

# WEXFORD COUNTY ZONING ORDINANCE #5

**As amended by the Wexford County Board of  
Commissioners**

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***Prepared by the Wexford County Planning Commission***

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ZONING ORDINANCE

WEXFORD COUNTY MICHIGAN

AN ORDINANCE to establish Zoning Districts and regulations governing the unincorporated portion of Wexford County, Michigan in accordance with the provisions of Act 183 of the Public Acts of Michigan as amended; to provide for a County Zoning Board of Appeals, for amendments and for the administration of this Ordinance.

**THE COUNTY OF WEXFORD ORDAINS;**

## ARTICLE ONE: TITLE, PURPOSE AND SCOPE

### 1.1: TITLE

This Ordinance shall be known as the Wexford County Zoning Ordinance.

### 1.2: PURPOSE OF ORDINANCE

The primary purpose of this Ordinance is to promote the health, safety, comfort, peace, convenience and general welfare of the inhabitants.

The provisions hereinafter adopted are intended:

- to promote the orderly development of the County;
- to encourage the use of lands and resources of the County in accordance with their character and adaptability;
- to promote economic progress while protecting and enhancing property values and natural resources of the County;
- to reduce hazards to life and property, promote safety in traffic, and provide protection from spread of fire;
- to provide, in the interests of health and safety minimum standards under which land, specified buildings and structures may hereafter be erected, altered and used;
- to facilitate the development of adequate and economic systems of fire protection, safe and adequate water supplies, sewage disposal, education, transportation and other public requirements;
- to conserve the use of public funds for public improvement and services to conform with the most advantageous use of the land, water, properties and resources within the County; and to advocate site design and development which will conscientiously protect and enhance the natural features and ecosystems which exist in the county.
- to designate districts within which uses of land and location, sizes, and uses of buildings and structures, the maximum number of families to be housed, and open spaces conform to an orderly system.

### 1.3: SCOPE

The provisions of this ordinance shall be held to be the minimum requirements for promoting the public health, morals, safety or general welfare. Whenever the requirements of this Ordinance are at variance with the requirements of other lawfully adopted rules, regulations or restrictions, or with existing easements, covenants, or other agreements between parties, the requirements imposing the more restrictive standards shall govern. Where a conflict arises between requirements of this Ordinance, the conflict shall be resolved so that the more restrictive standards apply and the spirit and purpose of the Ordinance are observed. The requirements of Article Five, Lake Mitchell Overlay Zone, supersede conflicting requirements of the underlying zoning districts unless otherwise specifically stated.

#### **1.4: EXISTING USES OF LANDS, BUILDINGS AND STRUCTURES**

At the discretion of the property owners, the lawful use of any building or structure and of any land or premises as existing and lawful on the date of adoption of this Ordinance may be continued even though such use may not be in conformity with the provisions of this Ordinance.

#### **1.5: EXEMPTION OF ACCESSORY FARM BUILDINGS AND STRUCTURES**

The provisions of this Ordinance shall not apply to the erection, repair or use of customary accessory farm buildings and structures, such as barns, sheds, pens, fences and the like, provided that no building or structure other than open fences, through which there shall be clear vision, shall hereafter be erected, moved or maintained less than one hundred (100) feet from any highway right-of-way line abutting the premises.

#### **1.6: OPEN SPACE PRESERVATION OPTIONS**

- A. Any parcel of land in Wexford County subject to this Ordinance which is zoned in such a manner as to allow for residential development may be developed, at the option of the landowner, with the same number of dwelling units that could be otherwise be developed on the entire land area on a portion of the land not to exceed fifty percent of the entire land area, if all of the following apply:
  - 1. The land is zoned at a density equivalent to two or fewer dwelling units per acre or; if the land is served by a public sewer system, three or fewer dwelling units per acre;
  - 2. At least fifty percent of the entire land area is set aside as open space to remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land;
  - 3. The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the option provided by this Section would also depend upon such an extension; and
  - 4. The option provided pursuant to this Section has not previously been exercised with respect to the land.
- B. After a land owner exercises the option provided pursuant to this Section, the land may be re-zoned accordingly.
- C. The development of land under the option in this Section is subject to other applicable ordinances, laws, and rules, including rules relating to suitability of ground water for on-site water supply for land not served by public water, and rules relating to suitability of soils for on-site sewage disposal for land not served by public sewers.

## ARTICLE TWO: DEFINITIONS

For the purpose of this Ordinance, the following definitions shall apply. In the event that a question of definition should arise for a word or phrase not included within, the common dictionary definition shall apply. The dictionary selected for this purpose shall be the Webster's New Collegiate edition (Numbers in parenthesis indicate other sections of this Ordinance related to that definition)

### **ACCESSORY BUILDING OR STRUCTURE (3.2), (3.7), (3.21), (7.3)**

A supplemental building or structure on the same lot or premises as the main building occupied by, or devoted exclusively to an accessory use, not including dwelling, lodging or sleeping purposes. For the purposes of this ordinance, semi-trailers, manufactured homes recreational vehicles or any similar structure shall not be used as an accessory building.

### **ACCESSORY USE (3.7), (6.3)**

A subordinate use incidental to and customary in connection with the use of the principle building or use and located on the same lot or premises. It is the intent of this definition that accessory uses are allowed only in conjunction with an existing principal use.

### **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 MCL 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 night club, 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 “special 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 “special anatomical areas”, as hereinafter defined for observation by patron therein;

### **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;

### **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”.

## **AGRICULTURE**

The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forage and sod crops; grains and seed crops- dairy animals and dairy products, poultry and poultry products; livestock, including those species of animals used for human food and fiber or those species of animals used for service to humans. Livestock includes, but is not limited to, cattle, sheep, new world camelids, goats bison captive cervidae, raties, swine, equine, poultry, aquaculture, and rabbits. Livestock does not include dogs and cats (PA 466 of 1988). bees and apiary products; fur animals; trees and forest products- fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to soil conservation.

## **ASSISTED LIVING FACILITY**

A building used and occupied for residential purposes for older adults which provides personalized support services for daily living and resident health care for 7 or more persons under 24-hour supervision or care for persons in need of that supervision or care. This definition shall not apply to adult foster care facilities licensed by a state agency and does not include a facility for the care and treatment of persons released or assigned to adult correctional institutions.

## **AUTOMOBILE SERVICE STATION**

A building and premises wherein gasoline, oil, grease, tires, batteries and other automobile supplies and accessories may be sold at retail and installed, and where minor services may be rendered, not to include the following:

- A. Major mechanical and body work, such as straightening of body parts painting and refinishing.
- B. Storage of damaged automobiles not in operating condition, except those awaiting immediate service (i.e., within three days).
- C. Other work creating noise, glare, fumes or smoke.

## **AUTOMOBILE REPAIR STATION**

A building and premises wherein gasoline, oil, grease, tires, batteries and other automobile supplies and accessories may be sold at retail and installed, and where vehicle repair services may be rendered, including the following:

- A. Major mechanical and body work, such as straightening of body parts, painting and refinishing.
- B. Temporary storage of damaged automobiles not in operating condition, awaiting service.

## **BASEMENT**

That portion of a building which is partly or wholly below grade but so located that the vertical distance from the mean grade to the floor is greater than the vertical distance from the mean grade to the ceiling.

## **BUILDING**

Any structure, whether site built or pre-manufactured, which is erected on a site and having a roof supported by columns or walls, which is used or erected for the shelter or enclosure of persons, animals or personal property or for carrying on business activities or other similar uses.

## *ARTICLE TWO: DEFINITIONS*

### **BUILDING HEIGHT**

The vertical distance from the established grade at the center of the front of the building to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean elevation level between eaves and ridge of a gable, hip or gambrel roof.

### **BUILDING SIZE**

Describes the total exterior size of a structure. In the case of a dwelling, this definition shall not include open breezeways, unenclosed porches or attached garages.

### **BUSINESS**

See Commercial Enterprise

### **BREEZEWAY**

A covered structure connecting an accessory building with the main building. The breezeway shall not be considered or included as part of the living area of the main building for determining square footage requirements for dwelling purposes or for determining yard and area requirements.

### **CHURCH**

A building and the related grounds which are owned by and used for religious services performed by an incorporated religious institution in accordance with the bylaws of their charter.

### **COMMERCIAL ENTERPRISE (3.26)**

An establishment or activity concerned with the supply and/or distribution of commodities as a means of livelihood. This definition, along with the provisions found in Section 3.26, shall be applied to all retail establishments and businesses provided for in this Ordinance, except Home Occupations/Home Professional Offices (See Definition and Sec. 3.2).

### **CONDITIONAL USE**

Conditional Use is defined as a use which would not impair the public health, safety, or welfare in one or more zones, but which would impair the integrity and character of the zone in which it is located or in adjoining zones unless restrictions on location, size, extent and character of performance are imposed in addition to those imposed in the zoning regulations. Conditional Uses are specifically listed in this Ordinance for each zone. In addition to meeting standard requirements found throughout this Ordinance, conditional uses must also meet certain use-specific requirements which are found in Section 10.16 of this Ordinance.

### **CONDOMINIUMS**

A multi-unit structure or development with individual ownership of each dwelling unit pursuant to the Condominium Act (PA 59 of 1978).

### **CONSERVATION EASEMENT**

Conservation easement means that term as defined in Section 2140 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, being MCL 342.2140; MSA 13A.2140.

### **CONVENIENCE STORES**

This industry comprises establishments known as convenience stores or food marts (except those with fuel pumps) primarily engaged in retailing a limited line of goods that generally includes milk, bread, soda, and snacks.

**DAY CARE HOME, FAMILY (see “State Licensed Residential Facility”)**

A single-family dwelling occupied as such in which one (1) but less than seven (7) individuals are received for care and supervision for periods of less than twenty four (24) hours per day. This definition shall not apply to persons related by blood, marriage or adoption to an adult member of the family occupying the single-family dwelling.

**DAY CARE HOME, GROUP (see “State Licensed Residential Facility”)**

A single-family dwelling occupied as such in which more than six (6) but less than twelve (12) individuals are given care and supervision for periods of less than twenty four (24) hours per day. This definition shall not apply to persons related by blood, marriage or adoption to an adult member of the family occupying the single-family dwelling.

**DISCARDED MATERIALS**

See definition for Junk.

**DRIVE THROUGH BUSINESS**

A business establishment so developed that its retail or service character is wholly or partially dependent on providing a driveway approach and service windows or facilities for vehicles in order to serve patrons while in the vehicle.

**DUPLEX (3.6)**

See DWELLING, TWO-FAMILY

**DWELLING UNIT (3.12, 3.13, 3.16, 6.4)**

A building, or part thereof, providing complete living facilities, including provisions for sleeping, cooking, eating and sanitation, for exclusive use by one family, with no ingress or egress through any other dwelling unit

**DWELLING, MULTI-FAMILY**

A building containing three (3) or more dwelling units designed for exclusive use and occupancy by three or more families.

**DWELLING, SINGLE-FAMILY (3.12, 3.16)**

A building designed for exclusive use and occupancy as a dwelling unit by one (1) family.

**DWELLING, TWO-FAMILY (3.6)**

A building containing two (2) dwelling units, designed for exclusive use and occupancy by two (2) families.

**ERECTED**

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

**FAMILY**

A single individual or a number of individuals domiciled together whose relationship is of a continuing non-transient, domestic character and who are cooking and living together as a single nonprofit housekeeping unit. This shall not include any organization or group of individuals whose relationship is of a transitory or seasonal nature or for anticipated limited duration.



## *ARTICLE TWO: DEFINITIONS*

### **FARM (1.5)**

A parcel of land, no less than forty (40) acres in size, which is used for agricultural activities.

### **FENCE (3.8)**

Any artificially constructed barrier of any material or combination of materials erected to enclose or separate areas.

### **FLOOR AREA**

For the purpose of computing the required number of parking spaces or minimum living area the sum of the horizontal areas of each story of a building, measured from the interior faces of the exterior walls, and the centerline of interior walls, exclusive of mechanical areas, elevator shafts stairwells and vent shafts for more than one floor, and uninhabitable attics or basements having headroom of seven (7) feet or less.

### **GARAGE, PRIVATE**

Part of a main building or an accessory building used primarily for the storage of personal property or the parking or storage of vehicles necessary in connection with the permitted use of the main building, where there is no vehicle servicing for compensation.

### **GASOLINE STATIONS**

Establishments that retail automotive fuels (e.g., gasoline, diesel fuel, gasohol) and automotive oils or retail these products in combination with convenience store items. These establishments have specialized equipment for the storage and dispensing of automotive fuels.

### **GREENBELT (5.6)**

A strip of land which shall be of sufficient width and density of planting materials to screen adjacent properties from view.

### **HOME OCCUPATION (3.2, 3.19)**

A gainful occupation traditionally and historically conducted in a dwelling unit as an activity clearly incidental and secondary to the use of the building as a dwelling unit

### **HOME PROFESSIONAL OFFICE (3.2), (3.19)**

The office of a professional person, such as a doctor, lawyer, osteopath, dentist, chiropractor, engineer or similar professional when said office is located in the practitioners residence. (Refer also to General Provisions for Home Occupations)

### **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;

### **JUNK (3.7, 3.14)**

Shall be interpreted to include, but not necessarily be limited to, junk vehicles and parts, construction materials, appliances and other discarded household, commercial or industrial items.

## ARTICLE TWO: DEFINITIONS

### **JUNK YARD (3.14)**

The legal and licensed use of premises for storage of old and dilapidated automobiles, trucks, tractors, and other such vehicles and parts thereof, wagons and other kinds of vehicles and parts thereof, scrap building materials, scrap equipment, tanks, cases, barrels, boxes, drums, piping, bottles, old iron, machinery, rags, paper and other kinds of scrap or waste material.

### **LOT (3.4, 3.5, 3.11, 5.9),**

An undivided portion of land occupied or intended for occupancy by main building or a group of such buildings and accessory buildings, or utilized for a main use and accessory uses, together with such yards and parking areas as may be present or required under the provisions of this Ordinance.

### **LOT AREA\* (3.4)**

The total horizontal area within the lot lines of a lot.

### **LOT, CORNER\***

A lot where the interior angle of two adjacent sides at the intersection of two streets is less than one hundred and thirty five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the curve is of less radius than one hundred and fifty (150) feet, and the tangents to the curve, at the two points where the side lot lines meet the curve, form an interior angle of less than one hundred and thirty five (135) degrees.

*\* See illustrations at the end of this section*

### **LOT COVERAGE**

A part or percent of a lot occupied by buildings or structures.

### **LOT DEPTH\***

The arithmetic mean of the shortest and longest distances from the front lot line to the rear lot line

### **LOT LINES\***

#### Front Lot Line:

In the case of an interior lot, abutting upon one (1) public or private street, the front lot line shall mean the line separating such lot from such right of way.

#### Rear Lot Line:

That lot line which is opposite and most distant from the front lot line. In the case of an irregular or triangular shaped lot, a line at least ten (10) feet in length, entirely within the lot, and generally parallel to and most distant from the front lot line.

#### Side Lot Line:

Any lot line not a front or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

#### Corner Lot Line:

In the case of a corner lot, both sides of the property which border a public-right-of-way shall be considered as front lot lines.

## ARTICLE TWO: DEFINITIONS

### **LOT OF RECORD (3.11)**

A lot whose legal description is recorded in the office of the Register of Deeds for the County of Wexford, State of Michigan, as a part of a plat or subdivision or by metes and bounds or by rectangular survey.

### **LOT WIDTH\***

The horizontal distance between side lot lines measured parallel to the front lot line at the front setback line.

*\* See illustrations at the end of this section*

### **MANUFACTURED HOME (3.21)**

A mobile home, residential building, dwelling unit, dwelling room or rooms, or a building component which is designed for long term residential use and is wholly or substantially constructed at an off-site location, transported to a site and erected.

### **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 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:

- 1) Proof of Graduation from a school of massage licensed by the State of Michigan;
- 2) 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;
- 3) Certificate of professional membership in the American Massage Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards; or,
- 4) A current occupational license from another state.

### **MOBILE HOME (3.21)**

See definition for Manufactured Home.

### **MANUFACTURED HOME PARK (3.21)**

Any parcel or single contiguous tract of land upon which three (3) or more occupied manufactured dwellings are located.

### **MINI CABINS AND COTTAGES**

A type of dwelling that is smaller in square footage than otherwise allowed in this Ordinance.

