD zone on a communities Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and indeterminate, and where velocity flow may be evident.

- (2.2) **"Area of Special Flood Hazard"** is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.
- (2.3) **"Base Flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.
- (2.4) **"Development"** means any man-made change to improved or improved mining, dredging, filling, grading, paving, excavation or drilling operations.
- (2.5) **"Flood or Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (A) the overflow of inland or tidal waters
 - (B) the unusual and rapid accumulation or runoff of surface waters from any source
- (2.6) **"Flood Insurance Rate Map(s)"** (FIRM) means the official map(s) of the City of Luna Pier, issued April 20, 2000 by the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazards and risk premium zones applicable to the community.
- (2.7) **"Flood Insurance Study"** is the official report provided by FEMA for Monroe County, Michigan, dated April 20, 2000. The report contains flood profiles, as well as the Flood Hazard Boundary-Flood way Map and the water surface elevation of the base flood.
- (2.8) **"Flood Hazard Area"** means land which on the basis of available flood plain information is subject to a one percent or greater chance of flooding in any given area.
- (2.9) **"Flood Plain"** means any land area susceptible to being inundated by water from an source (see definition of flood).
- (2.10) **"Flood way"** means the channel of a river or other watercourse and the adjacent land areas designated in the Flood Insurance Rate Map (FIRM) which must be reserved in order to discharge the base flood.
- (2.11) **"Harmful Increase"** means an unnaturally high stage on a river, stream or lake which causes, or may cause damage to property, threat to life, personal injury or damage to land or water resources.
- (2.12) **"Mobile Home"** means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.
- (2.13) **"New Construction"** means structures including additions and Substantial improvements to existing structures for which the "start of construction" commenced on or after the effective date of this ordinance.
- (2.14) **"Structure"** means a walled and roofed building that is principally above ground, gas or liquid storage facility, as well as a mobile home.

- (2.15) **"Substantial Improvement"** means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (1) before the improvement or repair is started. or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Section 3.0 **Supplements to Administrative Duties of the Building Inspector**

- (3.1) With regard to the National Flood Insurance Programs, and the regulation of development within the flood hazard area zone as prescribed in Ordinance No. 121 the duties of the Building Inspector shall include, but are not limited to:
- A. notification to adjacent communities and the Department of Environmental Quality of the proposed alteration or relocation of any watercourse, and the submission of such notification to the Federal Emergency Management Agency (FEMA);
 - B. verification and recording of the actual elevation in relation to mean sea level of the lowest floor, including basement, or all new construction including additions and substantially improved structures constructed within the flood hazard area, and in the case of flood proofed structures, the elevation to which the structure was flood proofed;
 - C. recording of all certificates of flood proofing, and written notification to all applicants to whom variances are granted in a flood hazard area zone indicating the terms of the variance, the increased danger to life and property, and that the cost of flood insurance will increase commensurate with the increased flood risk, and may reach amounts in excess of \$25.00 for \$100.00 of insurance coverage per year. A record of all variance notifications and variance actions shall be maintained together with the justification for each variance.
- (3.2) All records and maps pertaining to the National Flood Insurance Program shall be maintained in the office of the building inspector and shall be open for public inspection.
- (3.3) It shall be the responsibility of the building inspector to obtain and utilize the best available flood hazard data for purposes of administering this ordinance in the absence of data from the

Federal Emergency Management Agency (FEMA).

Section 4.0 **Flood Hazard Area Application Information**

In addition to the information required with an application for a zoning compliance permit, special use permit or any other type of development permission required under this ordinance the following information shall be submitted as part of an application for permission to commence any type of development within a flood hazard zone;

- A. the elevation in relation to mean sea level of the floor, including basement, of all structures;
- B. where flood proofing will be employed, the elevation in relation to mean sea level to which a structure will be flood proofed;
- C. where flood proofing will be employed, a certificate from a registered professional engineer or architect that the flood proofing criteria of this ordinance will be met;
- D. where it can be determined that development is proposed within zones A1-30 on the FIRM or the regulatory flood way, a certification as required by this ordinance;
- E. a description of the extent to which any watercourse will be altered or relocated as a result of proposal development;
- F. proof of development permission from appropriate local state and federal agencies as required by section 1.3(1)c, including a flood plain permit approval, or letter of no authority from the Michigan Department of Environmental Quality under authority of Part 31, Water Resources Protection of the Natural Resources and Environmental Protection Act. Act 451, P.A. of 1994 MCL 324.3101 - 324.313;
- G. base flood elevation data where the proposed development is subject to Part 31, Water Resources Protection of the Natural Resources and Environmental Protection Act. Act 451, P.A. of 1994 MCL 324.3101 - 324.313, or greater than five acres in size; and
- H. additional information which may be reasonably necessary to determine compliance with the provisions of the ordinance.

