.

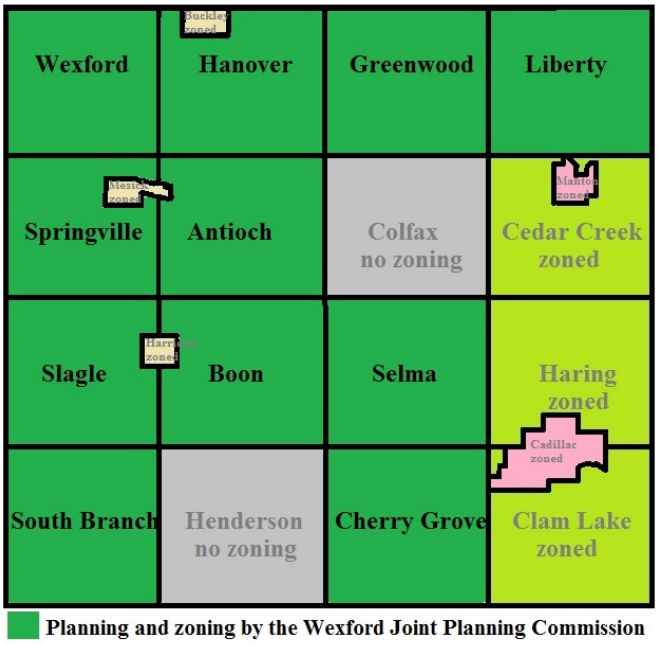
Wexford Joint Draft V2.2 Zoning Ordinance

[Annotated]

Date Printed November 17, 2016

~~Effective from January 1, 2017 to _____ __, 20__~~

This is a draft zoning ordinance for the Wexford Joint Planning Commission, covering the areas shown on this map in green.



The public hearing for this proposed zoning ordinance is November 17, 2016 at 6:30pm in Wexford County Road Commission meeting room, 85 West Highway M-115, Boon, Michigan. Coordinates: 44° 19' 32.5" N, 85° 34' 53.4" W (44.325685, -85.581500).

This ordinance is a draft. It is still subject to change, as a result of comments made at the public hearing (your concerns), advice from the Joint Planning Commission's attorneys, members of the Joint Planning Commission, and municipalities participating in the Joint Planning Commission.

Submissions may be made in writing or orally at the hearing, or by mail addressed to Beverly Monroe, 7039 N. 41 Road, Manton, Mich. 49663-9792

Copies of this ordinance are available at:

1. Buckley Branch Library, 305 S. 1st St., Buckley, MI 49620
2. Mesick Public Library, 207 N. Eugene St., PO Box 208, Mesick, MI 49668
3. Cadillac Wexford Public Library, 411 S. Lake St., Cadillac, MI 49601
4. Manton Public Library, 404 W. Main St., Manton, MI 49663

A digital copy (PDF) may be obtained by emailing schindL9@anr.msu.edu. Your email provider will need to accept rather large attachments (about 15,000KB) in order to receive the digital copy.

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THE TOWNSHIP OF _____ ORDAINS:

ARTICLE 1: TITLE, PURPOSES AND LEGAL CLAUSES

101. Title

Wexford Joint Zoning Ordinance shall be known as the "Wexford Joint Zoning Ordinance", hereinafter called the "Ordinance".

102. Purposes

This Ordinance is based upon the Master Plan and designed:

A. To promote and protect the public health, safety and general welfare;

B. To protect the character and stability of the agricultural, forestry, recreational, residential, commercial and industrial areas; and open space, lakes, and streams within the unincorporated portions of Wexford Joint Zoning Ordinance area of jurisdiction and promote the orderly and beneficial development of the participating municipalities;

C. To regulate the intensity of use of land and parcel areas in a manner compatible with the Land Use Plan part of the Master Plan and to determine the area of open spaces surrounding buildings and structures necessary to provide adequate light and air and to protect the public health;

D. To lessen and avoid congestion on the public highways and streets;

E. To provide for the needs of agriculture, forestry, recreation, residence, commerce, and industry in future growth;

F. To promote healthful surroundings for family life in residential and rural areas;

G. To set reasonable standards to which buildings and structures shall conform;

H. To prohibit uses, buildings or structures which are incompatible with the character or development or the uses, building or structures permitted within specified zoning districts;

I. To prevent such additions to or alteration or remodeling of existing structures which avoid the regulations and limitations imposed hereunder;

J. To protect against fire, explosion, noxious fumes and odors, heat, dust, smoke, glare, noise, vibration, radioactivity, and other nuisances and hazards;

K. To prevent the overcrowding of land and undue concentration of buildings and structures so far as is possible and appropriate in each zoning district;

L. To conserve the value of land, buildings, and structures throughout the participating municipalities;

M. To provide for the completion, restoration, reconstruction, and extension of nonconforming uses;

N. To create an Appeals Board and to define the powers and duties thereof;

O. To designate and define the power and duties of the official or officials in charge of the administration and enforcement of this Ordinance;

P. To provide for the payment of fees for zoning permits;

Q. To provide penalties for the violation of the Ordinance; and

R. To accomplish any other purposes contained in P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 *et seq.*)

103. Legal Basis

This Ordinance is enacted pursuant to P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 *et seq.*), hereinafter referred to as the “Zoning Act.”

104. Effective Date

A. This Ordinance was adopted by the Township Board of the Township of Antioch, Wexford County, Michigan, at a meeting held on December _ _, 2016 and a notice of publication ordered published in the *Cadillac Evening News*, a newspaper having general circulation in said Township, as required the Zoning Act. This ordinance became effective on _ _, 201_ in this township.

B. This Ordinance was adopted by the Township Board of the Township of Boon, Wexford County, Michigan, at a meeting held on December _ _, 2016 and a notice of publication ordered published in the *Cadillac Evening News*, a newspaper having general circulation in said Township, as required by the Zoning Act. This ordinance became effective on _ _, 201_ in this township.

C. This Ordinance was adopted by the Township Board of the Township of Cherry Grove, Wexford County, Michigan, at a meeting held on December _ _, 2016 and a notice of publication ordered published in the *Cadillac Evening News*, a newspaper having general circulation in said Township, as required by the Zoning Act. This ordinance became effective on _ _, 201_ in this township.

D. This Ordinance was adopted by the Township Board of the Township of Greenwood, Wexford County, Michigan, at a meeting held on December _ _, 2016 and a notice of publication ordered published in the *Cadillac Evening News*, a newspaper having general circulation in said Township, as required by the Zoning Act. This ordinance became effective on _ _, 201_ in this township.

E. This Ordinance was adopted by the Township Board of the Township of Hanover, Wexford County, Michigan, at a meeting held on December _ _, 2016 and a notice of publication ordered published in the *Cadillac Evening News*, a newspaper having general circulation in said Township, as required by the Zoning Act. This ordinance became effective on _ _, 201_ in this township.

F. This Ordinance was adopted by the Township Board of the Township of Liberty, Wexford County, Michigan, at a meeting held on December _ _, 2016 and a notice of publication ordered published in the *Cadillac Evening News*, a newspaper having general circulation in said Township, as required by the Zoning Act. This ordinance became effective on _ _, 201_ in this township.

G. This Ordinance was adopted by the Township Board of the Township of Selma, Wexford County, Michigan, at a meeting held on December _ _, 2016 and a notice of publication ordered published in the *Cadillac Evening News*, a newspaper having general circulation in said Township, as required by the Zoning Act. This ordinance became effective on _ _, 201_ in this township.

H. This Ordinance was adopted by the Township Board of the Township of Slagle, Wexford County, Michigan, at a meeting held on December _ _, 2016 and a notice of publication ordered published in the *Cadillac Evening News*, a newspaper having general circulation in said Township, as required by the Zoning Act. This ordinance became effective on _ _, 201_ in this township.

I. This Ordinance was adopted by the Township Board of the Township of South Branch, Wexford County, Michigan, at a meeting held on December _ _, 2016 and a notice of publication ordered published in the *Cadillac Evening News*, a newspaper having general circulation in said Township, as required by the Zoning Act. This ordinance became effective on _ _, 201_ in this township.

J. This Ordinance was adopted by the Township Board of the Township of Springville, Wexford County, Michigan, at a meeting held on December _ _, 2016 and a notice of publication ordered published in the *Cadillac Evening News*, a newspaper having general circulation in said Township, as required by the Zoning Act. This ordinance became effective on _ _, 201_ in this township.

K. This Ordinance was adopted by the Township Board of the Township of Wexford, Wexford County, Michigan, at a meeting held on December _ _, 2016 and a notice of publication ordered published in the *Cadillac Evening News*, a newspaper having general circulation in said Township, as required by the Zoning Act. This ordinance became effective on _ _, 201_ in this township.

105. Scope

This Ordinance is not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of deed restrictions; subdivision regulations; private restrictions placed upon property by covenants; condominium rules, ownership association rules; ordinances, laws, regulations of any federal, state or county agency. When this Ordinance has

more restrictive regulations, limitations or requirements, then this Ordinance shall control. The Administrator shall not be engaged in the enforcement of deed restrictions or private restrictions placed upon property by covenants.

106. Codification

This Ordinance is codified by use of articles and sections, and organized in the following manner. Section numbers and article numbers not used in this Ordinance, or skipped, are reserved for future use.

A. Article 1-9 for introductory material for this Ordinance.
   1. Article 1 for basic legal clauses such as but not limited to title, citation, purposes, legal basis, effective date, explanation of scope and codification.
   2. Article 5 for definitions of words and uses which are used in this Ordinance.

B. Article 10-19 for general regulations applicable to all of the land under jurisdiction of this Ordinance.
   1. Article 10 for general regulations which are applicable in all zoning districts. This article is further subset as follows:
      a. Sections 1000-1009 for general provisions.
      b. Sections 1010-1019 for water related environmental regulations.
      c. Sections 1020-1029 for solid waste related environmental regulations.
      d. Sections 1030-1039 for land and other environmental regulations.
      e. Sections 1040-1049 for parcel and setback regulations.
      f. Sections 1050-1059 for vehicle access, road and parking regulations.
      g. Sections 1060-1069 for aesthetic (sign, viewshed, sex oriented businesses) regulations.
      h. Sections 1070-1079 for structure (not dwelling) regulations.
      i. Sections 1080-1089 for dwelling and residential regulations.
      j. Sections 1090-1099 for other special purpose general regulations which are not classified above.
   2. Article 12 for new and future development standards.
   3. Article 16 for standards for specific possible conditional and special uses.
   4. Article 18 for establishment of the zoning map and definition of zoning districts.

C. Articles 20-79 for each zoning district, further organized as follows with articles 20-69 organized from least intense to most intense:
   1. Articles 20-29 for environmental, historic and other special zoning districts with each zoning district organized from least intense to most intense.
   2. Articles 30-39 for agricultural, forestry, rural and rural residential zoning districts zoning districts with each zoning district organized from least intense to most intense.
   3. Articles 40-49 for residential zoning districts with each zoning district organized from least intense to most intense.
   4. Articles 50-59 for commercial zoning districts with each zoning district organized from least intense to most intense.
   5. Articles 60-69 for industrial zoning districts with each zoning district organized from least intense to most intense.
   6. Articles 70-79 for overlay districts.

D. Articles 80-89 for permit process and procedures.
   1. Article 80 for nonconformities.
   2. Article 82 for administration of the Ordinance.
   3. Article 84 for permit procedures.
   4. Article 85 for conditional uses procedures.
   5. Article 86 for special uses procedures.
   6. Article 88 for planned unit development procedures.

E. Articles 90-99 for Ordinance administration.
   1. Article 94 for site plan review process.
   2. Article 96 for appeals board.

3. Article 98 for Ordinance amendment, validity, enforcement and penalties.

ARTICLE 5: DEFINITIONS

501. Purpose

For the purpose of this Ordinance certain terms are defined. When not inconsistent with the context, the present tense includes the future, words used in the singular number include the plural number.

502. Undefined Words

Any word not defined herein, or not referred to in the *North American Industry Classification System* Manual, shall be interpreted within its common and approved usage.

503. Definitions of words:

ACCESSORY STRUCTURES means a building or structure which shall be construed to include, but not limited to, the following: playground equipment, sport courts, children's playhouses, domestic animal shelters, fallout shelters, swimming pools, gazebos, barbecue stoves, parking lots, loading docks and radio and television antennas, but shall not include fences, hunting blinds, signs.

ADMINISTRATOR means the Wexford Joint Zoning Administrator as created in Section 8201 *et. seq.* (entire article).

ADULT BOOK AND/OR VIDEO STORE means an establishment having, as a substantial or significant portion of its stock in trade or business, books, videotapes, CDs, computer software, computer services, magazines and other periodicals or other writings as defined in M.C.L. 15.232(e), MSA 4.1801(2)(e) which are distinguished or characterized by their emphasis on matter depicting , describing or relating to "specified sexual activities" or specified anatomical areas," hereinafter defined.

ADULT LIVE ENTERTAINMENT ESTABLISHMENTS REGARDLESS OF WHETHER ALCOHOLIC BEVERAGES MAY OR MAY NOT BE SERVED means establishments which include a nightclub, bar, restaurant, or similar commercial establishment, which features (a) persons who appear nude or in a "state of nudity" or "semi-nude"; and/or (b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

ADULT MOTION PICTURE THEATER means an enclosure with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or specified anatomical areas," as hereinafter defined for observation by patrons therein.

ADULT MINI MOTION PICTURE THEATER means an enclosure with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as hereinafter defined for observation by patrons therein.

ADULT PANORAMS means an establishment which has a substantial or significant portion of its business devoted to the viewing by patrons of films, tapes, or live entertainment showing "specified sexual activities" or "specified anatomical areas".

ADULT PARAPHERNALIA/NOVELTY STORE means an establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal.

ALTERED/ALTERATIONS means any construction, modification, remodeling, repair, improvement, relocation, replacement of a structure, building, dwelling, accessory building or structure which needs a permit under the provisions of section 8401 *et. seq.* (entire article) or under the provisions of section 8601 *et. seq.* (entire article).

AIRPORT means the Wexford County Airport and the airport in section the north half of section 16 of T22N, R12W (Slagle Township) and all appurtenances used or acquired for airport buildings or other airport facilities, and all other

appurtenant rights-of-way or other interests either heretofore or hereafter established.

AIRPORT HAZARD AREA means an area consisting of all the lands within participating municipalities lying beneath the approach, transitional, 149 feet horizontal, conical and 500 feet horizontal surfaces, and being located within a circle having a radius extending horizontally six point thirty-two (6.32) miles from the established center of the usable landing area of the airport.

AIRPORT HAZARD means any building, structure or tree within the Airport Overlay Zone, District, which exceeds the height limitations established by this Ordinance, or any use of land or of appurtenances thereto within the Airport Overlay Zone District which interferes with the safe use of the airport by aircraft.

ALTERED means any change in the location or use of a building, or any change in the supporting members of a building such as bearing walls, columns, beams, posts, girders, and similar components, or any substantial change in the roof or exterior walls.

AMBIENT MEANS the sound pressure level exceeded 90% of the time or L90.

ANEMOMETER TOWER means a freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system which is an accessory land use to a Utility Grid Wind Energy System.

ANIMAL means a farm animal, pet, but not animals used for research in a scientific laboratory, or specimens in a zoo, or wild animals in a rehabilitation facility.

ANSI means the American National Standards Institute.

APPEALS BOARD means the Wexford Joint Board of Appeals, created in section 9601 *et. seq.*, pursuant to the Zoning Act

ARTICLE means the main divisions of this Ordinance, cited by the words "section XXX *et. seq.*" Articles are further divided by sections.

BUFFER AREA means an area which does not have any structures which is designed to reduce or eliminate noise, light, visual and other impacts by use of distance or setback greater than otherwise required, berm, walls, fences, vegetation between incompatible land uses. (See also Vegetation Belt, Greenbelt.)

BUILDING means any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, chattel, or property of any kind. Buildings shall include awnings; eaves to the drip line; attached decks and porches with or without a roof; and trailers, whether mounted or on wheels and situated on private property and used for purposes of a building.

BUILDING AREA means the total exterior foundation or framing area taken on a horizontal plane at the largest floor level of a building or an accessory building exclusive of unroofed porches, terraces, patios and steps, and of awnings and nonpermanent canopies.

BUILDABLE AREA means a contiguous area within a PARCEL, and within the BUILDING ENVELOPE, which sufficient area of land is suitable for BUILDING in full compliance with this Ordinance and which does not include:

A. sand dune with slopes greater than 18 percent,
B. beach contiguous to a lake or stream,
C. WETLAND,
D. area which is not accepted by the District Health Department for on-site sewage disposal unless an alternate system of sewage disposal is approved by the District Health Department,
E. that part of a floodplain where flood waters are expected to have a destructive current as determined by the DEQ,
F. existing PUBLIC UTILITY EASEMENTS,
G. existing public rights-of-way,
H. waterfront SETBACK areas, and
I. slopes over 25 percent.

BUILDING ENVELOPE means that portion of a parcel excluding the setbacks and applied to that parcel by this

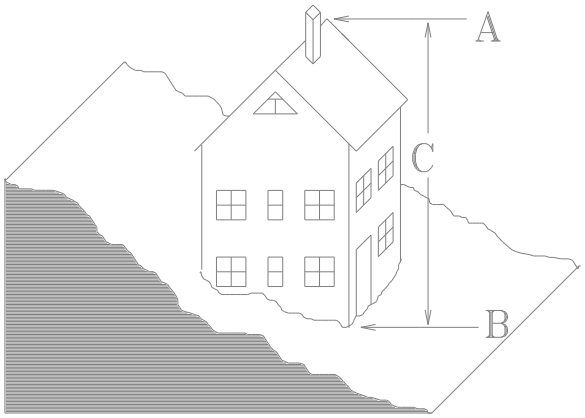
Ordinance.

BUILDING HEIGHT means the vertical distance measured from the average elevation of the ground when construction is competed at the building's perimeter to the highest point of the roof (for flat roofs, to the deck line), but not including chimneys, antennas, steeples, and other similar non-inhabitable structures or portions of structures.

CHIEF ELECTED OFFICIAL means the township supervisor, village president, mayor of a city of the municipal governments which are named in the Wexford Joint Planning Commission Ordinance and Agreement, as amended. See participating municipality and legislative body.

COMMERCIAL in the context of a farm operation means performing commercial production of any amount, without any minimum threshold of commercial activity.

COMMISSION means the Wexford Joint Planning Commission created pursuant to P.A. 33 of 2008, as amended (being the Michigan Planning Enabling Act, MCL 125.3801 *et seq.*), and municipal joint planning act through the Wexford Joint Planning Commission Ordinance and Agreement, as amended, and has vested with it all the powers and duties of a zoning Board pursuant to the Zoning Act.



2 "A" is the highest point (not including chimneys, antennas, steeples, etc.); "B" is the average point of the ground's surface around the perimeter of the structure; and "C" is the vertical distance measured for the height.

COMMUNITY GARDEN means a collective activity by a group of people, utilizing either individual or shared plots to grow food crops, plant fiber, ornamentals, or other plants for personal or institutional use, consumption, or donation. Community gardens may include common areas maintained and used by group members.

COTTAGE INDUSTRY means a use which includes any activity carried out for gain by a resident on the property on which the resident lives including manufacturing, services, sales of goods, and services made or provided on the premises. The use is intended to allow residents to conduct economic activities on their property at a scale greater than a home occupation but less than a full-scale commercial or industrial enterprise.

COTTAGE INDUSTRY FOR SHORT TERM RENTAL OF DWELLING(S) means a cottage industry which includes rental of a house for a short term (30 or fewer days) carried out for gain by a resident on the property on which the resident lives.

dB(A) means the sound pressure level in decibels. It refers to the "a" weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.

DECIBEL means the unit of measure used to express the magnitude of sound pressure and sound intensity.

DEQ means the Michigan Department of Environmental Quality.

DNR means the Michigan Department of Natural Resources.

EASEMENT means a private irrevocable agreement of record between landowners, public utilities, persons, for a specific purpose such as but not limited to utilities, driveways, pipelines, pedestrian ways, roads.

ENVIRONMENT ASSESSMENT means a summary review of environmental impacts of a project.

ENVIRONMENTAL IMPACT STATEMENT means a document which is a detailed review of the impacts on the environment by a proposed project.

EXISTING BUILDING means a building existing in whole or whose foundations are complete, and whose construction is being diligently pursued on the effective date of this Ordinance.

FAMILY means an individual or a collective number of individuals living together in one house under one head, whose relationship is of a permanent and distinct domestic character, and cooking as a single housekeeping unit. However, this shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, occupants of a counseling house, lodging house or hotel, or organization which is not a recognized religious order, nor include a group of individuals whose association is temporary and resort-seasonal in character or nature.

FARM ANIMAL means domestic animals; exotic animals; any other animal so long as the animal is kept for the purpose of a farm product, for farm operation, or service to humans. Farm animal does not include animals used for research in a scientific laboratory, or specimens in a zoo, or wild and other animals in a rehabilitation facility.

FARM MARKET means a part of a farm operation which is a place or area where transactions between a farm market operator and customers take place seasonally or year-round. This includes roadside stands, farm stands, an area without a physical structure, a temporary structure such as a tent, etc., where at least 50 percent of the products or name-sake products marketed and offered for sale (measured as an average over the farm market's marketing season or up to a five-year time frame) are produced on and by the affiliated agriculture establishment. (primary measure of the 50 percent will be the percentage of the retail space used to display products and name-sake products offered for retail sale. If measurement of retail space is not feasible, then the percent of the gross sales dollars of the farm market will be used.) Farm products may be processed more extensively into a form that adds value and makes them more marketable for direct customer sales. at the farm market, as long as allowed by law. Farm markets may include marketing activities and services to attract and entertain customers and facilitate retail trade business transactions.

FARM OPERATION means the same as defined in the Michigan Right to Farm Act, M.C.L. 286.472(b).

FARM PRODUCT means the same as defined in the Michigan Right to Farm Act, M.C.L. 286.472(c).

FENCE means a constructed barrier or planted hedge which is designed to do any one, or more, of the following;

A. restrict passage through it regardless if the fence has a gate(s) or not,

B. prevent viewing through it, and/or

C. be decorative.

FLOOR AREA means the sum of the horizontal areas of each story of the building measured from the exterior faces of the exterior walls, but not including basements, unfinished attics, attached garages, breezeways and enclosed or unenclosed porches.

FOREDUNE means one (1) or more low linear dune ridges that are parallel and adjacent to the shoreline of a Great Lake and are rarely greater than twenty (20) feet in height. The lakeward face of a foredune is often gently sloping and may be vegetated with dune grasses and low shrub vegetation or may have an exposed sand face.

GAAMPS means generally accepted agricultural and management practices as defined in the Michigan Right to Farm Act, M.C.L. 286.472(d).

GARDEN means an accessory use which is the growing of plants for landscaping purposes which may consist of any plant (flowers, bushes, hedges, arbors, trees, groundcover, manicured lawn); food (vegetable, fruits, herbs); fibers; garden maintenance facilities (potting work area, composting); greenhouse, hoophouse, and other structures subject to applicable setback, height, parcel coverage, and other regulations; and including other landscape features such as but not limited to paths, walls, rocks. A garden is not commercial. A garden is not agriculture, agriculture-like, community garden, market garden.

GREENBELT means a landscaped area for purposes of aesthetics and for purposes of a buffer area. (See also Buffer Area, Vegetation Belt.)

GUEST HOUSE means a dwelling subject to the same requirements as a dwelling in the district in which it is located.

HAZARDOUS SUBSTANCES means one or more of the following:

A. A chemical or other material which is or may become injurious to the public health, safety, or welfare or to the environment.

B. "Hazardous substance" as defined in P.A. 188 of 1965 (being the Hazardous Substances Act, M.C.L. 286.452(d)).

C. "Hazardous waste" as defined in Article II Chapter 3 Part 111 of P.A. 451 of 1994, as amended, (being the Hazardous Waste Management part of the Natural Resources and Environmental Protection Act, M.C.L. 324.11101 *et. seq.*)
[Annotation: M.C.L. 324.45101 *et. seq.* is formerly P.A. 64 of 1979 (being M.C.L. 299.501 to 299.551, the Hazardous Waste Management Act).]

D. "Petroleum" as defined in Article II Chapter 8 Part 213 of P.A. 451 of 1994, as amended, (being the Leaking Underground Storage Tanks part of the Natural Resources and Environmental Protection Act, M.C.L. 324.21301 *et. seq.*).
[Annotation: M.C.L. 324.45101 *et. seq.* is formerly P.A. 478 of 1988 (being M.C.L. 299.831 to 299.850, the Leaking Underground Storage Tank Act).]

HOBBY means an activity carried out by a person primarily for pleasure and self-entertainment.

HOME OCCUPATION means a use which includes any activity carried out for gain by a resident and conducted as an accessory use as an automatic allowed use without a permit in the person's home, but not a hobby.

HOST OR HOSTESS ESTABLISHMENTS means establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess or for an admission or membership fee.

HOUSING UNIT means a house, apartment, mobile home, group of rooms, or single room occupied as a separate living quarter (or if vacant, intended for occupancy as a separate living quarter.) Separate living quarters are those in which the occupants live and eat separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.

IEC means the International Electrotechnical Commission. The IEC is the leading global organization that prepares and publishes international standards for all electrical, electronic and related technologies.

ISO means the International Organization for Standardization.

JUNK means

A. old scrap ferrous or nonferrous material, rubber, cloth, paper, rubbish, refuse, litter;

B. materials from demolition, waste building materials; and

C. junked, abandoned, scrap, dismantled or wrecked (including parts of) motorized vehicles, farm equipment, boats, trailers, mobile homes, appliances and all other machines.

Junk shall not include classic or antique items kept and collected for their antique or collectible value provided they are stored within an enclosed building or buffered such that they are not visible from off-site, and shall not include junk kept at a licensed Type I, II or III landfill for purposes of disposal as solid waste.

LEASE UNIT BOUNDARY means boundary around property leased for purposes of a Wind Energy System, including adjacent parcels to the parcel on which the Wind Energy System tower or equipment is located. For purposes of setback, the Lease Unit Boundary shall not cross road right-of-ways.

LEGISLATIVE BODY means the elected township board of trustees, village council, or city council of the municipal governments which are named in the Wexford Joint Planning Commission Ordinance and Agreement, as amended.. See participating municipality and chief elected official.

LIVESTOCK means horses, cattle, sheep, swine, fowl, and other farm or ranch animals, but not domestic house pets.

LOT means a lot in a subdivision.

MARKET GARDEN means an activity where food crops, plant fiber, ornamentals, or other plants are grown by an individual or a group to be sold for profit.

MASSAGE PARLOR means any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the hands, feet, scalp, face, neck or shoulder. This definition shall not be construed to include the practices of massage therapists who meet one or more of the following criteria:

A. Proof of graduation from a school of massage licensed by the State of Michigan;

B. Official transcripts verifying completion of at least 300 hours of massage training from an American community college or university; plus three references from massage therapists who are professional members of a massage association referred to in this section;

C. Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards; or,

D. A current occupational license from another state.

MASTER PLAN means the current master plan adopted by the Wexford Joint Planning Commission, as amended, and as may be updated or replaced from time-to-time pursuant to P.A. 33 of 2008, as amended (being the Michigan Planning Enabling Act, MCL 125.3801 *et seq*.) In the transition period at the start of the existence of the Commission it includes the *Wexford Comprehensive Plan* of May 19, 2003, as amended and the accompanying *Fact Book for the Development of the Wexford County Plan* of 2002 pursuant to section 13 of the Wexford Joint Planning Commission Ordinance and Agreement.

MOBILE HOME means a dwelling, transportable in one or more sections which is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein and is installed by a Michigan Licensed Mobile Home dealer or Michigan Licensed Mobile Home installer as required by P.A. 419 of 1976, as amended, (being the Mobile Home Commission Act, M.C.L. 125.1101 *et. seq*.,) and administrative rules promulgated thereunder.

NONCONFORMING BUILDING, STRUCTURE means a structure or building lawfully constructed that does not conform to the requirements of the district in which it is situated and existed prior to the effective date of this Ordinance.

NONCONFORMING USE means structure, building, plot, premise or land occupied by a use that does not conform to the regulations of the district in which it is situated and lawfully existing on the effective date of this Ordinance.

OUTDOOR LIGHT FIXTURES means outside electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. Such devices shall include, but are not limited to, search, spot, and flood lights for buildings and structures, security, recreational areas, parking lot, landscape, billboard and other sign (advertizing or other), street lighting, product display area, building overhangs and open canopies lighting.

OPEN DANCE HALL means an establishment where open public dancing by patrons is available during at least four days per week with partners furnished by the establishment.

OWNERSHIP means the proprietor of the land who is a natural person, or his heirs, executors, administrator, legal representatives, successors, assigns, firm, association, partnership, corporation, or other legal entity, or government, or combination of any of them.

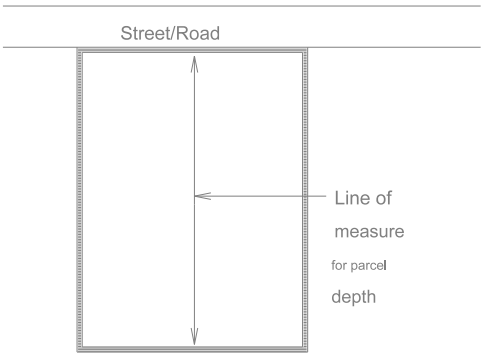
PARCEL means a tract of land or one or more lots having a single tax identification number issued by the Wexford County Equalization Department or a condominium unit of land space and directly associated limited common element, except that if two or more parcels meeting the foregoing definition are contiguous and under common ownership, then all of such parcels shall be deemed a single parcel for purposes of this Ordinance on which one (1) principal building and its accessory buildings are placed, together with the open spaces required by this ordinance.

PARENT PARCEL means a parcel of record on the effective date of this ordinance amendment, or the “parent parcel” or “parent tract” as defined by the Michigan Land Division Act, (M.C.L. 560.101 *et. seq*.).

PARCEL AREA means the total land area encompassed by the property lines, including any combination of lots or parcels of record or portions thereof, but in no case shall include easement for road right of ways, or an area of a public road which is there by historic use.

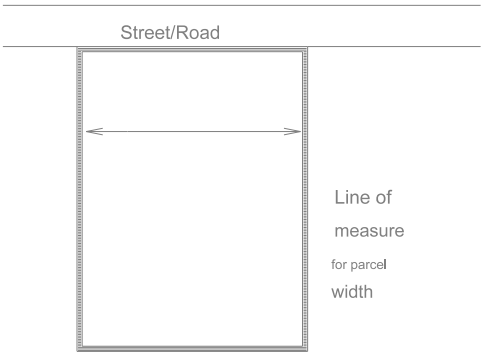
PARCEL MEASUREMENTS means:

a. DEPTH of a parcel shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the front property line and rearmost points of the rear property line.



b. WIDTH

1. The distance between the side property lines at each side of the parcel.
2. In determining parcel width on odd-shaped parcels, if the parcel abuts a curving street and, as a result, the side property lines are not parallel, the measurement of the width shall be at the front yard setback line.
3. In determining parcel width on other odd-shaped parcels, the average width measured at right angles to its depth.



PARKING SPACE means one unit of parking area provided for the parking of one vehicle.

PARTICIPATING MUNICIPALITY means the municipal governments which are named in the Wexford joint Planning Commission Ordinance and Agreement, as amended. See chief elected official and legislative body.

PERSON means an individual, partnership, firm, corporation, association, organization, trust, company, or other legal entity, or local unit of government or other political subdivision of the state, or a state or state agency as well as an individual.

PERSONAL PROPERTY SALES means events such as garage sales, yard sales, basement sales, auctions or other similar events where personal property is offered for sale on a limited basis and not for a duration of more than three days within any three month period.

PET means domestic animals primarily for a person's company, companionship, performance, attractive appearances, loyalty, for human therapy, playful personalities, or is a service animal pursuant to MCL 287.291. Pet does not include working animals, farm animal, animals used for research in a scientific laboratory, or specimens in a zoo, or wild and other animals in a rehabilitation.

PLANNED UNIT DEVELOPMENT means a special use which is a form of land development or land improvement comprehensively planned as an entity via a unitary site plan which permits flexibility in building, siting, usable open spaces, and the preservation of significant natural features. A planned unit development may contain a single type of use or mix of uses if provided for by the underlying zone district and elsewhere in this Ordinance.

PRIVATE ROAD means a road which is part of a recorded subdivision and condominium developments and shown as a private road on the plat or master deed, or a road which is not public which services more than one dwelling or business. Private Road shall not include driveways to a dwelling or business or accessory buildings thereto when the driveway is located on the same parcel of land as the serviced structure; a United States Forest Service road; a county road as shown on maps certifying the same to the Michigan Department of Transportation; two-track trails which have been in common use for fifteen (15) or more years and which provide the only access to a parcel of property.

PRIVATE UTILITY means any person, firm, corporation, a cell-phone provider, which is a private for-profit

enterprise or is designed for an individual development; which furnish electricity, gas, steam, communications, telegraph, transportation, water or sanitary or storm water sewerage facilities to a limited set of costumers.

PROPERTY LINE means the outside perimeter of a legally described parcel of land.

PUBLIC UTILITY means any person, firm, corporation, municipal department or Board fully authorized to furnish, under federal, state, or municipal regulations, electricity, gas, steam, communications, telegraph, transportation, water or sanitary or storm water sewerage facilities to the public. (For the purposes of this ordinance, communication tower facilities are not included in the definition of a Public Utility.)

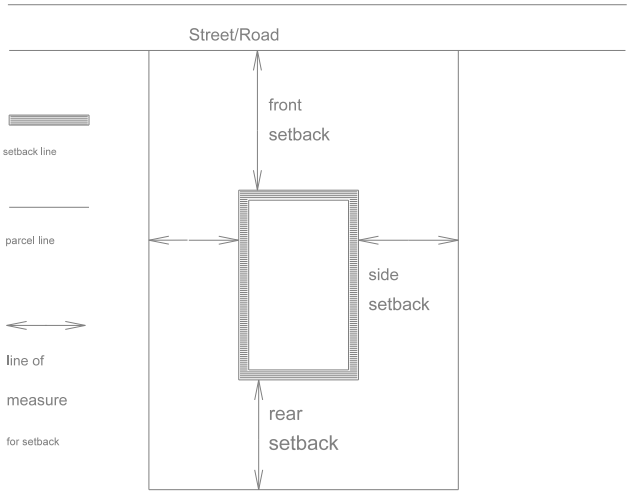
RIGHT-OF-WAY means a road, alley or other thoroughfare or easement permanently established for passage of persons or vehicles and under the legal authority of the agency having jurisdiction over the right-of-way.

ROAD means any way under jurisdiction of the Wexford County Road Commission, Michigan, or the United States.

ROTOR means an element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

SECTION means a part of this Ordinance, being the next division under an Article. A section is cited by article number and section number, "XXX", with the last two digits being the section number, and the remaining digits to the left being the article number. Sections may be further divided into subsections "A.", divisions "1.", paragraphs "a.", and subparagraphs "(1)", for example.

SETBACK means a line parallel to a property line which is a specified distance toward the center of a parcel from the property lines or water front. Side, front, rear and waterfront setbacks correspond to the respective yard. See yard in section 503.



SEX-ORIENTED BUSINESS means any Retail Trade (G), Service (I), establishment and Home Occupation which has more than ten percent (10%) of its business involving the sale, use, participation, and observation of:

A. anything tangible, including any material which is capable of being used or adapted to arouse shameful or morbid interest in nudity, sex, or excretion, whether through the medium of reading, observation, sound or in any other manner, including but not limited to, anything printed or written, any book, magazine, newspaper, pamphlet, picture, drawing, pictorial representation, motion picture, photograph, video tape, video disk, film, transparency, slide, or any other medium used to electronically produce or reproduce images on a screen, or any mechanical, chemical, or electronic reproduction.

B. representations or descriptions of normal or perverted, actual or simulated sexual intercourse, fellatio, cunnilingus, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, or depictions or descriptions of sexual bestiality, sadomasochism, masturbation, or excretory functions;

C. representations or descriptions of masturbation, excretory functions, or a lewd exhibition of the genitals.

Further, if any of the above meets all of the following criteria:

A. that the average individual, applying contemporary community standards, would find that the material taken as a whole, appeals to the shameful or morbid interest in nudity, sex, or excretion;

B. that the material, taken as a whole, lacks serious literary, artistic, political, or scientific value;

C. that the material depicts or describes, in a patently offensive way, sexual conduct. "Material" includes undeveloped photographs, molds, printing plates, and other latent representational objects notwithstanding that processing or other acts may be required to make its content apparent.

SHALL means a mandatory directive. The word "shall" is always mandatory and not merely permissive.

SHADOW FLICKER means alternating changes in light intensity caused by the moving blade of a wind energy

system casting shadows on the ground and stationary objects, such as but not limited to a window at a dwelling.

SIGN means any structure, object or device which is out doors used to convey a message or messages that is visible from the public realm or adjacent parcel.

GROUND SIGN means a permanent sign mounted on the ground to a foundation flush with the surface of the ground.

MOUNTED SIGN means a temporary sign or permanent sign mounted on the ground by means of posts, wire, plastic, or other means pushed or stuck in the ground and which are not fastened to a foundation.

OFF PREMISE SIGN means a sign located on a parcel which is not owned by the owner of the sign or not associated with the land use on the same parcel as the sign.

POLE SIGN means a permanent sign mounted on one or two post(s) or pole fixed to a foundation.

POSTED SIGN means a sign tacked or otherwise fastened to a fence post, tree, fence which is smaller than 1.25 square foot.

PORTABLE SIGN means a temporary sign, or sign board placed on the ground which is portable and not anchored or secured to a building, ground, or anything else or carried around by a human or animal.

ROOFTOP SIGN means a permanent sign mounted above the roof of a building.

TEMPORARY SIGN means a sign structurally designed to last a short period of time, generally three months or less.

WALL SIGN means a permanent sign mounted on or otherwise displayed on the surface of a wall of a building.

SOUND PRESSURE means an 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 means the sound pressure mapped to a logarithmic scale and reported in decibels (dB).

SPECIFIED SEXUAL ACTIVITIES means and includes any of the following:

A. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;

B. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;

C. Masturbation, actual or simulated;

D. The display of human genitals in a state of sexual stimulation, arousal or tumescence;

E. Excretory functions as part of or in connection with any of the activities set forth in subdivisions (1) through (4) of this subsection;

SPECIFIED ANATOMICAL AREAS means human genitals less than completely or opaquely covered including the pubic region, buttocks, or anus; or female breasts below a point immediately above the top of the areolae; or human male genitals in a discernible state of tumescence, even if opaquely covered

STORY means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it then the space between any floor and the ceiling next above it.

STRUCTURE means anything constructed, erected or placed with a fixed location on the ground or affixed to something having a fixed location on the ground, except, structure shall not include automobiles, trucks, trailer, hunting blinds, fences, hedges, sidewalks, gardens, shore stabilization devices.

SUBSTANTIAL OR SIGNIFICANT PORTION means a business or establishment which has:

A. Thirty-five percent or more of its stock, materials, or services provided relating to or describing "specified sexual activities", and/or "specified anatomical areas"; and/or

B. Thirty-five percent or more of the usable floor area of the building is used for the sale, display, or provision of services describing or relating to specified sexual activities, specified anatomical areas, or both; and/or

C. The advertising (on signs, in publications, on television or radio and/or other media forms) associated with the business or establishment, describes or relates to "specified sexual activities" and/or "specified anatomical areas".

SUBSTANDARD PARCEL means a parcel of record or a parcel which is described in a land contract or deed executed and delivered prior to the effective date of this Ordinance, which does not have adequate size, width or which is not big enough to provide for the minimum setbacks and building size required in this Ordinance.

TRAILER means a vehicle which can be drawn on a highway and is used for recreational or camping purposes. Includes the terms motor home, pole-trailer, trailer coach, trailer, mobile home as defined in P.A. 300 of 1949, as amended, (being the Michigan Motor Vehicle Code, M.C.L. 257.1-257.82), and including camping units, or any other temporary dwellings.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS means and includes any of the following:

A. The sale, lease or sublease of the business or establishment;

B. The transfer of securities which constitute a controlling interest in the business or establishment, whether by sale, exchange or similar means;

C. The establishment of a trust, management arrangement, gift or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

USE means the purpose for which land or a building thereon is designed, arranged or intended to be occupied or used, or for which it is maintained.

USED or OCCUPIED means the physical presence of a person to use a structure and includes the words "intended", "designed", or "arranged" to be used or occupied.

VARIANCE means a relaxation of the terms of this Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the Ordinance would result in unnecessary hardship or practical difficulty.

VEGETATION BELT means an area which does not have any buildings and structures, not including docks, which is designed to mitigate the movement of nutrients in the ground into a water body by use of woody plant material who's roots are likely to remove nutrients from the soil prior to the nutrients reaching the water body, and for erosion and bank stabilization. (See also Buffer Area, Greenbelt.)

WATER BODIES means surface water, lakes, wetlands, rivers, streams, ponds, springs but does not include man-made farm ponds, storm water retention ponds, sediment ponds or impromptu or uncontrolled collection of storm water.

WATER'S EDGE means the line where the water and shore meet when the water level is static. For Lake Michigan and connecting inland lakes, it shall be the contour line at 576.8 feet above sea level (chart datum) or the line where the water and shore meet, whichever is higher. For other fluctuating water bodies, it shall be the line where the water and shore meet when the water is at its annual high level.

WETLAND means land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support wetland vegetation or aquatic life and characterized by a soil type which is hydric, alluvial land, undifferentiated, variably textured flood plane sediments.

WIND SITE ASSESSMENT means an assessment to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

WOODY PLANT MATERIAL means vegetation characterized as having a wooden stem or trunk (as opposed to a fibrous or grass stem) and may include those plantings recommended in Lakeland Report Number 12 on Greenbelts; A Circle of Protection For Inland Lakes prepared by University of Michigan Biological Station, Douglas Lake, February 1979.

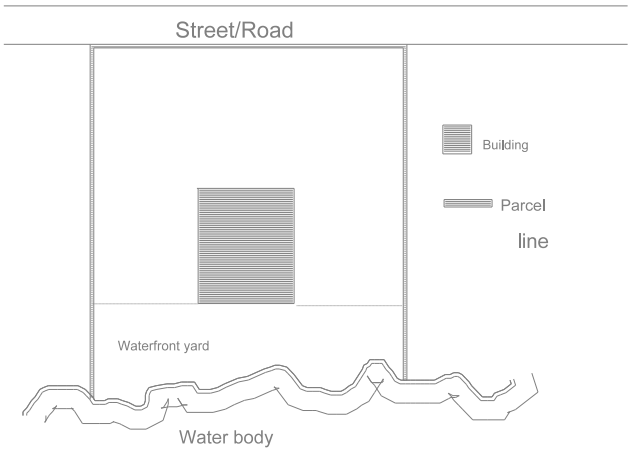
YARD means an open space extending the full width of a parcel or extending from the front building line to the rear building line. Designations of side, rear, front, waterfront yards and side, rear, front, waterfront setbacks shall have a direct correlation.