### **MODULAR HOMES (3.21)**

Any structure used as a dwelling that has been pre-assembled -and put together in sections and which meets or complies with the requirements of the State Construction Code Group R-3, and requires a

## *ARTICLE TWO: DEFINITIONS*

permanent foundation as opposed to piers, blocks, wheels, skids, jacks, horses or skirting, said foundation thereby supporting load bearing walls.

### **NON-CONFORMING BUILDING OR STRUCTURE (3.10, 3.11)**

A building or structure lawfully existing on the effective date of this Ordinance, or amendments thereto, which does not conform to the regulations of the zoning district in which it is located, pertaining to minimum lot area, minimum lot width, minimum residential floor area, required yards or maximum building height.

### **NON-CONFORMING USES (3.9, 3.11)**

A lawful use of a building, structure or land lawfully in existence on the effective date of this Ordinance, or amendments thereto, which no longer conforms to the use regulations of the zoning district in which it is located.

### **OFFICE**

A room, suite of rooms, or building in which services, clerical work, professional duties or the like, are carried out

### **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;

### **PARKS AND PLAYGROUNDS, PUBLIC OR PRIVATE**

Includes parks, playgrounds and other outdoor recreation facilities which are less than five (5) acres in size.

### **PERSONAL SERVICE BUSINESS**

Includes businesses which offer personal services, such as barber shops, beauty parlors, tanning salons and pet grooming.

### **PRIVATELY OWNED UTILITIES**

Defines those utilities which are owned and operated by private industry. Examples include cellular phone towers and television and radio transmitters.

### **PROFESSIONAL SERVICE BUSINESS**

Includes doctor's offices, dentist offices, real estate offices, chiropractors, optometric services, attorneys and other similar professional services.

### **RECREATIONAL FACILITY, INDOOR**

Commercial recreational facility which is located entirely within an enclosed building. Included in this definition would be bowling allies, indoor golf ranges, indoor pistol firing ranges, movie theaters and other similar facilities.

### **RECREATIONAL FACILITY, OUTDOOR**

Includes commercial recreational facilities which are either entirely or partially conducted outdoors. Accessory structures, such as refreshment stands and ticket or broadcast booths will be considered part

## *ARTICLE TWO: DEFINITIONS*

of the facility. This definition includes, but is not limited to, the following: golf courses, miniature golf. Go-kart tracks, amusement parks, and parks and playgrounds larger than five-acre in size.

### **RECREATIONAL VEHICLE (3.20)**

A licensed vehicle designed to be used primarily for recreation purposes, including but not limited to temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes. This definition shall include self-propelled motor homes, travel trailers and pick-up campers provided that such vehicle or unit does not exceed forty (40) feet in length.

### **RECREATIONAL VEHICLE PARK**

A parcel of land, licensed by the Health Department, on which two or more recreational vehicles are placed for a period of more than six months out of one calendar year.

### **RECYCLE FACILITY**

A designated location where solid waste is collected in containers and hauled to other locations for disposal or reuse. Facilities which process and/or remanufacture recycled materials may also be included in this definition.

### **RESIDENTIAL ZONES**

A general term referring to any zoning district which allows single family residences as a permitted use.

### **RETAIL ESTABLISHMENT**

See Commercial Enterprise

### **ROADSIDE STAND (3.20)**

A seasonal commercial operation where items such as produce, baked goods, Christmas trees, honey or maple syrup are offered for sale.

### **ROAD, STREET, HIGHWAY**

A public thoroughfare which affords the principal means of access to abutting property.

### **SCREEN**

A planting of vegetation or fence which effectively blocks the view of certain land uses from neighboring properties.

### **SETBACK\* (3.3, 3.4, 3.11)**

A horizontal distance measured from all points along a lot line, which describes an area within which no building or structure may be placed, except in conformance with this Ordinance.

*\* See illustrations at the end of this section*

### **SPECIAL USE (10.1)**

A land use which may be permitted in a specified zoning district only after review and approval by the County Planning Commission as outlined in this Ordinance (ARTICLE TEN).

## **SPECIFIED SEXUAL ACTIVITIES**

Means and includes any of the following:

- 1) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;
- 2) Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
- 3) Masturbation, actual or simulated;
- 4) The display of human genitals in a state of sexual stimulation, or arousal or tumescence;
- 5) 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 immediately above the top of the areolae; or human male genitals in a discernable state of tumescence, even if opaquely covered;

## **STANDARD CONSTRUCTION (3.12, 3.16)**

Construction which meets or exceeds the minimum standards provided in the State Construction Code, as administered by Wexford County.

## **STORAGE AREA**

An enclosed space, either attached or unattached to the primary use building, which is used for the storage of items customary to the principal land use.

## **STRUCTURE**

Any production or piece of work artificially built up or composed of parts joined together in some definite manner, including, but not limited to buildings, radio and television towers, sheds, signs and storage bins.

## **SUBSTANTIAL OR SIGNIFICANT PORTION**

Means a business or establishment or establishment which has:

- 1) 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
- 2) 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
- 3) 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”.

## **TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS**

Means and includes any of the following:

- 1) The sale lease or sublease of the business establishment;

## *ARTICLE TWO: DEFINITIONS*

- 2) The transfer of securities which constitute a controlling interest in the business or establishment, whether by sale, exchange or similar means;
- 3) The establishment of a trust, management arrangement, gift or other similar legal device which transfer 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 of control.

### **UNDEVELOPED STATE**

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

### **VARIANCE (8.3)**

An authorization by the Zoning Appeal Board to a property owner to depart from the dimensional requirements of this Ordinance in cases where strict interpretation would cause undue hardship and where the property cannot reasonably be used in a manner consistent with the Ordinance.

### **VEHICLE SALES**

This definition shall identify establishments dealing in" the sales of motorized or wind-driven vehicles, including new or used automobiles, recreation vehicles and boats.

### **WETLAND (3.24)**

Wetlands are lands characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances do support, wetland vegetation or aquatic life and are commonly referred to as a bog, swamp, or marsh.

### **YARD\* (3.7. 3.22)**

A space open to the sky and unoccupied or unobstructed, except by encroachments specifically permitted by this Ordinance, on the same lot with a building or structure. A required yard is measured between the applicable lot line and the nearest foundation line of a building or structure.

### **YARD, FRONT\* (3.7)**

A yard extending across the full width of the lot, the depth of which is the distance between the front lot line and foundation line of the building or structure. In the case of a lakefront lot, the yard on the lake side shall be the front yard.

### **YARD, REAR\* (3.7)**

A yard extending across the full width of the lot, the depth of which is the distance between the rear lot line and rear foundation line of the main building. In the case of a lakefront lot, The yard on the non-lake side shall be the rear yard.

### **YARD, SIDE\* (3.7)**

A yard between the foundation line of the main building and the side lot line extending from the front yard to the rear yard.

*\* See illustrations at the end of this section*

*ARTICLE TWO: DEFINITIONS*

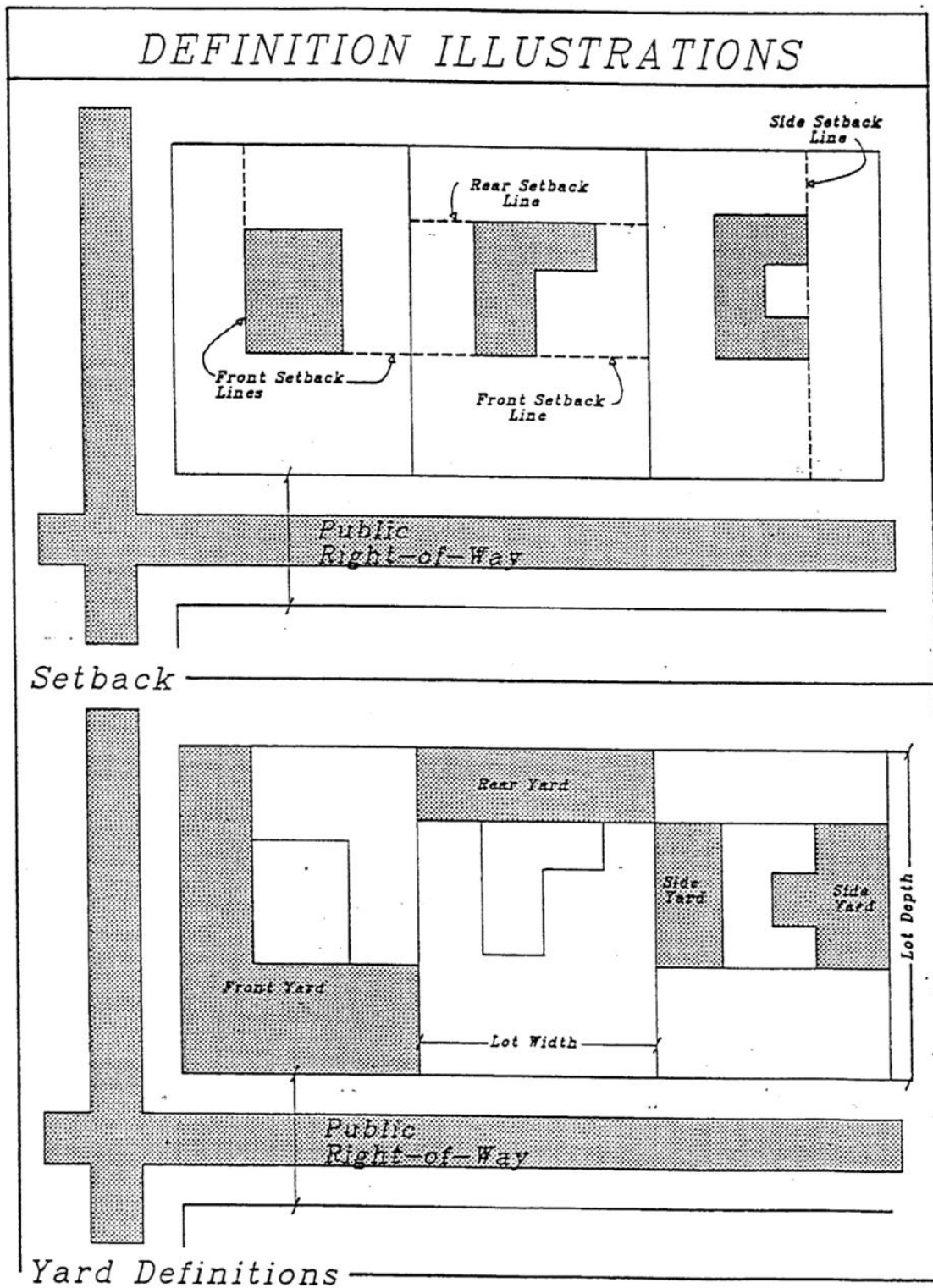
**ZONING ACT**

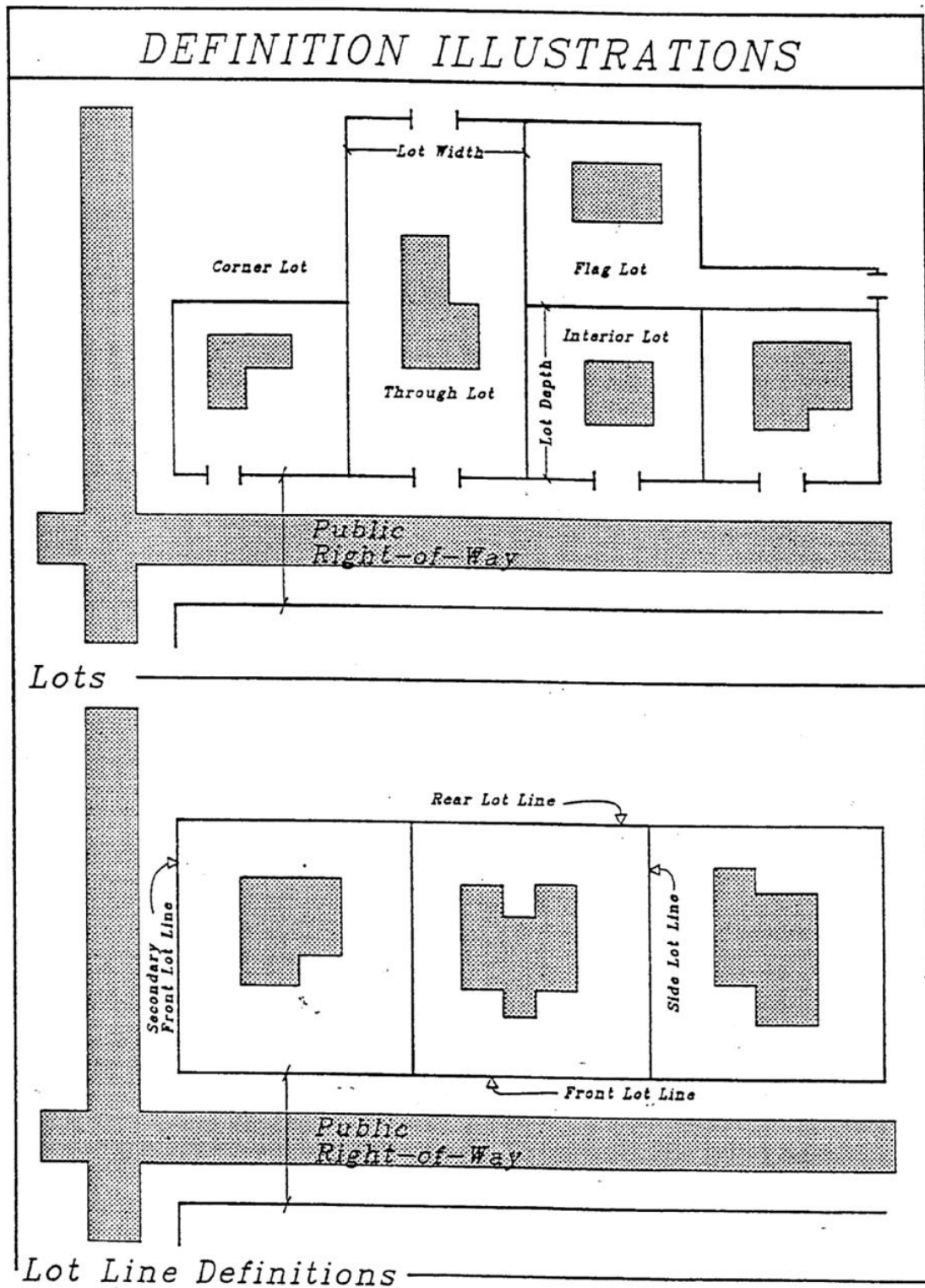
Michigan Act 183 of 1943, as amended.

**ZONING DISTRICTS (4.1, 4.2, 5.1, 6.1)**

The division and classification of property within the County for the purpose of determining appropriate land uses.







## **ARTICLE THREE: GENERAL PROVISIONS**

### **3.1: LIMIT ON NUMBER OF USES PER PARCEL**

Not more than one (1) permanent land use or principal structure shall be erected, moved upon, or located on a lot or parcel, except as provided for the PUD Zoning District of this Ordinance.

### **3.2: HOME OCCUPATIONS/HOME PROFESSIONAL OFFICES (Also see Definitions and ART. 10)**

An occupation which is carried out entirely in a residential structure and is clearly incidental to residential use. Examples of acceptable occupations include dressmaking, real estate sales, bookkeeping and accounting services, beauty parlor, barber shops and dancing instruction. Such occupation may be engaged in only by a resident entirely within his dwellings, and not in an accessory building or structure. Such use shall not occupy more than twenty-five (25) percent of the floor area, exclusive of attic or basement, and shall show no external evidence of such use or any change in the appearance of the building, or of the premises, from residential use. One (1) illuminated but non-flashing or glaring sign not exceeding six (6) square feet in area may be erected flat on the front wall of the dwelling for identification. In addition, no more than one non-resident may be employed in the operation of the business.

### **3.3: SUPPLEMENTARY SETBACK REGULATIONS (See Definition)**

#### **Commercial Districts Bordering State Highways**

Setback requirements in Commercial Districts bordering Michigan State Highways shall be measured from edge of road right-of-way, as designated by the Michigan Department of Transportation and filed in the Wexford County Zoning Administrator's office.

#### **Front Lot Lines Which Abut State Highways**

All Zoning Districts adjacent to State highways where highway right-of-ways may not be of one continuous width, the overall setback line shall be from the center-line of such highway. The predominant right-of-way width for each individual highway, using the current edition of the Michigan State Highway right-of-way map, shall be considered the minimum right-of-way width with building setbacks beginning from this line.