Section 5.0 **Flood Hazard Area Zone Variance**

- (5.1) Variances from the provisions of Luna Pier Ordinance No. 121 shall only be granted by the Zoning Board of Appeals upon a determination of compliance with the general standards for variances contained in this ordinance and each of the following specific standards.
 - A. a variance shall not be granted within a regulatory flood way where the result would be any increase in flood levels during a

base flood discharge, except upon certification by a registered professional engineer or the Department of Environmental Quality that the cumulative effort of the proposed development will not harmfully increase the water surface elevation of a base flood. In determining whether a harmful increase will occur, compliance with Part 31, Water Resources Protection of the Natural Resources and Environmental Protection Act. Act 451, P.A. of 1994 MCL 324.3101 - 324.313, shall required, provided that the allowable increase, including the increase used as the design standard for delineating the flood way, shall not exceed one foot.

- B. A variance shall be granted only upon;
 - 1. a showing of good and sufficient cause;
 - 2. a determination failure to grant the variance would result in exceptional hardship to the applicant; and
 - 3. a determination that the granting of a variance will not result in flood heights in excess of those permitted by this ordinance, additional threat to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
- C. the variance granted shall be the minimum necessary considering the flood hazard, to afford relief to the applicant.

(5.2) The City of Luna Pier Zoning Board of Appeals may attach conditions to the granting of a variance to insure compliance with the standards contained in this ordinance.

(5.3) Variances may be granted for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Michigan Historic Markers listing of historic sites, or any other state register of historic places without regard to the requirement of this section governing variances in flood hazard areas.

Section 6.0 Mapping Disputes

(6.1) Where disputes arise as to the location of the flood hazard areas boundary or the limits of the flood way, the Zoning Board of Appeals shall resolve the dispute and establish the boundary location. In all cases, the decision of Zoning Board of Appeals shall be based upon the most current flood plain studies issued by the Federal Emergency Management Agency (FEMA). Where Federal Emergency Management Agency is not available, the best available flood plain information shall be utilized.

(6.2) Where a dispute involves an allegation that the boundary is incorrect as mapped and Federal Emergency Agency (FEMA) flood plain studies are being questioned, the Zoning Board of Appeals shall modify the boundary of the flood hazard area or the flood way only upon receipt of an official letter of map amendment issued by the Federal Insurance Administration.

(6.3) All parties to a map dispute may submit technical evidence to the

Zoning Board of Appeals.

Section 7.0 **Delineation of the Flood Hazard Overlay Zone**

- (7.1) The flood hazard area zone shall overlay existing zoning districts delineated on the official City of Luna Pier Zoning Map. The boundaries of the flood hazard area zone shall coincide with the boundaries of the areas indicated as within the limits of the 100-year Flood Insurance Rate Maps for the City of Luna Pier, Michigan (Monroe County) dated April 20, 2000, being panel numbers 2601500379 D, 2601500383 D, and 2601500387 D, and as may be amended. The Flood Insurance Study and Flood Insurance Rate are adopted by reference, appended and declared to be a part of this Ordinance. The term flood hazard area as used in this ordinance shall mean the designated regulatory flood way.

- (7.2) Where there are disputes as to the location of a flood hazard area zone boundary, the Zoning Board of Appeals shall resolve the dispute in accord with section 1802 of Luna Pier Ordinance No. 121 (The Luna Pier Zoning Ordinance).

- (7.3) In addition to other requirements of this ordinance applicable to development in the underlying zoning district, compliance with the requirements of this Ordinance shall be necessary for all development occurring within the flood hazard area zone. Conflicts between the requirements of this Ordinance and other requirements of this ordinance or any other Ordinance shall be resolved in favor of this Ordinance, except where the conflicting requirement is more stringent and would further the objectives of this Ordinance. In such cases the more stringent requirement shall be applied.

Section 8.0 **Development Permit**

- (8.1) Development, including the erection of structures and placement of mobile homes, within a flood hazard area shall not occur except upon issuance of a zoning compliance permit in accord with the requirements of Section 1703 of Luna Pier Ordinance No. 121 (The Luna Pier Zoning Ordinance) and the following standards;
 - A. the requirements of this Ordinance shall met;

 - B. the requirements of the underlying zoning districts and applicable general provisions of this Ordinance shall be met;

 - C. all necessary development permits shall have been issued by appropriate local, state and federal authorities, including a flood plain permit, approval, or letter of no authority from the Michigan Department of Environmental Quality under authority of The Natural Resources and Environmental Act, Act 451, P.A. of 1994, as amended being MCL 324.100-324.99904. Where development permit cannot be issued prior to

the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

Section 9.0 **General Standards for Flood Hazard Reduction**

- (9.1) All new construction and substantial improvements within a flood hazard area, including the placement of prefabricated buildings and mobile homes, shall:
 - A. be designed and anchored to prevent flotation, collapse or lateral movement of the structure;
 - B. be constructed with materials and utility equipment resistant to flood damage; and
 - C. be constructed by methods and practices that minimize flood damage.
- (9.2) All new and replacement water supply systems shall minimize or eliminate infiltration of flood waters into the systems.
- (9.3) All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of flood waters into the systems and discharge from systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.
- (9.4) All public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage.
- (9.5) Adequate drainage shall be provided to reduce exposure to flood hazards.
- (9.6) The Building Inspector or his representative shall review development proposals to determine compliance with the standards in this section.
- (9.7) Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this Article.
- (9.8) The flood carrying capacity of any altered or relocated water course not subject to state or federal regulations designed to insure flood carrying capacity shall be maintained.
- (9.9) Available flood hazard data from federal, state or other sources shall be reasonably utilized in meeting the standards of this section. Data furnished by the Federal Insurance Administration shall take precedence over data from other sources.