A. Front Yard means a yard between the front property line, which is adjacent to a road right-of-way, and the nearest building line:

B. Rear yard means a yard between the property line on the opposite side of the parcel from the property line adjacent to a road right-of-way:

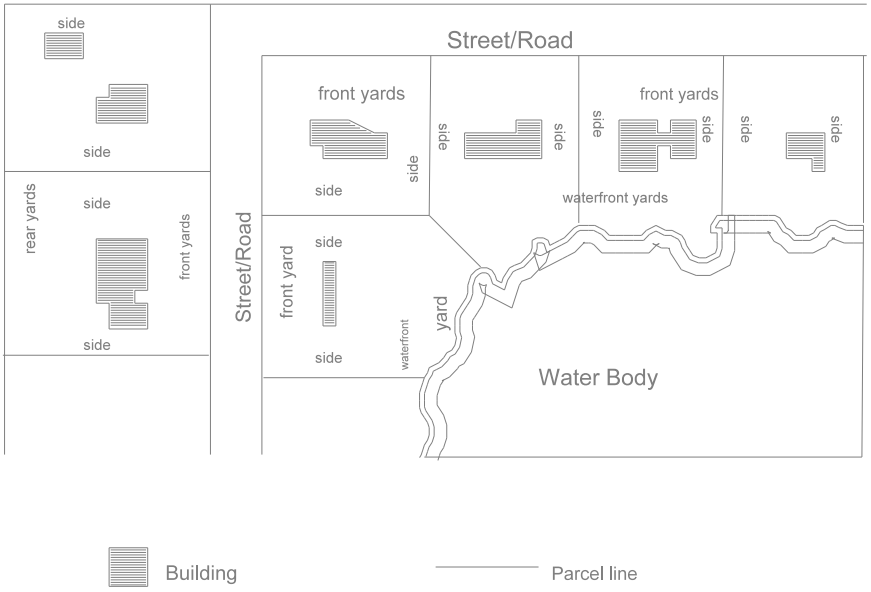
C. Side yard means the remaining yard(s) between the front and rear building lines, and the side line(s) of the parcel:

D. Waterfront yard means a yard between the water's edge and a building line. It may be situated in what would be a side or rear yard if the water body was not present:



E. A parcel may have any combination of yards, so that it may not have a rear yard, it may have two front yards, etc.:

ZONING ACT means P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 *et seq.*).



504. North American Industry Classification System

A. For purposes of this Ordinance, where "uses" and "special uses" are listed for each land use district, those terms are defined in Section 505 of this Ordinance.

B. Terms denoting "uses" which are not defined in Section 505 of this Ordinance, but which are followed by two to six series of numbers enclosed in brackets ([ ]) shall be defined as found under the respective North American Industry Classification System (hereafter "NAICS") Short Titles, as found in the *North American Industry Classification System, United States 1997*, Executive Office of the United States President, Office of Management and Budget, Bernan Press, and adopted by reference herein. NAICS uses a six-digit coding system to identify particular industries and their

placement in a hierarchical structured classification system. The first two digits designate the "sector," the third digit designates the "subsector," the fourth digit designates the "industry group," the fifth digit desgnates the "NAICS industry," and the sixth digit designates the "national industry." Terms defined by use of the NAICS shall be the NAICS Short Titles. When this Ordinance lists land uses by sector (two digits), it includes all listings in subsector, industry group, NAICS industry and national industry found within that sector, an none in any other sector. When this Ordinance lists land uses by subsector (three digits), it includes all listing in industry group, NAICS industry and national industry found within that subsector, an none in any other sectors and subsectors. When this Ordinance lists land uses by industry group (four digits), it includes all lisitings in NAICS industry and national industry found within that industry group, and none in any other sector, subsector and industry group. When this Ordinance lists land uses by NAICS industry (five digits), it includes all listings in national industry found within that NAICS industry, and none in any other sector, subsector, industry group and NAICS industry . When this Ordinance lists land uses by national industry (six digits), it includes listings which are just in that national industry, and no listings in any other sector, subsector, industry group, NAICS industry and national industry. If a term denoting a use is defined in Section 505 of this Ordinance, that use shall not be considered within the respective NAICS classification(s), *North American Industry Classification System, United States 1997*, not withstanding.

C. Terms denoting "uses" which are not defined in Section 505 of this Ordinance, and not followed by a bracketed NAICS reference shall be interpreted within its common and approved usage.

505. Definitions of Uses:

ACCESSORY BUILDINGS means a use which is a supplementary building or structure on the same parcel as the main building, or part of the main building, occupied by or devoted exclusively to an accessory use. Such use shall not include any building used for dwelling, residential or lodging purposes, or sleeping quarters for human beings.

ACCESSORY USE means a use naturally and normally incidental to, subordinate to, and devoted exclusively to the main use of the land or buildings, but not including uses considered accessory buildings or accessory structures.

AGRICULTURE means a land use which includes all of the following: (1) a farm operation, (2) producing a farm product, and (3) as commercial activity. The land use also includes accessory uses for housing and dwellings for the farmer and farm employees.

AGRICULTURE-LIKE means one of the following:

A. A land use which may be the principle use or accessory use on a parcel which includes some, but not all, of the following: (1) a farm operation, (2) producing a farm product, or (3) commercial activity, or

B. Any agriculture or agriculture-like land use where the Right to Farm Act (M.C.L. 286.471 et seq.) or GAAMPs delegates regulatory control back to local government, such as but not limited to agriculture considered to be in a Category 4 Site, as used in the Site Selection and Odor Control for New and Expanding Livestock Facilities GAAMPs adopted April 28, 2014.

APARTMENT BUILDING means a use which is a dwelling designed for three or more housing units or occupied by three or more families, with separate housekeeping, cooking, and bathroom facilities for each.

CAMPGROUND means a use on a parcel or tract of land licensed by the State under the control of a person in which sites are offered for the use of the public or members of an organization either free of charge or for a fee, for the establishment of temporary living quarters for three or more recreational units which includes trailers as defined in this Ordinance.

COMMUNICATION TOWER FACILITIES means a facility, which includes transmitters, antenna structures, towers and other types of equipment necessary for, but not limited to, providing radio broadcasts, television broadcasts, dispatching, wireless services and all commercial mobile services including all those that are available to the public (for-profit or not-for-profit) which give subscribers the ability to access or receive calls from the public switched telephone network. Common examples are radio and television broadcasting stations, repeater stations, radiotelephone, telegraph, cable televison receiver stations, dispatching, Personal Communications Systems (PCS), telecommunications [5133]. Also included are services that are non-licensed, but are deployed through equipment authorized by the FCC and common carrier wireless exchange services designed as competitive alternatives to traditional wireline local exchange providers. Communication tower facilities does not include antennas and their towers at a person's home for his personal use for television and radio reception, and citizen band or HAM radio hobby activity.

DUPLEX means a use which is a dwelling designed for two housing units or occupied by two families only, with

separate housekeeping, cooking, and bathroom facilities for each which complies with the standards given in this Ordinance.

DWELLING means a use which is a structure, mobile home, premanufactured or precut dwelling structure designed as a single housing unit and used for the complete living accommodations of a single family which complies with the standards given in this Ordinance.

MOBILE HOME PARK means a use which is a parcel of land under the control of a person upon which three or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary mobile home or trailer.

ON SITE WIND ENERGY SYSTEM means a land use for generating electric power from wind and is an accessory use that is intended to primarily serve the needs of the consumer at that site.

OUTDOOR RECREATION - PARKS means uses which are public or private playgrounds, vest pocket parks, nature areas, natural areas, ball fields, open space preserves, arboretums, gardens, beaches, and so on but not including facilities designed for overnight or camping use.

STATE LICENSED RESIDENTIAL FACILITIES means a use which is a structure constructed for residential purposes that is licensed by the state, pursuant to P.A. 218 of 1979, as amended, (being the Adult Foster Care Licensing Act, M.C.L. 400.701 *et. seq*.) or P.A. 116 of 1973, as amended, (M.C.L. 711.111 *et. seq*.) or for the care of six or fewer elderly (senior) citizens.

SWEETENING PLANT means a use which is a facility or plant which is designed for the removal of sulfur compounds from natural gas from gas and oil wells.

UTILITY GRID WIND ENERGY SYSTEM means a land use for generating power by use of wind at multiple tower locations in a community and includes accessory uses such as but not limited to a SCADA Tower, electric substation. A Utility Grid wind energy system is designed and built to provide electricity to the electric utility grid.

WIND ENERGY SYSTEM means a land use for generating power by use of wind; utilizing use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid. See also On-site Wind Energy System and Utility Grid Wind Energy System.

ARTICLE 10: GENERAL REGULATIONS

100. General

1001. Purpose

It is the purpose of this Article to provide regulations that apply in all zoning districts to all permitted uses and special uses.

1002. Scope

Zoning applies to all parcels of land and to every building, structure or use. No parcel of land, no building, structure or part thereof and no new building, structure or part thereof shall hereafter be located, erected, altered, occupied or used except in conformity with this Ordinance.

1003. Bulk Regulations

A. The continuing maintenance of and association with required spacial relationships and physical requirements of this ordinance for the permitting of a use, structure, building, and parcel shall be the obligation of the owner of the use, structure, building and parcel.

B. Required spacial relationships and physical requirements of this Ordinance shall be allocated to be in connection with only one use, structure, building, parcel and are not transferable, not to be split or divided by any means, not to be shared, unless;

1. any of the uses, structures, buildings, parcels involved in the transfer does not result in failing to meet required spacial relationships and physical requirements of this Ordinance or other applicable ordinances including, but not limited to, the participating municipality's and State of Michigan subdivision control laws.
2. specifically permitted elsewhere in this Ordinance.

C. Required spacial relationships and physical requirements of this Ordinance shall apply uniformly within each respective zoning district to all uses, structures, buildings and parcels except that the following can be located anywhere on a parcel:

1. those parts of a building which are unroofed porches, terraces, patios and steps, decks, and awnings and nonpermanent canopies;
2. flag poles;
3. hydrants;
4. clothes lines;
5. arbors, trellises, trees, plants, shrubs;
6. portable recreation equipment, outdoor cooking equipment; and
7. sidewalks, private driveways and walkways.

D. Notwithstanding anything to the contrary contained in this section, and except as stated in Section ?, no parcel of land shall contain more than one principal building or use and no accessory building or structure may be located on any parcel of land which does not have a principal building or use already established or being established contemporaneously with the accessory building or structure.

E. As used in this section;

1. "Required spacial relationships" means all the requirements of this Ordinance dealing with minimum or maximum size, area or space required for an approved use, structure, building and parcel, including but not limited to, buffer areas, greenbelt, building area, building envelope,

parcel area, parcel measurements (width, setback), parking space, vegetation belt, yard.

2. "Physical Requirements" means all the requirements of this Ordinance dealing with designated areas for specific physical (tangible) improvements or uses/functions required for an approved use, structure, building and parcel, including but not limited to, placement of accessory structures, improvements within buffer areas, building height, easement, floor area, improvements within a greenbelt, all requirements found in Section 1001 *et. seq.* of this Ordinance, access drive, drives, loading areas, solid waste storage areas, service drive, parking areas.

1004. General Provisions

No parcel, building or structure in any district shall be used or occupied in manner which creates any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises provided any use permitted by this Ordinance may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance requirements:

A. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved as is required by applicable provisions of the State Construction Code and rules promulgated thereunder and/or the State Fire Marshal.

B. Activity which emits radioactivity at any point, or electrical disturbance shall not be permitted in excess of the applicable federal, state, or local regulations or rules promulgated thereunder, including but not limited to, regulations of the Federal Nuclear Regulatory Commission or Public Service Commission or Michigan Department of Health and Department of Radiology.

C. No vibration shall be permitted in excess of the applicable county noise ordinance or regulations promulgated by rule thereunder.

D. No malodorous gas or matter shall be permitted in excess of the applicable state or federal air pollution statutes or regulations promulgated by rule thereunder.

E. No pollution of air by fly-ash, dust, vapors, or other substances shall be permitted in excess of the applicable state or federal air pollution statutes or regulations promulgated by rule thereunder.

F. No pollution of water bodies shall be permitted in excess of the applicable state or federal water pollution statutes or regulations promulgated by rule thereunder.

G. No audible noise shall be permitted in excess of the standards in any participating municipality noise ordinance, as amended.

H. No storm water runoff, which is a result of development site design, or other manmade alternatives, shall be allowed to collect which results in water standing on the surface, unless the standing water is a part of a properly managed and maintained storm water retention system, sediment pond; or the standing water is in a natural wetland or water body.

The Administrator shall enforce this section by cooperating with and reporting suspected violations to the respective enforcement agency(s) responsible for enforcement of other state, federal or municipal statutes, rules or ordinances. The Commission may take direct enforcement action only after a finding that cooperation by the Administrator with other agencies has not been successful.

101. Environmental, Water

1010. Water Supply and Sewage Facilities

A. A structure which is for human occupancy shall be connected to a public sewer and water supply or to such private facilities in compliance with the Wexford County Health or Sanitary Code, as amended.

B. The Administrator shall enforce this section by cooperating with and reporting suspected violations to the respective enforcement agency(s) responsible for enforcement of other state, federal or municipal statutes, rules or ordinances. The Commission may take direct enforcement action only after a finding that cooperation by the Administrator with other

agencies has not been successful.

1011. Water Protection

Notwithstanding anything to the contrary contained in this Ordinance, the following provisions shall apply:

A. No structure shall be built, located or constructed closer to the water's edge than fifty (50) feet for buildings, or one hundred (100) feet for nutrient sources (such as but not limited to drain fields, highly fertilized areas, manure storage), measured on a horizontal plane to the water's edge. In the event the water's edge recedes (moves landward), the setback line shall also be construed as to have moved landward a distance equal to the water's edge recession. In cases where parcels are smaller than the minimum parcel size allowed in the particular district so that applicable setbacks given here and in a particular district result in a building envelope less than 25 by 40 feet the Appeals Board shall grant a further reduction of side yard setback and/or a front yard setback prior to reducing the required water front setback. This setback shall not apply to a dock, bridge, or stairs and path to the shore.

B. Within ten (10) feet of the water's edge (or landward beach/vegetation line) a vegetation belt shall be maintained by not removing trees with a trunk diameter of three inches at breast height, or greater, unless dead or chronically diseased. Trees and other woody plant material of a smaller diameter at breast height (4½ feet), shall not be removed, except to prune or clear a filtered view of the water body. It shall be the landowner's responsibility to maintain this vegetation belt in a healthy state.

C. No building or structure shall be built, located or constructed within a 100 year flood plain of any water bodies in any land use district as may be determined by the DNR or DEQ. This shall not apply to a dock, bridge, or stairs and path to the shore.

1012. Hazardous Substance Groundwater Protection.

A. All businesses and facilities which use or generate hazardous substances (except (1) fuel stored in a fuel tank which is part of a motor vehicle for purposes of use by that vehicle's motor, (2) materials in a five gallon, or smaller, pre-packaged sealed containers and is for purposes of resale and located inside a retail establishment):

1. in quantities greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) per month or ninety five (95) liters (approximately twenty five (25) gallons) per month, whichever is less, or
2. stores greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) or ninety five (95) liters (approximately twenty five (25) gallons), whichever is less,

shall comply with the groundwater protection requirements in this Section.

B. Groundwater Protection requirements:

1. Groundwater Protection, generally:
   a. The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains, groundwater, street slopes, and natural and man-made drainage systems.
   b. Stormwater management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding or the potential for pollution of surface or groundwater, on-site or off-site.
   c. General purpose floor drains and storm drains shall be:
      (1) connected to an on-site holding tank (not a septic tank/drain field or a dry well) in accordance with state, county and municipal requirements, or
      (2) authorized through a state groundwater discharge permit, or
      (3) connected to a public sewer system.
   d. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharge to groundwater, including direct and indirect

discharges, shall be allowed without appropriate state and county permits and approvals.

e. In determining conformance with the standards in this Ordinance, the Administrator or Commission, whichever one is applicable, shall take into consideration the publication titled "Small Business Guide to Secondary Containment; Practical Methods for Above-ground Storage and Containment of Hazardous Substances and Polluting Materials" published by the Clinton River Watershed Council, May 1990, and other references.

f. Out-of-service water wells shall be sealed and abandoned in accordance with applicable requirements of the Michigan Department of Public Health and the Wexford District Health Department.

g. If the site plan includes territory within a Wellhead Protection Overlay Zone the applicant shall submit a signed statement providing permission for periodic follow-up groundwater protection inspections by the Administrator, county and state officials.

2. Above-ground Storage

a. Primary containment of hazardous substances shall be product-tight containers which are protected from weather, leakage, accidental damage, and vandalism.

b. Secondary containment for the storage of hazardous substances and polluting materials is required. Secondary containment shall be one of the following, whichever is greatest:

(1) sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance, or

(2) shall be at least as great as volumes required by state or county regulations, or

(3) shall, if not protected from rainfall, contain a minimum of

(a) 110 percent of the volume of the largest storage container within the dike of the secondary containment area, plus

(b) the volume that is occupied by all other objects within and below the height of the dike of the secondary containment area plus

(c) the volume of a 6 inch rainfall.

c. Secondary containment structures such as out buildings, storage rooms, sheds and pole barns shall not have floor drains which outlet to soils, groundwater, sanitary sewer, or nearby drains or rivers.

d. Areas and facilities for loading/unloading of hazardous substances and polluting materials, as well as areas where such materials are handled, stored or used, shall be designed and constructed to prevent discharge or runoff to floor drains, rivers, lakes, wetlands, groundwater or soils.

e. At a minimum, State of Michigan and Federal agency requirements for storage, leak detection, record keeping, spill prevention, emergency response, transport and disposal shall be met.

f. Bulk storage of pesticides shall be in accordance with requirements of the Michigan Department of Agriculture.

3. Underground Storage

a. Underground storage tank installation, operation, maintenance, closure and removal shall be in accordance with the requirements of the State Police Fire Marshal Division and the DEQ or their successor agencies.

b. Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the Michigan Department of Agriculture.

1013. Surface Runoff

For all commercial establishments [42-92 inclusive], industrial establishments [31-33 inclusive], planned unit developments, special uses, and new developments (section 1201 *et seq.* of this Ordinance) the site shall be designed to require no net runoff or found to comply with requirements of this section.

A. Complete standards and criteria for design of stormwater runoff and control shall comply with the most

recent rules published by the Wexford County Drain Commissioner and filed with the Wexford County Clerk.

B. In addition to compliance with the rules, provisions for long-term maintenance of any stormwater runoff and control practice will be addressed in documentation submitted for a zoning permit application.

C. Prior to submitting a site plan, obtain a stormwater permit, including payment of any fees, from the Wexford County Drain Commissioner which documents the site plan submitted complies with the rules.

102. Environmental, Solid Waste

1020. Waste Accumulation and Outside Storage

A. It shall be unlawful for any person to accumulate junk on any land except in a permitted junkyard or licensed sanitary landfill or as allowed by participating municipality's ordinance.

B. No sewage, waste water or water containing foreign substances shall be deposited or drained into any water bodies unless the same has first been approved by state and county health authorities.

C. The provisions of this section are not to be deemed to prohibit storing or spreading of manure, fertilizers, or other soil conditioners as part of a permitted Agriculture, Forestry [111, 112, 113] operation; home garden or lawn care; Zoos and Botanical Gardens [71213]; Nature Parks and Other Similar Institutions [71219]; and parks.

103. Environmental, Land/Other

1030. Undevelopable land

No structure, temporary dwelling, or other development shall occur on that part of the parcel which comprises of the following features. If there is not an area within a parcel of record which exists on the effective date of this Ordinance, or a subsequent larger parcel, large enough to allow any use of the parcel, then the Appeals Board may grant a variance from this provision in accordance with section 9801 *et seq*. of this ordinance:

A. sand dune with slopes greater than 18 percent,

B. beach contiguous to a lake or stream,

C. wetland,

D. area which is not accepted by the Wexford District Health Department for on-site sewage disposal unless an alternate system of sewage disposal is approved by the Wexford District Health Department,

E. high risk erosion area,

F. that part of a flood plane where flood waters are expected to have a destructive current,

G. existing public utility easements,

H. existing public rights-of-way,

I. waterfront setback areas, and

J. slopes over 25 percent.

1031. Agriculture and Agriculture-Like requirements

A. An agriculture land use shall comply with all the requirements of Section 1031. of this Ordinance except that if the subject of the regulation in this Ordinance also appears in any of the current GAAMPs, or is contained in the Right to Farm Act (MCL 286.471 *et seq*.) then regulations of this Ordinance on the same topic shall not apply.

B. An agriculture-like land use shall comply with all the requirements of Section 1031. of this Ordinance, and shall comply with all applicable GAAMPs. In the case that the subject of the regulation in this Ordinance also appears in any of the current GAAMPs or is contained in the Right to Farm Act (MCL 286.471 *et seq*.), then regulations of this Ordinance on the same topic shall apply and supercede those of any GAAMPs or the RTFA where a conflict exists. If this Ordinance is silent on a topic that is covered by a current GAAMPs, then the practices in that GAAMPs shall be a requirement of this Ordinance.

C. Requirements for all agriculture and agricultures-like land uses:

1. All setback, and all other applicable standards in the respective zoning district and overlay district.
2. All applicable general regulations standards in article 1001. *et seq*. of this ordinance.
3. If applicable for a special use, the general special standards in section 8609. of this ordinance and

specific special use standards in section 1601. *et seq*. of this ordinance.

4. The agriculture and agricultures-like land uses are only allowed in zoning districts where these land uses are specifically named as a permitted use or possible special use.
5. Soil testing for contaminants in urban environments.
   a. A site evaluation shall be submitted with the zoning application. The evaluation shall include:
      (1) History of the site and surrounding area listing all potential soil contaminants suspected from past and current land uses based on "Sources of Contaminants in Soil", Appendix A, of Urban Livestock Technical Workgroup Report, (An appendix to Urban Livestock Workgroup Recommendations to Director Clover-Adams and Senator Hune)) (http://www.michigan.gov/documents/mdard/Urban_Livestock_Workgroup_Report_w_Technical_Workgroup_Guidelines_031315____484099_7.pdf or http://msue.anr.msu.edu/resources/urban_livestock_workgroup_report_to_director_jamie_clover_adams_and_state_s).
      (2) Representative sampling soil test results for the site which includes testing for likely contaminants based on the history of the site and for lead and arsenic based on Urban Agriculture in Michigan: Things to consider about soil and water; Working with Soil in Urban Areas; and Interstate Technology regulatory Council's (ITRC) Incremental Sampling Methodology and specific instructions from the laboratory conducting the soil analysis (http://www.itrcweb.org/ism-1/).
   b. The site shall not be used for agriculture or agriculture-like unless it meets one of the following
      (1) Soil test results show at or below safe concentrations of soil contaminants as shown in Appendix B, of Urban Livestock Technical Workgroup Report, (An appendix to Urban Livestock Workgroup Recommendations to Director Clover-Adams and Senator Hune))
      (2) Contaminated soil has been removed and replaced with clean soil
      (3) A barrier is placed between contaminated soil and crops and livestock. The barrier shall be sufficient layer(s) of clean soil, concrete, geotextile fabric, rock, and the barriers shall be continuously inspected and replaced as needed.
      (4) Use of raised beds.
      (5) Keep livestock and crops above the contaminated soil.
6. Storage and stacking of nutrient sources (manure piles, chemical or organic fertilizers) shall be set back 100 feet from any surface water. Within 10 feet of the water's edge (or landward beach/vegetation line) a vegetation belt shall be maintained by not removing trees with a trunk diameter of three inches at chest height, or greater, unless dead or chronically diseased. Trees and other woody plant material of a smaller diameter at chest height (4½ feet), shall not be removed, except to prune or clear a filtered view of the water body. It shall be the landowner's responsibility to maintain this vegetation belt in a healthy state.
7. Buffer; organic and inorganic chemicals:
   a. Application of chemical or organic fertilizers, nutrients, pesticides, herbicides, fungicides, and similar products shall not take place within 10 feet from a property line and shall be further buffered from that property line with a 10 foot vegetation belt adjacent to the property line which shall be maintained by not removing trees with a trunk diameter of three inches at breast height, or greater, unless dead or chronically diseased.
   b. Trees and other woody plant material of a smaller diameter at breast height (4½ feet) shall be established or retained.
   c. In the buffer area it shall be the landowner's responsibility to maintain this vegetation belt in a healthy state. This setback and vegetation belt may include pedestrian, automobile

and equipment ingress and egress.

d. This setback and vegetation belt requirement does not apply to a property line which is adjacent to another agriculture and agriculture-like use. This setback and vegetation belt requirement does not apply to a garden and yard.

e. Individuals using or supervising the use of restricted-use pesticides for the purpose of producing an agricultural commodity on their own lands or their employer's land, or on land rented to them shall be certified Private Applicators by the Michigan Department of Agriculture and Rural Development. Individuals authorized to apply general-use and restricted-use pesticides for a commercial purpose, or as a scheduled and required work assignment in the course of his or her employment shall be certified Commercial Applicators with the applicable category(ies) of certification pursuant to MCL 324.8311 *et seq*., part 83 of the Natural Resources and Environmental Protection Act (PA 451 of 1994, as amended)

8. Plants from cultivated areas shall be prevented from encroaching onto adjacent properties or onto the public right-of-way.

9. Agriculture and agriculture-like uses shall not be detrimental to the physical environment or to public health and general welfare by reason of excessive production of noise, smoke, fumes, vibrations, or odors.

10. All chemicals and fuels shall be stored off the ground, in an enclosed, locked structure that is designed as a secondary containment for groundwater protection.

11. Motorized farm equipment within a residential zoning district or residential planned development district shall be restricted to hours beginning at 8am and ending at 8pm. Equipment, such as fans, necessary for the operation of greenhouses is exempted from this provision.

12. Water protection

a. Surface water and drain isolation. Nutrient sources shall be 100 feet from any surface water, county drain, and wetland boundary. As used here nutrient sources includes but are not limited to pasture systems, manure land application, stacked solid manure, treatment systems, lagoons and storage basins, manure as fertilizer application, and runoff retention basins.

b. Runoff. No runoff from nutrient sources shall be allowed to leave the parcel, except as provided in 1031.C.12.c. of this Ordinance. A drainage plan shall be prepared and approved prior to issuance of a zoning permit showing existing and proposed topography, retention areas or basins, calculations and other engineering for peak discharge rates, and other information required elsewhere in this Ordinance or other applicable ordinances.

c. Storm sewer and drain protection. In areas where storm sewer and sanitary sewer systems are separated no runoff shall discharge into a storm sewer or drain system. No runoff shall discharge into a sanitary sewer system unless approved as a customer by the operator of the sewage treatment plant.

d. Sanitary sewer. In areas where storm sewer and sanitary sewer are not separated no runoff from nutrient sources shall discharge into the sewer system.

13. Complaint Resolution: agriculture-like operations shall have a zoning administrator approved process to resolve complaints from nearby residents concerning the construction or operation of the project.

D. Crops.

1. Requirements for all crop agriculture and agriculture-like land uses: production of food, fiber, and plants for other products (including but not limited to community gardens, agriculture, agriculture-like, market gardens (but not gardens)) shall comply with the following.

a. The property shall generally be maintained in an orderly and neat condition.

b. Compost and fertilizer storage shall not be located in a front yard and at least the distance of the respective zoning district side yard setback from the nearest principal residential

structure.

c. Farmers markets are permitted as an accessory use where located on the same parcel as religious institutions, schools, outdoor recreation facilities, and non-profit neighborhood centers.

2. Community garden and market garden.

a. Only the following accessory uses and structures are permitted for a community garden:

(1) greenhouses, hoophouses or high tunnels, and similar structures used to extend the growing season;

(2) benches, bike racks, raised/accessible planting beds, compost bins, picnic tables, garden art, rainwater catchment system;

(3) tool sheds and shade pavilions;

(4) garages

b. Farmers markets are permitted as an accessory use where located on the same parcel as a community garden sponsoring organization, religious institution, school, non-profit neighborhood centers, parks, and public land subject to section 1031.G. of this Ordinance.

3. Community garden and market garden on a building roof, inside a building, vertical farming, and other building-dependant farming (including but not limited to aquaponics, hydroponics, cold storage, processing).

a. A zoning permit shall be issued with the condition there is a finding by the building inspector that the structure upon which the farming takes place meets construction code for the intended use.

E. Requirements for all farm animal agriculture and agriculture-like land uses:

1. Farm animal health

a. All reportable animal diseases (based on the most recent Michigan Reportable Animal Diseases List) shall be reported to the state veterinarian when suspected or confirmed to be present in one or more animals.

b. Animal feed shall be stored to prevent spoiling, and contamination, (mold, etc.), and used prior to its expiration date. Storage shall be in secured container(s) to prevent attraction of rodent, bird, wildlife, insects (all of which can contaminate feed with feces, saliva, microbial growth).

c. Leftover feed shall be cleaned out and disposed of in a secured container to prevent attraction of rodent, bird, or other wildlife.

d. Owners shall take steps to avoid the buildup of flies and maggots by keeping litter and feed dry and promptly disposing of animals.

e. Farm animals shall be fed and watered on a daily basis in regularly checked and cleaned containers.

f. The process of weeding out inferior animals (culling), managing mortality (death), and eliminate unwanted animals shall be done through an animal care program involving euthanasia.

(1) all slaughtering activities shall be done in an enclosed area.

(2) all wash water and slaughter by-products shall be captured and disposed of as waste.

(3) owners should bag and dispose of dead animals by use of an off-site disposal service.

g. Animal and non-compost waste.

(1) Waste management

(a) Waste materials (feed, manure, and litter) shall be cleaned up every day, or very few days as needed, from coops and outside areas, and disposed of in an environmentally responsible manner. The materials

shall be composted using a fully enclosed bin or three sided structure with the opening facing toward the center of the parcel, or bagged and disposed of in the trash. Piling waste materials on the property is not allowed.

(b) All waste (including, but not limited to pulled weeds, discarded materials from crops, cracked eggs, spoiled feed, spoiled food, other solid waste, manure) shall be scraped and removed from outside areas.

(c) Odor shall be controlled by, but not limited to, applying lime or wood shavings.

(d) Daily or at least every three days indoor areas shall be cleaned. Manure and bedding shall be removed.

(e) If manure is temporarily kept on the premises, it shall be placed in a covered bin or on a concrete pad and covered. No runnoff shall be allowed from the manure pad onto the ground. Removal shall be done by use of solid waste disposal services or in other ways, including but not limited to shipment to a rural-located farm or composting facility, or composting on site shall be done in a compost bin.

2. Poultry:

a. Raising poultry is limited to six chickens per parcel in residential zoning districts irrespective of section ?. of this Ordinance.

b. No roosters (male adult chickens) may be kept.

c. Poultry are not allowed in a residence, porch or attached garage.

d. Poultry shall be confined (including area of free range) to within the parcel.

e. The coop shall be designed to discourage rodents and wild birds from entering. The facilities should be built to keep dogs, cats and wildlife from gaining entry.

f. The poultry facility shall be 5 feet from any property line or the respective setback required in the zoning district for accessory structures, whichever is greater. The poultry facility shall be 10 or more feet from a neighboring occupied structure.

g. Sale of poultry products shall not be allowed in residential zoning districts.

h. An agriculture-like operation shall annually report its continued existence to the zoning administrator for purposes of reducing impact and spread of a disease through prompt identification of poultry locations. The zoning administrator shall maintain a list of all agriculture-like operations allowing for a quicker response to a disease outbreak.

i. Minimum space and indoor housing requirements (exclusively for the animal and not located within setbacks; front yard; waterfront yard; dwelling; sand dune with slopes greater than 18 percent; beach contiguous to a lake or stream; wetland; and slopes over 25 percent).

Animal	Hen (eggs)	Broiler (meat)
Indoor usable floor space per animal	1-1.5 square foot	1 square feet
Outdoor usable space (fenced, enclosed) per animal	64 square feet	10.8 square feet
Type of housing	Enclosed barn/coup.	Enclosed barn/coup.
Setback	The respective setback required in the zoning	The respective setback required in the zoning

Animal	Hen (eggs)	Broiler (meat)
	district.	district.

3. Small farm animal
   a. Raising small farm animals shall be limited to six rabbits.
   b. Setbacks for animal shelters, pasture, or confined containment areas shall be 50 feet from parcel boundary or the respective setback required in the zoning district, whichever is greater.
   c. Small farm animals are not allowed in a residence, porch or attached garage.

Animal	Rabbit
Indoor usable floor space per animal	1.5 square feet (small breed); 5.0 square feet (larger breed); Loose floor pen
Outdoor usable space (fenced, enclosed) per animal*	Pen

F. Aquaculture:
   1. A zoning permit shall be issued with the condition there is a finding by the building inspector that the structure upon which the farming takes place meets construction code for the intended use.

G. Farm Market.
   1. Building setbacks: same as required in the respective zoning district.
   2. Parking: Shall comply with section 1054 of this Ordinance.
   3. Driveway: Shall comply with section 1050 and 1031.G.4, 1051 of this Ordinance.
   4. Signs: Shall comply with section 1060 of this Ordinance.

104. Parcel and Setback Regulations

1040. Fences

Fences over six (6) feet high shall be set back the required distance for the respective land use district. Fences within the setback area shall not exceed six (6) feet in height. Fences located in the front yard and waterfront yard portion(s) of a parcel shall not exceed four (4) feet in height. No fence shall be within forty (40) feet of water bodies.

1041. Parcel Width to Depth Ratio

Any parcel created after the effective date of this Ordinance shall not have a depth which is more than three (3) times its width or the width to depth ratio in the respective municipality ordinance, whichever is least restrictive.

1042. High-Forest Fire Urban Interface Regulations

Any structure constructed or altered after the effective date of this Ordinance which is located in a highly combustible vegetation area shall comply with the requirements of this section. "Highly combustible vegetation area" means an area which has predominantly evergreen tree species with lower branches which do not die and are near to the ground, such as, but not limited to, Jack Pine or Scrub Pine (*Pinus banksiana*), Scotch Pine or Scotch Fir (*Pinus Sylvestris*), Red Pine or Norway Pine (*Pinus resinosa*), Spruces (*Picea*), Hemlock (*Tsuga candensis*), and Cedars or Junipers (*Pinaceae)*; and other situations where structures encroach into wildlands.

A. Defensible space.
   1. A three (3) foot primary fire-defensible space shall be established on all sides of each structure. Primary fire-defensible space shall:
      a. not have any combustible materials.
      b. have landscaping which includes, but is not limited to, non-combustible materials such as gravel, marble chips, concrete, or mineral soil.
      c. Not have a cluster of combustible trees, and no Jack Pine or Scrub Pine (*Pinus banksiana*), and Scotch Pine or Scotch Fir (*Pinus Sylvestris*) species.
   2. A thirty (30) foot secondary fire-defensible space within the parcel shall be established on all sides of each structure. The thirty (30) foot secondary fire-defensible space shall be increased by one (1) foot for each one (1) foot where the ground slopes more than 15% down from the structure. Secondary fire-defensible space shall have:
      a. tree branches below six (6) to ten (10), or more, feet pruned and removed.
      b. trees spaced so the edges of crowns are ten (10) to sixteen (16), or more, feet apart.
      c. household and other debris, brush, ground fuels (leaves and pine needles) removed.
      d. landscaping which includes, fire-resistant plants such as those listed in Michigan State University Extension bulletin E-2948 "Wildfire-Resistant Landscape Plants for Michigan" of 2005 or a manicured lawn or garden.
   3. A tertiary space beyond the thirty (30) to one hundred (100) foot secondary fire-defensible space within the parcel shall be established on all sides of each structure. Tertiary space shall have:
      a. trees spaced so the edges of crowns are ten (10), or more feet apart and distance from power lines.
      b. trees spaced so trunks are twenty (20), or more feet from other trees.
      c. tree branches below six (6), or more, feet shall be pruned and removed.
      d. household and other debris, brush, ground fuels (leaves and pine needles) removed.

B. At minimum of ten (10) feet shall be between each structure, firewood storage pile, fuel storage, and storage of other flammable items; or shall be situated outside of the secondary fire-defensible space.

C. Chimneys and flues shall be provided with an approved spark arrester made of 12-gauge welded or woven wire mesh with holes no larger than ½ inch. A ten (10) foot secondary fire-defensible space shall be established on all sides of each chimney, flue, grille or similar structure.

D. In addition to requirements of P.A. 230 of 1972, as amended, (being the Stille-Derossett-Hale Single State Construction Code Act of 1972, M.C.L. 125.1501 *et seq.*) the following design features are recommended:
   1. Roofs are designed and constructed to minimize the possibility of ignition from a wildfire and to minimize the spread of a structural fire to the wildland by use of National Fire Protection Association class A standards (metal, fiberglass shingle, clay, or tile).
   2. Exterior walls are constructed of at least ½ inch sheathing or an equivalent material. Exterior sheathing shall extend from the roof line to ground level. Preferred siding should be non-flammable materials (such as brick, stone, stucco, or metal).
   3. Foundations, crawl spaces enclosures, space under mobile homes; areas under porches, decks, or similar areas are provided with full enclosure skirting constructed of ½ inch nominal sheathing or the equivalent and made of non-combustible material (such as metal, block, cement, stone, stucco). Crawl spaces which have vents through the foundation and other similar openings are enclosed with metal screening with less than ⅛ inch openings.
   4. Vents, eaves, fascias, soffits and other similar openings are enclosed with metal screening with less than ⅛ inch openings.
   5. Windows are double pane glass. All windows, window wells in the foundation wall, and glazed openings within thirty (30) feet of concentrations of vegetative fuels should be provided with closeable, solid, exterior shutters, especially in areas of highly hazardous fuels, such as pine or spruce. Window wells in the foundation are enclosed with fire-resistant screening or other fire-resistant material to prevent collection of flammable debris in the window well.

6. Space under decks are enclosed with fire-resistant screening or other fire-resistant material to prevent collection of flammable debris under the deck.

105. Vehicle Access/Roads/Parking

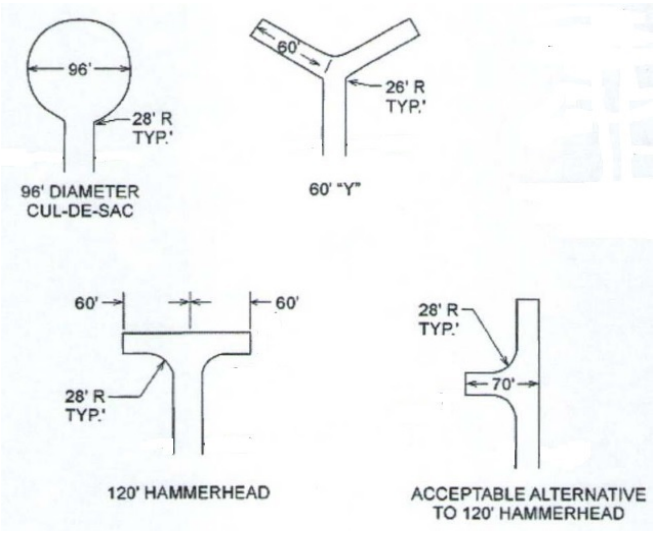
1050. Driveway Design

Driveways, unless specified otherwise elsewhere in this Ordinance:

A. Shall have a minimum unobstructed width of twelve (12) feet and a minimum unobstructed height of fourteen (14) feet. Driveways over two hundred (200) feet long shall have a turnaround within fifty (50) feet of the principle structure. Turnaround shall be one of the designs shown here. If a drive has sharp bends that are more than 30 degrees the clear width shall be 20 feet.

B. Gates shall open inward, with a clear opening which is two (2) feet wider than the driveway, and located thirty (30), or more, feet from the road or private road right-of-way.

C. Shall have at the foot of the driveway an address number displayed on a sign or mail box in compliance with the Wexford County Address Ordinance.



1051. Driveway and Curb Cuts

A. Driveway entrances and exits to a parcel of land shall comply with the following standards unless superceded by State or Federal statute or rule:

1. The location of a driveway or any curbcut to the road shall comply with all of the following:
   a. When on a county local road or city minor street; seventy five (75) feet, or more, from an intersection which does not have traffic lights.
   b. When on a county local road or city minor street; one hundred (100) feet, or more, from an existing intersection with a highway, county primary road, and city major street which does not have traffic lights.
   c. When on a highway, county primary road, and city major street; two hundred fifty (250) feet, or more, from an existing intersection with traffic lights.
   d. A driveway shall be situated directly across the road from another driveway or shall be a minimum of one hundred fifty (150) feet from another driveway on the other side of the road, as measured along a line drawn parallel to the centerline of the road.

e. A driveway shall be situated so it is more than the distance shown in the following table from another driveway on the same side of the road, as measured along a line drawn parallel to the centerline of the road or access drive:

Posted Speed Limit (Mph)	Distance from another driveway on the same side of the road
30	260
35	350
40	440
45	570
50	700
55	875

f. Fifty (50) feet from another driveway on the other side of the road, as measured along a line drawn parallel to the centerline of the road, or directly across the road from another driveway.

g. Two driveways on adjacent parcels which are both next to the property line between the adjacent parcels and share the same drive entrance to the road shall be allowed to have zero distance between them, but shall comply with required distances from intersections and other driveways in this section.

h. If the amount of street frontage is not sufficient to meet the distance requirements, above, shared driveways with access by service drive shall be required. The Appeals Board may grant a variance upon being shown there is no feasible alternative to allow the driveway to be constructed along the property line furthest from the intersection of roads and the distance to another driveway on the same side of the road is not less than the minimum recommended distances in the *Cadillac Area Corridor Study*, September 1999, by reference made a part hereof.

B. The Appeals Board may grant variances to the above, or the Commission may approve a site plan that does not comply with the above if the following conditions are met, after consultation the chief traffic law enforcement officer.

1. The parcel is nonconforming under this Ordinance and adjacent parcels can not be purchased by the applicant to enlarge his parcel or the parcel has less than 60 feet of road frontage.
2. An attempt to jointly use an adjacent driveway had been made and was not successful.
3. The distances between the new driveway from road intersections and other driveways is the greatest possible, or, directly across the road from another driveway.
4. The driveway connects with a local road rather than a primary road or highway, as shown on the respective certified road maps required pursuant to P.A. 51 of 1951, as amended, (being the Highway Act, M.C.L. 247.651 *et. seq.*), when there is a choice.
5. The distance between the road edge and first parking space is the maximum possible.

1052. Private Road

Every private road which provides or may provide access to and from a public road for three (3) or more dwelling units or principal buildings on separately owned parcels shall meet the following conditions:

A. All private roads shall be established by recorded conveyance, shall be not less than sixty-six (66) feet wide and shall be constructed in a good and workmanlike manner.

B. Be constructed so as to sufficiently control storm water runoff and permit effective storm water drainage by such means as two foot deep ditches constructed parallel to and on either side of the private road, or by use

of curb and gutter with a storm sewer system; and by sloping the sides of the private road from the center thereof, or by other effective methods.

C. Be constructed by standards as exist or may be adopted by the Wexford County Road Commission.

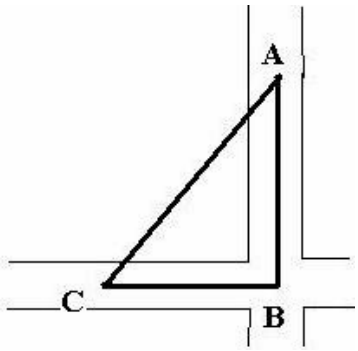
D. Each private road shall be named in conformance with the Wexford County Address Ordinance. Approval of the name(s) shall be obtained in writing from the county.

E. Road name signs shall be placed at each intersection of private and/or public roads using the same materials and design sign for road name signs by Wexford County Road Commission.