#### **Established Lot Line Setback**

In established (developed) areas, the front setback line may be determined by the established building line of the majority of structures located on the same side of the street within 300 feet of the subject property. These alternative setbacks shall be determined by the Zoning Administrator at the time the zoning permit is requested.

### **3.4: SUPPLEMENTARY LOT PROVISIONS (See Definition)**

#### **Lot Measurement**

Every structure, hereafter erected or altered, shall be located on a lot, the description of the boundaries of which are on public record. The burden of proof of the exact location of all lot lines shall rest with the property owner.

#### **Lot Frontage and Access**

Every lot, other than lots in a recorded plat, shall have public road frontage which is equal to the width of the lot at the building setback line. In recorded plats, road frontage shall be a minimum of sixty-five (65) feet. All private roads shall be constructed to be at least thirty-three (33) feet wide.

## **Water Front Lots**

On lots abutting lakes, rivers, streams, channels, canals, or wetland, no building or structure or sewage disposal system except boat houses, shall be erected less than fifty (50) feet from the edge of the legally established water level, or, if not established, than the highest known water level.

## **3.5: LAND DIVISIONS**

Except as otherwise provided in Article One, Section 1.6 of this Ordinance, no parcel or lot, hereafter created by the division of a tract of land shall be less than the minimum required square footage and lot width for the zoning district wherein situated. The provisions of the Land Division Act, 1967 PA 288, as amended, shall also govern the procedure of land division.

## **3.6: TWO-FAMILY DWELLINGS (See also Articles Two and Ten)**

In Zoning Districts which allow the construction of two family housing, the Zoning Administrator may, upon special application approve the erection of dwellings on the lot line separating two lots when erected with a common soundproof wall centering directly upon the centerline subject to all other limitations of the zoning district wherein situated.

## **3.7: SUPPLEMENTARY YARD PROVISIONS (See Definition)**

The following provisions shall apply to all yards and open space:

- 1) No yard or open space shall hereafter be used for the open-air parking, disposition, storage, wrecking, dismantling, accumulation or abandonment either temporarily or otherwise, discarded, worn out, wrecked, or dismantled vehicles, machinery, implements, apparatus, furniture, appliances, junk or other personal property. Without limiting the meaning of junk, the term shall include used or salvaged metals, and their compounds, or combinations, used or salvaged lumber, ropes, bags, paper, rag, glass, rubber and similar articles and materials, and without limiting any previous part of this paragraph, businesses shall be limited to the parking or storing of usable idle equipment in rear yard when completely screened from the roadway, naturally, or by a fence, approved by the Planning Commission.
- 2) Storage or parking of trucks, semi-tractor trailers, semi-trailers, moving vans, non-operative vehicles, auto trailers, manufactured homes, mobile homes, buses, or car bodies and erection of cabins or tents (except children's play tents) shall not be permitted or considered a legal accessory structure. This limitation shall not prohibit the storage of one unoccupied travel trailer or motor home, which is the property of the occupant of the dwelling in the rear yard, when located not less than twenty-five (25) feet from the side lot lines and ten (10) feet from the rear lot line, provided further, however, that such storage shall not be permitted in the front yard of a water frontage lot with front yard abutting a lake.
- 3) No premises shall be so filled or graded as to discharge surface run-off on abutting premises in such manner as to cause ponding or surface accumulation of such run-off thereon.
- 4) No premises shall be so filled creating a slope more than one (1) foot of vertical to eight (8) feet of horizontal and where land fill is required adjacent to existing dwellings with a low ground level. The Zoning Administrator may require a retaining wall be installed to prevent run-off onto abutting premises, and which fill shall be seeded and maintained. In the event of special circumstances, Zoning Administrator may determine minimum requirements and give special approval.

## **Attached accessory Structures**

All attached garages, enclosed porches, breezeways, decks and carports shall be considered a part of a dwelling in determining yard requirements.

### **Unattached accessory Structures**

No unattached accessory building or accessory structure shall be set back less than the permanent dwelling on the premises, except a garage when the dwelling is more than fifty (50) feet from the required front setback line and not more than 14 feet in height from grade to peak.

### **3.8: FENCES**

- 1) Fences in Residential Districts shall not exceed six (6) feet in height, measured from the surface to the uppermost portion of the fence.
- 2) Fences erected within the front yard in any district shall not exceed three (3) feet in height. Fences within the front yard shall be of a type which is not more than 25 percent solid, so as not to obscure vision at the right-of-way or property line of the lot or parcel on which it is placed.
- 3) Fences in Residential Districts or enclosing residential uses shall not contain barbed wire or be electrified.
- 4) Fences in Commercial or Industrial Districts which enclose storage lots or other areas requiring security may contain barbed wire, provided that the barbed portion of the fence not be nearer than six (6) feet from the surface of the ground. The total height of fences in Commercial and Industrial Districts shall not exceed eight (8) feet.
- 5) Fences shall not be erected within any public right-of-way in any district.
- 6) Fences shall not be erected or maintained in any district in such a way as to obstruct the vision of vehicle drivers within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two points located on those intersecting right-of-way lines twenty-five (25) feet from the point of intersection with the right-of-way lines.
- 7) In order to provide convenience in maintenance, all fences shall be constructed at least twelve (12) inches inside the property line.
- 8) Screens will be no closer to the lake than any built structure permanently attached to the dwelling.
- 9) Fences shall not be constructed of discarded materials.

### **3.9: NON-CONFORMING USES (See Definition)**

#### **Discontinued Non-Conforming Uses**

Any non-conforming use of land, building or structure, which is discontinued through vacancy, lack of operations, or otherwise, for a period of eighteen (18) months, shall be construed as abandonment of use, and any future use thereof shall conform with the provisions of the Zoning District where located.

#### **Change of Non-Conforming Use**

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

### **3.10: NON-CONFORMING BUILDINGS AND STRUCTURES (See Definition)**

#### **Use of Non-Conforming Buildings and Structures**

The use of any non-conforming building which is discontinued for a period of eighteen (18) months shall be construed as abandonment of use following which no further use shall maintain until the building has been brought to conformity with the provisions of this Ordinance.

## Completion of Non-Conforming Buildings and Structures

To avoid undue hardship, nothing in this Ordinance shall be construed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of this Ordinance, and upon which construction has been diligently earned on and s completed within one (1) year of said date. Actual construction shall be construed as permanent fixation of construction material in place.

## Structural Changes and Enlargement of Non-Conforming Buildings and Structures

No non-conforming buildings, other than dwellings, shall be structurally altered or enlarged unless the resultant alteration or enlargement or use conform to the provisions of the Zoning District wherein located. The exception to this Section is manufactured single family dwellings, which may be replaced provided that the replacement lessens the non-conformity.

## Repair of Non-Conforming Structure

Nothing in this Ordinance shall prohibit the repair, improvement or modernization of a lawful non-conforming building in order to correct deterioration, obsolescence, depreciation and wear, provided that such repair does not exceed an aggregate of thirty (30) percent of the assessed valuation of the building as determined by the assessing officer, unless the building is changed by such repair to a conforming use.

## 3.11: SUPPLEMENTARY REGULATIONS FOR NON-CONFORMING LOTS (See Definition)

Any lot of record, having less area and/or less width on the effective date of this Ordinance than required for the Zoning District wherein located, may be occupied by any use permitted in the District on approval of the Zoning Administrator, who shall determine the minimum yard and setback requirements for such use.

## Non Conforming Lots of Record

Front and back yard setback requirements shall be determined by the average setback of the nearest structure on either side of the substandard lot in case of no nearby structures, to the setback requirements for that district In no event shall the front yard setback be less than twenty-five (25) feet and the rear yard setback be less than fifteen (15) feet unless authorized by the Zoning Board of Appeals pursuant to Article 13 of this Ordinance. Side yard setbacks shall be not less than eight (8) feet except that a garage may be erected five (5) feet from either side yard lot line on lots fifty (50) feet or less in width.

## Supplementary Side Yard Requirements for Non-Conforming Lots

85' to 100'	15 feet
65' to 84'	12 feet
50' to 64'	10 feet
Under 50'	8 feet

## Waterfront Non-Conformance

In the event a dwelling or other main building is erected on a lot located on a public road, or on a lot abutting the shoreline of a water body on which a building having a lesser setback than required by this Ordinance has been erected on a lot adjacent thereto prior to the effective date of this Ordinance then

### ARTICLE THREE: GENERAL PROVISIONS

the setback of such building shall not be less than the average setback of the buildings on both adjacent lots and, if only one lot, then the setback of such building. Refer also to Sections 3.3, 3.7

#### **3.12: SUB-STANDARD DWELLINGS**

For the express purpose of protecting the health, safety, and general welfare of the inhabitants of the County, and of reducing hazards to life and property, no basement dwelling, cellar dwelling, garage, house, or other sub-standard structure shall hereafter be occupied, or erected, or moved upon any premises and used for dwelling purposes.

#### **3.13: DWELLING UNIT REQUIREMENTS (See Definition)**

- A. It complies with the minimum square footage requirements of this Ordinance for the zone in which it is located.
- B. Complies in all respects with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under the provisions of Act 230 of P.A. of 1972, as amended, including minimum heights for habitable rooms.
- C. It is firmly attached to a permanent foundation constructed on the site in accordance with the state construction code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings.
- D. In the event that the dwelling is a pre-manufactured unit, as defined herein, such dwelling shall, in addition to the above requirements, be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter wall as required above. In addition, the unit shall be installed with the wheels removed and shall have no exposed towing mechanisms, undercarriage, or chassis and shall be fully skirted with materials similar to the dwelling unit, as determined by the Zoning Administrator.
- E. The dwelling shall be connected to a public sewer and public water supply or to a private system approved by the local health department.
- F. The dwelling shall contain no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- G. The dwelling shall comply with all pertinent building and fire codes. In the case of a pre-manufactured unit, all construction and all plumbing, electrical apparatus and insulation within and connected to said manufactured home shall be of a type and quality conforming to the "manufactured home construction and safety standards" as promulgated by the United States Department of Housing and Urban Development, being 24CFR 3280, and as from time to time such standards may be amended. As assurance of this requirement the unit shall be manufactured after 1975 and shall have the HUD approval sticker prominently displayed.
- H. The foregoing standards shall not apply to a manufactured home located in a licensed manufactured home park, except to the extent required by state or federal law otherwise specifically required in the Ordinance of the County pertaining to such parks.
- I. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable state construction code.

**3.14: JUNK YARDS, SALVAGE YARDS, REFUSE DUMPS, ANIMAL & GARBAGE DISPOSAL DUMP (See also Articles Two and Ten)**

In addition to other applicable State and Local laws, junk yards, salvage yards, transfer stations, public refuse dumps, animal and garbage disposal dumps shall be subject to the following provisions:

- A. Junkyards shall be screened by at least three (3) rows of dense evergreen planting. Said rows shall be 10 feet apart; and the evergreens shall be staggered so as to be at 8 foot intervals as to the same row, and 4 foot intervals as to the opposite row. Such planting shall be not less than 4 feet in height at the time of planting, shall be expected to be not less than 6 feet in height within 3 years. Where a proposed junkyard abuts residentially zoned land, the junkyard screening shall be setback at least 200 feet from the property line;
- B. an opaque fence or wall, or a smoothed and seeded earthen berm, shall be properly installed and maintained along any major thoroughfare and along any maintained street and where such a use is adjacent to a residential zone. Said fence shall be at least eight (8) feet in height. No car bodies or salvage materials not ordinarily used for fencing may be used for this purpose;
- C. stacking shall not be permitted above the height of the fence or the wall and stored materials must be kept at least ten (10) feet from the interior side of the fence; materials shall not be stacked against the fence or berm.
- D. no advertising shall be permitted on a fence or wall other than the name of business on the premises. Signs shall not exceed 100 square feet on any one side of such fence or wall;
- E. no exterior display or storage of material or salvage parts or wrecked vehicles;
- F. shall not be located within 300 feet of any major highway, expressway or freeway, and junk shall not be visible from outside the premises;
- G. storage of used tires provided the tires are stored in a roofed bin, constructed for that purpose;
- H. maximum number of car bodies to be stored at one time: 200 per acre;
- I. no oil, grease, tires, gasoline, or other similar material shall be burned at any time, and all other burning shall be in accordance with applicable State and local regulations;
- J. no materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by normal natural causes or forces, nor shall any substance which can contaminate a stream, watercourse, groundwater or otherwise render such stream or watercourse undesirable as a source of water supply or recreation, or which will destroy aquatic life, be allowed to enter any stream or watercourse; and,
- K. all materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise attractive to rodents or insects shall be stored outdoors only if enclosed in containers which are adequate to eliminate such hazards.

**3.15: MINING, PROCESSING AND STOCKPILING OF MINERAL RESOURCES (See also Article Ten)**

The mining, excavation, processing, stockpiling and removal of gravel, sand, earth, and other mineral resources shall be subject, when permitted by Special Use, to the following provisions:

- A. Application Procedures: In addition to fulfilling all requirements of Articles Ten and Eleven of this Ordinance, the applicant must provide:
  - 1. A detailed proposal as to method of operation, type of machinery or equipment to be used and estimated time that such operation will cover.



### ARTICLE THREE: GENERAL PROVISIONS

2. A detailed statement as to type of deposit proposed for extraction.
3. A map or sketch showing the proposed contours to which each mining area will be finished upon completion of the mining operation.
4. The permit fee established by the fee schedule of this Ordinance.

#### B. Operational Conditions

1. The entire periphery of operation shall be enclosed by a fence not less than six (6) feet in height, adequate to prevent trespass, and erected not less than fifty (50) feet from the edge of any excavation or slope. The fence shall be gated and locked and equipped with a "no trespass" sign when not attended by personnel. All installations shall be maintained in a neat, orderly condition so as to prevent the creation of any health hazard or injury to any adjacent property, individual, or the neighborhood in general.
2. All operations shall be conducted and maintained to minimize noise, vibration and dust injurious or annoying to persons living in the vicinity. The property owner shall cause all roads and yards under his control to be periodically sprayed or treated, in accord with permit requirements, to reduce dust hazards.
3. Machinery or equipment for processing, not provided for by the permit, shall not be permitted by the Planning Commission.

#### C. Rehabilitation

1. All areas within operation shall be rehabilitated progressively, as they are worked out or abandoned, to a condition of being entirely lacking in hazards, inconspicuous, and blended with the general surrounding surface form so as to appear reasonably natural.
2. The floor of all excavations shall be graded to a flat surface, and the redistribution of stockpiled overburden and top soil to the grades prescribed by terms of the mining permit shall all be completed within thirty (30) days after expiration of the permit. Fills shall be laid to provide slopes not greater than one (1) foot vertical to three (3) feet horizontal. The Zoning Administrator shall inspect the area of any permit which has elapsed immediately after expiration of thirty (30) days, and shall issue the owner a release of any performance guarantee upon finding substantial compliance with the provisions of the conditions imposed by the permit for the area.
3. All top soil to a depth of not exceeding twelve (12) inches, as determined by the Zoning Administrator, shall be retained in a separate stockpile for spreading evenly over all fills on rehabilitation. Following spreading it shall be seeded to prevent erosion and aid in retention of moisture. All other overburden shall be stockpiled separately and used as fill.
4. The plane of all excavation slopes shall intersect the plane of the natural ground surface not less than fifty (50) feet from any adjoining property line or from any existing or dedicated right-of-way.
5. The first ten (10) feet of depth of all excavations shall be graded to a slope not to exceed one (1) foot vertical to three (3) feet horizontal. All other excavations shall be graded to slope not to exceed one (1) foot vertical to one (1) foot horizontal.

- D. Forfeiture of Performance Guarantee – Upon expiration of any permit and failure of the owner to comply with the provisions of the Ordinance and any conditions imposed under the permit, the Zoning Administrator shall commence proceedings to forfeit a performance guarantee collected.