Section 10.0 **Specific Base Flood Elevation Standards**

- (10.1) On the basis of the most recent available base flood elevation data the following standards in this section shall apply in the flood hazard area zone:
- (10.2) all new construction including additions and substantial improvements of residential structures shall be elevated so that the lowest portion of all horizontal structural members which supports floors, excluding footings, pile caps, piling, nonstructural slabs, girders, and grade beams, are located at or above the 100 - year flood elevation. All basement floor surfaces shall also be located at or above the 100 - year flood elevation. New and replacement electrical wiring and equipment, heating, ventilating, air conditioning, and other service facilities and equipment, shall be placed above the 100 - year flood elevation or be protected so as to prevent water from entering or accumulating within the system components during floods up to the 100 - year elevation. Duct insulation subject to water damage shall not be installed below the 100 - year elevation.
- (10.3) all new construction including additions and substantial improvements of non-residential structures shall have either:
- A. Meet the requirements of new residential structures as in section A; or
 - B. be constructed such that below base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the flood proofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood in the location of the structure.
- (10.4) The most recent base flood elevation data received from the Federal Emergency Management Agency shall take precedence over data from other sources.

Section 11.0 Mobile Home Standards

- (11.1) All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties in accord with the following specifications:
- A. over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, except that on mobile homes less than 50 feet in length one tie per side shall be required.
 - B. frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, except that on mobile homes less than 50 feet in length four ties per side shall be required.

- C. all components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
 - D. all additions to a mobile home shall be similarly anchored.
- (11.2) An evacuation plan indicating alternate vehicular access and escape routes shall be filed with Monroe County Civil Preparedness Administrator for Mobile Home parks and mobile home subdivisions.
- (11.3) Mobile Home within zones A1-30 on the Flood Insurance Rate Map shall be located in accord with the following standards:
- A. all mobile homes shall be placed on stands or lots which are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level.
 - B. adequate surface drainage away from all structures and access for a mobile home hauler shall be provided.
 - C. in the instance of elevation on pilings, lots shall be large enough to permit steps, piling foundations shall be placed in stable soil no more than 10 feet apart; and reinforcement shall be provided for piers more than six feet above ground level.
 - D. in mobile home parks and mobile home subdivisions which exist at the time this subsection is adopted, where repair, reconstruction or improvement of streets, utilities, and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, the standards, in subparagraphs A, B, and C of this subsection shall be complied with.

Section 12.0 Flood way Protection Standards

- (12.1) The uses of land permitted in an underlying zoning district shall not be construed as being permitted within the regulatory flood way, except upon compliance with the provisions on this section.
- (12.2) New construction, substantial improvements and all other development, including fill, shall be prohibited within zones numbered A1-30 on the FIRM, except where it is demonstrated to the building inspector that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not harmfully increase the water surface elevation of a base flood. In determining where a harmful increase will occur, compliance with Par 31, Water Resources Protection, of the Natural Resources and Advisory and Protection Act, Act 451 P.A. 1994 being MCL 324.3101 - 324.3133 shall be required, provided that the allowable increase shall not exceed one foot. The provisions of this section shall not apply within the regulatory flood way. The provisions of subsection (2) shall be applied to land situated within the regulatory flood way.
- (12.3) All development occurring within the regulatory flood way shall comply with the following standards:
- A. encroachments, including fill, new construction, substantial

improvements and other development shall be prohibited. Exception to this prohibition shall only be made upon certification by a registered professional engineer or the Department of Natural Resources that the development proposed will not result in any increases in flood levels during a base flood discharge, and compliance with Part 31, Resources Protection of the Natural Resources and Advisory Protection Act, Act 451, P.A. 1994 being MCL 324.3101 - 324.3133.

- B. development which is permitted in the regulatory flood way shall meet the requirements of sections 1.3 to 1.5.

Section 13.0 Disclaimer of Liability

- (13.1) The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study.

Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land under this article shall not be considered a guarantee or warranty of safety from flood damage. This ordinance does not imply that areas outside the flood hazard area will be free from flood damage. This ordinance does not create liability on the part of the City of Luna Pier or any officer or employees thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

EFFECTIVE DATE:

This Ordinance shall be effective on the 20th day of April, 2000. A summary will be published as provided by law.

I, Rose M. Laderach, Luna Pier City Clerk, do hereby certify, that the foregoing Ordinance No. 163 was adopted at a regular meeting of the Luna Pier City Council held on April 13, 2000.

ROSE M. LADERACH, CLERK
City of Luna Pier

ADOPTED: 4/13/00

PUBLISHED: 4/18/00

EFFECTIVE: 4/20/00