F. The recorded conveyance for the private road shall include a provision that the participating municipality shall be authorized to make repairs to the road if not done by the adjacent landowners or condominium association and all costs for such repairs shall be assessed to the benefitting land owners and members of the condominium association.

1053. Traffic Visibility at Corners

A. No use, structure or plant material, such as parking spaces, fences, signs, berms, hedges, or planting of shrubs, which obstructs safe vision at a road corner, shall be located, erected or maintained within a triangular area defined as ABC in the drawing at the right. Line AB shall be at the centerline road right of way and its length shall be determined from the table in section 1053.B of this Ordinance based on the speed limit for the road which parallels line AB. Line BC shall be at the centerline road right of way and its length shall be determined from the table in section 1053.B of this Ordinance based on the speed limit for the road which parallels line BC. The third line, AC, is the setback line.



B. The distance between point "A" to point "B" and between point "C" to point "B" shall be:

	Speed (mph)	Distance (feet) for lines AB and BC
1.	10	45
2.	15	70
3.	20	90
4.	25	110
5.	30	130
6.	35	155
7.	40	180
8.	50	220
9.	60	260
10.	70	310

C. The setbacks required in this section may be modified by the Appeals Board based on geometric design and other traffic controls at the particular intersection and only after consultation with a traffic engineer, Wexford County Road Commission or other qualified professional.

1054. Vehicular Parking Space, Access and Lighting

A. For each principal building or establishment hereafter erected or altered and located on a public road in any land use district, including buildings and structures used principally as a place of public assembly, there shall be provided and maintained suitable space off the public right-of-way which is adequate for the parking or loading of motor vehicles in the proportions shown below. The parking spaces called for hereunder shall be considered minimum requirements under this Ordinance and in the case of more than one use on a parcel, the minimum shall be the sum of the required parking for each use:

Use of land	Number of parking spaces
Dwellings	Two (2) parking spaces for each

Use of land	Number of parking spaces
	dwelling unit occupying the premises.
Duplexes and Apartment Buildings	One and a half (1.5) parking spaces for each dwelling unit occupying the premises.
Nursing & Residential Care Facilities [623], Hospitals [622]: Institutions of a Similar Nature	2.5 parking space for each licensed bed, plus one (1) space for each doctor, plus 3.5 spaces per 1,000 square feet of office, outpatient care, and emergency care space.
Accommodation [721]	One (1) parking space for every three (3) spaces of legal sleeping capacity.
Motion Picture Theaters [512131]; Arts, Entertainment & Recreation [71]; Religious/Grantmaking/Professional-Like [813] organization's halls; Public Administration [92] halls/meeting centers; Theaters; Auditoriums and any other places of public assembly	One (1) parking space for each four (4) seats of legal capacity (or six feet of bleachers).
Offices; Finance, Insurance [52]; Real Estate [53]; Professional, Scientific & Technical Services [54]; Management of Companies & Enterprises [55]; Administration & Support Services [561]; Ambulatory Health Care Services [621]; Social Assistance [624]; Public Administration [92]	One (1) parking space for every three hundred (300) square feet of floor area; provided, however, that doctors' offices and clinics shall be provided with three (3) spaces for each doctor.
Food Services and Drinking Places [722]	One (1) parking space for each two (2) seats of legal capacity or 50 square feet of seating area, whichever is greater.
Any other Retail Trade [44-45]	One (1) parking space for each two hundred (200) square feet of floor area.
Any other Information [51]; Educational Services [61]; Other Services [81]; Public Administration [92]	One (1) parking space for each two hundred (200) square feet of floor area.

B. In addition to the above requirements, parking space in the proportion of one (1) space for every person employed at the establishment during the largest shift shall be provided. If shifts overlap then one (1) space for every person employed during both shifts. Where no specific requirement is designated for other businesses, parking space which is adequate shall be provided. Adequacy of parking shall be based upon the anticipated intensity of use of the business establishment by patrons and employees and by reference to the standards contained in Section 1054.A. The Zoning Administrator shall establish the number of parking spaces required in the Land Use Permit.

C. A parking space shall be a minimum area as follows:

ANGLE	SPECIFICATION
76 to 90 Degree	10 x 20 feet with 26 feet wide aisle for 2-way traffic or 18 feet for single-loaded 1-way aisle.

ANGLE	SPECIFICATION
30 to 75 Degree	9.5 x 21 feet with 24 feet wide aisle for 2-way traffic or 15 feet for single-loaded 1-way aisle.
Parallel Parking	9 x 25 feet with a 3 feet area striped for "No Parking" between each two spaces, and 22 feet for 2-way traffic aisle or 15 feet wide for 1-way aisle.

D. Parking shall be located in the side or rear yard(s), not in the front yard or waterfront yard.

E. Any light source in or around the parking lot shall be shaded so there is not a direct line of sight to the filament, or light bulb from anywhere off of the parking area. The area to be illuminated shall be directed toward the parking area and pedestrian walks between the parking area and principal use. Lighting shall be a low intensity to avoid light cast, glare, or illumination beyond the parking area.

F. Approval for location of all exits and entrances shall be obtained from the Wexford County Road Commission or for all roads or Michigan Department of Transportation for all highways. Such approval shall also include the design and construction thereof in the interests of safety, adequate drainage and other public requirements.

G. Collective Parking Arrangements: Except for single-family detached housing units, two (2) or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces for the uses calculated individually may be reduced by up to ten percent (10%) if a signed agreement is provided by the property owners, and the Zoning Administrator, after site plan review, determines that the peak usage will occur at different periods of the day. The agreement shall be recorded by the applicant with the Wexford County Register of Deeds, shall run with the land and not the property owners or uses of record, and shall only be modified by consent of the Planning Commission

H. More Than One Use on Premises: Where two or more uses exist on the premises, parking requirements shall be calculated for each use, unless specifically provided otherwise herein.

I. In addition to the above requirements, parking space in the proportion of one (1) space for every) one (1) persons employed at the establishment shall be provided. Where no specific requirement is designated for other businesses, parking space which is adequate shall be provided. Adequacy of parking shall be based upon the anticipated intensity of use of the business establishment by patrons and employees and by reference to the standards contained in Section 1054.A. The Zoning Administrator shall establish the number of parking spaces required in the Land Use Permit, and shall be rounded up to the next whole number.

J. The maximum number of parking spaces shall not be more than 1.5 times the minimum number calculated from this section located on an impervious surface (concrete, brick, asphalt, gravel, and similar surfaces) but in no case shall there be more parking spaces than 2 times the minimum number calculated from this section. Any parking spaces which are more than 1.5 times the minimum number calculated from this section shall be located on a surface designed to be pervious and which allows surface water to flow through it into the ground underneath it.

K. Deferred Parking: If an applicant claims that fewer parking spaces are needed than required in this Ordinance, the Administrator or Commission may defer a certain number of parking spaces if the following conditions are met:

1. The site plan shows the deferred parking spaces, which together with the other parking spaces shown on the site plan and built would equal or exceed the number of parking spaces required in this Ordinance;
2. The area of the deferred parking spaces remain as open space so that those parking spaces can be constructed; and
3. The area of the deferred parking spaces is accessible by service road or being adjacent to the parking area which is being constructed.

If the Administrator finds lack of parking at the site becomes a problem, the Administrator shall require the deferred parking be constructed as parking on the site. The property owner may request some or all of the deferred parking be constructed as parking on the site.

L. A parking space shall be a minimum size of ten (10) feet wide by twenty (20) feet deep, with center and

cross aisles being a minimum of twenty (20) feet wide.

M. Parking areas required under this section, and publicly owned parking lots, shall not be used for the storage or continuous parking of recreational vehicles, trailers, motor vehicles without a current license plate, and junk for more than a twenty-four (24) hour period.

N. On the premises, space for standing, loading and unloading vehicles shall be provided for each use involving the receipt or distribution of goods based on the following criteria:

1. Size and Location (General) - The loading area shall be of sufficient size, and properly located, to prevent undue interference with adjacent required parking spaces, maneuvering aisles, or traffic flow on public streets.
2. Alley Location - Where an alley exists at the rear of the building, the required loading area may be computed from the centerline of the alley.
3. Visible to a Public Street – Except for industrial uses, loading/unloading areas and docks shall not be provided in the front yard or on any building side facing and directly visible to a public street.
4. Visible to a Residential District - Loading docks and loading areas facing a residential district shall be adequately screened by a wall and/or landscaping.
5. May Not Be Used in the Calculation of Off-Street Parking - Required loading areas shall not be included in calculations for off-street parking space requirements.
6. Space Size and Clearance - The size of all required loading/unloading spaces shall be at least ten (10) feet by fifty (50) feet or five-hundred (500) square feet in area, with a clearance of at least fourteen (14) feet in height.
7. Construction Material - Loading dock approaches shall be constructed of an asphalt or cement binder with a base sufficient to accommodate expected vehicle weight.
8. Required Spaces - The minimum number of loading spaces shall be provided in accordance with the following tables below:

Required loading and unloading spaces for Institutional, commercial, service, and offices.	
Up to 2,000 square feet floor area	None required
2,001 to 20,000 square feet floor area	One space
Over 20,000 square feet floor area	One space per each 20,000 square feet of floor area with a maximum of five spaces required

Required loading and unloading spaces for Industrial	
Up to 5,000 square feet floor area	One space
5,001 to 25,000 square feet floor area	Two spaces
25,001 to 100,000 square feet floor area	One space per each 25,000 square feet of floor area with a minimum of two spaces
Over 100,000 square feet floor area	One space per each 30,000 square feet of floor area with a minimum of four spaces required

106. Aesthetics, Signs

1060. Signs

A. Purpose: The number and size of unregulated signs can be distracting to motorists, pedestrians, and other users of public roads; can have a detrimental impact on a community's economic development; and aesthetics; and not block, obstruct, or impede scenic vistas and views in a tourist-dependant area. The uncontrolled number and size of signs reduces the effectiveness of signs needed to direct the public. Sign regulation is in part required to implement various parts of the master plan calling for different standards in different areas dependant on the zoning district. The provisions of this section are intended to apply the minimum amount of regulation in order to avoid these problems, and to provide for a person's ability to pay attention to certain signs and ignore certain signs as desired by that person.. At the same time allow use of signs for first amendment commercial and non-commercial speech.

B. The intent is for sign regulations to be content neutral for all signs. A maximum amount of sign area is allowed per parcel. Different sign areas are allowed in different zoning districts and additional regulations.

C. Sign Regulation Table.

Zoning District		**Maximum Number of Signs**	**Total Sign Area Allowed** (sum of all signs)	**Maximum height of signs**	**Structure type**
Special area districts	All special area Districts	One and one temporary sign	Six square feet	Four feet	Mounted Posted
Rural and working lands districts	Agricultural-Forest Production and Forest Conservation districts	Any number and one temporary sign.	Up to 20 square feet in area, 20 percent of the wall area, nor 20 percent of the height of the side of the building, whichever is greater.	The tallest structure on the parcel, or the maximum height of a building in that zoning district, or 25 feet, whichever is less	Mounted Ground Wall Portable Posted
	Rural Residential District				
Residential districts	R-1 Residential and R-2 Residential Districts	Any number and one temporary sign	Six square feet in area	The tallest structure on the parcel, or the maximum height of a building in that zoning district, whichever is less	Mounted Ground Surface Posted

Zoning District		Maximum Number of Signs	Total Sign Area Allowed (sum of all signs)	Maximum height of signs	Structure type
Commercial districts	Resort District	Up to three each no larger than 6 square feet in area.	Up to 100 square feet in area, 20 percent of the wall area, nor 20 percent of the height of the side of the building, whichever is greater.	The tallest structure on the parcel, or the maximum height of a building in that zoning district, whichever is less	Mounted Ground Wall Portable Posted
	Commercial District	Up to six each no larger than 50 square feet in area.	Up to 160 square feet in area, 20 percent of the wall area, nor 20 percent of the height of the side of the building, whichever is greater.	The tallest structure on the parcel, or the maximum height of a building in that zoning district, or 25 feet, whichever is less	Mounted Ground Pole Wall Rooftop Portable

D. Substitution: The content of any sign may be substituted with another message at any time. Any change of the structure or size of a sign, or structure the sign is mounted on requires approval under this Ordinance for purposes of compliance with this Ordinance, mechanical and electrical components, and compliance with any applicable site plan and nonconformance standards, if applicable.

E. Sign removal: If a sign is in disrepair or is lacking in maintenance and upkeep it shall be removed. Once the purpose of the sign has ended, ceases to exist or is over the sign(s) shall be removed within 14 calendar days. Anything formerly used to support or provide a structure for a sign, and not in use for any other purpose shall be removed.

F. Illumination: Except as provided for here, signs shall not be internally illuminated. Illuminated signs shall be lit by use of a light shining downward onto the sign. The source of the light shall not flash on and off or change color or intensity. The source of the light shall be baffled so the source of the light is not visible to automobile or pedestrians on any road, alley, water body, public lands, adjacent parcels or in the air above the illumination. Exceptions include:

1. Where movable illumination is employed, such illumination shall be approved in advance by the Administrator in consultation with the Wexford County Road Commission engineer or Michigan Department of Transportation to insure traffic safety based on the most current traffic safety standards.
2. Halo signs, where lighting is behind the lettering and the source of the illumination is not seen by a direct line of sight.
3. Electronic changeable message displays (any sign that uses electronic means within a display area to cause one message or display to be replaced by another, movable display or video) shall be limited to:
   a. One contiguous dynamic element on the face of the sign at a time.
   b. The dynamic element does not change more than once every 20 minutes, and changes are instantaneous without any special effects.
   c. Images and messages displayed shall be static.
   d. Shall not be brighter than is necessary for clear and adequate visibility.
   e. The sign shall not have intensity or brilliance which impairs the vision of a motor vehicle

driver with average eyesight or otherwise interfere with the operation of a motor vehicle. All illuminated signs, including movable illumination, halo, and electronic changeable message displays, shall be equipped with a mechanism that automatically adjusts the brightness in response to ambient conditions, or turns the illumination off during daylight hours.

G. Off Premises Signs: An off premise sign shall be limited to:

1. One sign per parcel;
2. The bottom of the sign shall not be less than three clear feet above round.
3. Not less than five feet from the public right-of-way line.
4. Not less than 10 feet from the side parcel line.
5. Not more than one off premises sign per 500 feet of road frontage in zoning districts where off premises signs are listed as a permitted use or possible special use. Except that one additional off premises sign for multiple businesses developed by a single organization (such as a business association, chamber of commerce, or other similar organization), a governmental agency, or businesses sharing a common driveway.

Off Premises Signs which meet the above conditions shall be permitted in any zoning district established by this Ordinance, if Off Premises Signs are listed as a permitted use or special use in that district.

H. Signs Not Regulated: This Section of this Ordinance does not apply to any signs which are:

1. Less than 1.25 square feet in size and located on the perimeter (along the parcel boundary) of the parcel;
2. Not visible to anyone on any road, alley, water body, public lands, adjacent parcels or public realm;
3. That is required under authority of this ordinance site plan approval, any statute, on any county, city, village road; state and federal highway; and
4. Legal postings as required by law.

1061.Outside Lights

A. All outdoor lighting fixtures including, but not limited to, pole mounted or building mounted yard lights, dock lights, and shoreline lights other than decorative residential lighting such as porch or low level lawn lights shall be subject to the following regulations:

1. Lighting shall be designed and constructed in such a manner to:
   a. Insure that direct or directly reflected light is confined to the area needing it and that it is not directed off the property.
   b. That all light sources and light lenses are shielded.
   c. That any light sources or light lenses over 2,000 lumins are not directly visible from beyond the boundary of the site.
      [Annotation: Examples of lights that are under 2,000 lumins are a 100 watt incandescent bulb, 15 Watt fluorescent, 18 Watt low pressure sodium.]
   d. That light from any illuminated source shall be so shaded, shielded, or directed that the light intensity or brightness will not be objectionable to surrounding areas.
2. Lighting fixtures shall be a down-type having one hundred percent (100%) cut off. The light rays may not be emitted by the installed fixture at angles above the horizontal plane, as may be certified by photometric test.
3. Lighting designed to illuminate outdoor areas (such as but not limited to parking, recreation, amusement, loading and unloading areas; yard; and general security lighting) shall be equipped with baffling or other devices to assure that the above requirements are achieved. The light rays may not be emitted by the installed fixture at angles so that the ray extends beyond the property boundary, as may be certified by photometric test.
4. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon lights are not permitted.
5. No colored lights shall be used at any location or in any manner so as to be confused with or

construed as traffic control devices.

B. Any person may submit a written request, on a provided form, to the Administrator for a temporary exemptions from these outdoor lighting requirements. The request for a temporary exemption shall contain the following information:

1. Specific exemption(s) requested.
2. Type and use of outdoor light fixture involved.
3. Duration of time for requested exemption.
4. Type of lamp(s) and calculated lumens.
5. Total wattage of lamp(s).
6. Proposed location on premises of the outdoor light fixture(s)
7. Previous temporary exemptions, if any, and addresses of the premises thereunder.
8. Physical size of outdoor light fixture(s) and type of shielding provided.
9. Such other data and information as may be required by the Administrator.

C. This section does not apply to outdoor light fixtures placed by or required by a government agency for purposes of airport, traffic control and safety. This section does not apply to street lights along a public right-of-way which are paid for by a government agency.

1062. Landscaping standards

A. In addition to Site Plan requirements in Section 9401 *et seq.* of this Ordinance, a site plan in all commercial and industrial districts for a commercial or industrial land USE along the roads Business Route U.S.-131, M-37, M-55, and M-115 shall also show and/or comply with the following:

B. Signs shall comply with Section 1060 of this Ordinance and any participating municipality's SIGN ordinance which may be in effect, in addition to the following standards:

1. Signs to identify the business, sales, or special events shall only be located on the front facade of the principal commercial establishment Building.
2. At each driveway entrance, one (1) group sign may be placed to identify the commercial establishment(s) located close to that driveway and their respective address number. Any one (1) commercial establishment shall be limited to being included on not more than two (2) group signs. The order of the placement of commercial establishments on the group sign, from top to bottom, shall be in the same order as the respective commercial establishment's address number.
3. Signs shall not include flashing or blinking lights.
4. Free standing signs shall incorporate low-level landscaping at its base.
5. A maximum of one sign on a wall is permitted. The sign on the wall of a Building shall not be larger than ten percent (10%) of the wall the sign is on and shall not exceed seventy two (72) square feet, whichever is less. A second sign on a wall may be permitted where the commercial establishment is on a corner parcel and the sign shall not be larger than ten percent (10%) of the wall the sign is on and shall not exceed seventy two (72) square feet, whichever is less.

C. Landscaping of the yard and grounds area of the parcel shall be required. Use of the recommendations as provided in landscaping manual adopted and published from time-to-time by the Commission is encouraged.

D. Landscaping of the yard and grounds area of the parcel shall meet the following standards:

1. All open yard and grounds areas in front and on the sides and the rear 20 feet (closest to the Building) of the parcel shall be maintained as:
   a. manicured lawn, or
   b. formal garden, or
   c. both

   unless otherwise required in this Ordinance.
2. The owner shall be responsible for maintenance of all landscaping. Plant materials (including grass) shall be kept in a healthy growing condition and free from refuse and debris.
3. The site plan shall show use of trees, bushes, shrubs, large boulders, and other elements on each

side, front and rear yard, either by preserving such plants which exist prior to development as a first priority or by planting, planting more, upon completing construction. The following plants shall be the preferred landscaping materials.

a. Northwood Red Maple (*Acer rubrum* "northwood") with a minimum size of 60 mm (2⅓ inches) diameter trunk measured 150 mm (6 inches) above the ground.
b. Commemoration Sugar Maple (*Accer saccharum* "commemoration") with a minimum size of 60 mm (2⅓ inches) diameter trunk measured 150 mm (6 inches) above the ground.
c. Green Mountain Sugar Maple *(Acer saccharum* "Green Mountain") with a minimum size of 60 mm (2⅓ inches) diameter trunk measured 150 mm (6 inches) above the ground.
d. Autumn Applause White Ash *(Fraxinus americana* "Autumn Applause") with a minimum size of 60 mm (2⅓ inches) diameter trunk measured 150 mm (6 inches) above the ground.
e. Red Oak (*Quercus rubra*) with a minimum size of 60 mm (2⅓ inches) diameter trunk measured 150 mm (6 inches) above the ground.

4. Amur Maple (*Acer ginnala* bush form) with a minimum size of 1,250 mm (4 feet) canopy spread.
   a. Juneberry (*Amelanchier canadensis*) with a minimum size of 1,250 mm (4 feet) canopy spread.
   b. Sassafras (*Sassafras albidum*) with a minimum size of 900 mm (3 feet) canopy spread.
   c. Common Witch Hazel (*Hamamelis virginiana*) with a minimum size of 1,250 mm (4 feet) canopy spread.
   d. Fragrant Sumac (*Rhus aromatica*) with a minimum size of 600 mm (2 feet) canopy spread.
   e. White Spruce (*Picea glauca*) with a minimum size of 1,250 mm (4 feet) canopy spread.
   f. Colorado (Blue) Spruce (*Picea pungens*) with a minimum size of 1,250 mm (4 feet) canopy spread.
   g. White Pine (*Pinus strobus*) with a minimum size of 1,250 mm (4 feet) canopy spread.
   h. Russian Sage (*Perovskia atriplicifolia*) with a minimum of a two year old plant in a number two container.
   i. Purple Coneflower *(Echinacea purpurea*) with a minimum of a two year old plant in a number two container.
   j. Black Eyed Susan (*Rudbeckia fulgida*) with a minimum of a two year old plant in a number two container.
   k. Dwarf Fountain Grass (*Pennisetum alopecuroides* "Hamlen") with a minimum of a two year old plant in a number two container.
   l. Perennial Sweet Pea (*Lathyrus latifolia*) with a minimum with a minimum size of 56 mm (2¼ inches) diameter trunk 150 mm (6 inches) measured above the ground, potted.
   m. Any species which is indigenous to this area and may be transplanted from within the parcel or another parcel with approval of the Commission.

5. Density of planting shall be as follows to accomplish a buffering to mitigate problems associated with traffic, glare, noise, vibration, conflicting land uses, dust, smoke, loss of privacy, and unsightly views between various types of land uses at the outer perimeter of the parcel. The landscape requirements provided in the table, below, shall vary depending on the width of the area being planted. The landscape requirements will vary for each yard of the parcel. For example, in the table below, identify the type of the planted/landscaped area (column 1), then determine if a multiplier will be used (e.g. a wall or berm is part of the landscaping) (columns 2 and 3), next measure the depth of the landscaped area (column 4), and last use the specified vegetation quantity (columns 5-8) to determine the number of plants per 100 feet of width (or multiply the number in columns 5-8 by the multiplier in column 2 or 3 rounded up to the next whole number).

Planted/landscaped area				Vegetation Quantity (including existing) per 100 feet of width (except for driveways)			
Type (column 1)	Plant multipliers		Depth in feet (column 4)				
	Six foot wall (column 2)	Three foot berm (column 3)		Number of Canopy Trees (column 5)	Number of Flowering Trees or large shrubs (column 6)	Number of shrubs (column 7)	Number of Evergreens and conifers (column 8)
yard between : ● structures, parking, and ● highway.	0.65	0.80	10	4	3	19	4
			15	3	2	15	3
			20	2	2	15	1
			25	3	2	15	1
			30	3	2	15	2
			35	3	2	15	2
			40	3	2	15	3
yard between: ● structures, parking and ● county primary road and/or other roads	0.50	0.75	10	3	3	6	2
			15	2	2	5	1
			20	2	2	5	1
			25	2	2	5	1
			30	2	2	5	1
yard between: ● commercial, institutions, warehousing, utilities, and industrial uses and ● residential uses or residential zoning district.	0.75	0.85	15	1	4	32	1
			20	2	4	30	1
			25	3	4	30	1
			30	3	5	30	2
			35	3	5	30	2
			40	3	5	30	3
			45	4	5	30	4
yard between: ● outdoor storage and ● any other use.	1.00	1.00	20	2	4	38	1
			25	3	4	38	1
			30	3	5	38	2
			35	3	5	38	2

Planted/landscaped area				Vegetation Quantity (including existing) per 100 feet of width (except for driveways)			
Type (column 1)	Plant multipliers		Depth in feet (column 4)				
	Six foot wall (column 2)	Three foot berm (column 3)		Number of Canopy Trees (column 5)	Number of Flowering Trees or large shrubs (column 6)	Number of shrubs (column 7)	Number of Evergreens and conifers (column 8)
			40	3	5	38	3
			45	5	6	30	4
			50	5	6	30	4
All other yards.	0.50	0.75	10	1	1	4	
			15	1	1	3	
			20	1	1	3	
			25	1	1	3	

E. All Buildings, Fences, walls, and gates, shall meet the following standards:

1. New Building exterior shall be masonry, brick, stone or similar material which matches the area's decor of office Buildings. No Building exterior (whether front, side, or rear) will consist of architectural materials inferior in quality, appearance, or detail to any other exterior of the same Building. Nothing in this Section shall prevent using different Building exteriors which would be acceptable as representative of good architectural design and does not involve use of inferior materials on sides which face adjoining property and, may adversely impact existing or future development. Plain (without any architectural features), pole-type, vinyl, or metal sided Buildings shall not be acceptable architectural facade design.
2. Mechanical equipment, whether ground-level or rooftop, shall be shielded and screened from public view and designed to be perceived as an integral part of the Building.
3. For all commercial establishments, servicing or processing shall be conducted within completely enclosed Buildings, except for off-road parking, loading, unloading, and open air uses which are specifically approved by the Commission.
4. Building size and design shall complement the dominant shape and form of surrounding structures.
5. All Accessory Buildings shall be designed and constructed to the same standards as in this Section of this Ordinance. All Buildings shall be less than two thousand (2,000) square feet in size or attached to the original structure.

107. Structure Regulations

1070. Height

No building or structure or part thereof shall be erected or altered to a height exceeding 35 feet, except

A. That non-dwelling buildings or structures other than accessory buildings or structures, may be erected or altered to a height not exceeding 50 feet. (For height for accessory buildings or structures, see 1072.)

B. Appendages to structures which are ornamental in purpose, such as church steeples, belfries, cupolas, domes, towers and flag poles so long as such appendages to structures do not exceed 20 percent of the roof area.

C. Appendages to structures relating to its mechanical or structural functions, such as chimney and smoke stacks, water tanks, elevator and stairwell penthouses, ventilators, bulkheads, antennas and their towers.

D. Commercial free-standing towers, such as radio television, telephone antennas and their towers.

E. Any dwelling structure taller than 35 feet shall be a special use. Any building or structure or part thereof may be erected or altered to any height if approved by the Commission in connection with a Special Use Permit application approval.

This section does not apply to radio, television antenna systems, communication tower facilities, utility grid wind energy systems, and wind energy systems.

1071. Temporary Dwellings

A. No person shall use or permit the use of any temporary dwelling or "trailer" as defined in this Ordinance as a principal or seasonal dwelling on any site, lot, field, parcel or tract of land, except by zoning permit:

1. As temporary quarters during the construction and installation of a dwelling conforming to Section 1080 of this Ordinance when the following conditions are met:
   a. The location of the temporary dwelling or trailer shall comply with all setback requirements of this Ordinance.
   b. The use of the temporary dwelling or trailer shall not be contrary to the public health, safety or welfare.
   c. The use of the temporary dwelling or trailer shall be limited to twelve (12) months beginning with the issuance of a permit. The permit may be renewed for not more than twelve (12) months at a time upon approval of the administrator for good cause shown.
2. As part of a campground licensed by the Michigan Department of Public Health.
3. As temporary recreation on a non-commercial/no rental basis by tourists, campers and sportsmen on public land where such activity is allowed by state or federal regulations or on one's own land not to exceed a period of sixty (60) days in a calendar year.
4. Storage of temporary dwellings, recreational vehicles, trailers, etc. shall:
   a. only be on a parcel on which exists a principal dwelling and;
   b. inside a building or in the rear or side yard of the owner's dwelling; and
   c. set back the required distance for the respective land use district, unless stored on a gravel or paved driveway; and
   d. screened from view from the side and front property line.

   Unoccupied parking or storage of temporary dwellings on a road or front yard is prohibited.

B. If electric service is to be provided to the parcel, then anything else in this section not withstanding, the trailer or temporary dwelling shall be considered a permanent structure which shall comply with section 1080, or shall not be permitted on the parcel.

C. If a trailer or temporary dwelling is on a parcel on the effective date of this ordinance, in any residential and all commercial districts and has an on site sewage system, water well and electricity the use of the temporary dwelling or trailer may continue, until replaced or removed from the parcel. If any one or more of the on site sewage, water well or electricity is not present, the trailer shall be removed within ninety (90) days of the effective date of this ordinance, regardless if on site septic, water well or electricity is added after the effective date of this ordinance.

1072. Location of Accessory Buildings and Structures

A. All accessory buildings and structures shall be in the side yard or rear yard, except when built as part of the main building, or if built on parcel which abuts water bodies, in which case said structures shall only be in side yards. Docks, other structures dependant on proximity to water may be located in a waterfront yard.

B. An accessory building attached to the principal building of a parcel shall be made structurally a part thereof, and shall comply in all respects with the requirements applicable to the principal building.

C. An accessory building or structure, unless connected with a roof at least four (4) feet wide attached and made part of the principal building as provided, shall not be closer than ten (10) feet to the principal building, and shall meet all setback requirements of the district in which it is to be erected, moved, altered or used.

D. No accessory building shall be more than two times the square feet than the principal building and not taller than the principal building unless it is an accessory building for an agriculture use.

1073. Communication Tower Facilities (Permitted Use)

A. Wireless Communication Wireless Communications Equipment, as defined in the Zoning Act may be located in any zoning district, as a permitted use, if all of the following requirements are met:

1. The wireless communications equipment is collocated on an existing wireless communications support structure or in an existing equipment compound, as those terms are defined in the Zoning Act; and
2. The existing wireless communications support structure or existing equipment compound is in compliance with this Ordinance or was approved by the appropriate zoning body or official for the local unit of government where it is sited; and
3. The proposed collocation will not do any of the following:
   a. Increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its height of its original height, whichever is greater, and
   b. Increase the width of the wireless communications support, structure by more than the minimum necessary to permit collocation;, and
   c. Increase the area of the existing equipment compound to more than 2,500 square feet.
4. The proposed collocation shall comply with the terms and conditions of any previous final approval of the wireless communication support structure or equipment compound by the appropriate zoning body or official of the local unit of government where it is sited.
5. When wireless communications equipment has not been used for a period of ninety (90) days, it shall be considered abandoned. The owner of the equipment shall promptly remove it and the site shall be restored to its original condition by the property owner or lessee. The commission may require security pursuant to section 130 of this Ordinance.
6. Wireless communications equipment shall be so constructed and placed that there is no danger of the structure falling on adjacent properties or off premises electric power lines. The operation of any such equipment shall not interfere with normal radio/television reception in the area.

B. Wireless communications equipment that does not meet the standards in this Section may be permitted as a special use, subject to the standards contained in this Ordinance, including but not limited to Section 1608 of this Ordinance.

1074. On-site Use Wind Energy Systems and Anemometer Tower

An On-site Use wind energy system is an accessory use which shall meet the following standards:

A. Designed to primarily serve the needs of a home, agriculture, or small business.

B. Shall have a tower height of 20 meters or less.

C. Property Set-back: The distance between an On-site Use wind energy system and the owner's property lines shall be equal to the height of the wind energy system tower including the top of the blade in its vertical position. The distance between an anemometer tower and the owner's property lines shall be equal to the height of the tower. No part of the wind energy system structure, including guy wire anchors, may extend closer than ten feet to the owner's property lines, or the distance of the required setback in the respective zoning district, whichever results in the greater setback.

D. Sound Pressure Level: On-site Use wind energy systems shall not exceed 40 dB(A) at the property line closest to the wind energy system. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 40 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).

E. Construction Codes, Towers, & Interconnection Standards: On-site Use wind energy systems including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. On-site Use wind energy systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 *et*

seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 *et seq*.), and local jurisdiction airport overlay zone regulations. An interconnected On-site Use wind energy system shall comply with Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.

F. Safety: An On-site Use wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lightning protection. If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least six feet above the guy wire anchors. The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.

108. Dwelling/Residential Standards

1080. Dwellings

No person shall use, occupy, permit the use or occupancy of a structure as a dwelling, or duplex, which does not comply with dwelling standards of this Ordinance, or standards of the State of Michigan and United States Department of Housing and Urban Development, whichever is applicable, within any district, except in a designated mobile home park, and except as hereinafter provided. All dwelling structures shall comply with the following minimum standards:

A. No dwelling or duplex shall hereinafter be erected which shall have less than the minimum square footage and minimum width required in each respective zoning district, exclusive of porches, and other add-ons, unless it is licensed solely for the use of seasonal or migrant agricultural workers, in which case it shall comply with all requirements of such licensor.

B. Dwelling or duplex shall comply in all respects with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under provisions of Public Act 230 of 1972, as amended, being M.C.L. 125.1501 *et. seq*., including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan building code, then and in that event such federal or state standard or regulation shall apply. In addition, it shall comply with the following:

1. Foundations: It shall be firmly attached to a permanent foundation constructed on site in accordance with said State Construction Code and shall have the same perimeter dimensions of the dwelling, except cantilevers, and constructed of such materials and type as required in the said State Construction Code for dwellings, or, in the case of mobile homes, that dwelling shall be installed pursuant to the manufacturer's set-up instructions and shall be secured to the foundation by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission or said State Construction Code, whichever is stricter, and with the wheels removed and shall not have any exposed towing mechanism, undercarriage or chassis;
2. Framing, structural, insulation shall comply with the said State Construction Code, or in the case of mobile homes, shall comply with the "mobile home construction and safety standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, as amended, and which bears a HUD seal or certification by a certified inspector signifying inspection and compliance with the same;
3. Final finished; shall comply with the said State Construction Code.

C. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, 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.

D. Every dwelling hereinafter erected shall have a roof slope of at least an average three (3) feet, or greater, vertical rise for each seven (7) feet horizontal distance. In no case, however, shall the vertical distance be less than the manufacturer's recommendation for the shingles used on the roof. The Administrator may approve a different slope requirement, section 9604.A not withstanding, if compatible architecturally with the existing neighborhood.

E. It shall contain only additions or rooms or other areas which are constructed with similar quality workmanship as the original structure. Further, it shall include permanent attachment to the principal structure as long as such attachment does not include a bearing load on a mobile home.

F. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten (10) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.

G. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by State or Federal law or otherwise specifically required in this Ordinance pertaining to such parks.

H. All construction required by this section are commenced only after a construction permit has been obtained in accordance with the applicable construction code provisions and requirements.

1081. Additional Living Unit in Dwellings.

A. The purpose of this section is to recognize there are many large older homes which are expensive to keep up; a desire to attempt to maintain oversized homes by use of a minor amount of space for additional living quarters; and a desire for extended members of family to take residence in the same home, but in separate living quarters; while at the same time protecting the character of a dwelling and a single family neighborhood.

B. Regardless of regulations elsewhere in this Ordinance, one additional living unit may be permitted in a dwelling if the following conditions are met:

1. The application for a use permit shall include a site plan, pursuant to section 9401, *et. seq.*
2. The dwelling has 2,000 square feet, or more, of living area.
3. The additional living unit is rented by the month, or sold, or leased, so the tenants or owners are permanent residents rather than transients.
4. No additional rooms may be added to the dwelling to accommodate the additional living unit.
5. The additional living unit is 750 square feet, or less, so that the additional living unit remains an accessory use to the dwelling, and does not result in the creation of a duplex or apartment building.
6. Only one front entrance shall be visible from the front yard, so there is no external evidence of occupancy by more than one family.
7. The sewer capacity is found to be adequate for the site and area by the respective participating municipality, in writing.
8. The additional living unit is approved by the Construction Code Inspector, in writing.
9. The dwelling is on a parcel with frontage on a public road, with a driveway adequate to provide off-road parking, which has access to a public road or alley.

1082. Home Occupations

Home occupations shall automatically be part of a dwelling land use so long as it meets the following standards:

A. The home occupation(s) takes place in a dwelling where the resident engaging in the home occupation lives on a full time basis.

B. The home occupation(s) shall be accessory to the residential use of the property.

C. The activities and carrying on of the home occupation shall be operated in such a manner that other residents of the area, under normal circumstances, would not be aware of the existence of the home occupation, other than the sign allowed in section 1082.D. of this Ordinance.

D. The home occupation(s) shall be conducted entirely within the enclosed dwelling and accessory building to the house with no external evidence of the activity except for a sign that shall not exceed six (6) square feet in size.

E. The home occupation(s) shall not involve the

1. generation of any hazardous waste as defined in P.A. 64 of 1979, as amended, being the Hazardous Waste Management Act (M.C.L. 299.433 *et. seq.*) or
2. use of materials which are used in such quantity, or are otherwise required, to be registered pursuant to the Code of Federal Regulations, Title 29, Chapter XVII, part 1910(2),

except this provision shall not apply to material purchased retail over the counter for household cleaning, lawn care, operation of a photocopy machine, paint, printing, art and craft supplies or heating fuel.

F. The home occupation shall employ no one at the residence except those who live there.

109. Other, Special Purpose
1090. _

ARTICLE 12: DEVELOPMENT STANDARDS

1201. Purpose

When development of vacant land, or the redevelopment of land takes place there are certain standards which are considered minimum development standards necessary to implement the Master Plan. The requirements of this Article are in addition to other requirements of this Ordinance.

1202. Scope

This Article applies to land divisions pursuant to P.A. 288 of 1967, as amended, (being the Land Division Act; M.C.L. 560.101 *et. seq.*); subdivisions pursuant to P.A. 288 of 1967, as amended, (being the Land Division Act; M.C.L. 560.101 *et. seq.*); condominium of vacant land pursuant to P.A. 59 of 1978, as amended, (being the Condominium Act; M.C.L. 559.101 *et. seq.*); leasing for any length of time land, dwellings, duplexes, and apartments; easements (for, but not limited to, septic tank drain field, roads, access); eminent domain; voluntary conveyance to utility company with eminent domain powers; municipal corporation's splitting of land; and any other lawful method of developing land.

1203. Regulation Applicable all Developments

Provisions of this section apply to all types of development found in Article 12 of this Ordinance.

A. A minimum of one (1) or twenty percent (20%), whichever is greater, of the housing units in the development shall be offered for sale through a standard mortgage at current competitive interest rates and fees such that the total annual payment to the homeowner is equal to or less than one third (⅓) of the annual median Wexford County household income as established by the most recent release of information by the United States Bureau of the Census.

1204. Parcel Divisions: Open Space Development

Provisions of this section apply to development involving creation of land divisions with open space preservation. New parcels may be created as divisions, bonus divisions, and re-divisions pursuant to P.A. 288 of 1967, as amended, (being the Land Division Act; M.C.L. 560.101 *et. seq.*) or as provided here. In certain Districts new parcels shall only be created as provided here. In certain Districts new parcels may be created as provided here, or may be provided without open space clustering as provided in the Land Division Act.

A. New parcels created shall conform with both section 8201 of this Ordinance and the applicable provisions of one of the following development options. In addition, the splitting and combining of one adjacent parent parcel with another is allowed, conditioned on both parent parcels have not been split previously under either development option listed below. In these cases the resulting reconstituted parent parcels shall be the basis for further allowable land divisions.

1. Development Option 1, Country Properties: A maximum of twenty (20) percent of any parent parcel may be divided into new parcels averaging not less than two (2) acres in area. The remaining eighty (80) percent of the parent parcel when area allows, may be split into parcels not less than forty (40) acres in area.
2. Development Option 2, Conservation Planned Unit Development:
   a. Eligibility: Parent parcels not previously split may be developed per this option. In addition parent parcels partially developed under option 1 may further be developed under option 2, provided all previous splits along with any additional splits shall conform with the provisions of this option 2.

b. Minimum Conservation Land Requirement: A minimum of fifty (50) percent of the parent parcel buildable area (section 8201 of this Ordinance), plus all lands within the parent parcel which is not buildable area, shall be designated as Conservation Lands to be permanently protected by a conservation easement which prohibits:

(1) The further division of these lands into parcels forty (40) acres or less in area; and

(2) Construction of more than two dwelling units on any one parcel.

The development density which would normally be realized on the entire parent parcel shall be transferred to the area of the parent parcel which is not Conservation Lands (section 1204.A.2.b of this Ordinance).

c. Determining Maximum Allowable Parcel Divisions: The maximum number of new parcels which may be created within the parent parcel shall be the same number calculated by dividing the total area of the parent parcel which is buildable area (section ? of this Ordinance) by the minimum parcel area required in section 3604.A of this Ordinance. To illustrate this density a conceptual plan of division of the parent parcel shall be submitted by the applicant to the administrator. This plan shall contain proposed parcels, roads, rights-of-way, areas which are not in the buildable area (section ? of this Ordinance), and other pertinent features. This plan must be drawn to scale, but does not need to be based on a field survey.

d. Endowment Parcel Density Bonus: In addition to the maximum number of new parcels as determined in section 1204.A.2.c of this Ordinance, when the required easement covering Conservation Lands shall be held in part by a recognized non-profit land conservancy two (2) additional parcels shall be allowed. The proceeds from the sale of the two (2) additional parcels shall be used to fund an endowment held by the Conservancy to cover the land conservancy's expenses for monitoring compliance with the conservation easement.

e. Siting Criteria for new Parcels: Diversity and originality in parcel layout shall be encouraged to achieve the best possible relationship between Buildable and Conservation Lands (section 1204.A.2.b of this Ordinance) areas. The Planning Commission shall evaluate proposals to determine whether the proposed site plan meet the following criteria and site plan criteria contained elsewhere in this Ordinance:

(1) Protects and preserves all beach contiguous to a lake or stream, wetland, area which is not accepted by the Wexford office of District #10 Health Department for on-site sewage disposal unless an alternate system of sewage disposal is approved by District #10 Health Department, flood plain, existing public utility easements, existing public rights-of-way, waterfront setback areas, and slopes over 25 percent. (including a buffer area around such areas) from clearing, grading, filling, and construction.

(2) As practical, preserves and maintains existing fields, meadows, crop land, pastures, and orchards and creates sufficient buffer areas to minimize conflicts between residential and agricultural/forestry uses. When new development must be located in these areas due to greater constraints in all other parts of the site, buildings should be sited on the least prime and important or unique agricultureland or forest land soils, and in locations at the far edge of a field, as seen from existing roads.

(3) Maintains or creates an upland buffer of natural native species vegetation of at least one hundred (100) feet in depth adjacent to wetlands and surface waters.

(4) Minimizes impacts on large woodlands (greater than five acres), especially those located on upland soils considered prime for timber production.

(5) Leaves scenic views and vistas unblocked and uninterrupted, particularly as seen

from adjacent roads and surface water.

(6) Avoids siting new construction on prominent hilltops or ridges, by taking advantage of lower topographic features or by siting in forested areas.

(7) Protects wildlife habitat areas of species listed as endangered, threatened or of special local concern.

(8) Designs around and preserves sites of historic, archaeological, or cultural value, insofar as needed to safeguard the character of the feature.

(9) Protects rural roadside character and improves public safety and vehicular carrying capacity by avoiding development fronting directly onto existing public roads. Establishes buffer zones along the scenic corridor of rural roads with historic buildings, stone walls, hedgerows, and so on.