### *ARTICLE THREE: GENERAL PROVISIONS*

- E. Small Scale Operations – In the event a proposed operation does not exceed ten (10) acres of land, the Planning Commission may, on special petition, modify various requirements of any preceding paragraph commensurate with the proposed operation, and, with due regard for the public interest
- F. Non-conforming Operations
  - 1. The owner of any nonconforming mining operation may obtain a certificate as a valid nonconforming use from the Zoning Administrator. Such certificate shall include a description of the property upon which such operation is under conduct Failure to obtain such a certificate within the time limit, or the termination of non-use of a valid nonconforming use for a thirty (30) day period shall constitute abandonment, and such use shall not resume thereafter without compliance with the provisions of this Ordinance.
  - 2. The area of a nonconforming operation may be extended up to ten (10) acres within the limits of contiguous land owned by the property owner on the effective date of this Ordinance on regular permit as hereinbefore provided.
- G. Exceptions – The following land uses and/or activities shall be exempt from the provisions of this section of Article Three:
  - 1. Excavation for construction of a building or other structure for which a building permit has been issued.
  - 2. The removal of soil for construction of farm ponds and other earth work approved by the County Soil Conservation District
  - 3. The incidental extraction of gravel, sand stone and earth materials on a farm (as defined in this Ordinance) for use on such farm.

### **3.16: WATER SUPPLY AND WASTE DISPOSAL**

Every building, structure, or manufactured home hereafter erected and used wholly or in part for human occupancy shall be provided with a safe and sanitary water supply and waste disposal system, approved by the County Health Department, and shall require a permit and preliminary plan from the County Health Department before a zoning permit will be issued.

### **3.17: ESSENTIAL SERVICES (See also Articles Two and Ten)**

The erection, construction, alteration or maintenance of public utilities or municipal departments or commissions, of overhead or underground gas, electrical, 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 towers, poles, electrical sub-stations gas regulator station an 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 hereof to except such erection, construction, alteration, and maintenance from the application of this Ordinance. Privately-owned utilities meeting the general intention of this Section shall also be permitted in any Zoning District, but only after a Special Use Permit has been issued by the Planning Commission in accordance with Article Ten.

### **3.18: VEHICULAR PARKING REQUIREMENTS**

Off-street parking with adequate access to all spaces shall hereafter be provided and maintained in all zoning districts at the time of erection or alteration of any main building, that is in general adequate for the parking loading and unloading of vehicles in proportions no less than shown in the following table.

### ARTICLE THREE: GENERAL PROVISIONS

Parking space requirements for property uses not listed in the table shall be determined by the Zoning Administrator as reasonable for the intended use.

Parking for other than residential use shall be either on the same lot or within three hundred (300) feet from the nearest point of the building to the nearest point of the off-street parking lot.

Adequate space shall be included in all parking areas in all zoning districts to facilitate turning around of vehicles so that entry on the highway may be in a forward manner and not be backing thereunto. This provision may be bypassed by the Zoning Administrator where compliance is impractical in Residential and Resort-Residential Districts and still maintain the safety provision intention of the Ordinance.

A minimum of one hundred sixty-two (162) square feet shall comprise vehicular parking space, exclusive of driveway, entrance and exits.

USE	MINIMUM NUMBER OF PARKING SPACES PER UNIT
1. Banks, Business offices, studios and professional offices of architects, engineers, lawyers, and similar professions.	One for every 150 square feet of floor area. for each 300 square feet of floor area over 1,000 square feet,
2. Barber shops and beauty parlors.	Two for each barber or beauty shop chair.
3. Bowling alleys.	Four for each bowling lane.
4. Churches, theaters, auditoriums, except schools.	One for each four seats.
5. Community center, library, museum, or art gallery.	Ten, plus one additional for each 200 square feet in excess of 2,000 square feet.
6. Dwelling units.	Two for each unit.
7. Hospitals, clinics and similar establishments.	One for each four beds and one for each two employees and/or staff members.
8. Laundromats	One for each two washing machines.
9. Motels, tourist homes, lodging house.	Two for each sleeping room.
10. Manufacturing or industrial establishment, warehouse, or similar establishment.	Two for each three (3) employees on maximum working shift, plus space to accommodate all vehicles used in connection with the operations.
11. Plumbing, printing and similar shops and businesses.	One and one-half spaces for each person employed.
12. Private clubs, night clubs, dance halls and similar recreational establishments.	One for each one hundred (100) square feet of floor space.
13. Professional offices or doctors, dentists and similar professions.	One for each one hundred and fifty (150) square feet of usable floor space or a minimum of four (4) spaces, whichever is greater.

USE	MINIMUM NUMBER OF PARKING SPACES PER UNIT
14. Restaurants and similar establishments for sale, and service of food and drink, except liquor and drive-ins.	One for each one hundred (100) square feet of floor space.
15. Retail stores.	One for each 150 square feet of usable floor area open to customer use.
16. Apartment houses.	Two for each apartment.
17. Home Occupations and Professional Offices	Four (plus any required for dwelling)

### 3.19: OUTDOOR ADVERTISING SIGNS, MEDIA AND STRUCTURES

#### Definitions

1. Billboard - A billboard is an outdoor sign, structure, or symbol advertising services or products which are not made, produced, assembled, stored, or sold upon or from the lot or premises upon which the billboard is located. Billboards are also known as "off-premise signs" and "outdoor advertising."
2. Canopy Sign - A sign which is incorporated into the fabric or material of a canopy. Said canopy being attached to exterior wall or surface of a building. A canopy sign shall be considered a wall sign for purposes of determining sign area. In determining said area, only that portion of the canopy containing lettering or message shall be used as a basis for computation.
3. Commercial Sign - A sign intended to attract patronage to a specific business establishment or collection of such establishments.
4. Convertible Sign - A sign designed to allow frequent changes to the text. Examples are signs which provide gasoline pricing, limited time sales or changed hours of business.
5. Directional Sign - A sign directing and guiding vehicular or pedestrian traffic or parking, but bearing no advertising matter except for the "logo" of the business for which the directional signs are associated.
6. Flashing sign - Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity or color at all times while in use.
7. Freestanding sign - A sign supported by one or more uprights, braces or pylons located in or upon the ground or to something requiring location on the ground. Freestanding signs are commonly referred to as "pole" signs. Freestanding signs include billboards.
8. Ground Sign - A freestanding sign of limited height firmly attached to the ground throughout its base or supported by one or more uprights or braces which are typically less than two (2) feet in height when measured from the ground surface to the base of the sign. Ground signs are also commonly referred to as monument signs.
9. Political Sign - Any sign displaying a message and/or image associated with an election, referendum, election campaign, or similar event.
10. Portable Sign - Any sign so construed as to be readily movable from one location to another and not permanently affixed to a building or the ground. Portable signs include "trailer" signs.

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11. Real Estate sign - A sign advertising that the premises on which the sign is located is for sale, lease, or rent.
12. Sign - A sign is the use of any words, numerals, figures, devices, designs, or trademarks which constitute a name, identification, description, display, or illustration which is affixed or applied to or represented directly or indirectly upon a building structure, or zoning lot, and which directs attention to an object, product, service, activity, person, institution, organization, or business.
13. Sign Area - The area of a sign shall be computed as the entire area circumscribed by a parallelogram, triangle, circle, or semi-circle, or any combination of these figures, which includes all of the display area of the sign including frames surrounding display areas. For signs which consist of individual letters attached or painted on the wall of a building, with only the wall as background and no added decoration or border, the sign area shall be the geometrical shape formed by an imaginary line along the exterior perimeter of the work, or words as a whole. For purposes of computing sign area, only one side of a sign shall be used.
14. Temporary sign - Any sign which is used to promote or identify a temporary use or event. Examples include real estate signs, garage sale signs and political campaign signs.
15. Wall Sign - A sign attached to or placed flat against the exterior wall or surface of any building, no portion of which projects more than eighteen (18) inches from the wall, but which may or may not project above the roof or parapet. (See also canopy sign.)

#### **General Regulations for Signs in Any District:**

- A. No sign shall be located in the public right-of-way or in a position so as to block the view of oncoming pedestrians or motorists.
- B. No sign shall be attached to any tree.
- C. Any sign placed by a governmental body and deemed necessary for the general health, safety and welfare of the residents of the community shall be exempted from the provisions of this ordinance.
- D. No sign shall be designed to exceed in height the height of the primary structure or vegetation of the properties in the vicinity of the sign, whichever is greater.
- E. No signs shall be allowed which have flashing lights or intermittent illumination. (See also Commercial Sign regulations in this section.)

#### **Additional Regulations for Signs in Residential Areas:**

- A. An on-premise identification sign advertising Home Occupations or Home Professional Offices shall not exceed six (6) square feet in area and shall be mounted flat against the building wall.
- B. Signs identifying the entrance to a subdivision shall not exceed a sign area of fifteen (15) square feet.

#### **Additional Regulations for Signs in Agricultural Areas:**

Signs advertising the sale of farm products produced on the premises shall be limited to two (2) signs erected on opposite approaches to the roadside stand or main entrance to the property. The maximum sign area shall be six (6) square feet.

#### **Additional Regulations for Signs Associated with Commercial Land Uses:**

- A. Wall signs pertaining exclusively to the business carried on within a building and not exceeding twenty (20) percent of the building height, nor twenty (20) percent of the area of the wall whereon located, shall be mounted flat against the main building and facing the public street or highway or parking area constituting a part of the business or commercial premises.

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- B. Such signs may be illuminated, provided that where movable illumination is employed, such illumination shall be approved in advance by the County Zoning Administrator which shall make certain that light-intensity, color and movement are not distracting to motor vehicle operators so as to constitute a traffic hazard.
- C. Gasoline service stations shall be limited to one permanent sign on each highway frontage not exceeding twenty-five (25) feet in height or fifty (50) square feet in area, and so installed as to not obstruct vision of traffic to a height of sixteen (16) feet. All temporary signs shall be firmly attached to the main building and mounted parallel to the wall.
- D. Billboards (Off-Premise Signs): Billboards and outdoor advertising signboards and structures not exceeding one hundred sixty (160) square feet in area, not less than three (3) clear feet above ground and not less than five (5) feet from the public right-of-way line and less than ten (10) feet from the side lot line shall be permitted. Illumination shall be approved by the County Zoning Administrator. Not more than one (1) sign shall be permitted for each 500 feet of road frontage and shall be limited to those areas which are not zoned Residential. Before any off-premise sign is placed, written permission must be obtained from the property owner.
- E. Churches, schools, institutions, clubs and similar organizations may erect one (1) wall sign to serve as identification, not to exceed twenty (20) square feet in area. One free-standing sign or bulletin board not attached to the wall of the main building shall also be permitted when located not less than twenty-five (25) feet from any property line.

#### Temporary Signs

- A. Maximum sign area of any temporary sign shall not exceed six (6) square feet, except as waived with written permission of the County Zoning Administrator.

### 3.20: TEMPORARY USES

The Zoning Administrator is authorized to issue a zoning permit for the following temporary uses upon a finding that a requesting temporary use meets the standards stated below for each permitted temporary use as well as the standards in this Section.

- 1. No garage or other accessory building, recreational vehicle, or basement, partial or temporary structure, whether of a fixed or portable construction, shall be erected or moved onto a lot and used for any dwelling purposes unless authorized by the issuance of a temporary use permit.
- 2. Occupancy of a Manufactured Home during construction of a Dwelling:
  - a. The owner of any lot in a zoning district which meets requirements for a dwelling, may erect not more than one (1) manufactured home upon the premises and occupy the same during the actual construction of a dwelling thereon, but not exceeding One (1) year from date of issuance of a special permit therefore.
  - b. Application for such permit shall be made to the Zoning Administrator, granting of which shall be contingent, among other things, with agreement of the applicant to the following conditions.
    - i. The location of the manufactured home on the premises shall be in conformity with the setback of the Zoning District.
    - ii. The water, sewage and waste disposal facilities shall be approved by the County Health Officer, installation and confirmation of which shall precede occupancy of the house or permanent manufactured home.

### ARTICLE THREE: GENERAL PROVISIONS

- iii. On delivery of the permit, the owner shall certify in a space allotted for that purpose on the copy retained for filing by the Zoning Administrator that he has full knowledge of all limitations of the permit and the penalties that may be imposed upon violation. No permit shall be transferable to any other person.
  - iv. A building permit for the permanent dwelling shall be obtained at the same time as the temporary permit is issued.
- 3. Temporary buildings for a use incidental to construction work such as an equipment shed shall be permitted provided that all debris shall be removed within fifteen (15) days after the completion or abandonment of work.
  - 4. One recreational vehicle not falling under the provision in Subsection 5 which follows, may be temporarily located and occupied for recreational purposes on a lot in a Forest-Recreational, F-R, District only, provided that; (1) the owner of the lot is also the owner of the recreational unit, (2) the recreational unit is not rented or leased to the occupants, and (3) there are no violations of health or sanitary codes. The recreational unit may be marked and used for recreational purposes, as stipulated herein, up to fourteen (14) consecutive days.
  - 5. Carnival, circus, fair, outdoor musical or similar festival for a period not to exceed seven (7) days.
  - 6. Open lot sale of Christmas trees, for a period not to exceed November 15 to December 25th.
  - 7. Real estate sales office and/or model home, when in conjunction with a subdivision or PUD.

#### **Issuance Standards**

A permit for a proposed temporary use shall be issued by the Zoning Administrator only if each of the following standards is met by the proposed use.

- 1. The proposed use is clearly of a temporary nature.
- 2. The temporary use shall not endanger the public health, safety or welfare of the County, adjacent residents or the inhabitants of the structures of the temporary use.
- 3. Structures of temporary uses shall be provided with a safe, sanitary and effective system for water supply and disposal of wastes approved by County Health Department.
- 4. The proposed use will cause no traffic congestion.
- 5. The proposed temporary use shall meet all lot, yard, setback and other requirements of this Ordinance.
- 6. The proposed temporary use is not included in the list of permitted special uses for the that zoning district.
- 7. The proposed temporary use, if proposed to construct a conforming building or project, meets all requirements for a building permit for the conforming building or project.

#### **Renewal, Revocation and Appeal**

- 1. Zoning permits for the temporary uses listed in this Section may be renewed in the same manner as issuance of the original temporary permit.
- 2. Upon expiration or revocation of a zoning permit for a temporary use, the temporary use shall cease and all temporary structures, dwellings, or buildings shall be forthwith removed from the parcel of land.
- 3. The Zoning Administrator may impose conditions with the issuance of the permit which are designed to insure compliance with the requirements of this section and those of this Section. The

### *ARTICLE THREE: GENERAL PROVISIONS*

Zoning Administrator may revoke a permit at any time for non-conformance with the requirements of this section and a permit issued thereunder.

4. An appeal of a decision by the Zoning Administrator relative to denial of a zoning permit for a temporary use or renewal thereof may be taken to the Zoning Board of Appeals pursuant to Article 8 of this Ordinance.

#### **3.21: MANUFACTURED HOME SETUP SPECIFICATIONS (See Definition)**

The following regulations shall apply to all manufactured homes intended for either permanent or seasonal housing:

1. All manufactured homes shall be placed upon a permanent foundation, the foundation may be in the form of piers of concrete blocks or poured concrete; blocks shall be 8"x16" and poured concrete piers shall be not less than 8"x8" reinforced concrete, each pier on a concrete footing not less than 4 square feet in area and 6 inches thick, or a concrete slab 3 inches thick, or two concrete ribbons six inches thick and 24 inches wide, both running the length of the unit and extending to the outside perimeter of the unit. In the case of ribbons or slab-type foundations, the foundation shall be equal to the length and width of the unit being placed.
2. Piers shall not be spaced more than ten (10) feet on center and all units shall have tie down facilities installed at each corner of the unit; all units shall be skirted with material such as steel, vinyl, aluminum, masonry, or fiberglass and there shall be provided one square inch of ventilation for each square foot of floor space in the skirting, an access door for inspection and maintenance shall be provided also.

#### **3.22: LIMIT OF ONE MAIN BUILDING OR USE PER PARCEL**

Except in the case of approved Planned Unit Developments (PUD), no more than one main building or use may be located on a parcel, except for groups of related industrial, commercial, or multiple family dwellings contained within a single, integrated complex, sharing parking and access.

#### **3.23: NUISANCES, PER SE**

The uses of land, dwellings or structures including tents and recreational vehicles, used, erected, altered, raised or converted in violation of this Ordinance or other State Law are declared to be a nuisance per se. Any land use which produces excessive dust, gas, fumes, smoke, noise, glare or other threat to the health and safety of the surrounding community shall also be determined to be a nuisance, per se. The court shall order the nuisance abated and the owner or agent in charge of the dwelling, structure, tent, trailer coach or land guilty of maintaining or creating a nuisance per se.

#### **3.24: WETLAND PROVISIONS**

Pursuant to provisions of the state Goemaere-Anderson Wetland Protection Act (P.A. 203 of 1979), as amended, a permit must be acquired from the Michigan Department of Natural Resources to:

- \* Deposit or permit the placing of fill material in a wetland.
- \* Dredge, remove, or permit the removal of soil or minerals from a wetland.
- \* Construct, operate, or maintain any use or development in a wetland.
- \* Drain surface water from a wetland.