(10) Provides that Conservation Lands (section 1204.A.2.b of this Ordinance) shall be reasonable and contiguous. While Conservation Lands are exempt from the 4 to 1 maximum parcel depth to width ratio, fragmentation of these lands shall as much as practical, be minimized so that (except for common greens and playground areas) these areas are not divided into numerous small parcels located in various parts of the development.

(11) When Conservation Lands (section 1204.A.2.b of this Ordinance) are held in common by surrounding parcel owners the proposed site plan shall:

(a) Provide for active recreational areas in suitable locations that offer convenient access by residents and adequate screening from near by parcels in the buildable area(s) (section ? of this Ordinance).

(b) Include a pedestrian circulation system designed to assure that pedestrians can walk safely and easily on the site, between parcels, activity areas, special features, and contiguous developments.

(c) Ownership of Conservation Lands (section 1204.A.2.b of this Ordinance) may remain with the owner of the parent parcel, a homeowners association made up of parcel owners in the development, the in participating municipality if the legislative body agrees, county if the county board agrees, or a recognized non-profit land conservancy.

(d) Conservation Lands (section 1204.A.2.b of this Ordinance) created pursuant to option 2, section 1204.A.2 of this Ordinance, may be used for any permitted use allowed in this zoning district pursuant to section 3602 of this Ordinance if the parcel contains a large enough buildable area (section ? of this Ordinance). Such parcels shall be covered by a conservation easement prohibiting the further splitting or development of these lands in the future. Such conservation easement shall be held jointly by both the respective participating municipality or county and one of the following: a homeowners association made up of parcel owners in the development, or a recognized non-profit land conservancy.

B. Application and Site Plan Review Process:

1. A pre-application conference between the applicant, the site designer, and the administrator to discuss the applicant's objectives and how these may be achieved under this Ordinance is encouraged for all parcels to be split under provisions of Option 1, section 1204.A.1 of this Ordinance. Engineering, site plans, or surveys, shall not be required for the pre-application conference and shall not be accepted or reviewed at the pre-application conference. If necessary a site visit may be scheduled during the pre-application conference.

2. A pre-application conference between the applicant, the site designer, and the administrator to discuss the applicant's objectives and how these may be achieved under this Ordinance shall be

mandatory for all parcels to be split under provisions of Option 2, section 1204.A.2 of this Ordinance. Engineering, site plans, or surveys, shall not be required for the pre-application conference and shall not be accepted or reviewed at the pre-application conference. If necessary a site visit may be scheduled during the pre-application conference.

3. The application shall then be processed under the Special Use Permit, section 8601 *et. seq*. of this ordinance, and Planned Unit Development Districts section 8801 *et. seq*. of this ordinance. The municipality shall simultaneously approve the land division splits as part of the review.

1205. Subdivisions and Site Condominiums

Provisions of this section apply to all new subdivisions, site condominiums, and any other form of splitting land into new parcels for purposes of development not covered elsewhere in Article 12 of this Ordinance.

A. - Roads:

1. Road Continuation and Extension: The arrangement of roads shall provide for the continuation of existing roads from adjoining areas into new subdivisions and condominiums, unless otherwise approved by the road agency.
2. Stub Roads: When adjoining areas are not subdivided, the arrangement of roads or rights-of-way for roads in new subdivisions and condominiums shall be extended to the boundary line of the tract to make provision for the future projection of roads into adjacent areas.
3. Road names shall not duplicate phonetically or in spelling any existing road name in the County, and shall be established in accordance with the Wexford County Address Ordinance, as amended.

B. Blocks:

1. Arrangements: A block shall be so designed as to provide two (2) tiers of lots except where lots back onto an arterial street, a freeway, a natural feature, subdivision or condominium project site boundary.
2. Maximum Length and Width: The maximum length or width allowed for blocks shall be one thousand three hundred twenty (1,320') feet measured from the center of a road right of way at one end of the block to the center of a road right of way at the other end of the block.

C. Lots:

1. Conform to Zoning: The lot width, depth, and area shall not be less than the particular distance requirements of the applicable zoning ordinance except where outlots are provided for some permitted purpose. For purposes of Condominiums, zoning regulations for lots or parcels shall apply to Condominium lots. If no zoning is then in effect within the municipality where the lands are located or if the zoning does not provide standards for lot width, depth or area, then lots shall have a minimum width of 75 feet, as measured 25 feet back from the front line of the lot, a minimum depth of 100 feet, and a minimum area of 15,000 square feet, unless the Land Division Act or Condominium Act makes more stringent requirements or is controlling as to the relevant standard. Provided, however, that if the lot diminishes in width from front to rear it shall be no less than 75 feet wide at a distance of 50 feet from its front lot line, and provided further, however, that if the lot will be served by a public sanitary sewer system the minimum lot area shall be 12,000 square feet.
2. Lot Lines: Side lot lines shall intersect straight streets at an angle of not less than 70 degrees nor more than 110 degrees and shall be radial to curved streets.
3. Width Related to Length: Narrow deep lots shall be avoided. The depth of a lot shall not exceed three (3) times the width.
4. Corner Lots: Corner lots shall have sufficient extra width to permit appropriate building setback from both streets or orientation to both streets as required for clear sight distance and applicable zoning regulations.
5. Uninhabitable Areas: Lands which do not qualify to be within a buildable area shall be considered uninhabitable. Such land within a subdivision and condominium may be set aside for other uses, such as parks, or other open space.

6. Back-up Lots: Lots shall back into such features as freeways, arterial streets, shopping centers, or industrial properties, except where there is a marginal access street, unless a secondary access is provided. Such lots shall contain a landscaped easement along the rear at least twenty (20') feet wide in addition to the utility easement to restrict access to the arterial street to minimize noise and to protect outdoor living areas. Lots extending through a block and having frontage on two (2) local streets may be prohibited.
7. Lot Frontage: All lots shall front upon a road. The front line shall be the road right of way.

D. Reserve Strips:
1. Reserve Strips - Private: Privately held reserve strips controlling access to roads shall be prohibited.
2. Reserve Strip - Public: A one (1') foot reserve may be required to be placed at the end of "stub" or "dead-end" streets which terminate at subdivision and condominium project site boundaries and between half streets. These reserves when required shall be deeded in fee simple to the municipality or County Road Commission for future street purposes.

E. Natural Features: Existing natural features which add value to residential development and enhance the attractiveness of the community (such as trees, watercourses, historic spots, and similar irreplaceable assets) shall be preserved insofar as possible, in the design of the subdivision and condominium. In determining whether a lot in a proposed subdivision, or a condominium lot in a proposed condominium, complies with the area requirements contained or provided for herein, or in any municipal ordinance, the area contained within the following natural features, to-wit:
1. sand dunes
2. water set back areas
3. high risk erosion set back areas
4. wetlands
5. beach
6. flood plain
7. slope of 25% or greater
8. areas not suitable for on-site sewage disposal

shall be deducted from the total area of the lot. Such lands may be set aside for other uses, such as parks or other open space.

F. Planned Unit or Similar Development: If subdivision or condominium is done in conjunction with a Planned Unit Development or similar provisions of a municipal zoning ordinance, lots may be clustered in smaller sizes if the total area of the development, including areas designated in the plan to be open spaces, is equal to or greater than the total area requirements for that number of lots if traditional subdivision has been undertaken.

G. Required Public Improvements: Every proprietor shall be required to install the following public and other improvements in accordance with the conditions and specifications as follows:
1. Monuments: Monuments shall be set in accordance with the State Land Division Act or as required by the Condominium Act, County and municipality.
2. Streets and Alleys: All streets and alleys shall be constructed in accordance with the standards and specifications adopted by the Road Agency..
3. Sidewalks: All developments shall provide sidewalks on both sides of all roads, located so the edge of the sidewalk is at the edge of the road right-of-way except where natural features, vegetation, or other reason makes it practical for a portion of the sidewalk to be closer to the road. Between the road and sidewalk, there shall be a tree strip 4 to 10 feet in width, of indigenous shade trees planted approximately 30 feet apart, 10-foot minimum height at planting (located in grated sidewalk planters on commercial streets).
4. Curbs and Gutters: Curbs and gutters may be required on all neighborhood access streets and minor streets and if required shall be constructed in accordance with the standards and specifications adopted by the Road Agency.

5. Installation of Public Utilities: Public utilities and driveways shall be located in accordance with the rules of the Road Agency or the Department of State Highways. Underground work for utilities shall be stubbed to the edge of each lot which is established as part of the subdivision or Condominium.
6. Driveways: All driveway openings in curbs and driveway culvert placement shall be as specified by the Road Agency or the Department of State Highways.
7. Storm Drainage: An adequate storm drainage system shall be required in all subdivisions and condominiums. The requirements for each particular subdivision and condominium shall be established by the County Drain Commissioner. Construction shall follow the specifications and procedures established by the County Drain Commissioner. All proposed storm drainage construction plans for proposed development shall be approved by the County Drain Commissioner.
8. Water Supply System: When a proposed subdivision or condominium is to be serviced by a public water supply system, fire hydrants and other required water system appurtenances shall be provided by the proprietor. Where a public system is accessible within one-quarter (¼) mile the proprietor shall install the public water lines in the subdivision or condominium and shall stub appropriate water lines to the edge of each lot. It shall be up to the local unit to determine the matter of installing connecting systems. Individual wells may be permitted in accordance with the requirements of the County Health Department.
9. Sanitary Sewer System:
    a. When a proposed subdivision or condominium is to be serviced by a public sanitary sewage system, such sanitary sewers and other required appurtenances shall be provided by the developer and the developer shall stub sewer connecting lines to the edge of each lot. That portion of such Sewer system which established by the developer shall comply with the requirements of Act 98, P.A. 1913, as amended.
    b. If there is no existing or accessible public sewer system, a sewer system for the common use of the lot owners may be required to be provided by the proprietor, if feasible in the judgment of the Municipality with the advice of the County Health Department and shall comply with the requirements of Act 98, P.A. 1913, as amended.
    c. Where it is determined in the judgment of the Municipality, with the advice of the Health Department, that a subdivision or condominium cannot be economically connected with an existing public sewer system which is within one-quarter (¼) mile or that public sewer service cannot be provided for the subdivision or condominium itself, then approved on site sewage and disposal systems may be approved which shall comply with the requirements of the Health Department.
    d. However, where studies by the Planning Commission indicate that construction or extension of sanitary trunk sewers to serve the property being subdivided or condominiumized appears probable within a reasonably short time (up to three (3) years) sanitary sewer mains and house connections shall be installed and capped.
10. Name Signs: Installation of street name signs may be required in appropriate locations at each street intersection in accordance with the requirements of the Road Agency and named and spelled in conformity with the Wexford County Address Ordinance. If sidewalks and crosswalks are provided they shall be constructed in accordance with the requirements of the Road Agency or municipality.

H. Other Public Improvements: The developer shall comply with and shall establish any other improvement which is required by any ordinance or regulation of any municipality or by any ordinance of the County.

1206. Traditional Neighborhood Developments

Provisions of this section applies to all developments (including, but not limited to, condominium and subdivisions), except those done by land divisions, bonus divisions, and re-divisions. For all such developments, the following standards shall apply unless it is indicated in the standard that it may be waived by the Commission and the Commission has specifically acted to do so.

A. The Regional Context
   1. The development location shall be consistent with the Master Plan and preserves open space and encourages public transit.
   2. The development shall be connected in as many locations as possible to adjacent developments and thoroughfares.
   3. Highways and major roads approaching the development shall either pass to its side or take on low-speed (25 mph maximum) geometries when entering the proposed neighborhood.
   4. The development shall provide a relatively balanced mix of housing workplace, shopping, recreational, and institutional uses.

B. The Site Context
   1. Lakes, ponds, wetlands, and other natural resources shall be retained and made a part of the attractive features of the development.
   2. Significant natural amenities shall be partially, or more, fronted by thoroughfares or public lands (not behind backyards)
   3. The site shall be developed in such a way as to maximize the preservation of high-quality trees and significant groups of trees.
   4. The plan for the development shall locate neighborhood centers and sub-centers such as squares, greens, and parks at significant tree-save areas and other natural amenities.
   5. The plan for the development shall accommodate itself to the site topography to minimize the amount of grading necessary to achieve a viable street network.
   6. Significant hilltops shall be reserved with public land and/or civic buildings, and major ridges kept clear of private development. This requirement may be waived by the Commission.

C. The Plan Structure. Is the plan divided into neighborhoods, where each neighborhood shall have the following characteristics:
   1. Is it roughly a five-minute walk – a quarter mile – from edge to center? (Centers can be peripherally located in response to a site condition, such as a beach, or major thoroughfare.)
   2. Housing density increase from the edge to the center. The center may mean various things, such as but not limited to adjacent development, a city or village center, civic buildings, major feature.
   3. The neighborhood center(s) is(are) the location of retail space – a corner store is required (subsidized if necessary) – and office space, ideally located in mixed-use buildings.
   4. There is a dry, safe place to wait for transit at the neighborhood center. This requirement may be waived by the Commission.
   5. There is a civic space such as a plaza or green at the neighborhood center.
   6. The plan for the development reserves at least one prominent, honorific site for a civic building.
   7. There are small parks distributed evenly through the neighborhood, roughly within one-eighth mile of every dwelling.
   8. Elementary schools and recreational facilities are located within one mile of most dwellings, sized accordingly, and easily accessible on foot.
   9. Parcels zoned not by use but by compatibility of building type.
   10. Most zoning district boundaries occur at mid-block rather than mid-street. This requirement may be waived by the Commission.
   11. The neighborhood edge is bordered by either a natural corridor or the edge of an adjacent neighborhood across a road with adequate pedestrian facilities.
   12. Large areas of open space between neighborhoods connected into continuous natural corridors. This requirement may be waived by the Commission.

13. All public tracts within the neighborhood correspond to well-understood open-space types, such as park, green, square, or plaza. This requirement may be waived by the Commission.

D. The Thoroughfare Network

1. Roads shall be organized in a comprehensible hierarchy of roads (see section 1206.E.1 of this ordinance), local and neighborhood roads which reflects the structure of the neighborhood.
2. Blocks shall average less than six hundred (600) feet in length and less than one thousand eight hundred (1,800) feet in perimeter.
3. All roads shall be fronted by public or private property (rather than serving as collector roads with no purpose other than handling traffic).
4. Cul-de-sacs shall not exist, except with necessary for protection of natural conditions.
5. Roadway geometries (such as, but not limited to, forks, triangles, and staggered intersections) shall be provided to calm traffic. This requirement may be waived by the Commission.
6. Most road vistas shall be terminated by a carefully sited building, a public land, a view of a natural feature, or a curve in the road. This requirement may be waived by the Commission.
7. Most roads that curve shall maintain roughly the same main direction throughout the road's length (except where steep grades dictate otherwise) This requirement may be waived by the Commission.

E. The Streetscape

1. There shall be a hierarchy of roads, including:
   a. Main roads, approximately 34 feet wide, with marked parking on both sides;
   b. Through roads, approximately 27 feet wide, with marked parking on one side;
   c. Standard roads, approximately 24 feet wide, with unmarked parking allowed to stagger from side-to-side;
   d. Local roads, medium density, approximately 26 feet wide, with unmarked parking on both sides;
   e. Local roads, low density, approximately 20 feet wide, with unmarked parking on one side;
   f. Commercial rear alleys, approximately 24 feet wide within a 24-foot right-of-way;
   g. Rear lanes, approximately 12 feet wide within a 24-foot right-of-way?
2. All roads, other than alleys and lanes, shall have a sidewalk on two sides (or at least one side) 4 to 5 feet in width. (Exceptions are granted in extremely rural or low-traffic conditions.) This requirement may be waived by the Commission, section 1205.G.3 of this Ordinance not withstanding.
3. Every road shall include, between the roadbed and the sidewalk, a tree strip 4 to 10 feet in width, of indigenous shade trees planted approximately 30 feet apart, 10-foot minimum height at planting (located in grated sidewalk planters on commercial streets).
4. Curb radiuses at intersections shall be a maximum of 15 feet, with a typical measurement of 10 feet at local intersections.
5. All parking lots shall be located at the center of enlarged blocks, such that only their access is visible from adjacent streets.
6. All parking lot aisles shall be separated by a tree strip approximately 5 feet in width, planted with indigenous shade trees approximately 30 feet apart, 10-foot minimum height at planting. This requirement may be waived by the Commission.
7. All transformers, lift stations, utility meters, HVAC equipment, and other machinery shall be located at the rear lane or alley, not in front.
8. For neighborhoods that are located adjacent to natural features, the streetscape shall be designed as more rural as it approaches the edge of the neighborhood, with curbs becoming open swales and trees becoming more informal in their placement. This requirement may be waived by the Commission.

F. The Buildings

1. There shall be a diversity of housing types located within close proximity to each other. Ideally, there should be a 5 percent minimum representation of at least five of the following eight categories:
   a. Apartments above commercial space;
   b. Multifamily apartment buildings;
   c. Two-and three-family houses;
   d. Row houses;
   e. Live/work row houses;
   f. Bungalows and patio houses on small lots (30-40 feet wide);
   g. Houses on standard lots (40-70 feet wide);
   h. Houses on large lots (over 70 feet wide).
2. Each house parcel shall be permitted to contain a small ancillary dwelling unit in the rear yard, such as an apartment over the garage.
3. Subsidized housing shall be provided in an increment of approximately one subsidized unit per ten market-rate units, section 1203.A of this Ordinance, not withstanding. Such housing shall be architecturally indistinguishable from market-rate housing.
4. Residential buildings shall be placed relatively close to the street, such that they are generally set back the equivalent of one-quarter the width of the lot. This requirement may be waived by the Commission.
5. Front setbacks shall permit the encroachment of semipublic attachments, such as stoops, porches, bay windows, and balconies.
6. Most parcels smaller than 50 feet wide (and apartment house lots) shall access their parking via a rear lane (or alley), with front driveways prohibited.
7. All garages that are served from the street front shall be set back a minimum of 20 feet from the front of the house, or rotated so that the garage doors do not face adjacent streets.
8. All houses served by alleys shall have a 3-to-6-foot-tall privacy fence, wall, or shrubs along the rear property line.
9. All row houses shall have 5-to-7-foot-tall privacy walls or fences on shared side property lines.
10. All commercial buildings shall directly front the sidewalk, with all parking lots located behind the buildings.
11. Buildings are permitted to satisfy their parking requirements with spaces located both off-street and on-street within one eighth of a mile of the building itself. This requirement may be waived by the Commission.
12. All commercial buildings with parking at the rear shall have shopping entrances only at the front. This requirement may be waived by the Commission.
13. The transition from mid-block parking to main-street shopping shall take place in a pleasant pedestrian passage lined with shop windows.
14. All commercial buildings shall have a second story (or more) for other uses. This requirement may be waived by the Commission.
15. All residential buildings, other than bungalows and patio homes, shall be at least two stories tall.
16. Each house on a corner lot shall have its front door facing the larger street, except end-unit row houses which shall always turn the corner. This requirement may be waived by the Commission.
17. Buildings shall have relatively flat fronts and simple roofs, with most wings and plan articulations set at the rear.

ARTICLE 16: SPECIAL USE SPECIFIC STANDARDS

1601. Purpose

In addition to general special use standards (section 8609 of this Ordinance) there are specific standards for Special Uses. The specific standards for determining if the following types of Special Use Permits are to be granted or not are provided in this Article.

1602. Any in Big Manistee River Corridor District

For all special uses in the Big Manistee River Corridor District:

A. Shall be located more than one hundred (100) feet from the Big Manistee River or Big Bear Creek; or associated wetlands; or from the top (crest, rim) of the sides of the river valley; which ever is greater.

B. For Dwellings:

1. Shall be located on land which was not owned by the United States, State of Michigan, or Consumers Power Company at the time of adoption of this Ordinance.
2. Shall be on a parcel of land which is the same size, or larger, than the size of the parcel at the time of adoption of this Ordinance.
3. Shall comply with all regulations set forth in Section 1080 of this Ordinance.

C. Any parking, camping, playground or other structures shall be located on existing dry land within portions of the district.

D. The proposed use shall not require fill in wetland portions of the district, but may include fill on dry land portions of the district.

E. Minimum land area for the use is large enough, and under one ownership, to accommodate the proposed uses and structures without endangering or compromising the intent and purpose of this district.

F. Adequate measures have been taken in design and site plan to insure protection of the wetland area for the purposes and intent of this district.

1603. Any in Agriculture Forest Production District

For any Special use in the Agriculture Preservation District:

A. The use does not result in the creation of a fifth lot from a parcel of land in existence at the time this section of this Ordinance came into effect.

B. The applicant prepares a document, which shall be recorded in the Wexford County Register of Deeds Office which notifies the applicant and all subsequent owners that agricultural uses and practices will continue in the area even though they may be inconvenient or a nuisance, and those agricultural uses shall be given preference in disputes arising between land owners involving land use activities.

C. That the proposed use utilizes land which is the poorer (in terms of agricultural suitability) areas of a farm, such as a sand blowout, ditches, gullies, dips, etc., or existing buildings, as determined by the zoning administrator and/or with assistance from the Soil and Water Conservation District.

D. That the parcel fronts on a public road.

E. The maximum size of the parcel is eighty-seven thousand (87,000) square feet in area.

F. That the proposed use is found to be compatible as a neighbor to agricultural uses.

1604. Campgrounds

For Campgrounds:

A. the location of a campground shall front or have public access to a public road or the developer shall agree to provide the funds to upgrade or will upgrade a private road to a public road.

B. the campground shall conform to all applicable regulations of any rules promulgated by the Michigan Department of Health under authority of sections 1201 *et. seq.* of P.A. 368 of 1978, as amended, (being the Michigan Health Code, M.C.L. 333.1201 *et. seq.*).

C. the application for a zoning Special Use Permit for a campground shall contain all the elements and parts which are required by the Health Department for a campground license under authority of sections 12501 to 12516 of P.A. 369 of 1978, as amended, (being the Michigan Health Code, M.C.L. 333.12501 *et. seq.*), in addition to the Special Use Permit application requirements presented in this Ordinance.

D. the minimum parcel area shall not be less than (*X*) square feet, where (*X*) equals 2,000 times the number of proposed campsites.

E. spaces in the campground shall be only rented on a day(s), week, or month basis, but not on a permanent basis.

F. management headquarters, recreation facilities, toilets, showers, laundry facilities and other uses and structures customarily incidental to the operation of a campground are permitted as accessory uses provided:

1. such establishments and the parking area primarily related to their operations shall not occupy more than ten (10) percent of the campground.
2. such establishments shall be restricted in their use to occupants of the campground and their guests.
3. such establishments shall present no visible evidence of their commercial character which would attract customers other than occupants of the campground and their guests.

G. no space shall be so located so any part intended for occupancy for sleeping purposes shall be within one hundred (100) feet of the right-of-way line of any road. Setback spaces may be reduced if occupied by plant material and/or a berm. In no case shall the setback be less than 40 feet, and allowed only in instances when screening is an opaque fence or berm. In all cases, plant materials shall be maintained in a setback area. Plant materials shall be of sufficient size when installed to assure immediate and effective screening of the campground from adjacent roads and properties. The plans and specifications for a campground shall include the proposed arrangement of such plantings.

1605. Mobile Home Parks

For Mobile Home Parks:

A. The location of a mobile home park shall front or have public access to an existing paved or blacktopped surfaced county road, existing state trunkline, existing county primary road or the developer shall agree to provide the funds to upgrade or will upgrade an existing county or private road to a county road which is paved, blacktopped, or to a county primary road.

B. The mobile home park shall conform to all applicable regulations of the Manufactured Housing Commission Rules promulgated by the Manufactured Housing Commission under authority of, P.A. 96 of 1987, as amended, (being the Mobile Home Commission Act, M.C.L. 125.2301 *et. seq.)*, and thus mobile homes which locate within said mobile home park shall be exempt from Dwelling Regulations, above.

C. The mobile home park shall provide at least two (2) 'entrances/exits' to a state trunkline or county road.

D. The application for a zoning Special Use Permit for a mobile home park shall contain all the elements and parts which are required by the administrative rules of the Manufactured Housing Commission promulgated pursuant to P.A. 96 of 1987, as amended, (being the Mobile Home Commission Act, M.C.L. 125.2301 *et. seq.*), for an application for license to operate a mobile home park in addition to the Special Use Permit application requirements presented in this Ordinance.

1606. Mining

For mining operation of a duration of more than two (2) years:

A. A map and/or aerial photograph of the property which shall indicate:
   1. Proposed location, aerial extent, and depth of intended mine excavation;
   2. Proposed location of the mine, waste dumps, tailing ponds, sediment basins, stockpiles, structures, roads, railroad lines, utilities or other permanent or temporary facilities used in mining.
   3. Estimated depth to groundwater.

B. A description of the mining and processing equipment to be used;

C. A description of measures to be taken to control noise and vibrations from the operation;

D. A description of measures to be taken to screen the operation from view;

E. Proposed primary travel routes to be used to transport the mined material to processing plants or markets away from the property;

F. A description of the plans for topsoil storage;

G. A reclamation plan which shall include:
   1. A map or plan and description of the proposed reclamation including grading, final slope angles, highwall reduction, benching and terracing of slopes, slope stabilization and vegetation where applicable, and erosion control, and alternative future land uses;
   2. Description of topsoil stripping and conservation during storage and replacement;
   3. Plan and description of anticipated final topography, water impoundments, and artificial lakes on the property;
   4. Description of plans for disposition of surface structures, roads, and related facilities after cessation of mining;
   5. A plan for disposal or treatment of any harmful or toxic materials found in any formations penetrated by the mining operation or produced during the processing of minerals on the affected land, and of chemicals or materials used during the mining or processing operations;
   6. The estimated cost of reclamation for the total project;

H. A statement in writing and adequate evidence to indicate the duration of the operation in years;

I. A timetable of the commencement, duration and cessation of mining operations;

J. All mining permits held by the applicant within the state.

1607. Temporary mining

For mining on a temporary (two (2) or fewer years) basis:

A. As may be required by the Commission, a map and/or aerial photograph of the land with any or all of the information as listed in section 1606, relating to requirements for maps and/or aerial photographs for regular mining Special Use Permits;

B. As may be required by the Commission, any or all of the information listed in section 1606, relating to requirements for information for regular mining Special Use Permits.

1608. Communication Tower Facilities

A. Communication Tower Facilities may be permitted by special use permit pursuant to section 8601 of this Ordinance provided said use:
   1. Shall be located centrally on a contiguous parcel, with a setback of not less than one (1) times the height of the tower measured from the base of said tower to all points on each property line. The setback standard may be reduced by up to fifty (50%) percent, if the construction plan, the tower, and its guying/anchoring systems are certified by a Registered Professional Engineer as being safe from the hazard of falling onto public roads or adjoining properties.
   2. All guy wires/cables and anchors shall meet the zoning setback standards of the district.
   3. No antenna or similar sending/receiving devices appended to the tower, following its approved construction, shall be permitted if it exceeds the engineered design capacity of the tower thereby jeopardizing the tower's structural integrity.

B. The following standards will be required for all Communication Tower Facilities:

1. Wireless communication equipment may be permitted if it is found that there is no reasonable opportunity to be built as a permitted use and complies with section 1073, 1074 of this ordinance. Information must be submitted to show efforts made to screen, co-locate or place such equipment on an existing structure.
2. The proposed height meets applicable FCC and FAA regulations.
3. Towers must be equipped with devices to prevent unauthorized climbing or the base enclosed by a fence to prevent unauthorized access to the tower.
4. All reasonable measures are taken to blend the tower into the landscape, including greenbelt planting and/or screening, painting and/or concealing the tower in a "stealth" design.
5. New towers should be engineered as appropriate for future co-location of at least five (5) additional antennae. Depending on tower height, additional co-located antennae may be required by the Commission. These antennae sites shall be made available at a fair market value to anyone wanting to mount commercial communication equipment. This commitment shall be reflected as a condition in the special use permit for the tower. No new construction will be approved unless it can be demonstrated that space on existing towers is unavailable or unsuitable.
6. Protective fencing and screening may be required to be placed around all guy wire anchor points as appropriate to the site.
7. The proposed height meets applicable FCC and FAA regulations so that the towner does not have lights, or the Planning Commission makes a finding it is more desirable to have a single taller tower to avoid multiple unlit towers.
8. Unlighted towers shall be located at least two (2) miles away from other towers, lighted or unlighted. Lighted towers shall be located at least ten (10) miles apart.. However, in no case shall this standard result in denial of a communication tower facility which prevents the provision of any personal wireless services in a given geographic area..
9. The commission may require insurance that provides insurance for right-of-way related activities pursuant to P.A. 48 of 2002, as amended, being the Metropolitan Extension Telecommunications Rights-of-way Oversight Act (MCL 484.3108(11)).
10. When a communication tower facility(ies) has not been used for a period of ninety (90) days, it shall be considered abandoned. The owner of the facility(ies) shall promptly remove it and the site restored to its original condition by the property owner. The commission may require security pursuant to section 130 and 119 of this Ordinance.

1609. Utility Grid Wind Energy System, On-site Use Wind Energy System over 20 meters high, and Anemometer Towers over 20 meters high.

An Utility Grid Wind Energy System, On-site Use Wind Energy System over 20 meters high, and Anemometer Towers over 20 meters high shall meet the following standards in addition to the general special use standards (section 8601 of this Ordinance):

A. Property Set-Back:
   1. Anemometer Tower setback shall be the greater distance of the following:
      a. The setback from property lines of the respective zoning district;
      b. The setback from the road right-of-way; and
      c. A distance equal to the height of the tower from property lines or from the lease unit boundary, which ever is less.
   2. Utility Grid and On-site Use Wind Energy System setback shall be greater distance the following:
      a. The setback from property lines of the respective zoning district;
      b. The setback from the road right-of-way;
      c. A distance equal to the height of the tower including the top of the blade in its vertical position from property lines or from the lease unit boundary, which ever is less; and
      d. A distance of 2,500 feet from the property line of any parcel which is not receiving compensation for the Utility Grid Wind Energy System or On-site Use Wind Energy System.

3. An Operations and Maintenance Office building, a sub-station, or ancillary equipment shall comply with any property set-back requirement of the respective zoning district. Overhead transmission lines and power poles shall comply with the set-back and placement requirements applicable to public utilities.

B. Sound Pressure Level: The sound pressure level shall not exceed 40 dB(A) measured at the property lines or the lease unit boundary, whichever is farther from the source of the noise. This sound pressure level shall not be exceeded for more than three minutes in any hour of the day. If the ambient sound pressure level exceeds 40 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).

C. Safety: Shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present. All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the wind energy system. A sign shall be posted near the tower or Operations and Maintenance Office building that will contain emergency contact information. Signage placed at the road access shall be used to warn visitors about the potential danger of falling ice. The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.

D. Post-Construction Permits: Construction Codes, Towers, and Interconnection Standards: Shall comply with all applicable state construction and electrical codes and local building permit requirements.

E. Pre-Application Permits:

1. Utility Infrastructure: Shall comply with Federal Aviation Administration (FAA) requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950 as amended, M.C.L. 259.431 *et seq*.), the Michigan Tall Structures Act (Public Act 259 of 1959 as amended, M.C.L. 259.481 *et seq*.), and local jurisdiction airport overlay zone regulations. The minimum FAA lighting standards shall not be exceeded. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA. Utility Grid wind energy systems shall comply with applicable utility, Michigan Public Service Commission, and Federal Energy Regulatory Commission interconnection standards.

2. Environment:

a. The site plan and other documents and drawings shall show mitigation measures to minimize potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities, as identified in the Environmental Analysis.

b. Comply with applicable parts of the Michigan Natural Resources and Environmental Protection Act (Act 451 of 1994, M.C.L. 324.101 *et seq*.) (including but not limited to:

(1) Part 31 Water Resources Protection (M.C.L. 324.3101 *et seq*.),
(2) Part 91 Soil Erosion and Sedimentation Control (M.C.L. 324.9101 *et seq*.) ,
(3) Part 301 Inland Lakes and Streams (M.C.L. 324.30101 *et seq*.),
(4) Part 303 Wetlands (M.C.L. 324.30301 *et seq*.),
(5) Part 323 Shoreland Protection and Management (M.C.L. 324.32301 *et seq*.),
(6) Part 325 Great Lakes Submerged Lands (M.C.L. 324.32501 *et seq*.), and
(7) Part 353 Sand Dunes Protection and Management (M.C.L. 324.35301 *et seq*.))

as shown by having obtained each respective permit with requirements and limitations of those permits reflected on the site plan.

F. Performance Security: Performance Security, pursuant to section 130 of this Ordinance, shall be provided for the applicant making repairs to public roads damaged by the construction of the wind energy system.

G. Utilities: Power lines should be placed underground, when feasible, to prevent avian collisions and electrocutions. All above-ground lines, transformers, or conductors should comply with the Avian Power Line Interaction Committee (APLIC, http://www.aplic.org/) published standards to prevent avian mortality.

H. The following standards apply only to Utility Grid Wind Energy Systems:

1. Visual Impact: Utility Grid wind energy system projects shall use tubular towers and all Utility Grid wind energy systems in a project shall be finished in a single, non-reflective matte finished

color. A project shall be constructed using wind energy systems of similar design, size, operation, and appearance throughout the project. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades. Nacelles may have lettering that exhibits the manufacturer's and/or owner's identification. The applicant shall avoid state or federal scenic areas and significant visual resources listed in the local unit of government's Plan.

2. Avian and Wildlife Impact: Site plan and other documents and drawings shall show mitigation measures to minimize potential impacts on avian and wildlife, as identified in the Avian and Wildlife Impact analysis.
3. Shadow Flicker: Site plan and other documents and drawings shall show mitigation measures to minimize potential impacts from shadow flicker, as identified in the Shadow Flicker Impact Analysis. Utility Grid Wind Energy System or On-site Use Wind Energy System shall be:
   a. A minimum of 5,400 feet or 20 times the rotor diameter, whichever is less, from a structure designed for human occupancy; or
   b. The Utility Grid Wind Energy System or On-site Use Wind Energy System shall be turned off (so the rotor(s) are not moving) during the period of time the structure experiences shadow flicker; or
   c. There is screening (forest, other building(s), topography) which shields the structure from a direct line of sight to the rotors causing shadow flicker.
4. Decommissioning: A planning commission approved decommissioning plan indicating 1) the anticipated life of the project, 2) the estimated decommissioning costs net of salvage value in current dollars, 3) the method of ensuring that funds will be available for decommissioning and restoration, and 4) the anticipated manner in which the project will be decommissioned and the site restored.
5. Complaint Resolution: A planning commission approved process to resolve complaints from nearby residents concerning the construction or operation of the project
6. Electromagnetic Interference: No Utility Grid wind energy system shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system. No Utility Grid wind energy system shall be installed in any location within the line of sight of an existing microwave communications link where operation of the wind energy system is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.

1610. Cottage Industry

For Cottage Industry:

A. The use and associated activity is located on the same property as the business operator's dwelling.
B. The manufacturing or assembly activity shall be accessory to the residential use of the property.
C. The activities and carrying on of the enterprise shall be operated in such a manner that, under normal circumstances, will not create a nuisance.
D. Buildings erected for the business shall be designed to be in keeping with the rural character of the surrounding area
E. One sign for the enterprise shall be allowed. The sign shall not exceed twelve (12) square feet in size and the sign shall not be lighted.
F. The cottage industry shall not involve the
   1. generation of any hazardous waste as defined in Article II Chapter 3 Part 111 of P.A. 451 of 1994, as amended, (being the Hazardous Waste Management part of the Natural Resources and Environmental Protection Act, M.C.L. 324.11101 *et. seq.*), or
      [Annotation: M.C.L. 324.11101 *et. seq.* is formerly P.A. 64 of 1979 (being M.C.L. 299.501 to 299.551, the Hazardous Waste Management Act).]

2. use of materials which are used in such quantity, or are otherwise required, to be registered pursuant to the Code of Federal Regulations, Title 29, Chapter XVII, part 1910(2),

except this provision shall not apply to material purchased retail over the counter for household cleaning, lawn care, operation of a photocopy machine, paint, printing, art and craft supplies or heating fuel.

G. The volume of business is such that there shall not be more than two automobile(s) parked in the vicinity at a time for customers at the Cottage Industry.

H. The enterprise shall employ no more than two full time equivalent employees per year in addition to those who live in the dwelling.

I. Equipment, materials and waste stored outside shall be screened from view with vegetation, berm or fence, so it can not be seen from adjacent property or public right-of-ways.

J. Major Home-based enterprise is listed as a possible special use in the respective district.

1611. Manufacturing, Trucking and Warehousing

For Manufacturing [31-33] and Transportation and Warehousing [48-49]:

A. The use and associated activity is carried on entirely within an enclosed building, and, if there is a yard work area and storage area, it shall be enclosed as specified below. Whenever the Manufacturing [31-33] and Transportation and Warehousing [48-49] property boundary is contiguous to a road, a water body, or another type of land use, then along that property boundary there shall be:

1. a solid wall six (6) feet, or more, high or
2. a berm six (6) feet, or more, high or
3. a buffer area of fifty (50) feet back, or
4. a proportionately adjusted combination of the above.

B. Odor shall not be detectable by normal human senses under normal operational circumstances at a distance of six hundred (600) feet from the manufacturing [31-33] and trucking and warehousing [48-49] establishment.

C. Noise shall not be over 60 decibels at the parcel boundary.

D. A pollution incident prevention plan, if required by state or federal regulation, and fiscal impact study may be required by the Commission to obtain additional information needed to make a determination of compliance with the standards, requirements and purposes of this Ordinance.

E. Upon review of the Special Use Permit application, the Commission may require upgrading of roads from the proposed establishment to the closest road already constructed to adequately service anticipated traffic. Upon mutual agreement between the Commission and applicant, upgrading of road(s) to a more distant road already constructed to adequately service anticipated traffic may be required. The cost of upgrading of roads shall be the responsibility of the applicant unless a cost sharing agreement is mutually agreed to between the applicant, respective legislative body and Wexford County Road Commission.

1612. Junkyards

For Recyclable Material Wholesalers [42193], Motor Vehicle Parks (Used) Wholesalers [421140] and Materials Recovery Facilities [562920] (junk yards):

A. Has a Michigan Sales Tax license;

B. Has records of sales and other transactions which are required by, and whose business falls under the jurisdiction of, P.A. 350 of 1917, as amended, (the Second Hand Junk Dealers Act, being M.C.L. 445.401 *et. seq.*)

C. Shall be designed to comply with one of the following:

1. Shall be set back 300 feet from a road right-of-way or 333 feet from the centerline of a road, whichever is greater.
2. Shall be set back 100 feet from a road right-of-way or 133 feet from the centerline of a road, whichever is greater with a further buffer area to screen it from view from a road and from adjacent parcels by means of an opaque fence, vegetation, earth berm, or another form of screening, or a combination of the above; or
3. Shall be set back 100 feet from a road right-of-way or 133 feet from the centerline of a road,

whichever is greater and shall not be visible from a road or from adjacent parcels.

D. Shall be designed and operated so noise, under normal operational circumstances, shall not be over 60 decibels at the boundary of the parcel and at the nearest road.

E. Shall comply with P.A. 219 of 1966, as amended, (being the Control of Junkyards Adjacent to Highways Act, M.C.L. 252.201 *et. seq.*); P.A. 350 of 1917, as amended, (being the Second Hand Junk Dealers Act, M.C.L. 445.401 *et. seq.*); Article II Chapter 3 Part 115 of P.A. 451 of 1994, as amended, (being the Solid Waste Management part of the Natural Resources and Environmental Protection Act, M.C.L. 324.11501 *et. seq.*) and, if applicable respective participating municipality licensing of junk yards.
[Annotation: M.C.L. 324.11501 *et. seq.* is formerly P.A. 641 of 1978, as amended, (being the Solid Waste Management Act, M.C.L. 299.401 *et. seq.*)]

F. Shall not operate a landfill, as defined in Article II Chapter 3 Part 115 of P.A. 451 of 1994, as amended, (being the Solid Waste Management part of the Natural Resources and Environmental Protection Act, M.C.L. 324.11501 *et. seq.*), as an accessory function to a junkyard.
[Annotation: M.C.L. 324.11501 *et. seq.* is formerly P.A. 641 of 1978, as amended, (being the Solid Waste Management Act, M.C.L. 299.401 *et. seq.*)]

G. Shall be more than 1,000 feet from a school, campground, or park.

1613. Sweetening Plants

For sweetening plants:

A. Sweetening plant shall be isolated from existing residents, commercial, manufacturing establishments; water bodies, wetlands, of a minimum of six hundred (600) feet.

B. Placement of a sweetening plant shall be so that no subdivisions, apartment buildings, residential developments, mobile home parks, or other land uses that result in a dense population; and no residential uses whose occupants are relatively immobile and which are hard to quickly and efficiently evacuate, such as hospitals, nursing homes, residential care facilities, are within two thousand six hundred (2,600) feet.

C. The maximum density of sweetening plants shall not be more than one per square mile section of land. A sweetening plant shall not be within four miles of another sweetening plant and shall be designed to service all oil and gas wells anticipated that are expected to need such service within a two mile radius. If upon documentation by the application that:

1. an existing sweetening plant located within the same section of land or within two miles is being operated at capacity and can not be feasibly expanded,
2. and can not be expanded or modified to accept oil or gas from the applicant's wells,
3. and that the owners of the existing sweetening plant refuse, after reasonable offers and negotiations of terms have been made, to share a sweetening plant to service the applicant's wells, then the Commission may act to waive the density standard given here.

D. The applicant for a sweetening plant shall hold an interest ownership in the parcel of land, or life-time lease for use of the parcel of land, on which the sweetening plant is to be situated.

E. The sweetening plant shall have a buffer area to screen it from view from nearby roads, residents and commercial establishments by vegetation or berm or a combination of both, placed near the property boundary of the parcel of land the sweetening plant is located on so the perimeter road and equipment are within the vegetation/berm and adequate air circulation through the sweetening plant site is provided for. Lights installed to illuminate the site shall be shaded and/or screened by the vegetation berm and/or by apparatus on the light fixture so direct glare of the light is not visible beyond the parcel boundary. The sweetening plant shall comply with all applicable setbacks in this Ordinance. The sweetening plant shall be made secure so pedestrians and unauthorized persons can not gain access to the site.

F. Emissions and/or effluent from the sweetening plant shall meet or exceed all applicable state and federal air pollution, surface and groundwater quality standards. A sweetening plant shall be fitted with a warning siren audible for one mile in all directions on a calm (no wind) day which is triggered to sound when concentrations of hydrogen sulfide exceeds two hundred (200) parts per million within the plant site. The siren shall be periodically tested on a regular basis during the life of the plant. Sulfur, once separated from natural gas, shall not be incinerated. Technology which chemically changes the sulfur to its elemental form (or some form for resale), or more advanced technology approved by the Commission shall be used. All

solid wastes from the site shall be transported by a Michigan-licensed hauler to a licensed Type I or Type II landfill. No brine pits, or other earthen pits shall be allowed as part of the plant, except for in-ground pits utilized for backup emergency purposes. Steel tanks shall be used instead.

G. Odor from the sweetening plant shall not be detectable by normal human senses under normal operational circumstances at a distance of six hundred (600) feet from a sweetening plant.

H. Noise shall not be over 60 decibels at a distance of six hundred (600) feet from a sweetening plant.

I. A Pollution Incident Prevention Plan is filed with the Commission as part of the Special Use Permit application and which has been approved by

1. the respective Fire Chief and
2. is approved by the Wexford County Emergency Services Coordinator and
3. Michigan State Police Fire marshal and
4. DEQ Geological Survey Division
5. DEQ Air Quality Division and
6. DEQ Ground Water Quality Division.

in as much as it deals with fire, evacuation of the community, communications and warnings of incidents, and a mechanism whereby the owner/operator works with the respective Fire Department and the Wexford County Emergency Services Coordinator for periodic updating of the plan. Costs of an evacuation, fire, etc. shall be the responsibility of the owner / operator of the establishment.

J. Upon review of the Special Use Permit application, the Commission may require upgrading of roads from the sweetening plant to the closest road already constructed to adequately service anticipated traffic. Upon mutual agreement between the Commission and applicant, upgrading of roads to a more distant road already constructed to adequately service anticipated traffic may be required. The cost of upgrading of roads shall be the responsibility of the applicant unless a cost sharing agreement is mutually agreed to between the applicant, respective legislative body and Wexford County Road Commission.

K. The application for a sweetening plant shall include information as to the

1. maximum expected life of the operation of the establishment, if such an estimate is possible; and
2. a reclamation plan that includes disassembling the sweetening plant and returning the condition of the land to its original state, or other condition acceptable for future use, when the establishment's useful life has ended; and
3. costs for the reclamation in the year it is anticipated the reclamation would take place.

L. Prior to issuing a sweetening plant Special Use Permit the owner / operator shall deliver to the respective participating municipality:

1. a surety for required improvements, if required, and for costs of reclamation pursuant to Section 9414, and
2. an agreement which provides the Commission the right to inspect the sweetening plant from time to time, and
3. an agreement which obligates the owner / operator to provide the Commission a copy of all pollution incident reports within 10 days of the report being prepared for other agencies.

1614. Sexually Oriented Businesses

For sexually oriented businesses:

A. Purpose. It is recognized that sexually oriented businesses have a deleterious effect upon adjacent areas, causing blight, an increase in crime, a decrease in property values, a chilling effect upon other businesses and residents, and a downgrading of the quality of life in adjacent areas, especially when such uses are concentrated in the same general area. It is considered necessary and in the best interest of the orderly and better development of the community to prohibit the overcrowding of such uses into a particular location and require their dispersal throughout the commercial zone of the territory subject to this Ordinance to thereby minimize their adverse impact to the best extent possible on any other permitted use.

B. Conditions. In order to obtain and retain a special use permit for operation of a sexually oriented business regulated use as defined by this Ordinance, the following conditions must be met, in addition to all other standards set forth herein for special use permits:

1. A special use permit must be acquired through the special use procedures as described in Section 8601.
2. In order to prevent the undesirable concentration of sexually oriented businesses, the regulated uses as specified in the respective zoning district shall not be located within 1,000 feet of any other such regulated uses as defined by this Section, nor within 300 feet of any residentially zoned district or preexisting residential use prior to enactment of the zoning districts, school, daycare center, church or other religious institution, or public park or other public facility, as measured along a line forming the shortest distance between any portion of the respective properties;
3. The regulated uses, as specified in the respective zoning district, shall only operate between the hours of 8 a.m. and 10 p.m.;
4. There shall be a manager on the premises at all times;
5. No one under the age of 18 shall be allowed onto the premises by the on site manager of the regulated use;
6. No product or service for sale or gift, or any picture or other representation thereof, which relates in anyway to "specified sexual activities" or "specified anatomical areas", shall be displayed so as to be visible from the street or exterior of the building of the regulated use;
7. Once a special use permit has been issued for a sexually oriented business, the regulated use shall only be expanded and/or otherwise amended in the manner required by section 8601 *et. seq.* of this Ordinance;
8. A Special Use Permit for a sexually oriented business is subject to the terms and conditions of validity set forth in section 8601 *et. seq.* of this Ordinance.

C. Exceptions to Conditions. The Planning Commission may waive the foregoing spacing requirements if it finds all of the following conditions exist:

1. The proposed use will not be contrary to the public interest or injurious to nearby properties in the proposed location and the spirit and intent of the purpose of the spacing regulations will still be observed;
2. The proposed use will not enhance or promote a deleterious effect upon adjacent areas through causing or encouraging blight, a chilling effect upon other business and residents or a disruption in neighborhood development;
3. The establishment of the proposed regulated use in the area will not be contrary to any program of neighborhood conservation nor interfere with any program of urban renewal;
4. Where all other applicable regulations within the this Ordinance or other pertinent participating municipality ordinances will be observed.

ARTICLE 18: GENERAL ZONING DISTRICT PROVISIONS

1801. Establishment of Districts

The jurisdiction covered by this Ordinance is hereby divided into the following zoning districts as shown on the Official Zoning Map:

A. Special area districts:
   1. Manistee and Pine Rivers Corridor District
      [Annotation: Article 20. Chapter F9 of Master Plan. Color on the zoning map: ■. (Red 0, Green 80, Blue 0)]
   2. Wetland Conservation District
      [Annotation: Article 25. Chapter F9 of Master Plan. Color on the zoning map: ■. (Red 0, Green 128, Blue 255)]

B. Rural, agriculture and forestry districts:
   1. Agriculture-Forest Production District
      [Annotation: Article 30. Chapter F8 of Master Plan. Color on the zoning map: ■. (Red 0, Green 255, Blue 0)]
   2. Forest Conservation District
      [Annotation: Article 36, 32. Chapter F7 and F9 of Master Plan. Color on the zoning map: ■. (Red 0, Green 173, Blue 0)]
   3. Rural Residential District
      [Annotation: Article 37. Chapter F7 of Master Plan. Color on the zoning map: ❑. (Red 255, Green 255, Blue 255 (White))]

C. Residential districts:
   1. R-1 Residential District
      [Annotation: Article 43. Chapter F6 of Master Plan. Color on the zoning map: ■. (Red 255, Green 204, Blue 0)]
   2. R-2 Residential District
      [Annotation: Article 44. Chapter F6 of Master Plan. Color on the zoning map: ■. (Red 255, Green 255, Blue 0)]

D. Commercial districts:
   1. Resort
      [Annotation: Article 51. Chapter F5 of Master Plan. Color on the zoning map: ■. (Red 225, Green 184, Blue 112)]
   2. Commercial District
      [Annotation: Article 55. Chapter F3 of Master Plan. Color on the zoning map: ■. (Red 255, Green 128, Blue 0)]

E. Industrial districts:
   1. (None)
      [Color reserved for the zoning map: ■. (Red 128, Green 0, Blue 0)]

F. Overlay districts:
   1. Lake Mitchell Overlay District
      [Annotation: Article 72. Chapter G2 of Master Plan. Color line on the zoning map: ⊏. (Red 0, Green 0, Blue 80)]
   2. Lake Shoreline Overlay District
      [Annotation: Article 73. Chapter G2 and F9 of Master Plan. Color line on the zoning map: ⊏. (Red 0, Green 90, Blue 80)]
   3. River Overlay District
      [Annotation: Article 74. Chapter G2 and F9 of Master Plan. Color line on the zoning map: ⊏. (Red 0, Green 80, Blue 0)]
   4. Scenic Road Overlay District
      [Annotation: Article 75. Chapter G2 and F9 of Master Plan. Color line on the zoning map: ⊏. (Red 0, Green 0, Blue 0 (Black))]
   5. Wellhead Protection Overlay District
      [Annotation: Article 76. Chapter G2 of Master Plan. Color line on the zoning map: ⊏. (Red 80, Green 0, Blue 80)]]
   6. Airport Overlay District
      [Annotation: Article 78. Chapter J1 of Master Plan. Color line on the zoning map: ⊏. (Red 128, Green 0, Blue 0)]

1802. Industrial Districts

No industrial land use districts are established by this ordinance for the following reasons:

A. No such uses currently exist in the jurisdiction covered by this Ordinance in sufficient number or concentrations to warrant the creation of a separate district;

B. The Master Plan, as amended, documents the existence of industrial zoned areas, which exceed existing industrial land area needs, within the same sphere of economic influence in which the jurisdiction of this Ordinance covers and

C. The Commission intends to comply with the Master Plan, as amended, which proposes industrial areas, which exceed projected industrial land area needs, within the same sphere of economic influence in which the jurisdictional areas of this Ordinance is located.

In accordance with Section 207 of the Zoning Act the Commission and respective municipalities will create such districts when the presence of a demonstrated need for such uses is established.

[Annotation: Various shades of red are reserved on the zoning map to show industrial districts: ■ (Red 128, Green 0, Blue 0)]

1803. Provision for Official Zoning Map

For the purpose of this Ordinance the zoning districts as provided in section 1801 of this Ordinance are bounded and defined as shown on a map entitled "Official Zoning Map of Wexford Joint Planning Commission", a copy of which accompanies this Ordinance and which, with all explanatory matter thereon, is hereby incorporated into and made a part of this Ordinance by reference.

1804. Identification of Official Zoning Map

The Official Zoning Map shall be identified by the signature of the Chair of the Commission, attested by the Secretary of the Commission, and bear the following words: "This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of Wexford Joint Planning Commission and has been adopted by each of the participating municipalities of the Wexford Joint Planning Commission Ordinance and Agreement", together with the effective date of this Ordinance.

1805. Changes to Official Zoning Map

If, in accordance with the procedures of this Ordinance and the Zoning Act a change is made in a zoning district boundary, such change shall be made by, or under the direction of, the Chair of the Commission promptly after the amendment authorizing such change shall have been adopted by each of the participating municipalities and published.

1806. Authority of Zoning Map

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the Commission's office of record and shall be the final authority as to the current zoning status of any land, parcel, lot, district, use, building or structure in the jurisdiction of this Ordinance.

1807. Replacement of Official Zoning Map

In the event the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the Commission may by resolution authorize the transcribing and drawing of a duplicate original Official Zoning Map which shall supersede the prior Official Zoning Map. The duplicate Official Zoning Map may correct drafting or other errors or omissions on the prior Official Zoning Map, but no such correction shall have the effect of amending this Ordinance or the prior Official Zoning Map. The duplicate Official Zoning Map shall be identified by the signature of the Chair of the Commission, attested by the Secretary of the Commission, under the following words:"This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of Wexford Joint Planning Commission duplicated on _____ which replaces and supersedes the Official Zoning Map which was adopted on _____."

1808. Rules of Interpretation

Where uncertainty exists as to the boundaries of zoning districts as shown on the Official Zoning Map, the following rules of interpretation shall apply:

A. A boundary indicated as approximately following the centerline of a highway, road, alley or easement shall be construed as following such line.

B. A boundary indicated as approximately following a recorded parcel line or a property line shall be construed as following such line.

C. A boundary indicated as approximately following the corporate boundary line of a city, village, township, or county shall be construed as following such line.

D. A boundary indicated as following a railroad line shall be construed as being the centerline of the railroad right of way or former railroad right of way.

E. A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of change in a shoreline shall be construed as following the actual shoreline.

F. A boundary indicated as following the centerline of a water body shall be construed as following such centerline.

G. A boundary indicated as parallel to, or an extension of, a feature indicated in corrections A through F above shall be so construed.

H. A distance not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

I. Where a physical or cultural feature existing on the ground is at variance with that shown on the Official Zoning Map, or in any other circumstance not covered by subsections A through H above, or question in interpreting subsections A through H above, the Appeals Board shall interpret the zoning district boundary.

1809. Application of Regulations

The regulations established by this Ordinance within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare and shall be uniform for each class of land or building, dwellings and structures throughout each district.

[MODEL\ZONE10S.ANY]

ARTICLE 20: MANISTEE AND PINE RIVERS CORRIDOR DISTRICT (map color ■)

2001. Purpose

It is the intent of this district

A. to protect the free flowing conditions of the Manistee and Pine Rivers,
B. to preserve the values of a natural river and its valley for present and future generations,
C. to prevent economic and ecological damages,
D. to prevent unwise development patterns,
E. to prevent flood damages due to interference with the natural floodplain,
F. to prevent development of land which is unsuited for Building purposes, and
G. implement the Master Plan,

while at the same time to provide for residential and other permitted uses that complement the natural characteristics of the Manistee and Pine Rivers,

2002. Permitted uses

Only the following uses shall be permitted, by permit as specified in Section 8401 *et seq.* of this Ordinance:

A. Dwelling.
    1. State licensed residential facility for 6 or less persons under 24-hour supervision or care for persons in need of that supervision or care pursuant to M.C.L. 125.216a.
    2. On lake front lots, one boat dock for private use.
B. Accessory Buildings and uses to the above.

2003. Special uses

Only the following uses shall be permitted, by Special use Permit as specified in Section 8601 *et seq.* of this Ordinance:

A. Campgrounds.
B. Parks
C. Cottage Industry for short term rental of dwelling(s).
D. State licensed residential facility for 7 to 12 persons under 24-hour supervision or care for persons in need of that supervision or care pursuant to M.C.L. 125.216a.
E. Scenic & Sightseeing Transportation [487]
F. Recreation Goods Rental [532292]
G. Accessory Buildings and uses to the above, including Wind energy system and other energy systems for generation of power predominantly for use on the parcel where located.

2004. Regulations and Standards

The following regulations shall apply to all Permitted uses and Special uses in this District:

A. Minimum parcel area - No Building, structure or use shall be established on any parcel
    1. less than eighty thousand (80,000) square feet, and
    2. at least eighty thousand (80,000) square feet of the parcel shall be
        a. within four hundred (400) feet of a state natural river, or
        b. The entire parcel shall be more than four hundred (400) feet of a state natural river.
B. Buildable Area - Each parcel shall have a minimum of one half (½) acre Buildable Area per principal unit
C. Minimum parcel Width - parcel width shall be no less than one hundred sixty five (165) feet of river frontage and it shall front on a road.

D. Minimum setback Requirements:

1. The following requirements shall apply to every parcel, Building, structure or use:
   a. Front yard - The minimum front setback shall not be less than fifty (50) feet <10 feet> from the front property line, or eighty three (83) feet from the centerline of the road, whichever is greater.
   b. Side yards - The minimum setback of either side yard shall not be less than thirty (30) feet <10 feet for a 100+ foot wide parcel, 8 feet for less than 100 foot wide parcel>;
   c. Rear yard - The minimum rear setback shall not be less than fifty (50) feet <10 feet> .
   d. Waterfront yard - The minimum setback from the ordinary high water mark (river's edge) shall not be less than
      (1) The minimum setback from the ordinary high water mark (river's edge) shall not be less than 150 feet, and 50 feet from the crest of a bluff, whichever results in a more landward setback. Above 25 feet, the setback may be decreased one foot for every one foot rise in bank height to a minimum distance of 100 feet from the ordinary high water mark.
      (2) On a tributary to the Manistee River and Pine River The minimum setback from the ordinary high water mark (river's edge) shall not be less than 100 feet, and 25 feet from the crest of a bluff, whichever results in a more landward setback. Above 15 feet, the setback may be decreased one foot for every one foot rise in bank height to a minimum distance of 75 feet from the ordinary high water mark
      (3) structures may not be placed or erected on land that are within the 100-year floodplain or within any wetland area.
2. When a proposed non-residential or non-park use is contiguous to any dwelling, the Commission shall require one of the following buffers in addition to the setbacks along the contiguous boundary of the parcel on which the dwelling is located:
   a. a buffer area (setback), or
   b. a berm, or
   c. a solid wall.

E. A vegetation belt and buffer area one hundred (100) feet wide on each side of and parallel to the Manistee River and Pine Rivers and associated wetlands shall be maintained in trees and shrubs or in its natural state, except that (1) dead, diseased, unsafe, or fallen trees, as well as noxious plants may be removed; and (2) a filtered view, in a downstream direction from the dwelling, may be made by trimming mature tree branches and selected removal of immature trees, shrubs, vegetation, to the river's or associated wetland's edge up to 100 feet in width.

F. Buildings and parcel Coverage:

1. No dwellings and principal Buildings shall be constructed in this District which contain less than - eight hundred (800) square feet of Building Area, or is not less than twenty four (24) feet on all building faces.
2. No Accessory Building shall be constructed in this District which contains more than one thousand six hundred (1,600) square feet of Building Area, or is more than twenty (20) feet high.
3. Parcel Coverage:
   a. A parcel which is less than 10,000 square feet in area shall not be more than thirty five (35) percent covered by impervious surface, structures, and Buildings.
   b. A parcel which is between 10,000 and 40,000 square feet in area shall not be more than twenty five (25)percent covered by impervious surface, structures, and Buildings.
   c. A parcel which is more than 40,000 square feet in area shall not be more than twenty (20) percent covered by impervious surface, structures, and Buildings.

G. Outdoor lights shall be shaded so there is not a direct line of sight from the light source into the river valley.

2005. Land Division Options.

New parcels may be created pursuant to P.A. 288 of 1967, as amended, (being the Land Division Act; M.C.L. 560.101 *et seq*.) and as provided in Section 1204.A of this Ordinance.

ARTICLE 25: WETLAND CONSERVATION DISTRICT (map color ■)

2501. Purpose

It is the intent of this district

A. to protect areas of the County which have major amounts of wetlands interspersed among uplands;
B. to recognize those wetlands are ecologically sensitive environments, to retain the wetland's ability to serve as a sediment filter;
C. to retain the wetland's ability to produce plant material and oxygen necessary to support aquatic life, black bear habitat, and other wildlife habitat;
D. to support the process of decay of natural and man-made materials;
E. to retain the wetland's ability to act as a natural pollution filter for water;
F. to protect fish and wildlife habitat, to provide compatible uses for recreation and game management; and
G. implement the Master Plan .

2502. Permitted uses

The following uses are permitted by permit in this district pursuant to Section 8401 *et seq.* of this Ordinance:

A. dwelling.
    1. State licensed residential facility for 6 or less persons under 24-hour supervision or care for persons in need of that supervision or care pursuant to M.C.L. 125.216a.
    2. On lake front lots, one boat dock for private use.
    3. Accessory Buildings and uses to the above.
B. Water and wetland habitat-dependent game rearing operations.
C. Federal, state and municipal game areas.
D. Forestry and Logging [113]
E. Fishing, Hunting & Trapping [114]
F. Accessory Buildings and uses to the above, including Wind energy system and other energy systems for generation of power predominantly for use on the parcel where located.

2503. Special uses

The following special uses are permitted by a Special use Permit, as specified in Section 8601 *et seq.* of this Ordinance:

A. parks
B. Boat launching ramps
C. Nature Parks & Other Similar Institutions [71219]
D. Scenic & Sightseeing Transportation [487]
E. Accessory Buildings and uses to the above, including Wind energy system and other energy systems for generation of power predominantly for use on the parcel where located.

2504. Regulations and Standards

The following regulations shall apply to all Permitted uses and Special uses in this District:

A. Minimum parcel area - No Building, structure or use shall be established on any parcel less than one (1) acre.
B. Buildable Area - Each parcel shall have a minimum of 15,000 square foot Buildable Area per principal unit.
C. Minimum parcel Width - parcel width shall be no less than one hundred sixty five (165) feet and it shall front on a public road.
D. Minimum setback Requirements:

1. The following requirements shall apply to every parcel, Building, structure or use:
   a. Front yard - The minimum front setback shall not be less than fifty (50) feet <10 feet> from the front property line, or eighty three (83) feet from the centerline of the road, whichever is greater.
   b. Side yards - The minimum setback of either side yard shall not be less than thirty (30) feet;
   c. Rear yard - The minimum rear setback shall not be less than fifty (50) feet.
   d. Waterfront yard: See Section 1011 of this Ordinance.
2. When a proposed non-residential or non-park use is adjacent to any dwelling, the Commission shall require one of the following buffers in addition to the setbacks along the contiguous boundary of the parcel on which the dwelling is located:
   a. a buffer area (setback), or
   b. a berm, or
   c. a solid wall.

E. No dwellings and principal Buildings shall be constructed in this District which contain less than eight hundred (800) square feet of Building Area, and is not less than fourteen (14) feet on all building faces.

F. No Accessory Building shall be constructed in this District which contains more than two thousand (2,000) square feet of Building Area, or is more than twenty (20) feet high.

2505. Land Division Options.

New parcels may be created pursuant to P.A. 288 of 1967, as amended, (being the Land Division Act; M.C.L. 560.101 *et seq*.) and as provided in Section 1204.A of this Ordinance.

[MODEL\ZONE20S.ANY]

ARTICLE 30: AGRICULTURAL-FOREST PRODUCTION DISTRICT (map color ■)

3001. Purpose:

It is the intent of this district

A. to preserve large areas of agricultural lands for production of food, fiber, and other agricultural products, for open space and forestry purposes,
B. to prevent spot development within these areas,
C. to prevent the need to construct or upgrade roads,
D. to encourage landowners to retain large acreage parcels of land for cost effective Farm management purposes, while at the same time providing for limited residential use of land along existing public roads,
E. to provide an agricultural based industry, and
F. to implement the Master Plan.

It is further the intent that condominiums of land, subdivisions, and other forms of intense development does not take place in this district. Splitting parcels, up to the number allowed as "divisions" pursuant to the P.A. 288 of 1967, as amended, (being the Land Division Act; M.C.L. 560.101 *et seq.*), is intended to take place in this district subject to parcel size requirements designed to minimize loss of large parcels usable for agriculture or forestry purposes.

This zoning district is to be a sending zone for purposes of transfer of development rights and non-contiguous open space clustering. Residential, commercial and industrial zoning districts would be receiving zones.

When a Farm is no longer viable for agriculture purposes, a more intense development may be proposed. In those instances it is the intent to handle these situations as a zoning amendment and an amendment to the Master Plan. This will be done by a finding by the Commission that the Farm(s) on the land in question is no longer viable for agriculture purposes, and the reasons for the land being included in this zoning district (analysis of soils that identified those areas specially well suited for agricultural and forest production purposes, existence of substantial agricultural land use or forest cover, existing investment in agriculture and forestry, not located in the proximity to non-Farm development, the average size of existing parcels and the minimum acreage needed for economical Farming and forestry operations) no longer exist in sufficient number or combination for future viable agricultural and forest production purposes.

3002. Permitted uses:

Only the following uses shall be permitted, by permit as specified in Section 8401 of this Ordinance:

A. Agriculture, including, but not limited to the following accessory uses (as part of the Farm operation):
    1. dwelling, duplexes, and apartment buildings for owners, operators and employees of the Farm.
        a. State licensed residential facility for 6 or less persons under 24-hour supervision or care for persons in need of that supervision or care pursuant to M.C.L. 125.216a.
        b. On water front lots, one boat dock for private use.
        c. Accessory Buildings and uses to the above.
    2. Agricultural-tourism and forest-tourism, EXCEPT:
        a. All other Amusement and recreation Industries [71399] (e.g., shooting clubs, paint ball game shooting areas, shooting preserves)
    3. Temporary mining [21]
    4. Wind Energy System
    5. Nursery & Garden Centers [44422]
    6. Agricultural-related businesses including but not limited to valued added processing, wholesale operations.
B. Dwellings, duplexes
    1. State licensed residential facility for 6 or less persons under 24-hour supervision or care for

persons in need of that supervision or care pursuant to M.C.L. 125.216a.

2. On water front lots, one boat dock for private use.

C. Anemometer Tower

D. Communication Tower Facilities on existing towers or structures

E. Accessory Buildings and uses to the above, including Wind energy system and other energy systems for generation of power predominantly for use on the parcel where located.

3003. Special uses:

Only the following uses shall be permitted, by Special use Permit as specified in 8601 of this Ordinance:

A. Home business

B. Tower park

C. Riding Stable.

D. Cottage industry

E. Utility Grid Wind Energy System

F. Communication tower facilities including new antenna towers

G. Mining [21]

H. Water Supply & Irrigation Systems [22131]

I. Animal Slaughtering & Processing [3116] which is not larger than 2,000 square feet in area.

J. Fruit and Vegetable Preserving and Specialty Food Manufacturing [3114]

K. Sawmills [321113]

L. Dairy Products Whsle [42243] (when not a part of a Farm)

M. Poultry & Poultry Product Whsle [42244] (when not a part of a Farm)

N. Fish & Seafood Whsle [42246] (when not a part of a Farm)

O. Meat & Meat Product Whsle [42247] (when not a part of a Farm)

P. Fresh Fruit & Vegetable Whsle [42248] (when not a part of a Farm)

Q. Farm Products Raw Material Whsle [4225] (when not a part of a Farm)

R. Nursery & Garden Centers [44422] (when not a part of a Farm)

S. Fruit and Vegetable Markets [44523] and other Farm-based retail operations (when not a part of a Farm)

T. Refrigerated Warehousing and Storage [49312].

U. Farm Product Warehousing and Storage [49313].

V. Nature Parks & Other Similar Institutions [71219]

W. Golf Courses & Country Clubs [71391]

X. All other Amusement and recreation Industries [71399] (e.g., shooting clubs, paint ball game shooting areas, shooting preserves)

Y. RV Parks & campgrounds [721211]

Z. Planned Unit Development

AA. Accessory Buildings and uses to the above, including Wind energy system and other energy systems for generation of power predominantly for use on the parcel where located.

3004. Permitted use Regulations and Standards

The following regulations shall apply to all Permitted uses and Special uses in this District:

A. Minimum parcel area

1. For Agriculture, Forestry and Fishing & Hunting [11] (all forms and types of Farming/agriculture) - No Building, structure or use shall be established on any parcel less than one (1) acre (43,560) square feet).

2. For all other permitted and special uses in this district - No Building, structure or use shall be established on any parcel which is:

a. less than forty acres or the equivalent, or

b. Less than one (1) acre (43,560 square feet) nor on any parcel more than two (2) acres (87,120 square feet), (to encourage clustering, retaining larger parcel size for agriculture,

and resource management) or

c. less than the size of a parcel of record on the effective date of this ordinance.

B. Buildable Area - Each parcel shall have a minimum of one half (½) acre of buildable area per principal unit.

C. Minimum parcel Width - parcel width shall be no less than one hundred sixty five (165) feet and it shall front on a road.

D. Minimum setback Requirements:

1. The following requirements shall apply to every parcel, Building, structure or use:

a. Front yard - The minimum front setback shall not be less than fifty (50) feet from the front property line, or eighty three (83) feet from the centerline of the road, whichever is greater.

b. Side yard - The minimum side setback shall not be less than thirty (30) feet.

c. Rear yard - The minimum rear setback shall not be less than fifty (50) feet.

d. Waterfront yard: See Section 1011 of this Ordinance.

e. wetland setback: The minimum wetland setback shall not be less than fifty (50) feet or as required by Section 1011 of this Ordinance, whichever is greater.

E. Buildings and parcel Coverage:

1. No dwellings and principal Buildings shall be constructed in this District which contain less than - eight hundred (800) square feet of Building Area, and is not less than fourteen (14) feet on all building faces.

3005. Special use and Conditional use Regulations and Standards

The following regulations shall apply to all Permitted uses and Special uses in this District:

A. No more than four (4) parcels are split from the original parcel of record which exists on the effective date of this ordinance.

B. The location of the parcels shall be located in those areas which are considered by the Soil and Water Conservation District to be less valued areas of the original parcel of record which exists on the effective date of this amendment for purposes of Agriculture, Forestry, Fishing and Hunting [11].

3006. Land Division Options.

New parcels may be created pursuant to P.A. 288 of 1967, as amended, (being the Land Division Act; M.C.L. 560.101 *et seq*.) and as provided in Section 1204.A of this Ordinance.

ARTICLE 36: FOREST CONSERVATION DISTRICT (map color ■)

3601. Purpose

It is the intent of this district, among others, as follows:

A. To conserve areas containing unique and sensitive natural features such as steep slopes, flood plains and wetlands, by setting them aside from development;

B. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for new development;

C. To reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes;

D. To provide for a diversity of parcel sizes, Building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences, so that the community's population diversity may be maintained;

E. Preserve large areas of forest for recreation and forestry purposes, to prevent spot development within these areas,

F. To prevent the need to construct or upgrade roads,

G. To encourage landowners to retain large acreage parcels of land for cost effective forest management purposes,

H. To preserve certain special and unique areas of the Master Plan;

I. To preserve the special and unique environment of large blocks of undeveloped land

J. Providing for limited residential use of land along existing public roads,

K. To provide a natural resource for forestry industry, recreation, and compatibility with land management programs of the United States Forest Service;

L. To conserve a variety of aesthetically and environmentally sensitive resource lands including provisions for reasonable incentives to create a network of conservation land for the benefit of present and future residents;

M. To implement the adopted land use, transportation, and community policies as identified in the Master Plan;

N. To provide for the conservation and maintenance of open land within the County to achieve the above mentioned goals and for the active or passive recreational use by residents;

O. To provide multiple options for landowners in order to minimize impacts on environmental resources (sensitive land such as wetlands, flood plains, and steep slopes) and disturbance of other natural or cultural features;

P. To provide standards reflecting the varying circumstances and interests of individual landowners, and the individual characteristics of their properties;

Q. To conserve scenic views and elements of Wexford County's rural character, and to minimize perceived density, by minimizing views of new development from existing roads and bodies of water; and

R. To be a zoning district which is a sending zone for purposes of transfer of development rights and non-contiguous open space clustering. Residential, commercial and industrial zoning districts would be receiving zones.

3602. Permitted uses

Only the following uses shall be permitted, as specified in Section 8401 of this Ordinance:

A. Dwelling.

1. State licensed residential facility for 6 or less persons under 24-hour supervision or care for persons in need of that supervision or care pursuant to M.C.L. 125.216a.
2. On lake front lots, one boat dock for private use.

B. Parks and outdoor recreation
C. Conservation and natural areas.
D. Forest preserves.
E. Agriculture, including, but not limited to the following accessory uses:
   1. dwellings, duplexes, and apartment buildings for owners, operators and employees of a Farm.
      a. State licensed residential facility for 6 or less persons under 24-hour supervision or care for persons in need of that supervision or care pursuant to M.C.L. 125.216a.
      b. On lake front lots, one boat dock for private use.
      c. Accessory Buildings to the dwelling.
   2. Agricultural-tourism and forest-tourism, EXCEPT:
      a. Hunting and Trapping [1142]
      b. All other Amusement and recreation Industries [71399] (e.g., shooting clubs, paint ball game shooting areas, shooting preserves)
   3. Fruit and Vegetable Markets [44523] and other Farm-based retail operations.
   4. Agricultural-related businesses including but not limited to valued added processing, agri-tourism, wholesale operations.
F. Communication tower facilities on existing towers or structures
G. Accessory Buildings and uses to the above, including Wind energy system and other energy systems for generation of power predominantly for use on the parcel where located.

3603. Special uses

Only the following uses shall be permitted, by Special use Permit, as specified in Section 8601 of this Ordinance:
A. Campgrounds.
B. Game refuges.
C. Riding Stable.
D. Cottage industry
E. Cottage Industry for short term rental of dwelling(s).
F. Communication tower facilities including new antenna towers
G. Hunting and Trapping [1142]
H. Agricultural & Forestry Support Activities [115]
I. Mining [21]
J. Utilities [22]
K. Wood Products Manufacturing [321]
L. Nature Parks & Other Similar Institutions [71219]
M. Accessory Buildings and uses to the above, including Wind energy system and other energy systems for generation of power predominantly for use on the parcel where located.

3604. Regulations and Standards

The following regulations shall apply to all Permitted uses and Special uses in this District:
A. Minimum parcel area -
   1. No Building, structure or use shall be established on any parcel less than twenty (20) acres except as provided for as part of an open space development.
   2. The maximum parcel depth to width ratio shall be 4 to 1.
   3. Conservation Lands (Section 1204.A.2.b of this Ordinance) shall be exempt from the 4 to 1 maximum parcel depth to width ratio.
B. Buildable Area - Each parcel shall have a minimum of one acre of buildable area per principal unit.
C. Minimum parcel Width - parcel width shall be no less than one hundred sixty five (165) feet and it shall front on a road.
D. Minimum setback Requirements:
   1. The following requirements shall apply to every parcel, Building, structure or use:
      a. Front yard - The minimum front setback shall not be less than fifty (50) feet <10 feet>

from the front property line, or eighty three (83) feet from the centerline of the road, whichever is greater.

b. Side yards - The minimum setback of either side yard shall not be less than thirty (30) feet;

c. Rear yard - The minimum rear setback shall not be less than fifty (50) feet.

d. Waterfront yard: The minimum waterfront setback shall not be less than one hundred (100) feet or as required by Section 1011 of this Ordinance, whichever is greater.

e. wetland setback: The minimum wetland setback shall not be less than fifty (50) feet or as required by Section 1011 of this Ordinance, whichever is greater.

2. When a proposed non-residential or non-park use is contiguous to any dwelling, the Commission shall require one of the following buffers in addition to the setbacks along the contiguous boundary of the parcel on which the dwelling is located:

a. a buffer area (setback), or

b. a berm, or

c. a solid wall.

E. Buildings and parcel Coverage:

1. No dwellings and principal Buildings shall be constructed in this District which contain less than - eight hundred (800) square feet of Building Area, and is not less than twelve (12) feet on all building faces.

3605. Land Division Options.

New parcels may be created pursuant to P.A. 288 of 1967, as amended, (being the Land Division Act; M.C.L. 560.101 *et seq*.) and as provided in Section 1204.A of this Ordinance.

ARTICLE 37: RURAL RESIDENTIAL DISTRICT (map color ❑))

3701. Purpose

It is the intent of this district:

A. To provide for neighborhoods of a rural character with a mix of forestry practices, agricultural practices, residential uses, resort-residential uses of a same or similar kind or nature, and

B. To implement Master Plan;

while at the same time discouraging retail, manufacturing, wholesale, service businesses, etc. and other major institutional or community services.

3702. Permitted uses

Only the following uses shall be permitted, by permit, as specified in Section 8401 of this Ordinance:

A. Dwelling.
   1. Agriculture-Like in areas of this district where right to farm act and GAAMPs do provide for local jurisdiction for crops, community garden, market garden, bees, poultry (chickens), small farm animal (rabbit), aquiculture, farm market.
   2. State licensed residential facility for 6 or less persons under 24-hour supervision or care for persons in need of that supervision or care pursuant to M.C.L. 125.216a.
   3. On lake front lots, one boat dock for private use.
   4. Wind energy system

B. Duplex

C. Parks.

D. Agriculture-Like in areas of this district where right to farm act and GAAMPs do provide for local jurisdiction for crops, community garden, market garden, bees, poultry (chickens), small farm animal (rabbit), aquiculture, farm market.
   1. Wind energy system

E. Riding Stable.

F. Agriculture, including but not limited to the following accessory uses:
   1. dwellings, duplexes, and apartment buildings for owners, operators and employees of a Farm.
   2. Fresh Fruits and Vegetable Wholesalers [42248].
   3. Fruit and Vegetable Markets [44523].
   4. Refrigerated Warehousing and Storage [49312].
   5. Farm Product Warehousing and Storage [49313].
   6. Wind energy system

G. Water Supply & Irrigation Systems [22131]

H. Farm Product Warehousing and Storage [49313].

I. Nursery & Garden Centers [44422]

J. Communication tower facilities on existing towers or structures

K. Fire Protection [92216]

L. Accessory Buildings and uses to the above, including Wind energy system and other energy systems for generation of power predominantly for use on the parcel where located.

3703. Special uses

Only the following uses shall be permitted, by Special use Permit, as specified in Section 8601 of this Ordinance:

A. Sweetening plants.

B. Cottage industry

C. Cottage Industry for short term rental of dwelling(s).
D. Parks (including launch ramps).
E. Utility grid wind energy system
F. Communication tower facilities including new antenna towers
G. Temporary outdoor Arts, Entertainment, and Recreation [71]
H. Forestry and Logging enterprise [113]
I. Agricultural & Forestry Support Activities [115].
J. Mining [21].
K. Utilities [22].
L. Fruit and Vegetable Preserving & Specialty Food Manufacturing [3114].
M. Animal Slaughtering & Processing [3116] which is not larger than 2,000 square feet in area.
N. Fruit and Vegetable Preserving and Specialty Food Manufacturing [3114]
O. Sawmills [321113]
P. Groceries and Related Products Wholesalers [4224].
Q. Dairy Products Whsle [42243]
R. Poultry & Poultry Product Whsle [42244]
S. Fish & Seafood Whsle [42246]
T. Meat & Meat Product Whsle [42247]
U. Fresh Fruit & Vegetable Whsle [42248]
V. Farm Products Raw Material Whsle [4225]
W. Flower/Nursery Stock/Florists' Supplies Whsle [42293]
X. Nursery & Garden Centers [44422]
Y. Convenience Stores [44512]
Z. Fruit and Vegetable Markets [44523].
AA. Refrigerated Warehousing and Storage [49312].
BB. Farm Product Warehousing and Storage [49313].
CC. Waste Management & Remediation Services [562].
DD. Elementary & Secondary Schools [6111]
EE. Homes for the Elderly [623312] which are less than 3,000 square feet of interior floor area
FF. Child Day Care Services [6244] which are less than 3,000 square feet of interior floor area
GG. Spectator Sports [7112]
HH. Golf Courses & Country Clubs [71391]
II. Skiing Facilities [71392]
JJ. Marinas [713930]
KK. Fitness & Recreational Sports Centers [71394].
LL. RV Parks & Campgrounds [721211]
MM. Cemeteries & Crematories [81222]
NN. Pet Care (except Veterinary) Services [812910].
OO. Religious Organizations [8131]
PP. Planned Unit Development
QQ. Accessory Buildings and uses to the above, including Wind energy system and other energy systems for generation of power predominantly for use on the parcel where located.

3704. Regulations and Standards

The following regulations shall apply to all Permitted uses and Special uses in this District:

A. Minimum parcel area - No Building, structure or use shall be established on any parcel less than forty three thousand five hundred sixty (43,560) square feet except as provided for as part of an open space development or a planned unit development.
B. Buildable Area - Each parcel shall have a minimum of 20,000 square foot Buildable Area per principal unit.
C. Minimum parcel Width - parcel width shall be no less than one hundred sixty five (165) feet and it shall front on a road or private road.

D. Minimum setback Requirements:

1. The following requirements shall apply to every parcel, Building, structure or use:

a. Front yard - The minimum front setback shall not be less than fifty (50) feet <10 feet> from the front property line, or eighty three (83) feet from the centerline of the road, whichever is greater.

b. Side yards - The minimum setback of either side yard shall not be less than thirty (30) feet;

c. Rear yard - The minimum rear setback shall not be less than fifty (50) feet.

d. Waterfront yard: See Section 1011 of this Ordinance.

e. wetland setback: The minimum wetland setback shall not be less than fifty (50) feet or as required by Section 1011 of this Ordinance, whichever is greater.

E. No Accessory building on five (5) acres or less, shall be larger than four thousand (4,000) square feet (except farm buildings).

F. Buildings and parcel Coverage:

1. No dwellings and principal Buildings shall be constructed in this District which contain less than - eight hundred (800) square feet of Building Area, or is not less than fourteen (14) feet on all building faces.

2. No Accessory Building shall be constructed in this District on a parcel which is less than five (5) acres which contain more than four thousand (4,000) square feet of Building Area, or is more than thirty (30) feet high. This does not apply to Farm Buildings on a Farm or any Building on five (5) or more acres.

3705. Land Division Options.

New parcels may be created pursuant to P.A. 288 of 1967, as amended, (being the Land Division Act; M.C.L. 560.101 *et seq*.) and as provided in Section 1204.A of this Ordinance.

[MODEL\ZONE30S.ANY]

ARTICLE 43: R-1 RESIDENTIAL DISTRICT (map color ■)

4301. Purpose

It is the intent of this district to provide for medium sized parcel neighborhoods without public water or sewer services in certain parts of the County, to promote a compatible arrangement of land uses for homes, to keep neighborhoods relatively quiet and free from detrimental uses and to implement the Master Plan, as amended.

4302. Permitted uses

Only the following uses shall be permitted, by permit, as specified in Section 8401 *et seq.* of this Ordinance:

A. dwelling and duplexes.
   1. Agriculture-Like in areas of this district where right to farm act and GAAMPs do provide for local jurisdiction for crops, community garden, market garden, bees, poultry (chickens), small farm animal (rabbit), aquiculture, farm market.
   2. State licensed residential facility for 6 or less persons under 24-hour supervision or care for persons in need of that supervision or care pursuant to M.C.L. 125.216a.
   3. On lake front lots, one boat dock for private use
B. Accessory Buildings and uses to the above.

4303. Special uses

Only the following uses shall be permitted, by Special use Permit, as specified in Section 8601 *et seq.* of this Ordinance:

A. Apartment buildings
B. parks
C. Agriculture-Like in areas of this district where right to farm act and GAAMPs do provide for local jurisdiction for crops, community garden, market garden, bees, poultry (chickens), small farm animal (rabbit), aquiculture, farm market.
D. Cottage Industry for short term rental of dwelling(s).
E. Mobile home park [45393]
F. Elementary & Secondary Schools [6111]
G. Child Day Care Services [6244]
H. Religious organizations [8131]
I. Fire Protection [92216]
J. Planned Unit Development
K. Accessory Buildings and uses to the above.

4304. Regulations and Standards

The following regulations shall apply to all Permitted uses and Special uses in this District:

A. Minimum parcel area - No Building, structure or use shall be established on any parcel less than fifteen thousand (15,000) square feet, and a duplex or an apartment building shall not be established on any parcel less than nine thousand (9,000) square feet per each housing unit on the ground floor, or a total of fifteen thousand (15,000) square feet, which ever is greater. Minimum parcel areas, here, do not apply as provided for as part of an open space development or a planned unit development.
B. Buildable Area - Each parcel shall have a minimum of 15,000 square foot Buildable Area per principal unit or nine thousand (9,000) square feet per each housing unit on the ground floor, whichever is greater.
C. Minimum parcel Width - parcel width shall be no less than one hundred (100) feet and it shall front on a

road.

D. Minimum setback Requirements:

1. The following requirements shall apply to every parcel, Building, structure or use:

a. Front yard -

(1) The minimum front setback shall not be less than forty (40) feet from the front property line, or seventy three (73) feet from the centerline of the road, whichever is greater.

(2) If the road right-of-way is less than sixty six (66) feet wide, then the setback shall be forty (40) feet or forty (40) feet plus half the road right-of-way width, whichever is greater.

(3) If the parcel is nonconforming, the front yard setback shall be the average setback of the existing dwellings on adjacent parcels on each side, or twenty (25) feet, whichever is greater

b. Side yards - The minimum setback of either side yard shall not be less than fifteen (15) feet. If a nonconforming parcel width is:

(1) 85 to 100 feet wide the setback shall be 15 feet,

(2) 65 to 84 feet wide the setback shall be 12 feet,

(3) 50 to 64 feet wide the setback shall be 10 feet;

c. Rear yard -

(1) The minimum rear setback shall not be less than twenty five (25) feet.

(2) If the parcel is nonconforming, the rear yard setback shall be the average setback of the existing dwellings on adjacent parcels on each side, or fifteen (15) feet, whichever is greater.

d. Waterfront yard: See Section 1011 of this Ordinance.

e. wetland setback: The minimum wetland setback shall not be less than fifty (50) feet or as required by Section 1011 of this Ordinance, whichever is greater.

2. When a proposed non-residential or non-park use is contiguous to any dwelling, the Commission shall require one of the following buffers in addition to the setbacks along the contiguous boundary of the parcel on which the dwelling is located:

a. a buffer area (setback), or

b. a berm, or

c. a solid wall.