In accordance with the state act, all wetlands that have a permanent or intermittent surface water connection to a lake, pond, river, or stream, or are located within 500 feet of any lake, pond, river, or stream in the County are regulated by the Department of Natural Resources. No activity or development may commence in any regulated wetland in the County prior to the acquisition of a



### *ARTICLE THREE: GENERAL PROVISIONS*

permit from the Department of Natural Resources which authorizes the activity or development. All newly-created lots in the County must have sufficient upland (i.e.: non-wetland) area to meet minimum size, setback, parking, and accessory use requirements. Maps prepared as part of the U.S. Fish and Wildlife Service National Wetland Inventory which depict the generalized location of wetland within Wexford County are available for review at the office of the County Zoning Administrator. In cases of conflict between available wetland maps and the definition of wetland contained herein, the definition shall control.

#### **3.25: RECYCLE FACILITY PROVISIONS (See also Articles Two and Ten)**

In addition to other applicable State and Local laws, recycle stations shall be subject to the following provisions:

- A. The facility shall be consistent with the County's Act 641 Solid Waste Management Plan and documented as such by the County Solid Waste Management Agency.
- B. Facility will accept only clean, source-separated, recyclable materials.
- C. Facility must provide a means of controlling access to the site to prevent entry and/or drop off of materials when facility is closed/unattended.
- D. No exterior (i.e., outside of the secured area or building) display or storage of material shall be permitted.

#### **3.26: COMMERCIAL ENTERPRISE (See also Articles Two and Ten)**

The following provisions shall apply to all commercial enterprises, as defined in this Ordinance:

- A. All signs shall comply with the requirements of Section 3.19.
- B. On-site parking shall comply with the requirements of Section 3.18.
- C. Loading/unloading areas shall be situated in the rear or side of the building. Loading or unloading shall not obstruct the on-site parking areas or pedestrian walkways. Loading and unloading must take place directly into or out of a building, except as provided in Article Four of this Ordinance.
- D. Solid waste storage shall be screened from view.
- E. All servicing and/or processing shall be conducted within an enclosed building.
- F. Access to the property shall be directly provided by a paved street or highway.

#### **3.27: DETERMINATION OF "SIMILAR USES" (as used in Article Four)**

In recognition that every potential use cannot be addressed in this zoning ordinance, certain districts include the phrase "Other uses which are determined similar by the Zoning Board of Appeals" at the end of the list of special land Uses. The Zoning Board of Appeals shall make a determination of "similar uses" according to the following:

- A. A finding that the proposed use is not listed as a Principal Use permitted or Special Land Use in any zoning district.
- B. If the use is not addressed in the zoning ordinance, the Zoning Board of Appeals shall select the use listed in the zoning ordinance which most closely resembles the proposed use using criteria such as potential impact on property values, traffic generated, aesthetics, noise, vibration, dust, smoke, odor, glare and other objectionable impacts terms of health, safety and welfare in the County. The Planning commission may determine that there is no similar use and that the use shall be prohibited.

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- C. One a similar use is determined, the proposed use shall comply with an special conditions or special Land Use Standard that apply to the similar use.
- D. The Zoning Board of Appeals or applicant shall the have the option to request an amendment of the zoning ordinance to specifically address the use in question, rather than treating the proposed use as a similar use.
- E. The determination as to whether a proposed use is similar in nature and class to other Principal Uses permitted or Special Land Uses within a district should be considered as an expansion of the use regulations, not a variance applying to a particular situation. Any use determined by the Zoning Board of Appeals to be a Similar Use shall be recorded on the office of the Zoning Administrator and considered thusly thereafter.

## ARTICLE 3A: WIRELESS COMMUNICATION TOWERS

### 3A.1: Purpose

The purpose of this Ordinance is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of the ordinance are to:

- 1) protect residential zoning districts from potential adverse impacts of towers and antennas;
- 2) encourage the location of towers in non-residential areas;
- 3) minimize the total number of towers throughout the community;
- 4) strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single use towers;
- 5) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on aesthetics is minimal;
- 6) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact on the towers and antennas through careful design, siting, landscaping screening, and innovative camouflaging techniques;
- 7) enhance the ability of the providers of telecommunication services to provide such services to the community quickly, effectively, and efficiently;
- 8) consider the public health and safety of communication towers;
- 9) avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, due consideration shall be given to the Wexford County master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

### 3A.2: Definitions.

As used in this ordinance, the following terms shall have the meanings set forth below:

- A. Alternative tower structures means man-made trees, clock towers, water towers, bell steeples, light poles and similar alternative - design mounting structures that camouflage or conceal the presence of antennas or towers.
- B. Antenna means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals) wireless telecommunication signals or other communication signals.
- C. Backhaul network means the lines that connect a provider's tower/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
- D. FAA means the Federal Aviation Administration.
- E. FCC means the Federal Communications Commission.
- F. Height means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

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- G. Preexisting towers and preexisting antennas means any tower or antenna for which a permit has been properly issued prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.
- H. Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio, and similar communication purposes including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.
- I. Tower Park means an area where multiple towers may be approved, by the Planning Commission, to be clustered, subject to engineering limitations.

### **3A.3: Applicability**

- A. New Towers and Antennas. All new towers or antennas in Wexford County shall be subject to these regulations, except as provided in Sec. 3A-3 B through D inclusive.
- B. Amateur Radio Station Operators/Receive only Antennas. This ordinance shall not govern any tower, or the installation of any antenna, that is under seventy feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
- C. Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Section 3A.4F and G.
- D. AM Array. For purposes of implementing this ordinance, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

### **3A.4: General Requirements**

- A. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- B. Lot Size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- C. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either in Wexford County, or within three (3) miles of the border thereof, including specific information about the location, height, design, and occupancy of each tower. The Zoning Administrator may share such information with other applicants applying under this ordinance or other organizations seeking to locate antennas within the County, provided however, that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- D. Aesthetics. Towers and antennas shall meet the following requirements:

### ARTICLE 3A: WIRELESS COMMUNICATION TOWERS

1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness. Neutral shall be defined as a color lacking hue such as white or gray.
  2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use conventional materials, colors, textures, screening, and landscaping that will blend them in the natural setting and surrounding buildings.
  3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
  4. Whenever possible, towers shall be located away from and out of view from arterial roads to preserve the aesthetics of the County.
- E. Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views. Lighting required for maintenance must be shielded and directed downward, and only used when necessary.
- F. State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state and federal government with the authority to regulate towers and antennas.
- G. Building Codes: Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the original standards under which the tower was designed in compliance with the Electronic Industries Association (EIA), as amended from time to time. If upon inspection, the County concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower and antenna at the owners expense.
- H. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located anywhere in the County irrespective of jurisdictional boundaries.
- I. Not Essential Services. Towers and antennas shall be regulated and permitted pursuant to this Article and shall not be regulated or permitted as essential services, public utilities, or private utilities.
- J. Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the County have been obtained and shall file a copy of all required franchises with the Zoning Administrator.
- K. Public Notice. For purposes of this ordinance, any special land use request, variance request, or appeal of an administrative decision shall require public notice to all property owners within three hundred (300) feet of the subject property in accordance with Article X, Section 10.2 (6).
- L. Signs. Signs and advertising other than warning or equipment information signs are prohibited.
- M. Buildings and Support Equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of Sec. 3A.8.

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- N. Multiple Antenna/Tower Plan. The County encourages the users of towers and antennas to submit a single application for approval of multiple towers or tower parks and/or antenna sites. Applications for approval of multiple sites or tower parks shall be given priority in the review process.
- O. Grounding. Antennas and metal towers shall be grounded for protection against a direct strike by lightning according to EIA Standards.

### **3A.5: Permitted Uses.**

- A. General. The uses listed in this section are deemed to be permitted uses and may be installed without formal approval
- B. Permitted Uses. Antennas located on public property provided a license or lease authorizing such-antenna has been approved by the County and/or the legislative body having jurisdiction over the location.

### **3A.6: Administratively Approved Uses.**

- A. General. The following provisions shall govern the issuance of administrative approvals for towers and antennas:
1. The Zoning Administrator may approve the uses listed in this section.
  2. Each applicant for administrative approval shall apply to the Zoning Administrator providing the information set forth in Section 3A.7B1 and 3A.7B3 of this ordinance and a nonrefundable fee as established by the Board of Commissioners to reimburse the County for the costs of reviewing the application.
  3. The Zoning Administrator shall review the application for administrative approval and determine if the proposed use complies with Section 3A.4, 3A.7B4 and 5.
  4. The Zoning Administrator shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application. If the Zoning Administrator fails to respond to the applicant within sixty (60) days, then the application shall be deemed approved.
  5. In connection with any such administrative approval, the Zoning Administrator may, in order to encourage shared use, administratively waive any zoning district setback requirements in Sec.3A.7B4 or separation distances between towers in Section 3A.7B5 by up to fifty (50) percent.
  6. In connection with any such administrative approval, the Zoning Administrator may, in order to encourage the use of mono poles, administratively allow the reconstruction of an existing tower to monopole construction.
  7. If an administrative approval is denied, the applicant shall file an application for a special land use permit hearing by the Planning Commission, pursuant to Sec. 3A.7, prior to filing any other appeal that may be available under the Zoning Ordinance.
- B. List of Administratively Approved Uses. The following uses may be administratively approved by the Zoning Administrator or reviewed by the Planning Commission at the discretion of the Zoning Administrator:
1. Locating antennas on existing structures or towers consistent with the terms of subsections "a." and "b." below.

## ARTICLE 3A: WIRELESS COMMUNICATION TOWERS

- a) Antennas on Existing Structures. Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, industrial or institutional structure, provided:
  - (1) The antenna does not extend more than thirty feet above the highest point of the structure;
  - (2) The antenna complies with all applicable FCC and FAA regulations; and
  - (3) The antenna complies with all applicable building codes.
- b) Antennas on Existing Towers. An antenna which is to be attached to an existing tower may be administratively approved by the Zoning Administrator. Co-location of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such co-location is accomplished in a manner consistent with the following:
  - (1) A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower, unless the Zoning Administrator allows reconstruction as a monopole.
  - (2) Height
    - (a) An existing tower may be modified or rebuilt to accommodate the Co-location of an additional antenna to a taller height, not to exceed thirty (30) feet over the towers existing height and not to exceed a total height of one hundred ninety nine (199) feet
    - (b) The height change referred to in subsection (2a.) may only occur one time per communications tower.
    - (c) The additional height referred to in subsection (2a.) Shall not require an additional distance separation as set forth in Sec. 3A.7. The tower's pre-modification height shall be used to calculate such distance separations.
  - (3) Onsite location
    - (a) A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved onsite within fifty (50) feet of its existing location.
    - (b) After the tower is rebuilt to accommodate co-location, only one tower may remain on the site.
    - (c) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to Section 3A.7B5. The relocation of a tower hereunder shall in no way be deemed to cause a violation of sec, 3A.7B5.
    - (d) The onsite relocation of a tower which comes within the separation distances to residential structures or residentially zoned districts as established in Sec. 3A.7B5 shall only be permitted when approved by the Zoning Administrator.
2. New Towers in non-residential zoning districts. Locating any new tower in a non-residential zoning district other than industrial or commercial, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Zoning Administrator concludes the tower is in conformity with the goals set forth in Sec. 3A.1 and the requirements of Sec. 3A.4; the tower meets the setback requirements in Sec. 3A.7B4 and separation distances in Sec.3A.7B5 and the tower meets the following height and usage criteria:

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- a) For a monopole 100 feet in height;
3. Installing a cable micro cell network through the use of multiple low powered transmitters/receivers attached to existing wireless systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

### **3A.7: Special Land Use Permits.**

A. General. The following provisions shall govern the issuance of special land permits for towers or antennas by the Planning Commission:

1. If the tower antenna is not a permitted use under Sec. 3A.5 of this ordinance or permitted to be approved administratively pursuant to Sec. 3A.6 of this ordinance, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
2. Applications under special land use permits under this section shall be subject to the procedures and requirements in accordance with Article Ten of the Wexford County Zoning Ordinance, as amended, except as modified in this Section.
3. In granting a special land use permit, the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
4. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
5. An applicant for a special land use permit shall submit the information described in this section and a non-refundable fee as established by the Board of Commissioners to reimburse the County for the costs of reviewing the application.

B. Towers.

1. Information Required. In addition to any information required for applications for special land use permits pursuant to Article Ten of this Ordinance, applicants for a special use permit for a tower shall submit the following information:
  - a) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (Including when adjacent to municipalities), all properties within the applicable separation distances set forth in Sec.3A.7B5, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and other structures, topography, parking, utilities and other information deemed by the Zoning Administrator to be necessary to assess compliance with this Ordinance.
  - b) Legal description and parcel number of the parent tract and leased parcel (if applicable).
  - c) The setback distance between the proposed tower and the nearest residential structure or platted or un-platted residentially zoned properties.
  - d) The separation distance from other towers described in the inventory of the existing sites submitted pursuant to Sec 3A.4C shall be shown on an updated site plan or map.
  - e) A landscape plan showing specific landscape materials.
  - f) Method of fencing, finished color and if applicable, the method of Screening and/or illumination.
  - g) A description of compliance with Section 3A.4C, D, E, F, G, J, L, and M and 3A.7B4 and 5.



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- h) A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional 'antennas for future users and specify the number of co-locators.
  - i) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the County or within three (3) mile of the border thereof.
  - j) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed tower.
  - k) A description of the feasible location (s) of future towers or antennas within the County based upon the existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
2. Factors considered in granting special land use permits for towers. In addition to any standards for consideration of special land use applications pursuant to Article Ten of this ordinance, the Planning Commission shall consider the following factors in determining whether to issue a special land use permit, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this ordinance are better served thereby:
- a) Height of the proposed tower;
  - b) Proximity of the tower to residential structures and residential district boundaries;
  - c) Nature of uses on adjacent and nearby properties;
  - d) Surrounding topography;
  - e) Surrounding tree coverage and foliage;
  - f) Design of the tower with particular reference to design characteristics that have the effect to reducing or eliminating visual obtrusiveness.
  - g) Proposed ingress and egress; and
  - h) Availability of suitable existing towers other structures, or alternative technologies not requiring the use of roof towers or structures, as discussed in Sec. 3A.7B3 of this Ordinance.
3. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna; An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
- a) No existing towers or structures are located within the geographic area which meets the applicant's engineering requirements.
  - b) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.

#### ARTICLE 3A: WIRELESS COMMUNICATION TOWERS

- c) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
  - d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - e) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - f) The applicant demonstrates that there are other limiting factors that render towers and structures unsuitable
  - g) The applicant demonstrates that an alternative technology that does not require the use of towers or structures as a cable micro-cell network using multiple low powered transmitters/receivers attached to a wire-line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
4. Setbacks. The following setback requirements shall apply to all towers for which a special land use permit is required; provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of this ordinance would be better served thereby:
- a) Towers must be setback a distance equal to at least the height of the tower from any adjoining lot line of the parent parcel.
  - b) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
5. Separation. The following separation requirements shall apply to all towers and antennas for which a special land use permit is required; provided however, that the Planning Commission may reduce the standard separation requirements if the goals of this Ordinance would be better served thereby.
- a) Separation from off-site uses/designated areas. Tower separation shall be measured from the base of the tower to the nearest off-site residential structure and/or designated areas as specified in Table 1.

**Table 1: Off-site Use/Designated Area Separation Distance:**

Single-family or two (2) family residential units <sup>1</sup>	200 feet or 300% height of tower whichever is greater
Vacant single-family or two(2) family residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired <sup>2</sup>	200 feet or 300% height of tower, whichever is greater
Vacant un-platted residential zoned lands <sup>3</sup>	100 feet or 100% height of tower plus the required setback of the district of location, whichever is greater.
Existing multi-family residential units	200 feet or 300% height of tower, whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

- 1) Includes modular homes and mobile homes for living purposes.
- 2) Separation measured from base of tower to the nearest lot line.
- 3) Includes any un-platted residential properties without a valid preliminary subdivision plan or valid development plan approval and an multi-family residentially zoned land.
  - a) Except as provided for in Sec. 3A.2I and Sec, 3A.4N separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base, pursuant to a site plan of the proposed tower. The separation distances (listed in linear feet ) shall be as shown in Table 2, except where engineering studies show incompatibility.