E. Buildings and parcel Coverage:

1. No dwellings and principal Buildings shall be constructed in this District which contain less than - eight hundred (800) square feet of Building Area, ~~or~~ and is not less than twenty (20) feet on all building faces.

2. No Accessory Building shall be constructed in this District which contain more than one thousand (1,000) square feet or the size of the principal dwelling, which ever is greater. An Accessory Building shall not be more than seventeen (17) feet from average grade to the side eave. An Accessory Building shall be built at the same time, or after, the principal structure.

3. A parcel shall not be more than thirty three (33) percent covered by impervious surface, structures, and Buildings.

4305. Land Division Options.

New parcels may be created pursuant to P.A. 288 of 1967, as amended, (being the Land Division Act; M.C.L. 560.101 *et seq.*) and as provided in Section 1204.A of this Ordinance.

ARTICLE 46: R-2 RESIDENTIAL DISTRICT (map color ■)

4601. Purpose

It is the intent of this district to provide for medium, or smaller, parcel neighborhoods with public water or sewer or cluster on-site sewage systems in certain parts of the County, to promote a compatible arrangement of land uses for homes, to keep neighborhoods relatively quiet and free from detrimental uses and to implement the Master Plan. It is also the intent to extend the boundary of this district concurrent with the extension of public sewer, or approval of cluster on-site sewage systems.

4602. Permitted uses

Only the following uses shall be permitted, by permit, as specified in Section 8401 *et seq.* of this Ordinance:

A. dwelling and duplex.
   1. Agriculture-Like in areas of this district where right to farm act and GAAMPs do provide for local jurisdiction for crops, community garden, market garden, bees, poultry (chickens), small farm animal (rabbit), aquiculture, farm market.
   2. State licensed residential facility for 6 or less persons under 24-hour supervision or care for persons in need of that supervision or care pursuant to M.C.L. 125.216a.
   3. On lake front lots, one boat dock for private use.

B. Accessory Buildings and uses to the above, including Wind energy system and other energy systems for generation of power predominantly for use on the parcel where located.

4603. Special uses

Only the following uses shall be permitted, by Special use Permit, as specified in Section 8601 *et seq.* of this Ordinance:

A. parks
B. apartment buildings
C. Agriculture-Like in areas of this district where right to farm act and GAAMPs do provide for local jurisdiction for crops, community garden, market garden, bees, poultry (chickens), small farm animal (rabbit), aquiculture, farm market.
D. Cottage Industry for short term rental of dwelling(s).
E. Mobile home park [45393]
F. Elementary & secondary schools [6111]
G. Child Day Care Services [6244]
H. Marinas [713930]
I. Religious organizations [8131].
J. Fire Protection [92216]
K. Planned Unit Development
L. Accessory Buildings and uses to the above, including Wind energy system and other energy systems for generation of power predominantly for use on the parcel where located.

4604. Regulations and Standards

The following regulations shall apply to all Permitted uses and Special uses in this District:

A. Minimum parcel area - No Building, structure or use shall be established on any parcel less than seven thousand (7,000) square feet, and an apartment building shall not be established on any parcel less than five

thousand (5,000) square feet per each housing unit on the ground floor, or a total of seven thousand (7,000) square feet, which ever is greater. Minimum parcel areas, here, do not apply as provided for as part of an open space development or a planned unit development.

B. Buildable Area - Each parcel shall have a minimum of 7,500 square foot Buildable Area per principal unit or five thousand (5,000) square feet per each housing unit on the ground floor, whichever is greater.

C. Minimum parcel Width - parcel width shall be no less than seventy five (75) feet and it shall front on a road.

D. Minimum setback Requirements:

1. The following requirements shall apply to every parcel, Building, structure or use:
   a. Front yard -
      (1) The minimum front setback shall not be less than forty (20) feet from the front property line, or fifty three (53) feet from the centerline of the road, whichever is greater.
      (2) If the parcel is nonconforming, the front yard setback shall be the average setback of the existing dwellings on adjacent parcels on each side, or twenty (25) feet, whichever is greater.
   b. Side yards - The minimum setback of either side yard shall not be less than fifteen (15) feet. If a nonconforming parcel width is:
      (1) 85 to 100 feet wide the setback shall be 15 feet,
      (2) 65 to 84 feet wide the setback shall be 12 feet,
      (3) 50 to 64 feet wide the setback shall be 10 feet;
   c. Rear yard -
      (1) The minimum rear setback shall not be less than twenty five (25) feet.
      (2) If the parcel is nonconforming due to its size, the rear yard setback shall be the average setback of the existing dwellings on adjacent parcels on each side, or fifteen (15) feet, whichever is greater.
   d. Waterfront yard: See Section 1011 of this Ordinance.
   e. wetland setback: The minimum wetland setback shall not be less than fifty (50) feet or as required by Section 1011 of this Ordinance, whichever is greater.
2. When a proposed non-residential or non-park use is contiguous to any dwelling, the Commission shall require one of the following buffers in addition to the setbacks along the contiguous boundary of the parcel on which the dwelling is located:
   a. a buffer area (setback), or
   b. a berm, or
   c. a solid wall.

E. Buildings and parcel Coverage:

1. No dwellings and principal Buildings shall be constructed in this District which contain less than - eight hundred (800) square feet of Building Area, and is not less than twenty (20) feet on all building faces.
2. No Accessory Building shall be constructed in this District which contains more than one thousand (1,000) square feet or the size of the principal dwelling, which ever is greater. An Accessory Building shall not be more than seventeen (17) feet from average grade to the side eave. An Accessory Building shall be built at the same time, or after, the principal structure.
3. A parcel shall not be more than thirty three (33) percent covered by impervious surface, structures, and Buildings.

4605. Land Division Options.

New parcels may be created pursuant to P.A. 288 of 1967, as amended, (being the Land Division Act; M.C.L. 560.101 *et seq.*) and as provided in Section 1204.A of this Ordinance.

[MODEL\ZONE40S.ANY]

ARTICLE 51: RESORT DISTRICT (map color ■)

5101. Purpose

This district is designed to provide mixed land uses and clustered development in conjunction with larger development already existing, such as Caberfae Peaks or golf courses, or proposed similar developments.

5102. Permitted uses

Only the following uses shall be permitted, by permit, as specified in Section 8401 *et seq.* of this Ordinance:

A. dwelling, duplexes, apartment buildings.
   1. Agriculture-Like in areas of this district where right to farm act and GAAMPs do provide for local jurisdiction for crops, community garden, market garden, bees, poultry (chickens), small farm animal (rabbit), aquiculture, farm market.
   2. State licensed residential facility for 6 or less persons under 24-hour supervision or care for persons in need of that supervision or care pursuant to M.C.L. 125.216a.
   3. On lake front lots, one boat dock for private use.
B. parks.
C. Communication tower facilities on existing towers or structures
D. Scenic & Sightseeing Transportation [487]
E. Golf Courses & Country Clubs [71391]
F. Accessory Buildings and uses to the above, including Wind energy system and other energy systems for generation of power predominantly for use on the parcel where located.

5103. Special uses

Only the following uses shall be permitted, by Special use Permit, as specified in Section 8601 *et seq.* of this Ordinance:

A. Cottage Industry for short term rental of dwelling(s).
B. Retail Trade [44-45] EXCEPT:
   1. Those which are less than 3,000 square feet of interior floor area.
C. Day care services [6244]
D. Arts, Entertainment & Recreation [71] EXCEPT
   1. Golf Courses & Country Clubs [71391]
   2. Racetracks [711212]
   3. Gambling industries [7132]
   4. Amusement parks and arcades [7131]
E. Accommodation & Food Services [72]EXCEPT:
   1. Drive-through style establishments.
F. Personal & Laundry Services [812].
G. Planned Unit Development (which may include also include recreation areas, riding and/or boarding stables, convention facilities, major resort complexes, multiple Family dwellings, retail establishments).
H. Accessory Buildings and uses to the above.
I. Off-premises sign.

5104. Regulations and Standards

The following regulations shall apply to all Permitted uses and Special uses in this District:

A. Minimum parcel area - No Building, structure or use shall be established on any parcel less than forty three thousand five hundred sixty (43,560) square feet. No dwelling, duplex, or apartment building shall be established on any parcel less than twenty five thousand (25,000) square feet per each dwelling, duplex, or each four units in an apartment building, or a total of forty three thousand five hundred sixty (43,560) square feet, which ever is greater. The minimum parcel area applies except as provided for as part of an open space development or a planned unit development.

B. Buildable Area - Each parcel shall have a minimum of 15,000 square foot Buildable Area per principal unit, dwelling, duplex, or two ground floor units in an apartment building.

C. Minimum parcel Width - parcel width shall be no less than one hundred sixty five (165) feet and it shall front on a road.

D. Minimum setback Requirements:

1. The following requirements shall apply to every parcel, Building, structure or use:
   a. Front yard - The minimum front setback shall not be less than twenty (20) feet from the front property line, or one fifty three (53) feet from the centerline of the road, whichever is greater.
   b. Side yards - The minimum setback of either side yard shall not be less than twenty (20) feet;
   c. Rear yard - The minimum rear setback shall not be less than sixty (60) feet.
   d. Waterfront yard: See Section 1011 of this Ordinance.
   e. wetland setback: The minimum wetland setback shall not be less than fifty (50) feet or as required by Section 1011 of this Ordinance, whichever is greater.
2. When a proposed non-residential or non-park use is contiguous to any dwelling, the Commission shall require one of the following buffers in addition to the setbacks along the contiguous boundary of the parcel on which the dwelling is located:
   a. a buffer area (setback), or
   b. a berm, or
   c. a solid wall.

E. Buildings and parcel Coverage:

1. No dwellings and principal Buildings shall be constructed in this District which contains less than - eight hundred (800) square feet of Building Area, or is not less than twenty (20) feet on all building faces.
2. No Accessory Building shall be constructed in this District which contain more than one thousand (1,000) square feet. An Accessory Building shall not be more than twenty (20) feet from average grade to the side eave. An Accessory Building shall be built at the same time, or after, the principal structure. If part of a Planned Unit Development the size and height of an Accessory Building may be larger, as specified in the Planned Unit Development permit.

5105. Land Division Options.

New parcels shall be created as provided in Section 1204.A of this Ordinance.

ARTICLE 55: COMMERCIAL DISTRICT (map color ■)

5501. Purpose

It is the intent of this district to provide for commercial establishments and development in certain parts of the County consistent with the provisions of the Master Plan.

5502. Permitted uses

Only the following uses shall be permitted, by permit, as specified in Section 8401 *et seq.* of this Ordinance:

A. Agriculture-Like in areas of this district where right to farm act and GAAMPs do provide for local jurisdiction for crops, community garden, market garden, bees, poultry (chickens), small farm animal (rabbit), aquiculture, farm market.
B. Dwelling, duplex, apartment building on second and above floors.
C. Communication tower facilities on existing towers or structures
D. Wholesale Trade [42]
E. Retail Trade [44-45] EXCEPT:
    1. Motor Vehicle & Parts Dealers [441]
    2. Gasoline Stations [447]
F. Postal Service [491]
G. Information [51] EXCEPT:
    1. Communication tower facilities [5133]
H. Finance and Insurance [52]
I. Real Estate and Rental and Leasing [53]
J. Professional and Technical Services [54]
K. Management of Companies and Enterprises [55]
L. Education Services [61]
M. Health Care and Social Assistance [62]
N. Arts, Entertainment, & Recreation [71]
O. Accommodation and Food Services [72] EXCEPT
    1. Drive-through style establishments.
P. Other Services, Except Public Administration [81] EXCEPT
    1. Repair and maintenance [811] of any size.
Q. Religious organizations [8131].
R. Public Administration [92]
S. Accessory Buildings and uses to the above, including Wind energy system and other energy systems for generation of power predominantly for use on the parcel where located.
T. Off-premises sign

5503. Special uses

Only the following uses shall be permitted, by Special use Permit, as specified in Section 8601 *et seq.* of this Ordinance:

A. Communication tower facilities including new antenna towers
B. Motor Vehicle & Parts Dealers [441]
C. Gasoline Stations [447]
D. Transportation and Warehousing [48-49]
E. Administrative and Waste Services [56]

F. Accommodation and Food Services [72] which are Drive-through style establishments.
G. Repair and maintenance [811]
H. Sexually oriented businesses include any of the following or any combination of the following:
   1. adult book and/or video storer:
   2. adult motion picture theater
   3. adult mini motion picture theater
   4. adult paraphernalia/novelty store
   5. massage parlor
   6. host or hostess establishments
   7. open dance hall
   8. Adult live entertainment establishments regardless of whether alcoholic beverages may or may not be served
   9. adult panorams
I. Planned Unit Development
J. Accessory Buildings and uses to the above, including Wind energy system and other energy systems for generation of power predominantly for use on the parcel where located.

5504. Regulations and Standards

The following regulations shall apply to all Permitted uses and Special uses in this District:

A. Minimum parcel area - No Building, structure or use shall be established on any parcel less than twenty five thousand (20,000) square feet.
B. Buildable Area - Each parcel shall have a minimum of 15,000 square foot Buildable Area per principal unit.
C. Minimum parcel Width - parcel width shall be no less than one hundred fifty (150) feet and it shall front on a road.
D. Minimum setback Requirements:
   1. The following requirements shall apply to every parcel, Building, structure or use:
      a. Front yard - The minimum front setback shall not be less than five (5) feet and not more than thirty (30) feet from the front property line, or not less than thirty eight 38 feet and not more than sixty three (63) feet from the centerline of the road, whichever is greater .
      b. Side yards - The minimum setback of either side yard shall not be less than twenty (20) feet or shall be designed to share a common wall with the adjacent commercial establishment;
      c. Rear yard - The minimum rear setback shall not be less than sixty (60) feet. Parking may be located in the rear yard within the setback area..
      d. Waterfront yard: See Section 1011 of this Ordinance.
      e. wetland setback: The minimum wetland setback shall not be less than fifty (50) feet or as required by Section 1011 of this Ordinance, whichever is greater.
   2. When a proposed non-residential or non-park use is contiguous to any dwelling, the Commission shall require one of the following buffers in addition to the setbacks along the contiguous boundary of the parcel on which the dwelling is located:
      a. a buffer area (setback), or
      b. a berm, or
      c. a solid wall.
E. Buildings and parcel Coverage:
   1. No Accessory Building shall be constructed in this District which is more than thirty five (35) feet high.
F. Landscaping and access road: shall comply with Sections ? and 1062 of this Ordinance.

5505. Land Division Options.

New parcels may be created pursuant to P.A. 288 of 1967, as amended, (being the Land Division Act; M.C.L. 560.101 *et seq*.) and as provided in Section 1204.A of this Ordinance.

ARTICLE 72: LAKE MITCHELL OVERLAY DISTRICT (map color □)

7201. Purpose

The Lake Mitchell Overlay Zone is established for the purpose of achieving specific land management objectives and to avert specific land use problems as identified in the Lake Mitchell Environmental Development Plan. It is, furthermore, the purpose of this Overlay Zone to:

A. Protect wetlands and other sensitive environmental areas important to the maintenance of Lake Mitchell's water quality.

B. To protect existing and natural drainage ways, waterways, and drains running into the lake.

C. Control development in areas where unhealthful conditions and damages to structures, Buildings and land uses may occur.

D. Protect the property investments and value of present and future property owners.

7202. Area Affected

The area affected by this Lake Mitchell Overlay Zone, and Land Units within this overlay zone are depicted on the official zoning map pursuant to Section 1801 of this Ordinance. Within this area, underlying zoning districts establish the pattern of permitted uses of land and Buildings. In addition, special "Environmental Framework Maps" and "Development Plan Maps" are adopted for use in determining the density limitations and environmental factors affecting the use of land and Buildings within this zone in accord with the standards of this Ordinance.

7203. Map Interpretation

In determining the environmental constraints and maximum allowable density permitted on a parcel within the affected area, the Commission or Administrator as provided in this article, shall review a proposed site plan in comparison with the information depicted on the Environmental Framework Map and the Development Map. Where the site plan is consistent with the standard of this Ordinance and with the Environmental Framework Map and the Development Map, it shall be approved. However, where a property owner alleges the environmental information or a boundary line depicted on these maps is inaccurate and the owner (or his representative) provides competent information such as soil borings, or topographic studies which show that the line as depicted is in error and/or that the land has different characteristics, and after a site inspection and other analysis, a majority of the Commission agrees, then the land shall be classified into the appropriate category(ies) based on the new information. The map shall be so corrected and future decisions concerning compliance with Ordinance requirements shall be based upon this corrected classification.

7204. Property uses

The use of all land and premises, and the erection and use of all Buildings and structures within the area affected by this Overlay Zone shall comply with all regulations of this zone in addition to all other regulations of this Ordinance. Whenever other provisions of this Ordinance conflict with provisions of this article, the provisions of this article shall apply. Whenever other provisions of this Ordinance and provisions of this article have similar regulations but which differ in how restrictive they are, the more restrictive of the two shall apply.

7205. Zoning Permit Procedures

Zoning permits or special land use permits within this Overlay Zone shall be granted as described below:

A. One-Family dwelling, two-Family dwelling, and related accessory structures which are wholly located within A, B-1 or B-2 Land Unit and if served by sanitary sewer shall be allowed by zoning permit from the Administrator upon determination that the proposed use fully complies with other applicable Sections of

this Ordinance.

B. In areas located within Land Unit C affected by this Overlay Zone, all uses of land, Buildings and structures permitted by Land use Permit in the underlying district pursuant to Section 8401 *et seq*. of this Ordinance, or special uses by a Special use Permit in the underlying district pursuant to Section 8601 *et seq*. of this Ordinance.

7206. Regulations and Standards

A. Compliance with each of the following minimum standards are required to ensure the development and use of land consistent with the purposes of the Lake Mitchell Environmental Development Plan and the Lake Mitchell Overlay Zone. In applying the following standards, the Commission may impose setback, yard, and other requirements which allow for reasonable use of property while protecting and maintaining the integrity and quality of the area. Property owners are encouraged to consult with the Administrator and to review pages 37-50 of the Lake Mitchell Environmental Development Plan prior to submitting a site plan and zoning permit application.

B. Upon the submittal of a site plan pursuant to Section 9401 of this Ordinance, and upon inspection of the proposed site, the Commission shall make findings whether or not the proposed location of land uses and structure comply with the following standards, in addition to applicable standards found elsewhere in this Ordinance:

1. Minimum setback, yard, and parcel width requirements of the underlying district shall be met. If the Zoning Board of Appeals considers any reduction of these setbacks the following conditions must be met:
   a. insure the protection of sensitive environmental areas;
   b. under no circumstances result in a structure or use of land being located closer than fifteen (15) feet from a side yard parcel line, closer than thirty-five (35) feet from the parcel line from which principal access is derived or no less than twenty-five (25) feet from a rear parcel line.

   All structures and uses of land shall also be set back from any water body as required in Section 1011 of this ordinance. Non conforming lots of record shall be granted some relief from this provision pursuant to Section ? of this Ordinance.
2. structures and land uses shall be located on that part of any parcel which has the highest elevation.
3. The development and use of any land within the Lake Mitchell Overlay Zone shall further;
   a. be undertaken in a manner which insures retention of existing vegetation, especially trees wherever possible;
   b. provide a vegetation belt of no less than twenty (20) feet of natural vegetation between the structure or use and any stream, drainage way, or wetland and maintained according to the recommendations for woody plant material (Lakeland Report Number 12 on Greenbelts; *A Circle of Protection For Inland Lakes* prepared by University of Michigan Biological Station, Douglas Lake, February 1979);
   c. prior to any new construction, reconstruction, remodeling or other construction activity including paved parking, drives, sidewalks or any impervious surface, the parcel owner be required to obtain a grading and drainage permit showing that drainage as a result of the construction activity, is not directed toward or directly into Lake Mitchell or onto adjacent properties. Rain gutters, directing runoff into french drains, collection crocks, reverse crowns for paved driveways, or other acceptable methods of controlling run-off from the Building site shall be used. The most effective method of control to be determined by the Wexford County Soil Erosion and Sedimentation Control Officer.
   d. In the case of demolition and reconstruction, allowance for the vesting of parcel coverage for impervious areas erected or constructed prior to the effective date of the zoning ordinance, provided, however, reconstruction begins and is completed within 30 months of demolition.

e. Ground level platform decks that have open ground underneath and are not covered by a roof structure, and that have sufficient spacing between deck material to allow water to penetrate the deck surface, shall not be counted as a impervious surface**.**

f. Cantilevered decks or other cantilevered construction one (1) story or more in height, with or without a roof structure, shall not be counted as impervious surface provided, however, there are no ground support poles and the area below the structure is maintained in open ground allowing for the absorption of run-off.

g. Comply with all other state and local laws and statues.

7207. Standards to Fill in the Lake Mitchell Overlay Zone

All filling within the Lake Mitchell Overlay Zone shall be conducted in a manner consistent with the Lake Mitchell Environmental Development Plan and with the following standards:

A. Any filling shall be the minimum necessary to allow reasonable use of property. Fill should not be used when an alternate site of higher elevation is available on a parcel.

B. Filling shall not occur in drainage ways or encroach on wetland areas or streams.

C. Filling or dredging shall not take place in this zone without the owner securing a permit or waiver of permit from the State pursuant to Part 301of P.A. 451 of 1994, as amended (being the inland lakes and streams part of the Michigan Natural Resources and Environmental Protection Act, M.C.L. 324.30101 et seq.), and may also require a permit under Part 303 of P.A. 451 of 1994, as amended (being the wetland protection part of the Michigan Natural Resources and Environmental Protection Act, M.C.L. 324.30301 et seq.).

D. Fill material shall be devoid of pollutants, shall not be made up of impervious materials (clays), but shall include soils of sufficient quality to sustain natural vegetation.

E. Fill shall not be placed where it will have a significant and harmful effect on existing vegetation.

7208. Specific Land Unit Regulations and Standards

All permitted and special land uses and structures within the A, B-1, B-2, and C Land Units shall comply with the requirements of this article and shall further comply with the following standards.

A. Land Unit A.- These units can generally be developed without problems but because of their proximity to sensitive environmental areas, special care must be given to insure the proper location and type of development which occurs in these areas. The following standard shall be complied with:

1. Impervious areas including Building, paved parking, and drives shall not exceed 33 percent of the total site.

B. Land Unit B-1- These units may have environmental limitations which can create serious problems for development. Problems of unstable soils, poor drainage, shallow water tables, and even occasional flooding may be experienced in this Land Unit. The following shall be complied with:

1. Impervious areas including Building, paved parking, and drives shall not exceed 33 percent of the total site.

2. Basements should not be constructed unless it can be demonstrated that the depth of the water table is consistently greater than six (6) feet from grade.

C. Land Unit B-2.- These units have environmental limitations which can cause problems for development. The B-2 Land units have moderate development potential with some poorly drained soils and other problems, although the site limitations are less severe than those of the B-1 Land Unit. The following shall be complied with:

1. Impervious areas including Building, paved parking, and drives shall not exceed 33 percent of the total site.

D. Land Unit C.- these units have severe environmental limitations which make them unsuitable for development unless extensive site modifications occur. The following conditions and standards shall be complied with.

1. Development in the C Land unit shall occur in areas where sanitary sewer service is available, where road frontage and access is available, and where organic soils are no deeper than six (6) to

eight (8) feet on the site.

2. Construction activities shall be planned to minimize the disruption of a site. structures and Buildings shall further be planned and located on areas of a site with the shallowest organic soils. No basements shall be permitted.
3. Impervious areas within Land Unit C shall be the minimal necessary and shall not exceed 20 percent of the total site. Parking areas, driveways, and other on-site service areas shall not be surfaced with impervious materials. Special attention should be given to stabilize erosion prone areas during and after construction.

7209. parcel area-Density Requirements

A. The following maximum densities shall be observed unless an individual parcel existing prior to the effective date of this Overlay Zone lacks sufficient size to merit structural development in accord with these standards, in which case the parcel area and width requirements of the underlying district shall govern, except that where two or more contiguous lots are under the same ownership, they shall be considered together as a single parcel in whatever combination is necessary to meet minimum area/density requirements of this Overlay Zone.

B. The land units in the chart below refer to those depicted on the Development Plan Map. Where a single parcel falls in more than one land unit, that land unit occupying the majority of the Buildable Area of the parcel which meets all other development standards, shall be the land unit classification used for density purposes.

	In Critical Land Management Unit (Units 1,3,5, & 8)	Not in Critical Land Management Unit
Land Unit-A		
With Sewer Service	12,100 sq. ft./principal use	8,712 sq. ft./principal use
Without Sewer Service	21,780 sq. ft./principal use	21,780 sq. ft./principal use
Land Units-B-1 & B-2		
With Sewer Service	18,939 sq. ft./principal use	12,100 sq. ft./principal use
Without Sewer Service	43,560 sq. ft./principal use	43,560 sq. ft./principal use
Land Unit-C		
With Sewer Service	87,120 sq. ft./principal use	21,780 sq. ft./principal use
Without Sewer Service	no development	no development

7210. Site Plan Application Requirements

In addition to the site plan requirements in Section 9402 of this Ordinance, the following information shall be submitted for consideration of a special approval use within the area affected by the Overlay Zone.

A. Existing vegetative cover and any area where trees and shrubs are proposed to be removed or added. All trees over three (3) inches in diameter at breast height must be individually shown and indicated as either

coniferous or deciduous.

B. Elevation and slope of the property where each parcel line intersects the legal lake level, and three points equidistant along each side of the lot.

C. Location of: wetlands and drainage ways, rock outcrops, and other natural features which create either a constraint or opportunity for development consistent with the purpose of this Overlay Zone and the natural characteristics of the site.

D. Copies of all other required federal, state and local permits (except for a building permit.)

E. Other information the Administrator may require due to special conditions of the site or the complexity of the proposed development, that will insure the intent and requirements of this Ordinance are fulfilled.

ARTICLE 73: LAKE SHORELINE OVERLAY DISTRICT (map color □)

7301. Purpose

This overlay district is to protect the shoreline of lakes in the County from erosion, prevention of runoff-laden pollutants, preservation of plant materials necessary for removal of nutrients prior to their entering the lake or surface water, preserving the aesthetics of a vegetated shoreline and providing for shoreline maintenance, while at the same time providing for development and continued use of developed parcels of land uses which are in compliance with the Master Plan.

7302. Area Affected

This overlay district shall include all lands between the waters edge, and the parcel line farthest landward from the waterfront of riparian or littoral parcels.

7303. Permitted uses

All uses permitted by right or potential special uses listed in the respective underlying district shall be permitted except as otherwise noted here:

A. Privately-owned riparian or littoral land on which exists uses which are private or public parks, recreational facilities, clubs, which provide access to the water's edge for a select membership, property owners' association, property owners within an area development (but not a private business or where users reside or are lodged on the same riparian or littoral parcel of land on which the facilities are located) shall be prohibited.

B. Private docks and launch ramps for use by more than the resident of the privately-owned riparian or littoral parcel on which the dock and launch ramps are located (but not a marina permitted under this Ordinance) shall be prohibited.

C. Not more than one dock per 100 feet of waterfront, or parcel of record in existence at the time of the adoption of this Ordinance, shall be allowed. A maximum of two water craft shall be moored to any one dock. If one dock is shared by two adjacent riparian land owners then a maximum of four water craft shall be moored to any one dock.

Whenever other provisions of this Ordinance conflict with provisions of this article, the provisions of this article shall apply. Whenever other provisions of this Ordinance and provisions of this article have similar regulations but which differ in how restrictive they are, the more restrictive of the two shall apply.

7304. Regulations

No Building or structure shall hereafter be erected unless the following regulations are complied with and maintained in connection with such Building, structure or enlargement. An Existing Building or structure on a nonconforming parcel shall not be enlarged unless the addition meets all setbacks applicable to the parcel.

A. Minimum parcel width: One hundred (100) feet at the shoreline, not including any new or additional shoreline that may be created after adoption of this Section of this Ordinance as a result of making a channel, bay, estuary, seawall, or similar modification of the shoreline or the width of the parcel of record on the effective date of this ordinance, whichever is narrower.

B. Notwithstanding anything to the contrary contained in this Ordinance, the following provisions shall apply:

1. When one has a manicured lawn within twenty one (21) feet of a water body, then within twenty (20) feet of the edge of water bodies trees with a trunk diameter of three inches at breast height, or greater, shall not be removed unless dead or chronically diseased, but may be pruned for a filtered view. Other trees or woody plant material of a smaller diameter at breast height, shall not be removed, except to prune or clear a filtered view of the water body. It shall be the landowner's

responsibility to maintain (and establish if necessary at the time new construction occurs) this vegetation belt in a healthy state. Where possible restoration of a twenty (20) foot wide natural woody vegetation or woody vegetation planted which is similar to that specified by *Greenbelts: A Circle of Protection for Inland Lakes* (Lakeland Report Number 12, University of Michigan Biological Station; by Marian Secrest and Jan Nagel)

2. No Building or structure shall be built, located or constructed within a 100 year floodplain of any water bodies in any land use district as may be determined by the DEQ or DNR, whichever is applicable, unless constructed according to the P.A. 230 of 1972, as amended, (being the State Construction Code Act, M.C.L. 125.1501 *et seq.)*, as it applies to construction in floodplains, consistent with criteria set forth in Section 1910 of National Flood Insurance Program Regulations, promulgated under the National Flood Insurance Act of 1968.

C. setback for all structures, driveways for motor vehicles, and solid waste disposal: Fifty (50) feet landward (measured horizontally) from the waterfront line, or two (2) feet above the surface (measured vertically) of the water body, whichever is farther landward. Nutrient sources (such as, but not limited to; drain field, manure storage, fertilizer storage, fertilized areas) shall be set back one hundred (100) feet landward (measured horizontally) from the waterfront line, or two (2) feet above the surface (measured vertically) of the water body, whichever is farther landward. (See Section ? of this Ordinance.)

D. parcel Coverage:

1. A parcel which is less than 10,000 square feet in area shall not be more than thirty five (35) percent covered by impervious surface, structures, and Buildings.
2. A parcel which is between 10,000 and 40,000 square feet in area shall not be more than twenty five (25) percent covered by impervious surface, structures, and Buildings.
3. A parcel which is more than 40,000 square feet in area shall not be more than twenty (20) percent covered by impervious surface, structures, and Buildings.

ARTICLE 74: RIVER OVERLAY DISTRICT (map color □)

7401. Purpose

This overlay district is to protect the shoreline of certain rivers in the County from erosion, prevention of runoff-laden pollutants, preservation of plant materials necessary for removal of nutrients prior to their entering the lake or surface water, preserving the aesthetics of a vegetated shoreline and providing for shoreline maintenance, while at the same time providing for development and continued use of developed parcels of land uses which are in compliance with the Master Plan.

7402. Area Affected

A. Additional regulation for the protection of certain rivers also apply. Those rivers are:
   1. Adams Creek
   2. Slagle Creek
   3. Arquilla Creek
   4. Dowling Creek
   5. Poplar Creek
   6. Hoxey Creek
   7. Manton (Cedar) Creek

7403. Regulations for Certain Rivers

A. Those regulations are
   1. All uses permitted by right or potential special uses listed in the respective underlying district shall be permitted if those uses are also listed here:
      a. dwelling
      b. Rental cabins and cottage industry for short term rental of dwelling(s).
      c. campgrounds
      d. Agriculture
   2. Minimum parcel width: One hundred fifty (150) feet at the shoreline, not including any new or additional shoreline that may be created after adoption of this Section of this Ordinance as a result of making a channel, bay, estuary, seawall, or similar modification of the shoreline or the width of the parcel of record on the effective date of this ordinance, whichever is narrower.
   3. Minimum parcel size for riparian and littoral parcels: Forty thousand (40,000) square feet, or the size of the parcel of record on the effective date of this ordinance, whichever is smaller.
   4. Parcel Coverage:
      a. A parcel which is between 12,000 and 40,000 square feet in area shall not be more than thirty three (33) percent covered by impervious surface, structures, and Buildings.
      b. A parcel which is more than 40,000 square feet in area shall not be more than twenty (20) percent covered by impervious surface, structures, and Buildings.
   5. Notwithstanding anything to the contrary contained in this Ordinance, the following provisions shall apply:
      a. When one has a manicured lawn within fifty one (51) feet of a water body, then within fifty (50) feet of the edge of water bodies trees with a trunk diameter of three inches at breast height, or greater, shall not be removed unless dead or chronically diseased, but may be pruned for a filtered view. Other trees or woody plant material of a smaller diameter at breast height, shall not be removed, except to prune or clear a filtered view of the water body. It shall be the landowner's responsibility to maintain (and establish if

necessary at the time new construction occurs) this vegetation belt in a healthy state. Where possible restoration of a fifty (50) foot wide natural woody vegetation or woody vegetation planted which is similar to that specified by *Greenbelts: A Circle of Protection for Inland Lakes* (Lakeland Report Number 12, University of Michigan Biological Station; by Marian Secrest and Jan Nagel).

b. No Building or structure shall be built, located or constructed within a 100 year floodplain of any water bodies in any land use district as may be determined by the DEQ or DNR, whichever is applicable, unless constructed according to the P.A. 230 of 1972, as amended, (being the State Construction Code Act, M.C.L. 125.1501 *et seq.)*, as it applies to construction in floodplains, consistent with criteria set forth in Section 1910 of National Flood Insurance Program Regulations, promulgated under the National Flood Insurance Act of 1968.

6. setback for all structures, driveways for motor vehicles, and solid waste disposal (See section ? of this Ordinance):

a. One hundred (100) feet landward (measured horizontally) from the waterfront line, or two (2) feet above the surface (measured vertically) of the water body, whichever is farther landward. The setback for Building (including attached patios, porches, decks) may be decreased one (1) foot for every one (1) foot rise in bank height to a minimum setback of seventy five (75) feet.

b. Nutrient sources (such as, but not limited to; drain field, manure storage, fertilizer storage, fertilized areas) shall be set back one hundred (100) feet landward (measured horizontally) from the waterfront line, or two (2) feet above the surface (measured vertically) of the water body, whichever is farther landward.

c. Twenty five (25) feet from the crest of the bluff along the river.

7. Docks shall not exceed four (4) feet in width, twelve (12) feet in length, and no more than four (4) feet of the dock may extend over the surface of the water or more than twenty (20) percent of the width of the river, whichever is less.

ARTICLE 75: SCENIC ROAD OVERLAY DISTRICT (map color □)

7501. Purpose

This overlay district is to protect certain designated roadways which have scenic values, preserving the aesthetics of a vegetated and pastoral views, while at the same time providing for development and continued use of developed parcels of land uses which are in compliance with the Master Plan.

7502. Area Affected

This overlay district shall include all land on both sides of certain roads in the County between the following two lines:

A. Two lines which are parallel to, and one hundred eight (108) feet back from the centerline of the road right-of-way for the following roads:
   1. Caberfae Highway (M-55); from S. 25 Road to M-37.
   2. W. 40 Road; from S. 13 Road (Caberfae) to S. 23 Road.
   3. S. 17 Road and N. 17 Road; from W. 30 Road (Coates Highway) to W. 24 Road.
   4. W. 38 Road; from S. 15½ Road to S. 11¼ (Caberfae) Road.
   5. S. 49 Road (Seeney Road); from E. 48 (McBain) Road to E. 52 (County Line) Road.
   6. E. 22 Road and E. 20½ Road; from N. 33 Road to N. 39 Road.
   7. S. 13 Road and S. 11¼ Road (Caberfae Road, Old State Highway), W. 48 (Hoxeyville) Road to W. 32 Road.
   8. N. 17 Road and W. 10 Road and N. 19 Road; from W. 6 Road to ¾ mile north of W. 14 Road.
   9. Historic Coates Highway (W. 30 Road, S. 23 Road, W. 34 Road, E. 34 Road (Boon Road); from N. 1 Road to S. 49 Road (Seeney Road).

7503. Regulations

A. The parcel size, width, and Buildable Area shall be the same as the underlying zoning district.

B. Minimum Front yard setback Requirement:
   1. Front yard - The minimum front setback for all structures shall not be less than seventy five (75) feet from the front property line, or one hundred eight (108) feet from the centerline of the road, whichever is greater.

C. In an area from the road to a point forty (40) feet from the front property line, or seventy three (73) feet from the centerline of the road, whichever is greater, shall be maintained in its natural tree and shrub condition. Vegetation may be pruned for a filtered view, removed for a driveway. Nothing in this Section shall prevent a road agency from removing vegetation for road maintenance and safety.

ARTICLE 76: WELLHEAD PROTECTION OVERLAY DISTRICT (map color □)

7601. Area Affected

Every parcel of land which lies in whole or in part within Wellhead Protection Overlay Zone as depicted on the Official Zoning Map around public Type I water wells is subject to the regulations of this Overlay Zone to the extent the parcel lies within this Overlay Zone. The regulations of this Overlay Zone are in addition to any regulations in the underlying Land use Districts, however these regulations supersede all conflicting regulations of the underlying Land use District to the extent of such conflict but no further.

This article is reserved for future use when wellhead areas are delineated.

ARTICLE 78: AIRPORT OVERLAY DISTRICT (map color □)

7801. Area Affected

Every parcel of land which lies in whole or in part within the Airport Overlay Zone as depicted on the Zoning Map for this Ordinance; described and shown in the Wexford County Airport Zoning Ordinance (number 23) of May 16, 1990, as amended; and *Wexford County Airport; Airport Zoning Manual*; and is subject to the regulations of this Overlay Zone to the extent the parcel lies within this Overlay Zone . The regulations of this Overlay Zone are in addition to any regulations in the underlying Land use Districts, however these regulations supersede all conflicting regulations of the underlying Land use District to the extent of such conflict but no further. Further to comply with the *Wexford County Airport; Airport Zoning Manual* of May 1987, as amended.

7802. Height Limitations

An airport hazard area is established, which area or zone consists of all the lands within the jurisdiction of this Ordinance lying beneath the airport approach, transitional, 149 feet horizontal, conical and 500 feet horizontal surfaces, said land being located within a circle having a radius extending horizontally 10 miles from the established center of the usable landing areas of the airport, known as the airport reference point.

A. No person shall erect any Building or structure or permit any tree to grow to a height in excess of 25 feet within 6.32 miles of an airport.

B. No person shall erect any Building or structure or permit any tree to grow to a height in excess of 100 feet from 6.32 to 10 miles of an airport.

7803. Unlawful Land uses

It shall be unlawful to create a use on any parcel within the area affected by this Overlay Zone to any use which would:

A. Create electrical interference with radio communication between the Airport and aircraft or create interference with navigational aids employed by the Airport or by aircraft;

B. Make it difficult for aircraft pilots to distinguish between Airport lights and other lights or result in glare in the eyes of aircraft pilots using the Airport;

C. Create air pollution, mist, smog, smoke, fog, or other haze in such amounts as to impair the visibility of aircraft pilots in the use of the Airport;

D. Would endanger the landing, taking off or maneuvering of aircraft;

E. Be noise sensitive to aircraft noise while taxing, taking off and/or landing.

F. Attract birds.

G. Would otherwise create an Airport hazard.

7804. Conflicting Federal or State Regulations

The regulations of this Overlay Zone are not intended to conflict with existing or future approach protection regulations promulgated by the United States, the State of Michigan or any agencies thereof, including but not limited to the giving of notice of any construction, erection or alteration of a Building or structure that:

A. Would be more than 149 feet above ground level at its site;

B. Would be above an imaginary surface extending outward and upwards at 100:1 slope within 20,000 feet of the nearest point of an Airport runway more than 3,200 feet in length; or

C. Would be above an imaginary surface extending outward and upward at 50:1 slope within 10,000 feet of the nearest point of an Airport runway less than 3,200 feet in length.

ARTICLE 80: NONCONFORMITIES

8001. Purpose

Within the districts established by this Ordinance or by amendments thereto, there exist buildings and structures and uses of parcels, lots, buildings, and structures which were lawful before this Ordinance was adopted or amended and which would be prohibited, regulated or restricted under this Ordinance. These uses are referred to as nonconformities and may continue until they are discontinued or abandoned but are not encouraged to survive. These nonconformities are declared by this Ordinance to be incompatible with the buildings and structures and uses of parcels, lots, buildings and structures permitted by this Ordinance. It is further the intent of this Ordinance that such nonconformities shall not be enlarged, expanded or extended except as provided herein nor be used as grounds for adding other buildings and structures and uses of parcels, lots, buildings and structures prohibited elsewhere in the same district.

8002. Regulations

A. No nonconforming use of land shall be moved, relocated or expanded in whole or in part to any other portion of the land, or to a different parcel, not occupied by the nonconforming use on the effective date of adoption or amendment of this Ordinance, except as provided in this section and Sections 8003, 8004.

~~B. For a use of land which pre-dates this Ordinance:~~

~~1. A use of land which was in existence prior to January 1, 2017 shall be considered a nonconformity if constructed in compliance with a zoning permit and site plan issued under the Wexford County zoning ordinance in effect at the time of the permit's issuance, or a township, village, or city zoning ordinance in effect at the time of the permit's issuance and does not comply with this Ordinance.~~

~~2. A use of land which was in existence prior to the effective date of the 1971 Wexford County Zoning Ordinance shall be considered a nonconformity as a land use in place prior to any zoning being in effect.~~

~~3. A use of land shall be considered a violation of this Ordinance if it came into existence after the 1971 Wexford County Zoning Ordinance, but before January 1, 2017 which does not comply with a zoning permit and site plan issued in that time period, or for which such permit and site plan cannot be produced or other evidence of such permit and site plan.~~

8003. Class A Extensions

~~A nonconforming structure and use may not be added to, extended, reconstructed, structurally altered or expanded during its life, and a nonconforming parcel may not be used or built upon, except for any one or combination of the following and subject to the following restrictions. Class A nonconformities, extensions, are those which lawfully existed prior to January 1, 2016, or came into existence after the effective date of this Ordinance.~~

A nonconforming structure and use may not be added to, extended, reconstructed, structurally altered or expanded during its life; and a nonconforming parcel may not be used or built upon; except for any one or combination of the following and subject to the following restrictions. Class A nonconformities, extensions, are those which lawfully existed prior to January 1, 2016, or came into existence after the effective date of this Ordinance.

A. If the nonconformity land use is a use which is not otherwise allowed in the district; then the use and the structures upon which the use is associated shall not be expanded more than fifty (50) percent in size, hours of operation or level of service, or any other extension which exists at the time of adoption of this Ordinance. Under no condition shall the parcel be expanded and the use be expanded to a contiguous

parcel.

B. If the nonconformity is that the parcel is too small and already has existing uses and structures; then the structures shall not be expanded more than:
   1. fifty (50) percent of the ground area occupied by the structure at the time of adoption of this Ordinance, or
   2. spatially possible while such expansion shall comply with all applicable setback regulations in this Ordinance.

   whichever is less. Any expansion of the structure shall comply with all other provisions of this Ordinance. Nothing here is intended to prevent the acquisition of adjacent land to bring the parcel into compliance, or to lessen the nonconformity if the use is permitted in the zoning district.

C. If the nonconformity is that the parcel is too small, and the parcel is vacant; and the parcel does not qualify for consideration under , then a use or structure shall not be permitted unless contiguous land is added to the parcel, to make the parcel large enough, except the appeals board may grant a variance if the following conditions are found to be met:
   1. It is documented by the applicant the parcel existed prior to January 1, 2016, and
   2. The parcel was not made smaller after January 1, 2016, and
   3. It is documented by the applicant that contiguous land, or enough contiguous land, can not be purchased, and
   4. The parcel is large enough to accommodate required on-site sewage, if needed; well, with proper isolation; as determined by the District Health Department, and
   5. Other standards for issuing a variance by the Appeals Board are met.

D. If the nonconformity is that the parcel is too small, and the parcel is vacant; then a use or structure shall not be permitted unless contiguous land is added to the parcel, to make the parcel large enough, except the zoning administrator can issue a permit for a dwelling and its accessory buildings after documenting the nonconformity and the following standards are met:
   1. It is documented by the applicant that parcel existed prior to April 8, 1993, and
   2. The parcel is 15,000 square feet or greater, and
   3. The parcel is in a subdivision, and
   4. The parcel is in the rural residential district, and
   5. Is large enough to accommodate required on-site sewage, if needed; well, with proper isolation; as determined by the District Health Department.

E. If the nonconformity is that the structure is too small; then the use shall not be expanded more than fifty (50) percent in hours of operation or level of service, or other similar extension than what exists at the time of adoption of this Ordinance. Nothing here is intended to prevent any amount of addition to the size of the structure, if:
   1. The size of the structure is the only nonconformity,
   2. The addition results in the structure being in full compliance, or as a second choice, closer to compliance, and
   3. No structure shall be replaced or reconstructed unless it results in being in full compliance except as provided in section of this Ordinance.

8004. Class B Extensions

~~A nonconforming structure and use may not be added to, extended, reconstructed, structurally altered or expanded during its life, and a nonconforming parcel may not be used or built upon, except for any one or combination of the following and subject to the following restrictions. Class B nonconformities, extensions, are those which lawfully came into existence after January 1, 2016 and before the effective date of this Ordinance.~~

A nonconforming structure and use may not be added to, extended, reconstructed, structurally altered or expanded during its life; and a nonconforming parcel may not be used or built upon; except for any one or combination of the following and subject to the following restrictions. Class B nonconformities, extensions, are those which lawfully came into existence after January 1, 2016 and before the effective date of this Ordinance..

A. If the nonconformity land use is a use which is not otherwise allowed in the district; then the use and the structures upon which the use is associated shall not be expanded in size, hours of operation or level of service, or any other extension which exists at the time of adoption of this Ordinance. Under no condition shall the parcel be expanded and the use be expanded to a contiguous parcel.

B. If the nonconformity is that the parcel is too small and already has existing uses and structures; then the structures shall not be expanded other than what is necessary to comply with other applicable state or federal laws. Any expansion of the structure shall comply with all other provisions of this Ordinance. Nothing here is intended to prevent the acquisition of adjacent land to bring the parcel into compliance, or to lessen the nonconformity if the use is permitted in the zoning district.

C. If the nonconformity is that the parcel is too small, and the parcel is vacant; and the parcel does not qualify for consideration under , then a use or structure shall not be permitted unless contiguous land is added to the parcel, to make the parcel large enough, except the appeals board may grant a variance if the following conditions are found to be met:
   1. It is documented by the applicant the parcel existed prior to January 1, 2016, and
   2. The parcel was not made smaller after January 1, 2016, and
   3. It is documented by the applicant that contiguous land, or enough contiguous land, can not be purchased, and
   4. The parcel is large enough to accommodate required on-site sewage, if needed; well, with proper isolation; as determined by the District Health Department, and
   5. Other standards for issuing a variance by the Appeals Board are met.

D. If the nonconformity is that the parcel is too small, and the parcel is vacant; then a use or structure shall not be permitted unless contiguous land is added to the parcel, to make the parcel large enough, except the zoning administrator can issue a permit for a dwelling and its accessory buildings after documenting the nonconformity and the following standards are met:
   1. It is documented by the applicant that parcel existed prior to April 8, 1993, and
   2. The parcel is 15,000 square feet or greater, and
   3. The parcel is in a subdivision, and
   4. The parcel is in the rural residential district, and
   5. Is large enough to accommodate required on-site sewage, if needed; well, with proper isolation; as determined by the District Health Department.

E. If the nonconformity is that the structure is too small; then the use shall not be expanded in hours of operation or level of service, or other similar extension than what exists at the time of adoption of this Ordinance. Nothing here is intended to prevent any amount of addition to the size of the structure, if:
   1. The size of the structure is the only nonconformity,
   2. The addition results in the structure being in full compliance, or as a second choice, closer to compliance, and
   3. No structure shall be replaced or reconstructed unless it results in being in full compliance except as provided in section of this Ordinance.

8005. Repairs and Maintenance

Nothing in this Ordinance shall prevent the repair, reinforcement, improvement or rehabilitation of nonconforming buildings, structures, or part thereof existing at the effective date of this Ordinance, rendered necessary by wear and tear, deterioration or depreciation; nor prevent compliance with the provisions of the P.A. 230 of 1972, as amended, (being the State Construction Code Act, M.C.L. 125.1501 *et. seq*.), relative to the maintenance of buildings or structures; provided, however, that the cost of such repair, reinforcement, improvement, rehabilitation or compliance shall not exceed sixty (60) percent of the replacement value of such building at the time such work is done; and provided, further, there shall be no change of use which would expand the nonconformity of such building at the time such work is commenced; and provided, further, there shall be no change of use of said building or part thereof.

8006. Building Damage

A. No building damaged by fire, act of God or other causes to the extent that the damage is total (i.e. the insurance coverage, if it existed, would pay the full amount insured) shall be repaired or rebuilt, except

1. in conformity with the non-use provisions of this Ordinance; and in conformity with the permitted and/or special use provisions of this Ordinance or on the same footprint as it was originally, or
2. reconstruction, repair or restoration of the original use shall be completed within one (1) year following the damage and resumption of use takes place within ninety (90) days of completion. The one (1) year may be extended by the Appeals Board if it finds one of the following conditions to exist:
   a. The delay was not avoidable due to weather;
   b. The delay was a result of a criminal investigation;
   c. The delay was a result of a dispute between the owner and an insurance company concerning what is covered by insurance, or
   d. Property held in probate.

8007. Completion

Nothing in this Ordinance shall require any change in the construction or intended use of a building or structure, the construction of which shall have been diligently prosecuted prior to the passage of this Ordinance or any amendment thereto, and the construction of which shall have been completed within twelve (12) months after said date of adoption.

8008. Non-Use.

A. Any building, structure or land that has been used for nonconforming purposes but which has not intended to be continued as a nonconforming use by the owner shall not thereafter be used unless it conforms to the provisions of this Ordinance. The owners intent to no longer continue use of the nonconforming use shall be established by a preponderance of the following points of physical evidence:

1. Utilities have been disconnected
2. If there were signs, the signs have been removed or have fallen into disrepair,
3. Fixtures within and outside the building have been removed,
4. The property falls into disrepair,
5. U.S. Mail delivery has been terminated or mail is forwarded to another address,
6. The classification of the property for tax purposes has been changed to reflect another use, and
7. Other similar changes to the nonconforming building or use.

B. Action to find a nonconforming use was intended to be discontinued by the owner may be delayed if any of the following is ongoing:

1. Property held in Probate;
2. Insurance settlement in dispute; or
3. Criminal investigation.

8009. Historic Buildings

A variance to Section 8003.C of this Ordinance to expand and replace nonconforming buildings may be granted by the Board of Appeals if any one of the following conditions is met:

A. The proposed expansion or replacement is an enhancement of an historic district, building, or adjacent historic building.

8010. Change of Tenancy or Ownership

There may be change of tenancy, ownership or management of an existing nonconforming use, building or structure, provided there is no change in the nature or character of such nonconforming use, building or structure.

8011. Nonconforming Special Uses

A. There are uses which were permitted by right under any zoning ordinance in effect immediately prior to this Ordinance which are not permitted uses under this Ordinance. Of those uses, there are some which are listed as potential special uses in this Ordinance. Those existing uses which were permitted uses, and are listed as special uses in this Ordinance, shall not be considered nonconforming uses.

B. Those uses, or parts of uses, which exist as a permitted use immediately prior to this Ordinance, and are listed as special uses in this Ordinance shall be considered to be an approved existing special use with the configuration shown on a site plan drawn to reflect how the use exists at the time of adoption of this Ordinance. Parts of uses which are nonconforming immediately prior to the adoption of this Ordinance shall continue to be nonconforming under this Ordinance. A permit in existence pursuant to this subsection shall be known as an Pre-existing Special Use Permit.

C. An owner of an Pre-existing Special Use Permit may, at no charge to the owner, obtain from the Commission a certification of a site plan reflecting how the use exists at the time of adoption of this Ordinance with identification of nonconforming parts, if any. In the case of a dispute over facts on what existed at the time of adoption of this Ordinance, aerial photographs flown in Spring 2011 by Wexford County or other aerial photographs, flown to the same or greater standards for mapping as the county's photos, taken after the County photos but before the adoption of this Ordinance, shall be given the greatest weight as evidence to establish a certified site plan. For purposes of this section, the above mentioned photo(s) may be accepted as the site plan for the Pre-existing Special Use Permit.

D. When a special use owner applies to amend the unwritten Special Use Permit for expansion or change, a written Special Use Permit shall be prepared for the entire use and parcel. In review of the Special Use Permit amendment application for expansion or change, the Commission shall only review and act on the expansion or change portion of the Special Use Permit. If the application for amendment of the Special Use Permit is approved, approved with conditions, denied or denied in part, the action shall not change or alter those parts of the special use that are shown on the Pre-existing Special Use Permit.

8012. Nonconforming Uses

~~The administrator shall survey the area of jurisdiction of this Ordinance and file with the Commission a written statement of the nature and extent of the nonconforming uses after adoption of this Ordinance, or any amendments thereto. The determination of when a nonconforming use may be replaced, extended, substituted or substandard parcels used shall be determined in the first instance by the administrator. Any determination concerning nonconformities may be appealed to the Appeals Board.~~

ARTICLE 82: ADMINISTRATION OF THIS ORDINANCE

8201. Purpose

It is the purpose of this Article to provide the procedures for the administration of the Ordinance, issuance of permits, inspection of properties, collection of fees, handling of violations and enforcement of the provisions of this Ordinance and amendments thereto.

8202. Zoning Administrator

A. The provisions of this Ordinance shall be administered by the Wexford Joint Zoning Administrator (administrator). Applicants for the office of administrator shall be interviewed by the Commission. The Commission shall appoint an administrator who shall serve for such term, subject to such conditions, and at such rate of compensation as the Commission shall determine, and the duty of the enforcement of this Ordinance shall rest with the administrator as shall be authorized by law.

B. Each participating municipality, upon adoption of this Ordinance, authorizes the administrator to act as its officer for purposes of enforcing and administering this Ordinance.

C. Eligibility. Elected officials of any participating municipality and/or members of the Commission and Appeals Board shall be ineligible for appointment to the office of administrator, except as otherwise provided in Section 8202.D.

D. Interim Administrator. In the event of the resignation, death, disability, vacation or disqualification of the administrator, the Commission shall attempt to have a standing reciprocal agreement with a near by township, city, village, or joint planning commission zoning administrator who will act as the Commission's administrator during that period. In the event such reciprocal agreement does not exist the secretary of the Commission shall serve as interim administrator until a new administrator shall be appointed by the Commission, or the existing administrator again assumes his or her duties.

E. In issuing an order, requirement, decision or determination on any discretionary matter referred to him or upon which he is required to pass under this Ordinance, it shall be sufficient for the administrator to reasonably conclude that in addition to the standards set forth in this Ordinance, the proposed order, requirement, decision or determination is compatible with the present uses of adjacent land, is consistent with and promotes the intent and purposes of this Ordinance, is compatible with the natural environment, is consistent with the capabilities of public services and facilities affected by such order, requirement, decision or determination and protects the public health, safety and welfare, and is consistent with constitutional requirements of due process and equal protection of the law.

8203. Zoning Administrator Duties

A. The administrator shall submit to the Commission annual reports fully explaining the type and nature of uses permitted by right; the nature and extent of violations of this Ordinance; and the type and nature of nonconforming uses, buildings, and structures.

8204. Permit Fees

A. Each participating municipality, upon adoption of this Ordinance, authorizes the Commission to have power to establish a schedule of fees for the operation of this Ordinance.

B. The Commission shall from time-to-time establish and publish a schedule of fees for the operation of this Ordinance, including but not limited to permits, conditional use permits, special use permits, planned unit developments, site plan reviews, demands for appeals, requests to consider amendments to this Ordinance, exhibited service by request or due to after-the-fact processing.

C. The fees shall have different categories for different types and shall be designed within in each category to cover up to, on average, all costs associated with the processing of the service provided for the fee.

D. When the Administrator first receives an application which may be of such a nature and complexity that review will be more involved than normal and that additional fees may be required, the Administrator shall act to declare that is the case and refer the issue to the Commission. The Commission, by motion, may find the application requires the assistance of experts in review of specified aspects or issues of the application.

1. Additional costs are when:
   a. The complexity of reviewing the application, in the judgement of the Commission, requires hiring expertise beyond that of the Commission or zoning administrator, such as but not limited to hiring the services of an attorney; professional planner; engineer; architect; land surveyor; environmental, traffic, marketing, and economic development experts.
   b. The complexity of reviewing the application requires an abnormal amount of additional time by the zoning administrator
   c. The complexity or controversy of the application results in the Commission being in session (holding meetings, reconvened meetings, hearings) that is more than two times on the application, or holding any special meeting on the application.
   d. The additional review of the application is exclusively for the proposed development, and if not then the additional fee shall reflect the proportion amount for the proposed development and other items.
2. Upon adoption of the motion requiring additional fee, review of the application shall stop until the applicant has paid a minimum additional fee of one thousand (1,000) dollars. The township shall deposit the additional fee with the Treasurer of the Commission who shall keep an accurate accounting of the funds in a separate fund with the fiduciary participating municipality's treasurer. If the applicant does not deposit the required amount, no further action on the application shall be taken and it will be deemed denied without prejudice under section 8608 of this Ordinance.
3. The Commission shall use the additional fee to contact and select necessary experts, receive a work proposal and estimate from the experts on their fees and costs for the application, and for the services of the expert(s).
4. At the next meeting of the Commission the Commission, or prior to the next meeting of the Commission the zoning administrator in consultation with the Chair of the Commission, shall:
   a. establish a budget for the services of the expert(s), meeting costs, zoning administration expenses;
   b. send an invoice to the applicant, with an explanation the applicant shall provide the Commission within ten (10) days, in writing, that
      (1) he will withdraw the application, or
      (2) will proceed and pay the balance of the additional fees based on the budget.
   c. The Commission Treasurer shall deposit the additional fee with the fiduciary municipality treasurer and shall keep an accurate accounting of the funds in the same fund established in section 110 of this Ordinance. If the applicant does not deposit the required amount, no further action on the application shall be taken and it will be deemed denied without prejudice under section 8608 of this Ordinance.
   d. The Commission shall use the additional fee to pay the services of the expert(s), meeting costs, zoning administration expenses.
5. Any additional actual costs incurred in processing such application shall be paid before permit is issued, and may be required to be payable in increments as review of the application progresses. The additional costs shall be for no more than the actual cost (so not additional revenue is generated) of processing the application. No part of such actual cost shall be returnable to the applicant. If there are any remaining monies in the account upon conclusion of the application, those monies shall be returned to the applicant.
6. The deposit required by this section is in addition to any security required elsewhere in this Ordinance.

E. Other than provided for additional costs provided for above, no part of the fee shall be refundable.

F. On a case-by-case basis Commission may wave part or all of any fee if the applicant is found to be indigent, an agent of the township, or a non-profit civic, service, or volunteer organization in any of the participating municipalities.

ARTICLE 84: PERMITS

8401. Land Use Permits

No land shall be occupied or used and no building or structure shall hereafter be erected, altered or relocated under the provisions of this Ordinance until a permit authorizing the use shall be issued by the administrator.

8402. Activity Prior to Permit

No site excavation, clearing, landscaping, or promotion of the new land use shall occur until after the land use permit has been issued.

8403. Land Use Applications

A. If a use is listed in a respective land use district as a permitted use, anyone with an interest in a parcel may apply for a zoning permit under this section. Zoning permit applications are made on a form prepared by the administrator and presented to the administrator.

B. Nothing in this Ordinance is intended to prohibit an applicant from having a preapplication meeting with the administrator.

C. The administrator shall require that the application include the form, copies of plans, specifications and such other information as he may deem necessary. Such other information shall include, but not be limited to:

1. A site plan, drawn to the specifications of section 9404 or 9405 of this Ordinance.
2. The legal seating and/or sleeping capacity of all buildings and structures, if applicable.
3. A concise statement of all operations and uses which will be conducted on the land and buildings.
4. A concise statement of the services, if any, to be offered to the public, if applicable.
5. Any other information required by this Ordinance.
6. A non-refundable fee pursuant to 8204, 8204.B of this Ordinance.
7. A copy of any other necessary permits required prior to a Construction Code Permit or a copy of a written agreement for, or written intent for concurrent approval for those permits.

D. The application, and all the supporting documents, shall be kept by the Commission at its office of record as part of the Administrator's permanent records.

E. The application and site plan, if applicable, shall show the proposed use and structures which will be developed in compliance with all aspects of this Ordinance.

F. Upon receipt of a zoning permit application, the zoning administrator shall review the application to insure it is complete, to coordinate its review with other agencies, if required, and act on the application within ten (10) days:

1. If the application is not complete, the administrator shall return the application with a letter that specifies the additional material required.
2. If the application is complete, but is found not to conform with this Ordinance, a permit denial shall be sent to the applicant, in writing, listing the violations of the Ordinance, and what changes would be necessary to obtain a permit, if any changes made would make it possible for a permit to be issued.
3. If the application is complete and the proposed land use and structures are found to comply with this Ordinance, a zoning permit shall be issued.

G. A zoning permit shall be required prior to the issuance of a Michigan State Construction Code permit, issued pursuant to P.A. 230 of 1972, as amended, (being the State Construction Code Act, M.C.L. 125.1501 *et. seq.*)

8404. Permit Exemptions

Section 8402, 8403, 8407 not withstanding, a zoning permit or fee is not needed under this section for the following uses. Nothing in this section exempts or requires construction permits, other than required by P.A. 230 of 1972, as amended, (being the State Construction Code Act, M.C.L. 125.1501 *et. seq.*)

A. Only exterior or interior repair and improvement which does not structurally alter the premises or change the exterior shape or form of any building in any manner, and the use of the land remains one of those listed as permitted in the respective land use district.

B. Relocation or replacement of machinery or equipment within a building located in a commercial or industrial zone, conforming to the provisions of this Ordinance and used for commercial or industrial purposes, nor for any modification to such building in connection with said relocation or replacement, unless said modification structurally alters the premises or changes the exterior shape or form in any manner.

C. ~~The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of over ground or underground gas, electrical, water, communication, or sewer systems, for the local distribution and/or collection systems via pipes, drains, sewers, wires, cables, traffic signals, hydrants, towers, pools, electrical substations, gas regulation stations, and similar equipment and accessories in connection therewith reasonably necessary for furnishing adequate service to individual customers/clients, but not including regional, long distance, interstate distribution or collection systems.~~ The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions, of overhead or underground gas, electricl, steam, or water distribution or transmission systems, collection communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wire, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towners, polls, electrical sub-stations, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health, safety, or general welfare, but including buildings, shall be permitted as authorized or regulated by law in any zoning district, it being the intention thereof to except such erection, construction, alteration, and maintenance from the application of this Ordinance. Utility grid wind energy systerms, wind energy systems, and privately-owned utilities meeting the general intention of this Section shall also be permitted in any zoning district, but only if listed as a possible special use permit and special use permit has been issued by the Commission in accordance with Section 8601 *et seq.* of this Ordinance.

D. Open Space.

E. Individual recreation uses such as boating, hiking, hunting, fishing and trapping.

F. Plowing and planting cash crops, row crops, orchards, or use of land as pasture or fallow when part of a permitted agricultural operation on one or more parcels of land.

G. Harvesting of timber as part of a forest management activity when part of a forest management plan.

H. Gardens.

I. Hedges, arbors, trees, gardens, plants, shrubs.

J. Sidewalks, driveways to dwellings and duplexes.

K. Domestic animal shelters.

L. Accessory structures to dwellings and duplexes which are constructed by minors, children, their parents or guardians for purposes of play by the minors and children including, but not limited to, playhouses, dollhouses, treehouses, forts, hideouts, and so on, so long as such accessory structures adhere to setback requirements of this Ordinance.

M. Personal property sales.

N. Home occupation.

8405. Start Work Deadline

A permit issued under this Article is void if the use is not commenced within one (1) year. A renewal may be granted by the Administrator after a restudy of the permit at no cost to the applicant, and the applicant continues to meet all requirements for a permit.

8406. Void Permits

A. A violation of any condition or specification in a permit issued under this Article shall void the permit.

B. Any improper or incorrect information contained in the application for permit issued under this Article shall void the permit until properly corrected upon the permit application; provided that, as corrected, the applicant continues to meet all requirements for a permit.

8407. Occupancy Permit

Upon completion, and satisfactory final inspection by the administrator, an occupancy permit shall be issued when required elsewhere in this Ordinance.

ARTICLE 86: SPECIAL USES

8601. Purpose

This Ordinance divides the participating municipalities into districts in which specific uses are permitted which are mutually compatible. In addition, there may be certain other uses which may be appropriate to include in a district due to the specific circumstances surrounding the use, the impact on neighboring uses and public facilities. Such uses, because of their particular location or the particular nature of the service offered, may be established in a district through a Special Use Permit.

8602. Authority to Grant Permits

The Commission has the authority to approve or disapprove Special Use Permits in accordance with this Ordinance. If approved by the Commission, the administrator shall issue these permits.

8603. Application and Fee

A. Application for any special use permit permissible under the provisions of this Ordinance shall be made to the zoning administrator by filling in the official special use permit application form, submitted required data, exhibits and information, and depositing the required minimum fee pursuant to 8204, 8204.B of this Ordinance.

8604. Pre-Application Conference, participating municipality, and Neighborhood Meetings:

A. The applicant, at his or her option, may request a meeting with the Administrator, other Commission staff and consultants, and not more than two members of the Commission before submitting an application. The purpose of the meeting is to discuss special use permit processing procedures, explanation of this zoning ordinance, what has been required of similar applications in the past, and to assist the applicant and Commission with understanding of general concepts and design parameters prior to investment in preparation of a site plan or special use permit application. Officials at this meeting shall not indicate or otherwise commit the to any particular action regarding the application.

B. The applicant, shall present at a meeting of the respective participating municipality's elected officials for where the proposed special use permit is proposed. Another municipality within one mile of the special use permit location shall also be made aware of this meeting so that their representatives may attend. The Wexford County Road Commission and the operator of any public utility within one mile of the special use permit location shall also be made aware of this meeting so that their representatives may attend. The purpose of this meeting is for the applicant to learn participant's concerns and to be able to design the special use permit application and site plan to mitigate those concerns prior to submitting the same to the Commission. Officials at this meeting shall not indicate or otherwise commit the to any particular action regarding the application. Minutes of the meeting shall be prepared by the participating municipality and the applicant shall provide a copy to the Commission with the application.

C. The applicant, at his or her option, may sponsor a neighborhood meeting those who live near the proposed special use permit site. The purpose of the neighborhood meeting is for the applicant to learn residents concerns and to be able to design the special use permit application and site plan to mitigate those concerns prior to submitting the same to the Commission. If a neighborhood meeting is held, minutes of the meeting shall be prepared by the applicant and a copy provided to the Commission with the application. If the neighborhood meeting is held it may be combined with and be the same meeting as with the respective participating municipality.

8605. Information Required in Application

A. An application for Special Use Permit shall include:

1. An Application form which includes, at a minimum:
   a. The applicant's name and address.
   b. A signed affidavit that the applicant is the owner, or has an ownership interest, or is acting

on the owner's behalf.

c. The address and legal description of the property.

d. A specific statement and supporting information regarding the required findings for the Special Use Permit, as stated in Section 8609.

e. A complete description of the proposed development including: The number of parcels or units; and the number and characteristics of the population impact such as density, elderly persons, school children, tourists, family size, and related material as applicable.

f. Expected demands on community services, and how these services are to be provided, to specifically include: school classroom needs, volume of sewage for treatment, volume of water consumption related to groundwater reserves or community system capacity, change in traffic volume on adjacent roads and other factors that may apply to the particular development.

g. Statements relative to the impact of the proposed development on soil erosion, shoreline protection, wildlife habitat, air pollution, water pollution (ground and surface), noise and the scale of development in terms of the surrounding environment.

2. A site plan:

a. A detailed site plan as specified in Section 9406 of this Ordinance.

b. Evidence of having received or having an agreement for, or concurrent approval for what is shown on the site plan for, any other necessary permits required prior to a Construction Code Permit..

3. Minutes of the participating municipality meeting and the neighborhood meeting.

B. In addition, the applicant may be required to furnish:

1. Elevations on all buildings, including accessory buildings.

2. An environmental assessment.

3. Measures which will be undertaken to control soil erosion, shoreline protection, excessive noise, or adverse impacts of the development on the surrounding properties.

C. The applicant shall certify that the information included is correct and that measures proposed to mitigate adverse impacts will be completed in a timely fashion, if the Special Use Permit is approved.

8606. Review for Completeness

Upon receipt of the Special Use Permit application, the administrator will review the application to insure it is complete.

A. If the application is not complete, the administrator will return the application to the applicant within 10 days with a letter that specifies the additional material required.

B. If the application is complete, except for the site plan pursuant to 8605.A.2 of this ordinance, at the applicants option the administrator may find the application is not complete or the administrator shall find the application is complete for purposes of reviewing and issuing a preliminary Special Use Permit only.

C. If the application is complete, the administrator and chairman of the commission shall establish a date to hold a public hearing on the Special Use Permit application.

8607. Notice of Public Hearing

A. If the application is complete, the administrator shall notify the following persons of the application being considered, so the notice is sent not less than 15 days before the date that the application will be considered and the notices sent to:

1. The applicant.

2. The owner of the property, if different.

3. The owners of all real property within 300 feet of the boundary for the property for which the approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located in the area of jurisdiction for this Ordinance or not.

4. Occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located in the area of

jurisdiction for this Ordinance or not.

5. The general public by publication in a newspaper which circulates (paid subscription) in Wexford County.
6. The members of the Commission.
7. Adjacent governments (city, township, village, county, Indian tribal government) which is located within one mile of the proposed special use;
8. Governments (county road commission, and operator of public utilities, school district) for where the proposed special use is located within;
9. Other utility providers;
10. Michigan Department of Transportation if within one quarter mile of a state highway;
11. Michigan Department of Environmental Quality if the proposed special use in on property with surface water or wetlands.

B. The notice shall include:

1. The nature of the Special Use Permit being requested.
2. The property(ies) for which the request has been made.
3. A listing of all existing street addresses within the property(ies) which is(are) subject of the special use. (Street addresses do not need to be created and listed if no such addresses currently exist. If there are no street addresses another means of identification may be used.)
4. The location where the application documents can be viewed and copied prior to the date the application will be considered.
5. The date, time and location of when the hearing on application will take place.
6. The address at which written comments should be directed prior to the consideration.
7. For members of the Commission only, a complete copy of the special use permit application and supporting documents in the record

C. A township, village, city, county, public utility, Indian tribal government, and Wexford County Road Commission, village or city road agency, State of Michigan Departments which receives notice pursuant to this section of this Ordinance may choose to submit material to the Commission. Such submissions shall be delivered to the Commission at or before the hearing on the issue. Such submissions shall be considered advice to the Commission. The Commission may give extra deference to those comments as long as it does not abdicate the Commission's authority.

8608. Hearing and Decision

A. The Commission shall hold a public hearing to receive input on the Special Use Permit application.

B. Within sixty (60) days following the receipt of a complete application (unless a formal extension is mutually agreed to between the applicant and Commission), the Commission shall either grant, grant with conditions, or deny the application. The decision shall be in writing and reflect the reasons for the decision. At a minimum the record of the decision shall include:

1. A summary of public comments made at the hearing,
2. Formal determination of the facts,
3. The conclusions derived from the facts (reasons for the decision), and
4. The decision which shall be one of the following:
   a. grant the Special Use Permit,
   b. grant with conditions the Special Use Permit (including a written list of all conditions upon which issuing a permit is issued or occupancy is allowed),
   c. in the case of a preliminary Special Use Permit application only, pursuant to section 8606.B of this ordinance, issue a Special Use Permit with a written list of conditions, which at a minimum shall include final approval of the site plan, pursuant to section 8605.A.2 of this ordinance within one year,
   d. deny the Special Use Permit,

C. A special use permit and site plan shall be approved simultaneously, or a special use permit is issued prior to approval of a site plan and conditioned upon approval of the site plan.

8609. Special Use Permit Standards

A. The standards for determining if a Special Use Permit is to be granted or not are:

1. Is the use reasonable and designed to protect the health, safety and welfare of the community,
2. Is the use consistent with the intent and purpose of the district,
3. Is the use compatible with adjacent land uses,
4. Is the use designed to insure that public services and facilities are capable of accommodating increased loads caused by the land use or activity, and
5. Does the use comply with other general and specific standards in section 1601 of this Ordinance, the respective district, and general provisions of this ordinance.

8610. Special Use Permit Conditions

A. Special Use Permits can be granted with conditions, limitations, or additional requirements imposed by the commission. Any conditions, limitations or requirements upon which approval is based shall be:

1. reasonable and designed to protect natural resources, the health, safety and welfare of the public;
2. relevant to the social and economic well-being of the owners and occupants of the parcel in question, of the area adjacent thereto and of the community as a whole;
3. a valid exercise of the police power;
4. related to the purposes which are affected by the proposed use or activity;
5. consistent with the intent and purpose of this Ordinance, generally and specifically, for the respective District;
6. designed to insure compatibility with adjacent uses of land and the natural environment, or
7. designed to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.

B. The Commission shall have the right to limit the duration of a Special Land Use where the same is for mining, and Sweetening Plant operation.

8611. Record of Special Use Permit

The application and all other information relating to the Special Use Permit shall be filed with the Commission at its office of record by the administrator.

8612. Security Requirement

A. To insure compliance with the site plan and Ordinance and any conditions, limitations or requirements imposed by the administrator or Commission as necessary to protect natural resources or the health, safety and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, the administrator, upon advice and consent of the Commission, may require

1. a cash deposit,
2. certified check,
3. irrevocable bank letter of credit or
4. surety bond,

in an amount and under the conditions permitted by law.

B. Such security shall be provided to the Commission's Treasurer prior to the time of the issuance of the permit authorizing the commencement of such project. The Commission Treasurer shall deposit the security with the fiduciary participating municipality's treasurer. Where the project will take more than ninety (90) days to be completed, the administrator or Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.

C. Such security shall not exceed the estimated cost of the required conditions, limitations, requirements for which the security is designed to insure compliance with.

8613. Amendment of Special Use Permits

Amendments to Special Use Permits shall be handled in the same manner as the initial Special Use Permit application. However, minor non-substantive changes may be made to an existing Special Use Permit by mutual agreement between the Administrator and applicant, if done prior to the issuance of an occupancy permit.

8614. Transfer of Special Use Permit

A Special Use Permit, with any and all associated benefits, conditions and required security may be transferred to a new owner. The responsibility for effecting the transfer shall be the original owner. If not transferred, the original owner shall continue to be held responsible for any conditions, security, etc. required by the Special Use Permit. The original owner, upon transferring the Special Use Permit shall advise the zoning administrator of said transfer in order to insure the continued validity of the permit, compliance with security and other conditions.

8615. Construction Code Permit

A Special Use Permit shall be required prior to the issuance of a Michigan State Construction Code Permit, issued pursuant to P.A. 230 of 1972, as amended, (being the State Construction Code Act, M.C.L. 125.1501 *et. seq.*)

8616. Expiration of Special Use Permits

A Special Use Permit shall be valid for as long as the approved special use continues in accordance with the terms and conditions of the approved permit. The Special Use Permit will expire on the occurrence of one or more of the following conditions:

A. If replaced or superseded by a subsequent Special Use Permit.
B. If replaced or superseded by a permitted use.
C. If the applicant requests the rescinding of the Special Use Permit.
D. If the use is not used, moved or vacated for a period of one year. Notice of the expiration shall be given to the property owner in writing.
E. If the special use permit was issued, conditioned upon approval of a site plan and evidence of obtaining all other necessary permits, pursuant to section 8605.A.2 of this ordinance, and the site plan was not submitted after one year.

ARTICLE 88: PLANNED UNIT DEVELOPMENT

8801. Purpose

This section recognizes that it may be desirable to modify certain restrictions of this Ordinance in the context of an innovative, efficient, planned unit development. The rationale for this departure from normal policy is virtually the entire Ordinance is drafted in contemplation of regulating separate, individually proposed uses. Whenever it can be demonstrated the needs of the community will be better served by a private plan which combines multiple structures or uses on a single area, it may be possible to modify some of the regulations which inhibit such a plan without formal amendment of this Ordinance by issuing a Special Use Permit for a Planned Unit Development.

8802. Eligibility

No use shall be eligible for special treatment under this section unless all of the following are determined:

A. the application proposes a planned unit development as defined by this Ordinance;

B. planned unit development of the type contemplated is authorized by Special Use Permit in the relevant District;

C. Every use contemplated in the planned unit development in the respective Districts is
   1. listed as permitted uses in that District,
   2. listed as special uses in that District, or
   3. Hotels and Other Lodging Places;

D. If a proposed use in a planned unit development is one or more of the following:
   a. Retail Trade;
   b. Finance, Insurance and Real Estate; and
   c. Services establishments (except Hotels and Other Lodging Places):

   and is not listed as a permitted use or special use in the respective district in which the planned unit development is proposed; the use may still be a part of the planned unit development if the following conditions are met:
   2. The use is clearly an accessory use to the principal function(s) in the Planned Unit Development;
   3. The use is conducted entirely within an enclosed building except for parking, signs, arrival and departure of shipping, other incidental activities which are not permanent in nature;
   4. The use has all outside accessory and work areas enclosed by a solid wall;
   5. The minimum size of the structure is six hundred (600) square feet in building area; and
   6. The maximum size all structures (building areas and total interior floor areas, whichever is less) is three thousand (3,000) square feet in area;

E. The open space preserved from development (by preservation easement to the township, village, city, county, or land conservancy) shall be at least seventy (70) percent of the Gross acreage of the parcel.

F. The proposed Planned Unit Development is on a parcel which is the larger of:
   1. twenty (20) times the size of the minimum parcel size in a District where the minimum parcel size is one acre or less, or
   2. five (5) times the size of the minimum parcel size in a District where the minimum parcel size is one acre to 15 acres, or
   3. the required minimum parcel size, or larger, in the respective District, or larger.

   Where P is minimum Parcel size in the district
   Where G is the minimum Gross parcel size for the Planned Unit Development.

   P * 20 = G

If the Planned Unit Development is in two Districts then perform the calculation for that part of the Planned Unit Development in each district and multiply the result by the percent of the Planned Unit Development in each District and then sum the results;

where P is minimum Parcel size in the district.
where is p*x* is the percent of Planned Unit Development in each respective district.
where R*x* is the Result.
where M is the Minimum Planned Unit Development parcel size.

P * 20 * p1 = R1
P * 20 * p2 = R2 --> R1 + R2 = M

G. The proposed Planned Unit Development is on a parcel which shall have a minimum of 15,000 square foot buildable area per unit, which shall not include:

1. sand dune with slopes greater than 18 percent,
2. beach contiguous to a lake or stream,
3. wetland,
4. area which is not accepted by the District Health Department for on-site sewage disposal unless an alternate system of sewage disposal is approved by the District Health Department,
5. high risk erosion area,
6. that part of a flood plane where flood waters are expected to have a destructive current,
7. existing public utility easements,
8. existing public rights-of-way,
9. waterfront setback areas, and
10. slopes over 25 percent;

and

H. The application is otherwise consistent with the legislative policy expressed in Section 8801.

8803. Procedure

A. Applications for planned unit development are essentially Special Use Permit applications which request a waiver of basic dimensional restrictions. Accordingly, they shall be processed by the Commission under Section 8601 *et. seq.*, except that:

1. the specific procedures of state zoning enabling statute shall be followed whenever they are inconsistent with Section 8601 *et. seq.*'s procedures; and
2. any basic restriction relating to minimum lot size, minimum usable floor area, maximum height or set-backs may be modified in accordance with Section 8804.; and
3. In addition to all other information required to be submitted as part of a special use permit application under section 8601 *et. seq.*, the applicant for a planned unit development shall submit, in writing, a statement outlining the steps the applicant proposes to take to insure the future non-development of the open spaces in the planned unit development, which steps may include, but are not limited to, placement of title or the development rights to such open spaces in a recognized land or nature conservancy, the township, village, city, or other governmental body, recorded deed restrictions, or other similar steps.

B. In addition to the procedure for reviewing site plans and special use permits, when the application is for a Planned Unit Development the Commission shall also consult with the following agencies prior to issuing a Planned Unit Development special use permit or approving the Planned Unit Development site plan:

1. The public Water Department, if applicable;
2. The respective participating municipality Fire Department.
3. The District Health District sanitarian acting in Wexford County, or DEQ, which ever is applicable, concerning on site sewage disposal.

8804. Basic restrictions and Modification Procedure

A. The Commission shall calculate the gross acreage of the site proposed for the planned unit development by dividing the gross acreage of the development by the density of principal structures allowed in the District.

1. When calculating available land area, all the land involved in the proposed Planned Unit Development may be used for gross acreage, regardless if the land is all in one zoning District or not.
2. If the gross acreage is located in more than one District, then the density shall be calculated separately for each area in each respective zoning district. The Product shall be added together to represent the density permitted for the total area of the proposed Planned Unit Development.

The product of that calculation shall be the density allowed in the Planned Unit Development.

where G is Gross acreage (all of the land)
where D is Density in the District
where L is the number of Living Units allowed in the Planned Unit Development

$$(G / D) \times 1.2 = L$$

B. The District in which most of the land is located shall be used to determine which District regulations dealing with parking, setbacks, building height, maximum percentage of lot coverage, minimum square feet of building area and signs.

C. The density obtained in section 8804.A.2 represents maximum number of dwellings or principal structures which may be permitted for development. The density shall be expressed as total number of living units in the Planned Unit Development. The following equivalents shall be used for density:

1. 1 living unit equals 1 dwelling unit (single family dwelling).
2. 2 living units equals 1 two-family dwelling (duplex)
3. 1 living unit equals 1 dwelling unit in a multiple family dwelling (an apartment).
4. 1 living unit equals 1 for the first 1,000 square feet of retail establishment (except Eating and Drinking places space). Plus 0.25 living units for each additional 1,000 square feet.
5. 1 living unit equals 0.5 for the first 1,000 square feet of Eating and Drinking places space. Plus 1 living units for each additional 500 square feet.
6. 1 living unit equals 1 for the first 1,000 square feet of Finance, Insurance and Real Estate establishment space. Plus 0.25 living units for each additional 1,000 square feet.
7. 1 living unit equals 1 for the first 1,000 square feet of service establishment. (except Hotels and Other Lodging Places) space. Plus 0.25 living units for each additional 1,000 square feet.
8. 1 living unit equals 4 rooms in a Hotels and Other Lodging Places.
9. 1 living unit equals 2 rooms with a kitchenette in a Hotels and Other Lodging Places.

D. Following these calculations, the Commission then may:

1. permit clustering of development and/or allow a reduction in the size of individual lots within the planned unit development below the minimum area required so long as the density for the entire available land area is not exceeded; and/or
2. waive, wholly or in part, any minimum usable floor area requirement, setback, or maximum height, specified by the restrictions of the respective District if doing so results in:
   a. Additional public property in the development and/or public easement on property in the development that is acceptable to the respective legislative body and/or
   b. Lower costs for installation and/or maintenance of public utilities to be owned and operated by the participating municipality, and/or
   c. Public Park land developed in or near the development, and/or
   d. Preservation of open space and environmental (sand dune, beach contiguous to a lake or stream, wetland, high risk erosion area, flood plane, water setback areas, areas not suitable for on-site sewage disposal, slopes over 25 percent) or visual benefits to the

participating municipality, and/or

e. Enhanced recreation opportunities, and/or

f. Provide a particular image or appearance at the entrance way, and/or

g. Some other public value to the Commission or participating municipality.

ARTICLE 94: SITE PLAN

9401. Purpose

It is recognized by this Ordinance that there is a value to the public in establishing safe and convenient traffic movement to higher density sites, both within the site and in relation to access streets; that there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses; further that there are benefits to the public in conserving natural resources. Toward this end, this Ordinance requires site plan review by the Commission under the provisions of a Special Use Permit and provides for the option of site plan review by the administrator.

9402. Site Plan Review

A. Every application for a zoning permit shall include a site plan, drawn according to the specifications of this article. (A demand for appeal before the Appeals Board shall include a site plan drawn according to the specifications of this article.) The administrator shall review the site plan prior to issuing a zoning permit, or the administrator shall transmit the site plan to the Commission for their review.

B. There shall be three levels of site plans, for different complexities of proposed land uses:

1. A Basic Site Plan (Section 9404), for dwellings, additions to dwellings and construction of accessory structures to dwellings. These site plans shall only be subject to review by the Administrator.
2. A Medium Site Plan (Section 9405), for any permitted use --which is not a dwelling, addition to a dwelling, construction of accessory structures to dwelling-- and for any matter before the Appeals Board which would not need a Detailed Site Plan. The Commission shall publish policy for when a Medium Site Plan --not drawn for purposes of an Appeal-- shall be required to be reviewed by the Commission and/or a committee of the Commission, or the Administrator.
3. A Detailed Site Plan (Section 9406), for any Special Use, Planned Unit Development. These site plans shall only be subject to review by the Commission.

C. Whenever possible site plan review by the administrator and Commission shall be coordinated and done simultaneously with other reviews by the administrator and Commission on the same application.

9403. Optional Sketch Plan Review

Prior to submitting an application, or site plan, for a zoning permit an applicant may choose to submit a sketch plan for review by the administrator and/or Commission. The sketch plan shall be superimposed on an air photo of the parcel or shall be a scaled drawing of the parcel showing the location of existing and proposed parcel, parcel boundaries, all structures, natural features, all improvements, streets, sidewalks, easements and drainage systems. The review shall be informal and advisory only, and not constituting any form of approval or authorization of granting any type of permit. The review shall be done without cost to the applicant, but must be scheduled as an item of business on the Commission's agenda if the sketch plan is to be reviewed by the Commission.

9404. Required Data for a Basic Site Plan

The Basic Site Plan shall be a sketch, drawn to scale, or superimposed on an air photo, or superimposed on a survey, of the parcel. The following shall be shown on the Basic Site Plan:

A. The property, identified by parcel lines and location and size.

B. Name and address of the property owner(s), developer(s), and designer(s), and their interest in said properties.

C. The scale, north point

D. Natural features such as woodlot, water bodies, wetlands, high risk erosion areas, slopes over 25%, beach,

sand dunes, drainage and similar features.

E. The location of proposed and main and accessory buildings, existing structures, fences on the site, the height of all buildings and square footage of floor space.

F. The proposed driveway, if any.

G. Show any changes or modifications required for any applicable regulatory agencies' approvals. (Site plan or design plan changes required after the Commission issues a Special Use Permit shall also be changed in accordance with procedures established in this Ordinance for minor adjustments or amendments to Special Use Permits.)