**Table 2: Existing Towers - Types**

	Lattice	Guyed	Monopole 75 ft. in height or greater	Monopole less than 75 ft. in height
Lattice	10,000'	10,000'	1,500'	750'
Guyed	10,000'	10,000'	1,500'	750'
Monopole 75 ft. in height or greater	1,500'	1,500'	1,500'	750'
Monopole less than 75 ft. in height	750'	750'	750'	750'

## ARTICLE 3A: WIRELESS COMMUNICATION TOWERS

6. Security Fencing. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with appropriate anti-climbing device; provided however, that the Planning Commission may waive such requirements, as it deems appropriate.

7. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special land use permit is required; provided, however, that the Planning Commission may waive such requirements if the goals of this ordinance would be better served thereby.

- a) Tower facilities shall be landscaped with a buffer strip of plant materials at least ten (10) feet wide and of sufficient height to effectively screen the view of the tower compound from property used for residences.
- b) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
- c) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property perimeter may be .a sufficient buffer.

### **3A.8: Buildings and Other Equipment Storage.**

A. Antennas Mounted on Structures or Rooftops. The equipment cabinet or structure used in association with antennas shall comply to the following:

1. The cabinet or structure shall not contain more than two hundred (200) square feet of gross floor area or be more than ten (10) feet in height. In addition, for buildings and structures which are less than forty (40) feet in height, the related unmanned equipment shelter, if over one hundred (100) square feet of gross floor area or nine (9) feet in height, shall be located on the ground and shall not be located on the roof of the structure. Where antennas are collected on a single tower, the size of the structure may be increased by fifty (50) per cent of the basic size allowed for each additional antenna.
2. If the equipment shelter is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than twenty five (25) percent of the roof area.
3. Equipment storage buildings or cabinets shall comply with all applicable building codes.

B. Antennas Mounted on Utility Poles or Light Poles. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

1. In residential districts, the equipment cabinet or structure may be located:
  - a) In a front or side yard provided the cabinet or structure is no greater than nine (9) feet in height or two hundred (200) square feet of gross floor area and the cabinet/structure meets the minimum setback requirements from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with the ultimate height of at least six (6) feet and a planted height of at least three (3) feet.
  - b) In a rear yard, provided the cabinet or structure is no greater than ten (10) feet in height or three hundred (300) square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least three (3) feet.
2. In commercial or industrial districts the equipment cabinet or structure shall be no greater than ten (10) feet in height or four hundred (400) square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with the ultimate height of eight (8) feet and a

## ARTICLE 3A: WIRELESS COMMUNICATION TOWERS

planted height of at least three (3) feet. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence six (6) feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least three (3) feet.

- C. Antennas Located on Towers. The related unmanned equipment structure, shall not contain more than three hundred (300) square feet of gross floor area or be more than ten (10) feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which it is located.
- D. Modification of Building Size Requirements. The requirements of Section 3A.8A through C may be modified by the Zoning Administrator in the case of administratively approved uses or by the Planning Commission in the case of uses permitted by special land use to encourage co-location.

### **3A.9: Removal of Abandoned Antennas and Towers.**

Any antenna or tower that is not operated for a period of twelve (12) consecutive months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the County notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the property owner's or lessee's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

- A. Performance Guarantee. In accordance with Section 10.3 (3), in authorizing a special use permit, the County Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond be furnished by the property owner or lessee to ensure compliance with the approved site plan and the special use permit requirements.

### **3A.10: Nonconforming Uses.**

- A. Not Expansion of Nonconforming Use. Towers that are constructed and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
- B. Pre-existing Towers. Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers- New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this ordinance.
- C. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Notwithstanding Sec. 3A.9, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in Section 3A.7B4 and 5. The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within one hundred and eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section 3A.9.

ARTICLE FOUR - ZONING DISTRICT REGULATIONS

4.1: Intent and Permitted Land Uses

It is the intention of this Ordinance that the development of county-zoned land shall be limited to the following uses. The location of the Zoning Districts in the County may be found on the Official Zoning District Map.

ZONING DISTRICT (and District Intent)	PERMITTED USES	CONDITIONAL USES	SPECIAL USES
<p>R-RESIDENTIAL</p> <p>The intent of this District is to establish lots for single-family residential homes with enough space to provide adequate well and septic facilities, as well as safe access and exit.</p> <p>Special uses shall be limited to uses which are compatible with The residential character.</p>	<p>A. Single-family residences</p> <p>B. Accessory structures</p> <p>C. Family day care</p>	<p>[None]</p>	<p>A. Home occupations/Home professional offices</p> <p>B. Public parks/ playgrounds</p> <p>C. Duplex and multiple family dwellings</p> <p>D. Churches</p> <p>E. Hospitals, clinics for human care</p> <p>F. Group day care</p> <p>G. Assisted Living Facilities</p> <p>H. Additional Dwelling Unit on a Parcel (10.16.5)</p>

ARTICLE FOUR - ZONING DISTRICT REGULATIONS

ZONING DISTRICT (and District Intent)	PERMITTED USES	CONDITIONAL USES	SPECIAL USES
<b>RR-RESORT/RESIDENTIAL</b> The intent of this District is to promote the proper use and conservation of the lakeside and resort areas of the county while allowing for the development of low to medium density residential projects and selected outdoor recreational facilities (under 10 acres in size).	A. Same as R-RESIDENTIAL, plus; B. Public parks/ playgrounds C. Accessory structures D. Family day care	[None]	A. Home Occupations/Home professional offices B. Duplex and multiple family dwellings C. Assisted Living Facilities D. Other uses which support and serve both the resort and residential character of the area, including, but not necessarily limited to the following: <ol style="list-style-type: none"> <li>Public and private recreation facilities</li> <li>Motels and resorts</li> <li>Restaurants</li> <li>New merchandise retailers</li> <li>Boat and canoe launching and rentals</li> <li>Retail Bait and Tackle Shops</li> </ol> E. Additional Dwelling Unit on a Parcel (10.16.5)

*ARTICLE FOUR - ZONING DISTRICT REGULATIONS*

<b>ZONING DISTRICT (and District Intent)</b>	<b>PERMITTED USES</b>	<b>CONDITIONAL USES</b>	<b>SPECIAL USES</b>
<p><b>OFFICE/SERVICE</b>  This District is designed to provide lands for personal and professional offices which, for reasons of size or practicality, are not appropriately suited for Special Use consideration in other Districts. (Properties within the Clam Lake Corridor area are also subject to the requirements found in Article Fourteen of this Ordinance.)  Because of the limited public utilities available in the County, many uses in this zone will require a special use permit and all will require site plan approval by the County Planning Commission.</p>	<p>A. Professional Offices (e.g. dentists, doctors, attorneys) which are less than 2,000 sq. ft. in area  B. Personal Service Establishments (eg. financial establishments, insurance, realties) which are less than 2,000 sq. ft. in area</p>	<p>[None]</p>	<p>A. Professional Offices (eg. dentists, doctors, attorneys) which are greater than 2,000 sq. ft. in area  B. Personal Service Establishments (eg. financial establishments, insurance, realties) which are greater than 2,000 sq. ft. in area  C. Restaurants (excluding drive-through windows)  D. Other retail establishments (excluding drive through businesses) which support the Office/Service community, such as office suppliers, medical supply facilities and print shops.  E. Schools  F. Motels/Hotels</p>



*ARTICLE FOUR - ZONING DISTRICT REGULATIONS*

<b>ZONING DISTRICT (and District Intent)</b>	<b>PERMITTED USES</b>	<b>CONDITIONAL USES</b>	<b>SPECIAL USES</b>
<p><b>AR – AGRICULTURAL/RESIDENTIAL</b>  It is the intent of this District is to protect the rural character and open spaces of certain areas of the County while also recognizing the need for quality development.</p>	<p>A. One and two family dwellings  B. Farms and general agricultural operations  C. Greenhouses and nurseries  D. Publicly owned parks and playgrounds  E. accessory structures  F. Family day care</p>	<p>A. Mini Cabins and Cottages (10.16.2)  B. Residential Accessory Buildings as a Principal Use (10.16.3)  C. Gasoline Stations and Convenience Stores (10.16.4)  D. Additional Dwelling Unit per Parcel (10.16.5)</p>	<p>A. Agricultural processing and intense animal raising operations  B. Assisted Living Facilities  C. Farm stands  D. Doctor's office  E. Group day care  F. Cemeteries  G. Civic, social and fraternal buildings  H. Schools  I. Churches  J. Privately owned utilities  K. Private landing strips  L. Riding and/or boarding stables  M. Veterinary clinics, kennels and boarding  N. Home occupations/Home professional offices  O. Mining, processing, stockpiling, and removal of gravel, sand, earth, and other mineral resources  P. Other uses which are determined similar by the Zoning Board of Appeals and which support the agricultural community may also be permitted.</p>

ARTICLE FOUR - ZONING DISTRICT REGULATIONS

ZONING DISTRICT (and District Intent)	PERMITTED USES	CONDITIONAL USES	SPECIAL USES
<p><b>FR-FOREST/RECREATIONAL</b>  This District is provided to promote the proper use of the county's resources and enjoyment of the natural features of the County while providing 'space for larger (10 acres +) outdoor recreational facilities, forestry and low density residential development.</p>	<p>A. Single family dwellings  B. Hobby farms  C. Tree farms  D. Public parks and playgrounds  E. Accessory structures</p>	<p>A. Mini Cabins and Cottages (10.16.2)  B. Residential Accessory Buildings as a Principal Use (10.16.3)  C. Gasoline Stations and Convenience Stores (10.16.4)  D. Additional Dwelling Unit per Parcel (10.16.5)</p>	<p>A. Campgrounds and cabin resorts  B. Church  C. Saw mills or other forest industry/processing  D. Outdoor recreation facilities  E. Private landing strips  F. Two-family dwellings  G. Publicly owned buildings  H. Riding and/or boarding stables  I. Greenhouses and nurseries  J. Motels and lodging  K. Restaurants  L. Home occupations/Home professional offices  M. Group day care  N. Launching facilities and boat and canoe livery  O. Retail stores selling new merchandise  P. Pet boarding kennel  Q. Mining, processing, stockpiling, and removal of gravel, sand, earth, and other mineral resources</p>
<p><b>C-1- LIGHT COMMERCIAL</b>  This District is provided to establish areas in the County where general commercial and retail services are appropriate. Uses normally associated with local business and service districts will be considered in this Zone. Areas which have public sewer and water available will be given priority consideration as locations for this zone and the respective uses.  Because of the limited public utilities available in the County, most uses in this zone will require a special use permit</p>	<p>A. Retail establishments, professional and business offices and restaurants with less than 2000 square feet of floor area and without outdoor storage of materials.</p>	<p>[None]</p>	<p>A. Retail establishments, professional and business offices and restaurants with greater than 2000 square feet of floor area, with or without outdoor storage of materials.  B. Lodging and motels  C. Hospitals, clinics for human care  D. Commercial recreation facilities (indoor and outdoor)  E. Automobile service stations.  F. Mini storage facilities</p>

ARTICLE FOUR - ZONING DISTRICT REGULATIONS

ZONING DISTRICT (and District Intent)	PERMITTED USES	CONDITIONAL USES	SPECIAL USES
<p><b>C-2 - HEAVY COMMERCIAL</b>  This Zone is intended for commercial uses which are likely to produce noise, smoke, dust or traffic which may be of an intensity harmful to neighboring properties. As with the Commercial Zone, areas which have public sewer and water available will be given priority consideration as locations for this zone and respective uses.  Outdoor storage within fenced areas will be permitted in this district  Because of the limited public utilities available in the County, most uses In this zone will require a special use permit</p>	<p>A. Warehousing and mini-storage buildings  B. Gas stations, including automotive service stations</p>	<p>[None]</p>	<p>A. Production, processing, assembly and/or manufacture of goods and materials.  B. Contractors storage yards  C. Recycle, salvage and transfer stations  D. Vehicle sales  E. <i>Automobile service stations</i> with/without repair and body shops  F. Manufactured housing sales  G. Sexually Oriented Businesses.  (10.16.1) Sexually Oriented Businesses include any of the following or any combination of the following:  1. Adult book and/or video store  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</p>
<p><b>PUD-PLANNED UNIT DEVELOPMENT</b>  This zone Is intended to provide zoning flexibility for large developments which may propose more than one primary use. All developments proposed for this zone must be approved by the Planning Commission as provided in Article Six of this Ordinance.</p>	<p>None</p>	<p>None</p>	<p>All uses allowed by the provisions of Article Six of this Ordinance.</p>

*ARTICLE FOUR - ZONING DISTRICT REGULATIONS*

## ARTICLE FOUR - ZONING DISTRICT REGULATIONS

### 4.2: Minimum Zoning District Dimensional Requirements

ZONE	LOT AREA (sq. ft.)		BLDG SIZE (sq. ft.) <sup>1</sup> /MAX LOT COVERAGE	HEIGHT MAX. <sup>2</sup>	FRONT SETBACK	LOT WIDTH <sup>3</sup>	SIDE YARD	REAR YARD
	1-FAM	2-FAM						
R	20,000	32,000	900 <sup>4</sup>	35 FEET	40	100	15	25
RR	20,000	32,000	900 <sup>5</sup>	35 FEET	40	100	15	35
AR	43,560	65,340	800	35 FEET	50	165	30	50
FR	43,560	65,340	800	35 FEET	50	165	30	50
O/S	22,500		35 COV.	35 FEET	75	150	30	60
C-1	25,000		50 COV.	35 FEET	30	150	20	60
C-2	43,560		50 COV.	40 FEET	100	150	20	60
PUD	10 ACRES		FLEXIBLE	FLEXIBLE	FLEXIBLE	FLEXIBLE	FLEXIBLE	FLEXIBLE
Plats or lots w/ public sewer and water	12,000	18,000	Depends on zoning district	35 FEET	40	100	15	25

- 1) The minimum floor area per unit for multiple family units in any District shall be 530 sq. feet. There shall also be lot area equal to 9000 sq. ft. per unit. “Multi-Family Dwelling”, and “State Licensed Residential Facilities” located in the Residential and Resort-Residential zones, shall have a minimum lot width requirement of 100 feet and a minimum parcel size requirement of 32,000 square feet. The minimum side yard setback requirement, shall be 25 feet or the height of the building as measured from the mid point of the peak to eave to the ground whichever is greater”. “In areas served by municipal sewer, there shall be a maximum lot coverage allowance of 20%. In areas where municipal sewer is not available and where on-site septic systems are planned, there shall also be a lot area equal to 9,000 square feet per unit”. “State Licensed Residential Facilities in the Agricultural Residential zone shall have a minimum lot width requirement of 165 feet and a minimum parcel size of 65,340 square feet. The minimum side yard setback requirement shall be 30 feet. The maximum building height shall be 35 feet. The minimum front yard setback shall be 50 feet. The minimum rear yard setback shall be 50 feet. In areas served by municipal sewer, there shall be a maximum lot coverage allowance of 20%. In areas where municipal sewer is not available and where on-site septic systems are planned, there shall also be a lot area equal to 9,000 square feet per unit”.
- 2) Residential accessory structures in the R, AR, FR, PUD and RR Districts shall not exceed one (1) story or fourteen (14) feet in height (grade to eave). Non-residential accessory structures in any district shall not exceed 35 feet or the height of the principal structure, whichever is less.
- 3) The depth of lots in residential zoned areas shall not be more than four (4) times the width.
- 4) All dwellings in this District shall be a minimum of 20 feet on all four building faces at the time of manufacture or placement.
- 5) Refer to Footnote #4.

## ARTICLE FIVE: LAKE MITCHELL OVERLAY ZONE

### 5.1 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.

### 5.2 Area Affected

The area affected by this Lake Mitchell Overlay Zone is depicted on the official zoning map known as the "Zoning District Map of Wexford County, Michigan." 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.

### 5.3 Map Interpretation

In determining the environmental constraints and maximum allowable density permitted on a lot within the affected area, the Planning Commission or Zoning 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.

### 5.4 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 not in conflict with those of this zone.

### 5.5 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 zoning administrator upon determination that the proposed use fully complies with other applicable sections of this Ordinance.

## ARTICLE FIVE: LAKE MITCHELL OVERLAY ZONE

- B. In areas located within Land Unit C affected by this Overlay Zone, all uses of land, buildings and structures permitted as either primary or special uses in the underlying district in which a property is located are permitted, provided the procedures and requirements for obtaining a special use permit pursuant to Article Ten of this Ordinance have been complied with and a special use permit is granted.