9405. Required Data for a Medium Site Plan

The site plan shall be drawn to scale and shall be on paper which measures at least 8.5 by 11 inches, but not more than 36 by 42 inches. The drawing shall be such that the administrator can readily interpret the site plan, and shall include more than one drawing where required for clarity and shall include the following information, unless specifically waived by the administrator upon the determination that the requirements to be waived are not reasonably related to the proposed use.

A. All the data required for a Basic Site Plan, spelled out in Section 9404 of this Ordinance.

B. The parcel's legal description.

C. Boundary dimensions of natural features such as woodlot, water bodies, wetlands, high risk erosion areas, slopes over 25%, beach, sand dunes, drainage and similar features.

D. Location dimensions of existing and proposed man-made features such as buildings, structures, utility easements, water, storm sewer and sanitary sewer lines, storm water drainage and retention lines,

E. Neighboring driveways, and other vehicular circulation features within and adjacent to the site; also the location, size and number of parking spaces in the off-street parking areas and the identification of service lanes, service parking and snow storage areas.

F. Any proposed alterations to the topography and other natural features shall be indicated.

G. Location and type of outdoor light fixtures including a description of the outdoor light fixture, supports, shading, baffling; and photometric data, such as that furnished by manufacturers, or similar, showing the angle of cut off of light emissions; and other information necessary so it can be determined the outside light requirements of this Ordinance are complied with.

H. Any proposed location of connections to existing utilities and proposed extensions thereof.

I. A description of the proposed development.

J. A vicinity map showing the location of the site in relation to the surrounding street system.

9406. Required Data for a Detailed Site Plan

A site plan which shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals two hundred (200) feet, and of such accuracy that the Commission can readily interpret the site plan, and shall include more than one drawing where required for clarity and shall include the following information, unless specifically waived by the administrator upon the determination that the requirements to be waived are not reasonably related to the proposed use. The Commission, upon initial review of the site plan, may act to require any information specifically waived by the administrator to be submitted. Such site plan shall be designed and prepared by a registered professional architect, landscape architect, engineer, land surveyor or community planner (or, if acceptable to the Commission, owner or other qualified individual). Unless so waived, all site plans shall include the following information:

A. All the data required for a Basic Site Plan, set forth in Section 9404 of this Ordinance and for a Medium Site Plan, spelled out in Section 9405 of this Ordinance.

B. The proposed location of any open spaces, landscaping and buffering features such as greenbelts, fences, etc.

C. The location, proposed finished floor and grade line elevations.

D. Site plans for residential development shall include a density schedule showing the number of dwelling units per acre, including a dwelling schedule showing the unit type and number of each unit type.

E. Any proposed roads, sidewalks and other vehicular and pedestrian circulation features within and adjacent to the site;

F. Topography information based on USGS datum, or selected on-site elevations. More detailed information

may be required where the Commission determines that the site and use warrant a more critical review of topography.

G. Generalized soil analysis data, which may include data prepared by the [county] County Soil Conservation District or [county] County Planning Department regarding the soils and their adaptability to the use. More detailed information may be required where the Commission determines that the site and use warrant a more critical review of soils.

H. Soil erosion and sediment control measures which shall include preventative soil erosion devices or measures, both during and after any site work related to the development, when required.

9407. Required data for a site plan involving special groundwater protection provisions.

A. All businesses and facilities which use or generate hazardous substances (except (1) fuel stored in a fuel tank which is part of a motor vehicle for purposes of use by that vehicle's motor, (2) materials in a five gallon, or smaller, pre-packaged sealed containers and is for purposes of resale and located inside a retail establishment):

1. in quantities greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) per month or ninety five (95) liters (approximately twenty five (25) gallons) per month, whichever is less, or
2. stores greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) or ninety five (95) liters (approximately twenty five (25) gallons), whichever is less

shall be subject to site plan review requirements.

B. In addition to all the data required for a Basic Site Plan, set forth in Section 9404, Medium Site Plan set forth in Section 9405, or a Detailed Site Plan set forth in Section 9406, whichever is applicable; the following shall also be shown in the site plan:

1. Location and size of interior and exterior areas and structures to be used for storage, use, loading/unloading, recycling, or disposal of hazardous substances.
2. Location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste storage, collection of contaminated stormwater or wash water, and all similar uses.
3. Location of exterior and interior drains, on-site sewage systems, dry wells; catch basins; retention/detention areas; sumps and other facilities designed to collect, store or transport stormwater or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
4. Location of all water wells on the site and within 150 feet surrounding the parcel's property boundaries.
5. Delineation of areas on the parcel which are known or suspected to be contaminated, together with a report on the status of site cleanup.
6. Submission of the "Hazardous Substances Reporting Form for Site Plan Review".
7. Submission of the "State/County Environmental Permits Checklist".

9408. Site Plans for Anemometer Tower, Utility Grid Wind Energy System, and On-site Use Wind Energy System.

In addition to the requirements for a site plan found in sections 125, 126, and 126 of this Ordinance, site plans and supporting documents for Anemometer Tower, Utility Grid Wind Energy System, and On-site Use Wind Energy Systems which are over 20 meters high shall include the following additional information:

A. Documentation that sound pressure level, construction code, tower, interconnection (if applicable), and safety requirements have been reviewed and the submitted site plan is prepared to show compliance with these issues.

B. Proof of the applicant's public liability insurance for the project.

C. A copy of that portion of all the applicant's lease(s) with the land owner(s) granting authority to install the the Anemometer Tower and/or Utility Grid Wind Energy System; legal description of the property(ies), Lease Unit(s); and the site plan shows the boundaries of the leases as well as the boundaries of the Lease Unit Boundary.

D. The phases, or parts of construction, with a construction schedule.

E. The project area boundaries.

F. The location, height, and dimensions of all existing and proposed structures and fencing.

G. The location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest county or state maintained road.

H. All new infrastructure above ground related to the project.

I. A copy of Manufacturers' Material Safety Data Sheet(s) which shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.

J. For Utility Grid Wind Energy Systems only:

1. A copy of a noise modeling and analysis report and the site plan shall show locations of equipment identified as a source of noise which is placed, based on the analysis, so that the wind energy system will not exceed the maximum permitted sound pressure levels. The noise modeling and analysis shall conform to IEC 61400 and ISO 9613. After installation of the Utility Grid wind energy system, sound pressure level measurements shall be done by a third party, qualified professional according to the procedures in the most current version of ANSI S12.18. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter. Documentation of the sound pressure level measurements shall be provided to the local government within 60 days of the commercial operation of the project.

2. A visual impact simulation showing the completed site as proposed on the submitted site plan. The visual impact simulation shall be from four viewable angles.

3. A copy of an Environment Analysis by a third party qualified professional to identify and assess any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

4. A copy of an Avian and Wildlife Impact Analysis by a third party qualified professional to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

(Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sites that are frequented by federally and/or state listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptor.)

(At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area.. Where appropriate, surveys for bats, raptors, and general avian use should be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law.)

(The analysis shall indicate whether a post construction wildlife mortality study will be conducted and, if not, the reasons why such a study does not need to be conducted.)

5. A copy of a shadow flicker analysis at occupied structures to identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sun-rise to sun-set over the course of a year. The site plan shall identify problem areas where shadow flicker may affect the occupants of the structures and show measures that shall be taken to eliminate or mitigate the problems.

6. A second site plan, which includes all the information found in sections 125, 126, and 126 of this

Ordinance, and shows the restoration plan for the site after completion of the project which includes the following supporting documentation:

a. The anticipated life of the project.
b. The estimated decommissioning costs net of salvage value in current dollars.
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.

7. A description of the complaint resolution process developed by the applicant to resolve complaints from nearby residents concerning the construction or operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude the local government from acting on a complaint. During construction the applicant shall maintain and make available to nearby residents a telephone number where a project representative can be reached during normal business hours.

9409. Submission of a Site Plan

Three (3) copies of a site plan shall be submitted with a zoning permit application to the administrator. In the case where a committee of the Commission or the Commission is reviewing the site plan, eight (8) copies of the site plan shall be submitted to the administrator.

9410. Review for Completeness.

The Administrator shall review the site plan received to insure it is complete, and contains all the elements required by this Ordinance. Such finding shall be done concurrently with similar required findings that a zoning application is complete.

A. If the site plan is not found to be complete, the administrator shall return the site plan to the applicant within 10 days with a written list of items needed to make the site plan complete.

B. If the site plan is found to be complete, the administrator shall:

1. Only as applicable, forward copies of the site plan to the participating municipally's engineer, County Road Commission, Department of Public Works, Wexford County Soil Erosion Inspector, Wexford County Drain Commissioner, District Health Department sanitarian operating in Wexford County, Michigan Department of Transportation, village or city street administrator, for their recommendations to be subsequently forwarded with the site plan, and
2. Determine if the site plan is to be reviewed and acted upon by him, and then do so, or
3. Determine if the site plan is to be reviewed and acted upon by the Appeals Board, and then forward the copies of the site plan to each member of the Appeals Board a week prior to their meeting, or
4. Determine if the site plan is to be reviewed and acted upon by the Commission or a committee of the Commission, and then set up a site plan review meeting and forward the copies of the site plans to each member of the Commission (or a committee of the Commission) a week or more prior to the Commission's meeting.

9411. Standards for Site Plan Review

The following standards shall be used by the Commission and administrator to review site plans:

A. All applicable regulations of this Ordinance which apply generally to all districts, and all applicable regulations of this Ordinance which apply to the specific zoning district, to any conditions imposed with the granting of a Special Use Permit or variance, shall be shown on the site plan as being complied with.

B. All utility easements shall be distributed on site in a manner which is least harmful to surrounding properties. Electric, telephone, coaxial cable and other lines shall be located underground unless this requirement is specifically waived by the administrator, Commission or Appeals Board upon review of the site plan.

C. Water lines, sewer lines, all provisions of surface water drainage shall be approved by the respective agency and designed in compliance with any applicable federal and state statute, city, village, township, or county

ordinance.

9412. Approval and Compliance

A. In cases where the administrator reviews the site plan pursuant to section 9402; within seven (7) days of the site plan being found complete, as specified in section 9410, the Administrator shall act to approve, approve with modifications, or disapprove the site plan in writing with reasons.

B. In cases where the Commission, or a committee of the Commission, reviews the site plan; within sixty (60) days of the site plan being found complete, as specified in section 9410, the Commission shall act to approve, approve with modifications, or disapprove the site plan in writing with reasons.

C. The action shall be recorded in a record of the zoning application and shall be filed with the administrator. The administrator or Commission shall notify the applicant in writing of its decision. If rejected, the reasons for rejection and, if approval is possible, the requirements for approval, shall be given to the applicant, in writing, attached to the rejection. If the administrator or Commission does not act on the site plan, and put its action in writing within the prescribed time, the site plan shall be conclusively presumed to have been approved. If the proprietor and administrator or Commission mutually agree, the time limit may be extended.

9413. Conditions of Site Plan Approval

A. A site plan can be approved with conditions necessary to comply fully with the intent of this Ordinance. All conditions shall be shown on the approved site plan and/or shall be in writing.

B. Reasonable conditions may include conditions necessary to:

1. insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity,
2. protect the natural environment and conserve natural resources and energy,
3. insure compatibility with adjacent uses of land, and
4. promote the use of land in a socially and economically desirable manner.

C. Conditions imposed shall meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

9414. Security Requirement

A. To insure compliance with the site plan and Ordinance and any conditions, limitations or requirements imposed by the administrator or Commission as necessary to protect natural resources or the health, safety and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, the administrator or the Commission may require

1. a cash deposit,
2. certified check,
3. irrevocable bank letter of credit or
4. surety bond.

in an amount and under the conditions permitted by law.

B. Such security shall be provided to the Commission's Treasurer before the issuance of the permit authorizing the commencement of such project. The Commission's Treasurer shall deposit the security with the fiduciary participating municipality's treasurer. Where the project will take more than ninety (90) days to be completed, the administrator or Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.

C. Such security shall not exceed the estimated cost of the required conditions, limitations, requirements for which the security is designed to insure compliance.

9415. File Copies

At least two (2) copies of the site plan, all accompanying documents, record of approval, list of conditions, security shall be kept by the Commission at its office of record for its records.

9416. Zoning Permits

No zoning permit or Michigan Construction Code building permit, issued pursuant to P.A. 230 of 1972, as amended, (being the State Construction Code Act, M.C.L. 125.1501 *et. seq.*), shall be issued or otherwise authorized until after the site plan has been approved and any required securities have been received.

9417. Amendment of Site Plan

An application may be considered to amend an existing site plan, and shall be handled in the same manner as the initial site plan review prescribed by Section 9401 *et. seq.* of this Ordinance. By mutual agreement between the Commission and applicant, minor nonsubstantive changes may be made to an existing approved site plan if such change is sought prior to the issuance of an occupancy permit for work authorized by the Special Use Permit.

ARTICLE 96: APPEALS BOARD

9601. Appeals Board Established

There is hereby established an Appeals Board, which shall perform its duties and exercise its powers as provided in the Zoning Act, in such a way the objectives of this Ordinance shall be enforced, the public health and safety secured, and substantial justice done.

9602. Duties of the Appeals Board

The Appeals Board shall hear and decide such matters as the Appeals Board is specifically authorized to pass on as provided in this Ordinance and such matters as may be provided by law, including, but not limited to, variances, interpretation of Ordinance text and map.

9603. Appeals Board Members

[[[OPTION A: WHAT WAS IN INITIAL DRAFT, HIGH RISK MAYBE NOT LEGAL]]]

~~A. Each participating municipality, upon adoption of this Ordinance, authorizes the Commission to act to appoint and remove certain members and alternates to a single standing Appeals Board for this Ordinance.~~

~~B. The Appeals Board shall consist of the following five (5) members, as follows:~~

~~1. First member shall be a member(s) of the Commission which represents the participating municipality(ies) for where the appeals case originates.~~

~~2. Second member shall be the chief elected official, or his or her designee, that is a voting member of the legislative body, for the participating municipality(ies) in which the appeals case originates.~~

~~3. Third, fourth, and fifth members shall be selected and appointed by the Commission from among the electors residing in the participating municipalities.~~

~~4. The Commission may appoint not more than three standing alternate(s) to serve in the place of a regular members who is absent, unable to attend one or more meetings, has a conflict of interest, and because the regular member has already voted on the issue when it was before Commission.~~

~~5. Third, fourth, fifth appointees and alternates:~~

~~a. Shall not be members of legislative bodies of participating municipalities.~~

~~b. Shall not be members of the Commission.~~

~~6. If an Appeals Board member is also an elected official on the legislative body that person shall not serve as chair of the Appeals Board.~~

~~C. Third, fourth, fifth appointees and alternates to the Appeals Board shall be for three year terms, and staggered so that, as much as is possible, an equal number of members' terms end each year and those vacancy(ies) are filled each year.~~

~~D. The Commission shall provide for the removal of any member of the Appeals Board for misfeasance, malfeasance in office upon written charges and after public hearing.~~

~~E. A member of the Appeals Board shall disqualify himself or herself from a vote, discussion, and deliberation on a case when the member has a conflict of interest. Failure of a member to disqualify himself or herself when a conflict of interest exists constitutes malfeasance in office.~~

[[[OPTION B: WILSON PROPOSAL]]]

F. The first member of the Appeals Board shall be a member of the Planning Commission, nominated by the Planning Commission and appointed by the legislative body of the Participating municipality in which that member resides.

If the legislative body of the Participating municipality rejects the nomination of the Planning Commission, the Planning Commission shall nominate another of its members and submit that nomination to the legislative body of the Participating municipality in which that member resides and may repeat the process until a member of the Planning Commission is appointed to the Appeals Board. Appointments to fill vacancies and expiring terms for the seat to be held by a Planning Commission member shall proceed in the same manner.

G. Other members of the Appeals Board shall be appointed as follows:

1. The Planning Commission shall establish an ordered list of the Participating municipalities, with the Township selected to appoint the first Planning Commission member under §9603 A. listed first. The legislative bodys of the second, third, fourth and fifth participating municipalities on the list shall each appoint one regular member to the Appeals Board from among the electors residing in that Participating Municipality.
2. The legislative bodys of the sixth, seventh and eighth Participating municipalities shall each appoint one alternate member to the Appeals Board. [[[NOTE: CAN ONLY HAVE TWO ALTERNATES]]]
3. Vacancies and expired terms in the regular or alternate membership of the Appeals Board shall be filled in a like manner, except that the first vacancy on the Appeals Board shall be filled by the ninth Participating municipality and future vacancies shall be filled by the tenth and eleventh Participating municipalities, in that order. Succeeding vacancies shall be filled sequentially thereafter, starting with the first listed participating municipality. It shall be the responsibility of the Planning Commission to maintain records of the appointments made to the Appeals Board by the Participating municipalities.
4. A member of a legislative body of a participating municipality may serve on the Appeals Board, but shall not serve as the chairperson.

G. All terms of the regular and alternate members of the Appeals Board shall be for three years except that the appointment of the first appointments by the third and fourth Participating municipalities shall be for two years, and the first appointments by the fifth Participating municipality shall be for one year and staggered so that to the extent possible, an equal number of members' terms expire each year. Terms of the Commission and any legislative body member serving shall be limited to the time he or she is a member of that body. Vacancies shall be filled to serve the unexpired term of the member whose absence created the vacancy.

H. A member of the Appeals Board may be removed by the Participating municipality that appointed that member for misfeasance, malfeasance or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote, discussion, and deliberation on a case when the member has a conflict of interest. Failure of a member to disqualify himself or herself when a conflict of interest exists constitutes malfeasance in office

[[[OPTION C: WILSON MODIFIED BY SCHINDLER PROPOSAL]]]

I. The Appeals Board shall consist of the following five (5) members, as follows:

1. The first member shall be the Chair of the Commission, and serving during the term of office as the elected chair of the Commission.
2. Other four members of the Appeals Board shall be appointed as follows:
3. The first four legislative bodys listed here each appoint one regular member to the Appeals Board from among the electors residing in that Participating Municipality. When that member's term of office ends, the fifth participating municipality listed here shall appoint a replacement to the Appeals Board from among the electors residing in that Participating Municipality. When that member's term of office ends, the sixth participating municipality listed here shall appoint a replacement to the Appeals Board from among the electors residing in that Participating Municipality, and so on in this manner including going back to the first listed after the eleventh listed.
4. All terms of the regular and alternate members of the Appeals Board shall be for three years except that the appointment of the first appointments by the third and fourth Participating municipalities shall be for two years, and the first appointments by the fifth Participating municipality shall be for

one year and staggered so that to the extent possible, an equal number of members' terms expire each year. Terms of the Planning Commission and any legislative body member serving shall be limited to the time he or she is a member of that body. Vacancies shall be filled to serve the unexpired term of the member whose absence created the vacancy.

Representative from		1st start year	2nd start year	3rd start year	4th start yer	1st year	2nd year	3rd year	4th year	5th year	6th year	7th year	8th year
Antioch Township	ZBA member	■						■	■	■			
	Alternate												
Boon Township	ZBA member	■	■						■	■	■		
	Alternate												
Cherry Grove Township	ZBA member	■	■	■						■	■	■	
	Alternate												
Greenwood Township	ZBA member	■	■	■							■	■	■
	Alternate												
Hanover Township	ZBA member		■	■	■						■	■	■
	Alternate												
Liberty Township	ZBA member			■	■	■						■	■
	Alternate												
Selma Township	ZBA member				■	■	■						■
	Alternate												
Slagle Township	ZBA member				■	■	■						
	Alternate												
South Branch Township	ZBA member					■	■	■					
	Alternate												
Springville Township	ZBA member						■	■	■				
	Alternate												
Wexford Township	ZBA member							■	■	■			
	Alternate												
			After 8th year, the same pattern continues										

2. The legislative bodys of the sixth, seventh and eighth Participating municipalities shall each appoint one alternate member to the Appeals Board. [[[NOTE: CAN ONLY HAVE TWO ALTERNATES]]]

a. Vacancies and expired terms in the regular or alternate membership of the Appeals Board shall be filled for the remaining term by the same township that made the initial appointment.

b. It shall be the responsibility of the Planning Commission to maintain records of the appointments made to the Appeals Board by the Participating municipalities.

5. A member of a legislative body of a Participating municipality may serve on the Appeals Board, but shall not serve as the chairperson.

J. A member of the Appeals Board may be removed by the Participating municipality that appointed that member for misfeasance, malfeasance or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote, discussion, and deliberation on a case when the member has a conflict of interest. Failure of a member to disqualify himself or herself when a conflict of interest exists constitutes malfeasance in office.

K. The Commission shall provide for the removal of any member of the Appeals Board for misfeasance, malfeasance in office upon written charges and after public hearing.

L. A member of the Appeals Board shall disqualify himself or herself from a vote, discussion, and deliberation on a case when the member has a conflict of interest. Failure of a member to disqualify himself or herself when a conflict of interest exists constitutes malfeasance in office.

[[[[OPTION D: MONROE-OSBORNE PROPOSAL (RECOMMENDED)]]]]

M. The Zoning Board of Appeals (Appeals Board) shall consist of four regular members plus a number of regular members equal to the number of participating municipalities and two alternate members, selected as provided in this Section, but all proceedings of the Appeals Board shall be conducted by a panel of five (5) members:
[Annotation: MCL 125.3601 and MCL 125.137(4).]

1. The first regular member shall be a member of the Commission, who shall serve during his or her term of office as a member of the Commission. The first member shall be nominated by the Commission and submitted to the legislative body of the participating municipality where the nominee resides for appointment. If the legislative body board of the participating municipality rejects the nomination, the Commission shall nominate another of its members and submit that nomination to the legislative body of the participating municipality in which that nominee resides, and may repeat the process until a nominee is appointed as the first member of the Appeals Board.
[Annotation: MCL 125.3601(4).]

2. The second, third, and fourth regular members and the first and second alternate members shall be nominated by the Commission and their names submitted to the legislative bodies of the participating municipality where each of the nominees resides for appointment. If the legislative body of the participating municipality rejects a nomination, the Commission shall nominate another and submit that nomination to the legislative body of the participating municipality in which that nominee resides and may repeat the process until all three regular members and two alternate members are appointed to the Appeals Board.

3. The remaining regular members shall each be a member of the legislative body of each of the participating municipalities, but these members may not act as chairperson of the Appeals Board and shall not be a member of the Commission. The regular members selected from the legislative bodies shall be nominated and appointed by the respective legislative bodies of each participating municipality.
[Annotation: MCL 125.3601(5).. With eleven participating municipalities this results in four plus 11 regular members, 15 total, and two alternate members.]

N. A quorum of the Appeals Board shall consist of three members. Proceedings of the Appeals Board shall be conducted by a hearing panel consisting of the first four regular members and the fifth member shall be the member of the legislative body of the participating municipality in which the land involved in the proceeding is located (or alternates, as

needed). The affirmative vote of a majority of the hearing panel shall be required for the Appeals Board to decide any matter.

O. Appointments to fill vacancies and expiring terms for regular members and alternate members shall proceed in the same manner.

P. All regular members and alternate members shall meet the following qualifications to be appointed to the Appeals Board:

1. Each regular member and each alternate member shall be an elector of the participating municipality that appointed that member, but not an elected official of the legislative body of a participating municipality.
2. No one regular member or alternate member shall be an elector of a participating municipality in which another regular member or alternate member is also an elector so that no one participating municipality has more than one person at a time serving on the Appeals Board. This restriction does not apply to regular members who are also members of the legislative body of a participating municipality.
3. ~~If a sitting second, third, or forth member does not consent to be reappointed or is not nominated to be reappointed, then the appointment shall be someone that is not a resident of the participating municipality where the former sitting member was a resident. The nomination may be of a sitting alternate member. This restriction does not apply to regular members who are also members of the legislative body of a participating municipality or the first member.~~
4. ~~If a sitting first or second alternate member does not consent to be reappointed, is not nominated to be reappointed, or was appointed as a member, then the appointment of an alternate member shall be someone that is not a resident of the participating municipality where the former sitting alternate member was a resident.~~
5. No regular member or alternate member shall be an employee or contractor of any of the participating municipalities or the Commission.

Q. Regular members and alternate members may be nominated and re-appointed to additional terms of office.

R. The Commission shall distribute the nominations for regular and alternate members, other than those also serving on the legislative bodies, among the participating municipalities so as to rotate membership on the Appeals Board among all of the participating municipalities over time and to provide for the advancement of alternate members to regular membership.

S. All terms of the regular and alternate members of the Appeals Board shall be for three years except that the first appointment of the second member shall be for one year, third member and first alternate member shall be for two years, the fourth member and second alternate member shall be for three years, and thereafter staggered so that to the extent possible, an equal number of members' terms expire each year. Terms of the Commission member and the members from the legislative bodies of the participating municipalities shall be limited to his or her term as a member of that body. Vacancies shall be filled to serve the unexpired term of the member whose absence created the vacancy.

T. A member of the Appeals Board may be removed by the participating municipality that appointed that member for misfeasance, malfeasance or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote, discussion, and deliberation on a case when the member has a conflict of interest. Failure of a member to disqualify himself or herself when a conflict of interest exists constitutes malfeasance in office.

U. It shall be the responsibility of the Commission to maintain records of the appointments made to the Appeals Board by the participating municipalities.

V. The Appeals Board shall have all the powers and duties regarding its affairs as allowed by law, including the adoption or rules of procedure.

[[[END OF PROPOSALS A-D]]]

9604. Variance

A variance from the terms of this Ordinance shall not be granted by the Appeals Board unless and until:

A. A written application for a variance is submitted, demonstrating:

1. That special conditions and circumstances exist which are peculiar to the land, structure, or

building involved and which are not applicable to other lands, structures, or buildings in the same district.

2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
3. That the special conditions and circumstances do not result from the actions of the applicant.
4. That granting the variance will not alter the essential character of the area.

B. No nonconforming use of neighboring lands, structures, or buildings, in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

C. The Appeals Board shall make findings that the requirements of this Ordinance have been met by the applicant for a variance.

D. The Appeals Board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

E. In granting any variance, the Appeals Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance and including requirements for a buffer area, greenbelt, vegetation belt. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under section 9804.

9605. Voiding of and Reapplication for Variance

The following provisions shall apply:

A. Each variance granted under the provisions of this Ordinance shall become null and void unless:
   1. The construction authorized by such variance or permit has begun within one (1) year after the granting of such variance and pursued diligently to completion; or
   2. The occupancy of land or buildings authorized by such variance has taken place within one (1) year after the granting of such variance.

B. No application for a variance which has been denied wholly or in part by the Appeals Board shall be resubmitted except on grounds of new evidence or proof of changed conditions found by the Appeals Board to be valid.

9606. Interpretation of Ordinance Text

A. Interpretation - Pursuant to the requirements of the Act; nothing contained herein shall be construed as prohibiting the Appeals Board from interpreting the text of this Ordinance in such a fashion that will allow in a land use district buildings, uses and structures which are sufficiently similar to the specifically delineated permitted or special uses in that land use district, under the same permitted or special use regulations. Such interpretation shall not have the effect of granting a variance but rather shall be deemed only to be an interpretation of the Ordinance text.

B. Standards - In determining whether a proposed building, use or structure is sufficiently similar to a specifically delineated permitted or special use, the Appeals Board shall consider the relevant policies for the Land Use District in question as set forth in the Master Plan, the nature, use and purpose of the proposed building, use or structure and whether or not the proposed building, use or structure is a permitted or special use in any other Land Use District.

C. Precedent - An earlier determination under this section shall be considered a precedent for other applications proposing an identical building, use or structure in the same Land Use District, provided the earlier determination was made with respect to a building, use or structure sufficiently similar to a specifically delineated permitted use in the Land Use District and not with respect to a specifically delineated special use. An earlier determination with respect to an identical, sufficiently similar special use shall be considered as a precedent only to the extent that such sufficiently similar special use shall be considered as a candidate for a Special Use Permit in that Land Use District, but shall otherwise be subject to all requirements of section 8609.

9607. Appeals to the Appeals Board

A. A demand for a zoning appeal is received by the zoning administrator. Appeals can be filed by:

9608. a person aggrieved, or

1. an officer, department, board, or bureau of the state or participating municipality.

B. The Appeals Board shall have the authority to hear appeals concerning:
   1. All questions that arise in the administration of the zoning ordinance, including interpretation of the zoning map.
   2. All administrative orders, requirements, decision or determination made by an administrative official or body charged with enforcement of the zoning ordinance.
   3. All decisions of the zoning administrator.
   4. All decisions concerning site plan review.
   5. [OPTIONAL] *All decisions of the planning commission concerning special use permits.*
   6. [OPTIONAL] *All decisions of the planning commission concerning planned unit developments.*

C. Upon receipt of a demand for appeal, the administrator will review the demand for appeal to insure it is complete and the fee is paid.
   1. If the application is not complete, the administrator will return the application to the applicant with a letter that specifies the additional material required.
   2. If the application is complete, the administrator and chairman of the appeals board shall establish a date to hold a hearing on the appeal.

D. The appeal stays all proceedings in furtherance of the action appealed, unless the body or officer from whom the appeal is taken certifies to the zoning board of appeals that by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril of 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.

E. The notices shall be given not less than 15 days before the date of the hearing on an appeal.
   1. notices shall be sent to:
      a. The individual demanding the appeal.
      b. The owner (or other owners) of the property, if different.
      c. The owners of all real property within 300 feet of the boundary for the property for which the approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located in the zoning jurisdiction or not.
      d. Occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located in the zoning jurisdiction or not.
      e. The general public by publication in a newspaper which circulates (paid subcription) in Wexford County.
      f. Members of the appeals board.
      g. Adjacent governments (city, township, village, county, Indian tribal government) which is located within one mile of the proposed special use;
      h. Governments (county road commission, and operator of public utilities, school district) for where the proposed special use is located within;
      i. Other utility providers;
      j. Michigan Department of Transportation if within one quarter mile of a state highway;
      k. Michigan Department of Environmental Quality if the proposed special use in on property with surface water or wetlands.
   2. The notice shall include:
      a. The nature of the appeal or variance being requested.
      b. The property(ies) for which the appeal or variance has been made.
      c. A listing of all existing street addresses within the property(ies) which is(are) subject of the zoning amendment. (Street addresses do not need to be created and listed if no such addresses currently exist. If there are no street addresses another means of identification may be used.)
      d. The location where the demand for appeal can be viewed and copied prior to the date the zoning amendment hearing.
      e. The date, time and location of when the hearing before the appeals board will take place.

f. The address at which written comments should be directed prior to the hearing.

g. For members of the appeals board only, a copy of the demand for appeal, the entire record on the case, the staff report, and supporting documents in the record.

F. The appeals board shall hold a hearing on the demand for appeal.

1. Representation at Hearing - Upon the hearing, any party or parties may appear in person or by agent or by attorney.

2. Standards for Variance Decisions by the Appeals Board:

The Appeals Board shall base its decisions on variances from the strict requirements of this Ordinance so that the spirit of the Ordinance is observed, public safety secured, and substantial justice done based on the following standards:

a. For Dimensional Variances: A dimensional variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following:

(1) 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 applicants personal or economic difficulty.

(2) That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

(3) 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.

(4) 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 district.

(5) 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.

b. For Use Variances: Under no circumstances shall the Appeals Board grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

G. If the demand for appeal is for a variance the appeals board shall either grant, grant with conditions, or deny the application. The appeals board 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. A majority vote of the membership of the appeals board is necessary to grant a dimensional variance and rule on an interpretation of the ordinance. A ⅔ majority vote of the membership of the appeals board is necessary to grant a use variance. The decision shall be in writing and reflect the reasons for the decision.

1. At a minimum the record of the decision shall include:

a. Formal determination of the facts,

b. The conclusions derived from the facts (reasons for the decision)

c. The decision.

2. Within eight days of the decision the record of the decision shall be certified and a copy delivered by first class mail to the person demanding the appeal, the administrator, and other parties.

H. Decisions of the Appeals Board and Appeals to the Circuit Court - The Appeals Board shall decide --by an affirmative vote of a majority of all its members-- upon all matters appealed within sixty days of the receipt of a demand for appeal, and fee pursuant to 8204, 8204.B of this Ordinance by the administrator, unless mutually agreed by both parties to extend the time, and may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Administrator, or Commission, from whom the appeal is taken for

administration and enforcement of this Ordinance. The Appeals Board decision of such appeals shall be in the form of a resolution containing a full record of the findings and determination of the Appeals Board in each particular case.

I. Any person having an interest affected by such decision shall have a right to appeal to Circuit Court within 30 days of the certified decision of the appeals board, as provided by law.

ARTICLE 98: AMENDMENT VALIDITY PENALTIES

9801. Initiating Amendments and Fees

The a legislative body of a participating municipality may from time to time, on recommendation from the Commission, amend, modify, supplement or revise the district boundaries or the provisions and regulations herein established whenever the public necessity and convenience and the general welfare require such amendment. Said amendment may be initiated by resolution of any one of the legislative bodies, the Commission, or by petition of one or more owners of property to be affected by the proposed amendment. Except for the legislative body, or the Commission, the petitioner or petitioners requesting an amendment shall at the time of application pay a fee pursuant to 8204, 8204.B of this Ordinance.

9802. Amendment Procedure

A. The procedure for making amendments to the Ordinance shall be in the manner provided by law, with all amendment proposals being referred to the Commission for statutorily required notices, hearing, review by Commission, transmission of the proposed amendments and summary of comments made at the public hearing to each of the legislative bodies of the participating municipalities for their action with or without an additional public hearing, with fifteen (15) days notice given in a newspaper. If a legislative body holds an additional hearing, the Commission members representing that participating municipality, or his or her designee, shall be required to attend. Within fifteen (15) days of adoption, a notice to that effect shall be published in a newspaper and a copy of the amendment filed with the Clerk of each participating municipality and filed at the Commission's office of record..

B. The Commission shall consider each proposal for amendment in terms of its own judgement on particular factors related to the individual proposal and in terms of the most likely effect on the community's physical development. The Commission may recommend any additions or modification to the original amendment proposal.

C. Pre-proposal Conference Participating Municipality, and Neighborhood Meetings:

1. The applicant, at his or her option, may request a meeting with the Administrator, other Commission staff and consultants, and not more than two members of the Commission before submitting an application. The purpose of the meeting is to discuss proposed amendment processing procedures, explanation of this zoning ordinance and master plan to assist the applicant and Commission with understanding of the requested amendment. Officials at this meeting shall not indicate or otherwise commit the to any particular action regarding the proposed amendment.
2. If the proposed amendment is to a particular geographic area the applicant, shall present at a meeting of the respective participating municipality's elected officials for where the proposed amendment will affect. Another municipality within one mile of proposed amendment affected area shall also be made aware of this meeting so that their representatives may attend. The purpose of this meeting is for the applicant to learn participant's concerns and to be able to modify the proposed amendment to mitigate those concerns prior to submitting the same to the Commission. Officials at this meeting shall not indicate or otherwise commit the to any particular action regarding the application. Minutes of the meeting shall be prepared by the participating municipality and the applicant shall provide a copy to the Commission with the application.
3. If the proposed amendment is to a particular geographic area the applicant, at his or her option, may sponsor a neighborhood meeting those who live near where the proposed amendment will affect. The purpose of the neighborhood meeting is for the applicant to learn residents concerns and to be able to modify the proposed amendment to mitigate those concerns prior to submitting the same to the Commission. If a neighborhood meeting is held, minutes of the meeting shall be

prepared by the applicant and a copy provided to the Commission with the application. If the neighborhood meeting is held it may be combined with and be the same meeting as with the respective participating municipality.

D. When a request for amendment (including PUD) is initiated and has been initially reviewed by the Commission the Zoning Administrator shall cause notification of the request and public hearing.

1. The notices shall be given not less than 15 days before the date of the hearing on a proposed zoning amendment and notices shall be sent to:
   a. The applicant.
   b. The owner (or other owners) of the property, if different.
   c. If the zoning amendment is for less than 11 adjacent properties:
      (1) the owners of all real property within 300 feet of the boundary for the property for which the approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located in the zoning jurisdiction or not.
      (2) occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located in the zoning jurisdiction or not.
   d. The general public by publication in a newspaper which circulates (paid subscription) in Wexford County.
   e. Members of the Commission.
   f. Each participating municipality.
   g. Utility providers;
2. The notice shall include:
   a. The nature of the zoning amendment being requested.
   b. The property(ies) for which the zoning amendment has been made.
   c. If the zoning amendment is for less than 11 adjacent properties, also a listing of all existing street addresses within the property(ies) which is(are) subject of the zoning amendment. (Street addresses do not need to be created and listed if no such addresses currently exist. If there are no street addresses another means of identification may be used.)
   d. The location where the application documents can be viewed and copied prior to the date the zoning amendment hearing.
   e. The date, time and location of when the hearing on the zoning amendment will take place.
   f. The address at which written comments should be directed prior to the hearing on the zoning amendment.
   g. For members of the planning commission only, a copy of the request for the zoning amendment, the draft of the zoning amendment, and supporting documents in the record.
3. The Commission shall maintain a file of each affidavit of mailing for each mailing made under this section.
4. A township, village, city, county, utility, and road agency which receives notice pursuant to this section may chooses to submit material to the Commission. Such submissions shall be delivered to the county at or before the hearing on the issue. Such submissions shall be considered advice to the Commission. The Commission may give extra deference to those comments as long as it does not abdicate the Commission's authority. The applicant may wish to present the application to the township, village, city, county, utility, and road agency which receives notice pursuant to this section prior to the hearing, or prior to submitting the application to the Commission.

E. Hearing and Decision

1. The Commission shall hold a public hearing to receive input on the proposed Zoning Amendment.
2. Following the hearing, the Commission shall consider each proposal for amendment in terms of its own judgement on particular factors related to the individual proposal and in terms of the most likely effect on the community's physical development. The Commission may recommend any

additions or modification to the original amendment proposal. The Commission shall review the proposed amendment:

a. For compliance with formal adopted plans adopted pursuant to P.A. 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et seq.*) upon which this Ordinance is based:

(1) If it is found to comply with formal adopted plan and receives favorable Commission judgement, then it shall recommend to each of the participating municipalities for adoption.

(2) If it is found to comply with formal adopted plan and receives unfavorable Commission judgement, then it shall recommend to each participating municipalities not to be adopted.

(3) If it is found not to comply with formal adopted plan, then further steps to adopt the amendment shall cease until the formal adopted county plans adopted pursuant to P.A. 33 of 2008, as amended, (being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et seq.*), upon which this Ordinance is based, is first or simultaneously amended so that the Commission can find the proposed zoning complies with the plan.

b. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;

c. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning; and

d. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

F. After the public hearing and the finding in Section 9802.E.2.a.(1) or 9802.E.2.a.(2) has been made, the Commission shall submit:

1. a summary of the comments received at the public hearing,
2. the proposed amendment, and
3. any zoning maps,

to each of the participating municipalities. After receiving the recommended zoning amendment, each participating municipalities, at a regular meeting or at a special meeting called for the purpose, shall consider the recommendations and vote upon the adoption of the proposed amendment. Any amendments shall be approved only by a roll call vote of the majority of the members of the legislative body of each participating municipalities. The legislative body of each participating municipalities shall not make a change or departure from the proposed text amendment and zoning map amendment, as recommended by the Commission, unless the proposed change or departure is first submitted back to the Commission. The Commission shall have thirty (30) days from and after receipt of the proposed change or departure to send its second report to the legislative body of each participating municipalities. If the proposed change or departure is found by the Commission not to comply with formal adopted plan, then further steps to adopt the amendment shall cease, regardless if the thirty (30) days has passed or not, until the formal adopted plan(s) adopted pursuant to the Zoning Act, upon which this Ordinance is based, is first or simultaneously amended so that the Commission can find the proposed zoning complies with the plan. Upon receiving the second report the legislative body of each participating municipalities may adopt, adopt with modification, or not adopt the proposed amendment.

G. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification.

9803. Conformance to Court Decree

Any amendment for the purpose of conforming a provision thereof to the decree of a court of competent jurisdiction shall be adopted by legislative body of each participating municipalities and the amendments published without referring the same to any other Board or agency.

9804. Violations and Penalties: Nuisance Per Se: Abatement

A. Nuisance *Per Se*: Any building or structure which is erected, constructed, reconstructed, altered, converted, maintained, or used or any use of land or premises which is begun, maintained or changed in violation of any provisions of this Ordinance is hereby declared to be a nuisance *per se*.:

B. Authorized Local Official: The Zoning Administrator is hereby designated as the authorized local official to issue municipal civil infraction citations.

C. Violations; Municipal Civil Infractions: Any person, including, but not limited to, an individual, partnership, corporation, limited liability company, or other incorporated or unincorporated, voluntary association, who violates any provision of this Ordinance shall be responsible for a municipal civil infraction. Violation of this Ordinance and its penalties shall be judicially enforced through the Wexford County Judicial District Court. Enforcement for violations of this Ordinance shall be as follows:

1. Unless immediate action is necessary upon the determination by the Township Zoning Administrator that there is a danger to the public health, safety, or welfare, the person violating this Ordinance shall be served personally or through first class mail with a notice of violation requiring that the violation be corrected within thirty (30) days of the notice.
2. Upon failure to correct the violation or in cases when immediate action is necessary, a person violating this Ordinance shall be issued a citation requiring his or her appearance in the Wexford County Judicial District Court.
3. A person who violates this Ordinance shall be fined not less than $150.00 nor more than $500.00 plus costs.
4. A person who violates this Ordinance and has been previously found responsible or admitted responsibility for a violation of this Ordinance in a civil infraction proceeding within one (1) year immediately preceding the issuance of the second citation, shall be fined not less than $300.00 nor more than $500.00 plus costs.:
5. A person who violates this Ordinance and has been found responsible or admitted responsibility for violation of this Ordinance in a civil infraction proceeding on at least two prior occasions within two (2) years immediately preceding the issuance of the third or later citation, shall be fined $500.00 plus costs.

9805. Caption

The captions used in this Ordinance shall not be deemed to be a part of this Ordinance and shall not be construed to enlarge or restrict the rights and obligations otherwise contained herein.

9806. Repeal of Ordinance

Any zoning ordinance, previously adopted prior to the effective date of this ordinance by any of the participating municipalities or adopted prior to the date of any additional municipalities becoming a part of the Wexford Joint Planning Commission Ordinance and Agreement, and all amendments thereto are hereby repealed.

9807. Pending Zoning Applications

All applications for permits, appeals and variance requests pending before the Administrator, the Planning Commission, or the Appeals Board on the effective date of this Ordinance shall be acted upon only in conformance with this provisions of this Ordinance.

9808. Validity and Severability Clause

If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not effect any other provisions of this Ordinance not specifically included in said ruling. If any court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular land, parcel, district, use, building or structure, such ruling shall not effect the application of said provision to any other land, parcel, district, use, building, or structure not specifically included in said ruling.

9809. Period of Effectiveness

This Ordinance shall remain in full force and effect henceforth unless repealed.

Signed:

_____ _____
xxxx Date

_____ _____
Clerk, Date

[MODEL\ZONE90S.ANY]

ADOPTION AND AMENDMENT HISTORY

ADOPTION HISTORY:

AMENDMENT HISTORY:

[November 17, 2016; C:\Users\Kurt\Documents\wp\OtherCounty\Wexford\WexfordJointPln\WexfordJointZoningOrd.wpd]