### **5.6 General Site Plan Requirements**

- A. Compliance with each of the following minimum site plan 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 Planning 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 zoning administrator and to review pages 37-50 of the Lake Mitchell Environmental Development Plan prior to submitting development plans.
- B. Upon the submittal of a site plan and upon inspection of the proposed site, the Planning Commission as described above shall make findings whether or not the proposed location of land uses and structure comply with the following required general standards:
1. Minimum setback, yard, and lot 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 lot line, closer than thirty-five (35) feet from the lot line from which principal access is derived or no less than twenty-five (25) feet from a rear lot line.

All structures and uses of land shall also be set back from any water body as required in Section 3.4 of this ordinance. Non-conforming lots of record shall be granted some relief from this provision as included in Section 3.11 of this Ordinance.
  2. Structures and land uses shall be located on that part of any lot 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 greenbelt zone of no less than twenty (20) feet of natural vegetation between the structure or use and any stream, drainage way, or wetland; and be subject to the following definitions and standards for development:
    - c) “Impervious Surface” means surface material incapable of being penetrated by water and includes the foundation lines of buildings, paved parking and drives, sidewalks, bricks, pavers, patio blocks, or any other surface which does not allow water to penetrate.
    - d) prior to any new construction, reconstruction, remodeling or other construction activity including paved parking, drives, sidewalks or any impervious surface, the lot 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

## ARTICLE FIVE: LAKE MITCHELL OVERLAY ZONE

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.

- e) In the case of demolition and reconstruction, allowance for the vesting of lot 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.
- f) 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.
- g) 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.
- h) Comply with all other state and local laws and statues.

### **5.7 General Standard on Filling 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 lot or 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 301 of 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.

### **5.8 Specific Standards for Site Development**

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:



## ARTICLE FIVE: LAKE MITCHELL OVERLAY ZONE

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.

### 5.9 Lot Area-Density Requirements

- A. The following maximum densities shall be observed unless an individual lot 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 lot 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 lot 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 lot falls in more than one land unit, that land unit occupying the majority of the buildable area of the lot 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
<b>Land Unit-A</b>		
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
<b>Land Units-B-1 &amp; B-2</b>		
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

	In Critical Land Management Unit (Units 1,3,5, & 8)	Not in Critical Land Management Unit
<b>Land Unit-C</b>		
With Sewer Service	87,120 sq. ft./principal use	21,780 sq. ft./principal use
Without Sewer Service	no development	no development

### **5.10 Site Plan Application Requirements**

In addition to the site plan application requirements 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 lot 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.

### **5.11 Approval or Denial**

Upon approval of a site plan by the Planning Commission, one (1) copy of the site plan shall be returned to the applicant along with a special use permit with all the conditions attached, if any. Failure to comply with a special use permit and all conditions is a violation of this Ordinance. The administrator shall keep on file all applications received for site plan review, a copy of the site plan, the action taken and the reasons for the action. Any application for a permit that is denied shall be done in writing with the findings and reasons specified and one (1) copy returned to the applicant.

### **5.12 Preliminary Plat Review**

In the preliminary plat review required under terms of this Ordinance, the County shall request review and comment from the Zoning Administrator and Planning Commission when the proposed plat falls within the area of the Lake Mitchell Overlay Zone as described in this Ordinance. The County's comment shall be received within thirty (30) days and shall verify whether the proposed plat fully complies with County zoning regulations and that the plat has been planned, laid out and designed to maintain and protect the values and integrity of the Lake Mitchell environmental area.

## **ARTICLE SIX: PUD - PLANNED UNIT DEVELOPMENT.**

### **6.1: PURPOSE**

The purpose of this district is to permit flexibility in the regulation of land development on parcels of land of ten (10) acres or more; encourage innovation in land use and variety in design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public service and utilities; encourage provision of useful open space; provide adequate housing, employment, and shopping opportunities particularly suited to the needs of the residents of the County; and encourage the use, reuse and improvement of existing site and buildings when the uniform regulations contained in other zoning districts do not provide adequate protection and safeguards of the site or surrounding area.

This district is intended to accommodate development with mixed or varied uses, sites with unusual topography or unique settings within the county, or on land which exhibits difficult or costly development problems but shall not be allowed where this zoning classification is sought primarily to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated purposes above.

### **6.2: PERMITTED USES**

All residential uses, including Mobile Home Parks; all business, service and professional offices; all light manufacturing, research uses, and all commercial uses or any combination of uses may be permitted in a planned unit development.

### **6.3: PERMITTED ACCESSORY USES**

Any accessory use permitted in this Ordinance shall be permitted as part of a Planned Unit Development Site Plan.

### **6.4: DEVELOPMENT REGULATIONS AND STANDARDS**

1. Ownership. The entire parcel for which application is made must be under one ownership or the application must be made with the written authorization of all property owners.
2. Establishment. Amendment Procedure. A PUD zoning classification shall be established, amended or removed pursuant to the procedure set forth in this Article provided, however, that a PUD zoning classification may be initiated only by petitioner.
3. Standards for Approval. Based upon the following standards, the Planning Commission may recommend denial or approval, and Board of Commissioners may deny or approve the proposed Planned Unit Development.
  - a) The uses proposed will have a beneficial effect, in terms of public health, safety, welfare or convenience or any combination thereof, on present and potential surrounding land uses. The uses proposed "will not adversely affect the public utility and circulation systems, surrounding properties, or the environment; This beneficial effect for the County (not the developer) shall be one which could not be achieved under any other single zoning classification.
  - b) The uses proposed shall be consistent with the land use plans adopted by the Wexford County Planning Commission.
  - c) The zoning is warranted by the design and amenities incorporated in the development proposal.
  - d) Usable open space shall be provided at least equal to the total of the minimum usable open space which would be required for each of the component uses of the development.

*ARTICLE SIX: PUD - PLANNED UNIT DEVELOPMENT.*

- e) Off-street parking sufficient to meet the minimum required by Article Three. Planning Commissioners may, if deemed appropriate, require for Planned Unit Developments more or less parking than that required by this Ordinance.
  - f) Landscaping shall be provided so as to insure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
  - g) Vehicular and pedestrian circulation, allowing safe, convenient, uncongested, and well-defined circulation within and to the district shall be provided.
  - h) Major natural, historical and architectural features of the district shall be preserved.
  - i) Use and dimension regulations shall receive some flexibility in the PUD classification, provided the intent and minimum lot size requirements found in Article Four, Sections 4.1 and 4.2 are met.
  - j) Such other requirements applicable to uses of a more intense nature as set forth in Article Three and Section 10.3 of this Ordinance.
4. Approval Procedure. The PUD zoning approval shall involve two phases. The preliminary phase shall involve a review of the conceptual PUD development plan to determine suitability for inclusion in the land use and zoning plan of the County and adoption by the Wexford County Board of Commissioners as part of the Zoning Ordinance. The final phase shall require detailed site plans for any part of the conceptual PUD development plan prior to the issuance of building permits.
5. Material to be Submitted. The applicant for any PUD zoning classification shall submit the following technical and/or graphic materials together with the application for a PUD classification preliminary phase approval as further specified by Section 10.2(2) of this Ordinance:
- a) A complete amendment petition as required by this Article, together with a PUD development plan showing all uses and allotted spaces, gross site area, street and vehicular access areas, number of each variety of habitable space, total number of dwelling units, floor area per habitable space, and total open space.
  - b) The PUD development plan shall indicate the entire contiguous holdings of the petitioner or owner who wishes to develop the entire parcel or any part thereof, and shall include the area and use of land adjacent to the parcel to be developed, which plan shall exhibit any unusual problems of topography, utility service, land usage or land ownership; said plan shall also exhibit all existing and proposed structures, existing and proposed streets, open spaces and other features as required by ordinance or the land development regulation.
  - c) The applicant shall present material as to the development's objectives and purposes to be served; conformity to plans and policies of the County; impact on public schools utilities, and circulation facilities; impact on natural resources; impact on the general area and adjacent property; and a staging plan showing the general time schedule of and expected completion dates of the various elements of the plan.
  - d) All applications shall include photographs of all existing buildings. Any additional graphics or written materials requested by Planning Commission to assist the- County in visualizing and understanding the proposal shall be submitted.
6. PUD Development Plan Review.
- a) The petitioner shall submit to the County Planning and Zoning Department sufficient copies of the PUD development plan together with appropriate review fees. Copies of the plan as submitted shall be distributed promptly by the staff to the members of the Planning

*ARTICLE SIX: PUD - PLANNED UNIT DEVELOPMENT.*

Commission and the appropriate County agencies for review to determine if the development concept can be accommodated by the existing public utility, street, and general County service facilities, or if any additions to, or extension of facilities are necessary for the project.

- b) The Planning Director shall notify the petitioner of any questions raised by the County agencies during said review and shall submit like information to the Planning Commission for its consideration, along with a report which evaluates the planning aspects of the project and its impact on the present and future development of that part of the County in which it is located.
  - c) Within forty-five (45) days of the submittal of the plan from the applicant to the Planning and Zoning Department, the Planning Commission shall hold a public hearing advertised in accordance with Section 12.3 (4), at which time the petitioner shall present the proposed PUD development plan and the Planning Commission shall provide the petitioner with its comments within thirty (30) days after holding such a hearing. Fee for this review and hearing shall be the same as that charged for a typical re-zoning.
  - d) The Planning Commission shall, after holding public hearings on said PUD development plan and reviewing said reports, make its recommendation to the Board of Commissioners on said plan within sixty (60) days of the public hearing unless said time is agreed to be extended by the petitioner in writing; provided that the Planning Commission may extend this time for periods not to exceed thirty (30) days each if such extensions are necessary for adequate review.
  - e) If the PUD development plan is recommended for rejection by the Planning Commission to the County Board, the reasons therefore shall be specified in a formal Finding of Fact Statement, prepared by the Staff, and approved by the Planning Commission.
  - f) The Planning Commission's recommendations and--all related reports shall be submitted to the Board of Commissioners for its consideration. The Board of Commissioners shall either approve, approve with conditions (Sec. 10.3 [2]) or deny the request (Sec. 12.3 [5]) within ninety (90) days of the date it receives the recommendation from the Planning Commission or such reasonable extension of time as may be necessary for adequate review. The County Board of Commissioners shall prepare a report stating its conclusions regarding the request for a P.U.D., including the basis for its decision, the decision and any conditions relating to an affirmative decision. The decision of the Board of Commissioners shall be final with appeals available through the Circuit Court.
  - g) Any conditions recommended by the Planning Commission and required by the Board of Commissioners shall be satisfied by the petitioner or owner prior to subsequent final phase site plan approval and prior to the issuance of any building permits. The County Clerk shall keep a special record of all approved PUD development plans and approval conditions.
7. Effect of Preliminary Phase Approval of PUD Development Plans. Approval of the PUD development plan by the Board of Commissioners shall rezone the property to a "PUD" zoning classification for uses as shown on the PUD development plan and shall confer upon the owner the right to proceed through the subsequent planning phases in accordance with regulations and ordinances in effect at the time of Board's approval for a period not to exceed three (3) years from date of approval, unless subsequent regulations or ordinances are specifically made applicable to developments which have been so approved. If final phase site plans have not been submitted for approval before the termination of said three (3) year period, said subsequent site planning must conform to the regulations, ordinances and laws in effect at the time said site plan is submitted.

*ARTICLE SIX: PUD - PLANNED UNIT DEVELOPMENT.*

8. Final Phase PUD Site Plan Approval. Before any building permits shall be issued, the petitioner shall submit to the Planning Director sufficient copies of the final PUD site plan for all or any part of the development, in accordance with the uses and concepts as shown on the preliminary approved PUD development plan. The final site plan shall comply with all requirements of Section 11.3 of this Ordinance as well as the following:
  - a) A detailed site drawing which includes all items listed in Article Eleven of this Ordinance.
  - b) A detailed listing of existing and/or proposed exterior materials shall be provided and will become part of the PUD site plan.
  - c) Approval of the final PUD site plan, as provided in Section 11.5 of this Ordinance, shall entitle the owner to apply for building permits.
9. Time for Completion of Development. The proposed Planned Unit Development District and all proposed buildings, parking spaces, landscaping, usable open space, and amenities must be started within three (3) years of the establishment of the district and work must be continued in a reasonable diligent manner and completed within five (5) years of the establishment of the district. Said five (5) year period may be extended if applied for by the petitioner and granted by the Planning Commission in writing. Failure on the part of the owner to secure the written extension shall result in stoppage of all construction.
10. Deviations from Approved PUD Site Plan.
  - a) Minor changes to a previously approved PUD site plan may be approved without the necessity of Planning Commission or Board of Commission action thereon if the Planning Department staff and any relevant county agency or department certify in writing that the proposed revision constitutes an acceptable level of alteration and does not alter the basic design nor any specific conditions of the plan as agreed upon by Planning Commission and Board of Commissioners. The Planning Director shall record all such changes on the original PUD site plan and shall advise Planning Commission and Board of Commissioners of all said minor revisions at their next scheduled meeting(s) of said administrative approval. Minor changes under this section shall be limited to:
    - (1) Addition or relocation of all fire escapes.
    - (2) Shifting of building heights and elevations, providing such shifting does not exceed ten (10) percent of the previously approved dimension and providing such shifting does not significantly alter the conceptual integrity of the plan.
    - (3) Construction of additional or alteration of approved sidewalks, provided that the full intent of pedestrian movement through and around the site is not inhibited thereby.
    - (4) Shifting of, additions to, or changes in species of landscape materials, provided that such change does not reduce the minimum landscape requirements.
    - (5) Relocation of refuse collection stations.
    - (6) Internal rearrangement of parking lots and curb cut locations provided such functional rearrangement does not reduce the total number of parking spaces required and further provided that the minimum landscape requirements are maintained and further provided that such rearrangement does not inhibit good traffic flow or circulation.
    - (7) Any decrease in building size or changes in bedroom counts per dwelling unit in no more than ten (10) percent of the total number of units.
    - (8) Installation of recreational or maintenance facilities that do not require erection of a structure intended for human use or occupancy.

*ARTICLE SIX: PUD - PLANNED UNIT DEVELOPMENT.*

- (9) Such other alterations or revisions which do not alter the basic design nor any specific condition of the plan as agreed by the Planning Commission and the County Board of Commissioners (Sec. 11.6).
- b) A PUD final phase PUD site plan approval shall be assigned only after the Board of Commissioners approval of the preliminary phase PUD development plan and rezoning of the property as required by this Section. Any deviation from the approved PUD site plan, except as authorized above, shall be considered a violation of this Article and subject to the penalties stated in Article Seven, of this Ordinance. Further, any such deviation shall result in notice of the owner that rezoning procedures will be initiated by the Board of Commissioners.

## **ARTICLE SEVEN: ADMINISTRATION**

### **7.1: ZONING ADMINISTRATOR**

The provisions of this Ordinance shall be administered by a Zoning Administrator who shall be appointed by the County Board of Commissioners for such term and subject to such conditions as said Board deems desirable to carry out the provisions of the Ordinance. He shall hold office at the pleasure of the Board and receive such compensation as shall be determined by the Board. The Board may also appoint deputy administrators under such conditions and for such term, and for such compensations as the Zoning Administrator in the discharge of the duties of the office.

### **7.2: DUTIES AND POWERS OF ZONING ADMINISTRATOR**

The Zoning Administrator shall enforce this ordinance and:

1. Issue all Zoning Certificates and Certificates of Compliance and maintain records thereof.
2. Conduct inspections as outlined elsewhere in this Ordinance.
3. Maintain permanent and correct records of this Ordinance, including, but not limited to, maps, amendments, special use permits, variations and appeals.
4. Provide and maintain a public information office relative to all matters arising out of the administration of the Ordinance.
5. Investigate all applications for variances and special use permits and report his findings to the jurisdictional agency.
6. Initiate appropriate action to prevent restrain, correct or abate any illegal act or violation of this Ordinance.

### **7.3: ZONING PERMITS**

#### **Application**

Before proceeding with the use, erection, alteration, enlargement, rebuilding, location or moving of any building or structure subject to the provisions of this ordinance, the owner of the premises shall first apply for a permit from the Zoning Administrator. Application shall be made upon forms provided by the planning and zoning office, and shall be accompanied by a tax description of the premises and a permit number from the local Health District. In addition, applications for one and two-family dwellings shall be accompanied by a blueprint, or neat pen and ink drawing, showing the following:

1. The shape, area, and dimensions of the premises.
2. The kind, dimensions, height and location of all buildings and structures 'to be erected or moved on the premises, including all yard dimensions and accessory buildings, if any.
3. On examination of any site, the Zoning Administrator may require a boundary survey and staking of the premises by a registered surveyor, of if site is located in any area having severe soil conditions, low strength, severe slope or humus or peat, as indicated by the soil survey map of Wexford County, additional information may be required by the Zoning Administrator, including engineering specifications to overcome soil deficiency,

Zoning requests for uses other than one and two-family dwellings shall include a site plan which complies with the requirements of ARTICLE ELEVEN of this Ordinance. Site Plan Review by the Planning Commission is also required for those requests.



## **Issuance of Permit**

1. If the Zoning Administrator finds the application conforms with the requirements of the Ordinance and other applicable law, he shall so mark the copies over his signature, including the date. One copy shall be filed in his office, and one returned together with a Zoning Certificate No permit shall be valid until the required fee has been paid to the Zoning Administrator. All fees shall be transferred to the County Treasurer on a monthly basis.
2. Any permit under which no work has been actively pursued within one (1) year of issuance shall expire by limitation.
3. The Zoning Administrator shall have the power to revoke or cancel any permit in case of failure or neglect to comply with the provisions of this Ordinance, or in case of false statements or misrepresentation made in the application. The owner shall be given reasonable notice in writing of liability to voiding action before revocation.
4. Any builder or contractor who proceeds with the erection, alteration, enlargements, rebuilding location or moving of any building or structure subject to the provisions of this Ordinance without the necessary permits for said property having been issued may be subject to the same penalties as the property owner.

## **Inspections**

Every property, building or structure for which a zoning permit has been issued shall be subject to inspections at the discretion of the Zoning Administrator to verify set-back or use in compliance with this Ordinance.

## **Zoning Certificate**

Where a building permit is not required for the use of land or premises the Zoning Administrator shall issue the property a Zoning Certificate, on application therefore, certifying the use of such land complies with all provisions of this Ordinance.

## **7.5: FEE SCHEDULE**

To assist in defraying cost of investigation and administration, the County Board of Commissioners may from time to time adopt by resolution a fee schedule governing the issuance of building and use permits and other actions taken under the provisions of the Ordinance, including specifically the following:

1. Building Permits
2. Special Use Permits
3. Appeals addressed to the County Zoning Board of Appeals
4. Classification of Unlisted Property Uses
5. Request for amendment to Ordinance by property owner

## **7.6: VIOLATIONS AND ENFORCEMENT**

### **VIOLATIONS AND PENALTIES (*Amendment #00-1*):**

Any use of land or premises, or any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or changed in violation of any term or provision of this Ordinance, is hereby declared to be a nuisance per se. Any person who violates any provision of this Ordinance or any permit, license or exception granted hereunder or any lawful order of the Zoning Administrator or Zoning Board of Appeals issued under this Ordinance is responsible for a Municipal Civil Infraction as defined by Michigan Law.

## *ARTICLE SEVEN: ADMINISTRATION*

- A. **INSPECTION OF VIOLATION, NOTICE:** The Zoning Administrator shall inspect each alleged violation he or she observes or is made aware of through a written complaint and shall order abatement, in writing, of all conditions found to be in violation of this Ordinance. Notice of violations and orders to abate shall be served by registered or certified mail to the land owner at their last known address.
- B. **ABATEMENT PERIOD:** All violations shall be abated within 30 days following the mailing of the written Notice of Violation and order to abate. At the discretion of the Zoning Administrator, the period for abatement may be extended twice in increments of 30 days, upon a showing that the landowner has made and continues to make substantial efforts to come into compliance with the Ordinance.
- C. **FINES, COSTS:** An adjudication or admission of responsibility shall subject the violator to a fine of not less than \$50 for the first offense and not less than \$125 nor more than \$500 for subsequent offenses in the discretion of the Court. In addition, all other costs, damages and expenses provided by law shall be assessed. For purposes of this section, “subsequent offense” means a violation of a provision of this Ordinance committed by the same person within 36 months of a previous violation of the same provision of the Ordinance for which said person admitted responsibility or was adjudicated to be responsible; provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation or notice for a first offense shall all be considered separate, first offenses.
- D. **MISCELLANEOUS PROVISIONS:** Each day during which any violation continues shall be deemed a separate offense. The imposition of any fine hereunder shall not exempt or excuse an offender from compliance with this Ordinance. The remedies provided in this section are cumulative, not exclusive. Accordingly, nothing herein shall bar the Zoning Administrator from seeking relief in the Wexford County Circuit Court for abatement of nuisance or such other relief or remedies as may be provided by law or in equity.

## ARTICLE EIGHT: ZONING BOARD OF APPEALS

### 8.1: CREATION AND MEMBERSHIP

There is, hereby created a County Zoning Board of Appeals, the members of which shall be appointed by the County Board of Commissioners, appointment shall include not less than three (3) members nor more than seven (7) members elected for staggered terms, as provided by Section 18 of the County Rural Zoning Act. All members shall be chosen from electors residing in the unincorporated area of Wexford County, provided that one member shall be a member of the County Planning Commission for the term of his/her membership. No elected officer of the County, nor any employees of the Board of Commissioners, shall serve simultaneously as a member nor as an employee of the Board of Appeals.

### 8.2: MEETINGS

Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board may specify in its rule of procedures. A majority of the total membership shall comprise a quorum. The Board shall maintain a record of its proceedings, which record shall be filed in the office of the County Clerk and shall be a public record.

### 8.3: DUTIES AND POWERS

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

- A. Hear and Decide Appeals. Hear and decide upon appeals from determinations of the County Zoning Administrator, County Planning Commission, or other administrative agent acting under the terms of the Ordinance.
- B. Interpret Ordinance. Hear and decide upon requests for interpretation of the provisions of the Ordinance.
- C. Grant Variances. Grant variances on appeal respecting any provision of this Ordinance, if the same cause practical difficulties or undue hardship in conforming to the strict letter of the Ordinance to the end that the spirit of the Ordinance is observed, equity achieved, and substantial justice done, provided however that this provision shall not be construed as permitting the Board of Appeals to amend the Ordinance or to change any use of property under the guises of a variance.
  1. Basis of Determination: The Zoning Board of Appeals must ensure that any variance granted from this Ordinance:
    - a) Will not be contrary to the public interest or to the intent and purpose of this Ordinance.
    - b) Shall not permit the establishment within a district any use which is not permitted by right within the zone district, or any use or dimensional variance for which a special permit is required.
    - c) Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.
    - d) Is not where the specific condition relating to the property are so general or recurrent in nature as to make the formation of a general regulation for such conditions reasonably practical.
    - e) Will relate to property only that is under control of the applicant.
  2. Special Situations: When all of the foregoing basic conditions can be satisfied, a variance may be granted when any one of the following special situations can be clearly demonstrated:

## ARTICLE EIGHT: ZONING BOARD OF APPEALS

- a) Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or use in the same zoning district. Such circumstances or conditions shall have not resulted from any act of the applicant subsequent to the adoption of this Ordinance.
- b) Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Ordinance, these hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
- c) Where the lot or parcel of land was of legal record or has been laid out by a surveyor prior to the date of this Ordinance.
- d) Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

D. Unlisted Property Uses: The County Zoning Appeal Board shall have the power on written request of any property owner to classify a use not listed with a comparable permitted primary or approved use giving due consideration to the purpose of this Ordinance and the following determination standards:

In recognition that every potential use cannot be addressed in this Zoning Ordinance, each district includes the phrase "uses of the same nature or class as uses listed in this district as either a Principal Use Permitted or a Special Land Use, but not listed elsewhere in this Zoning Ordinance, as determined by the Zoning Board of Appeals based on the standards of Article Eight, Section 8.3 at the end of the list of Special Land Uses. The Zoning Board of Appeals shall make a determination of "Uses of the same nature and class" according to the following:

- a) A finding that the proposed use is not listed as a Principal Use permitted or Special Land Use in any zoning district. "
- b) If the use is not addressed in the Zoning Ordinance, the Zoning Board of Appeals shall select the use listed in the Zoning Ordinance which most closely resembles the proposed use using criteria such as potential impact on property values, traffic generated, aesthetics, noise, vibration, dust, smoke, odor, glare and other objectionable impacts terms of health, safety and welfare in the County. The ZBA may determine that there is no similar use and that the use should be prohibited.
- c) Once a similar use is determined, the proposed use shall comply with any special conditions or Special Land Use Standard that apply to the similar use.
- d) The Zoning Board of Appeals or applicant shall have the option to request an amendment to the Zoning Ordinance to specifically address the use in question, rather than treating the proposed use as a similar use.
- e) The determination as to whether a proposed use is similar in nature and class to other Principal use permitted or Special Land uses within a district should be considered as an expansion of the use regulations, not a variance applying to a particular situation. Any use determined by the Zoning Board of Appeals to be a "use of the same nature or class as uses listed" shall thereafter be considered to be included in the enumeration of the uses.

### **8.4: PROCEDURES**

The Board of Appeals shall fix rules and regulations (BYLAWS) to govern its procedures in accordance with the provisions of Sections 21 to 23 inclusive of the County Rural Zoning Act, as amended.

*ARTICLE EIGHT: ZONING BOARD OF APPEALS*

- A. Written Requests. All appeals and request for variances, over which the Board has jurisdiction, shall be filed in writing, accompanied by such fee as provided in the fee schedule of this Ordinance.
- B. Limitations. All appeals shall be made within thirty (30) days from the date of any decision constituting the basis for appeal. Upon hearing of such appeals, the Board may affirm, change or modify the ruling, decision, or determination, or in lieu thereof make such other or additional determination as it shall deem proper under the circumstances. The Board shall return its decision in writing within thirty (30) days after a request or appeal has been heard unless additional time is agreed upon by all parties concerned.
- C. Resubmission. No application for variances, which have been denied, shall be resubmitted within ninety (90) days from the last date of denial, except on grounds of newly discovered evidence of proof of changed conditions found to be valid.

## **ARTICLE NINE: COUNTY PLANNING COMMISSION**

### **9.1: ORGANIZATION**

#### **Membership**

The Planning Commission, as organized under PA 282 of 1945, Section 6, shall consist of not less than 5 or more than 9 members, who shall be representative of major interests as they exist in the County, such as agriculture, recreation, public health, government, commerce, transportation and industry. All members of the Planning Commission shall be appointed by the Board of Commissioners. Members may be removed by the Board of Commissioners of the County. The term of each member shall be for 3 years. A successor shall be appointed not more than 1 month after the term of the preceding commission member has expired. All vacancies for unexpired terms shall be filled for the remainder of such term.

#### **Compensation**

Members of the Planning Commission may be compensated for their services as provided by the County Board. The Planning Commission shall prepare a detailed budget and submit same to the Board of Commissioners for approval or disapproval. The Board of Commissioners annually may appropriate and make available funds for carrying out the purposes and functions permitted under this Ordinance and may match County funds with federal, state, or other local government or private grants.

#### **Gifts and Grants**

The Board of Commissioners may accept and use gifts and grants for Planning Commission purposes. Money so accepted shall be deposited with the County Treasurer in a special nonreverting Planning Commission fund for expenditure by the Planning Commission for the purpose designated by the donor. The expenditures of the Planning Commission, exclusive of gifts and grants, shall be within the amounts appropriated by the Board of Commissioners.

### **9.2: MEETINGS**

The Planning Commission shall hold a minimum of four (4) regular meetings annually giving notice of the time and place by publication in a newspaper of general circulation in such County not more than fifteen (15) days nor less than eight (8) days prior thereto at which meeting any person having interests in the County of their duly appointed representatives, shall be heard relative to any matters that should properly come before the Planning Commission. The Planning Commission shall elect from its members a chairman and vice-chairman and such other officers or committees as it may deem necessary. The election of officers shall be held at least once every year.

### **9.3: RULES OF PROCEDURE**

The Rules of Procedure shall be included as a section of the Wexford County Planning Commission Bylaws.

### **9.4: RESPONSIBILITIES OF THE COMMISSION**

It shall be the responsibility of the Planning Commission to develop, maintain and implement the County Master Land Use Plan, hear and decide Special Use requests, complete Site Plan Review (as required in Article Eleven of this Ordinance), hold public hearings and make recommendation to the County Board of Commissioners regarding proposed amendments to the zoning ordinance or map, and any other tasks assigned by the County Board or the Commission Bylaws.

**9.5: CONDITIONS ON DISCRETIONARY DECISIONS**

Whenever a discretionary decision is authorized in this Ordinance, conditions may be imposed provided they are:

- 1) Designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land or activity under consideration, residents and landowners immediately adjacent to the proposed use or activity, and the community as a whole;
- 2) Related to the valid exercise of the police power and purposes which are affected by the proposed use or activity;
- 3) Necessary to meet the intent and purpose of the Zoning Ordinance, be related to standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

The conditions imposed with respect to the approval of a use or activity shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the approving authority and the landowner, such record of any changed condition shall also be maintained.

## ARTICLE 10: SPECIAL AND CONDITIONAL USES

### 10.01. Purpose

This Ordinance divides the County into districts in which specific uses are permitted that are mutually compatible. In addition, there may be certain other uses that may be appropriate to include in a district due to specific circumstances surrounding the use and 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 or Conditional Use Permit.

### 10.02. Authority to Grant Permits

The Commission has the authority to approve or disapprove Special Use Permits in accordance with this Ordinance. The Administrator has the authority to approve or disapprove Conditional Use Permits in accordance with this Ordinance. If approved by the appropriate officials, the Administrator shall issue these permits.

### 10.03. Application and Fee

Application for any special or conditional use permit permissible under the provisions of this Ordinance shall be made to the Administrator by filling in the official special and conditional use permit application form, submitting required data, exhibits, and information, and depositing the required minimum fee. The minimum fee is established from time to time by the County Board. No part of such minimum fee shall be returnable to the applicant.

- A. When the Commission receives an application that because of its complexity or nature will require more involved review so that additional fees may be required, the Commission shall act to declare that is the case. The Commission shall act by motion indicating that the application requires the assistance of experts to review specified aspects or issues of the application. Additional costs are incurred when:
1. The complexity of reviewing the application, in the judgment of the Commission, requires hiring expertise beyond that of the Commission or Administrator, such as, but not limited to, hiring the services of such advisor(s) or expert(s) as attorneys, professional planners, engineers, architects, land surveyors, environmental experts, traffic experts, marketing experts, economic development experts or other experts and advisors.
  2. The complexity of reviewing the application requires an abnormal amount of additional time by the Administrator.
  3. The complexity or controversy of the application cause the Commission being in session (holding meetings, reconvened meetings, hearings) more than twice on the application, or holding any special meeting on the application.
  4. The additional review of the application is exclusively for the proposed development, and, if not, then the additional fee shall reflect the proportional amount for the proposed development and other items.
- B. Upon adoption of the motion requiring additional fees, review of the application shall stop until the applicant has paid a minimum additional fee of not less than one thousand (\$1,000) dollars. The County shall deposit the additional fee with the County Treasurer who shall keep an accurate accounting of the funds. 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 10.07 of this Ordinance.
- C. The Commission shall use the additional fee to contact and select necessary experts and advisors, receive a work proposal and estimate from the experts and advisors on their fees and costs for the application, and for the services of the experts and advisors.



#### *ARTICLE 10: SPECIAL AND CONDITIONAL USES*

- D. At the next meeting of the Commission, (or prior to the next meeting of the Commission if done by the Administrator in consultation with the Chair of the Commission), the Commission or Administrator shall:
  - 1. establish a budget for the services of the expert(s), and/or advisors, and meeting costs, and zoning administration expenses;
  - 2. send an invoice to the applicant, with an explanation that the applicant must notify the County within ten (10) days, in writing, that the applicant
    - a) will withdraw the application, or
    - b) will proceed and pay the balance of the additional fees based on the budget.
  - 3. The County shall deposit the additional fees with the County Treasurer who shall keep an accurate accounting of the funds. 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 10.07 of this Ordinance.
  - 4. The Commission shall use the additional fee to pay the services of the expert(s), advisor(s), meeting costs, or other additional expenses.
- E. Any additional actual costs incurred in processing the application shall be paid before a permit is issued, and incremental payments may be required as review of the application progresses. The additional costs shall be for no more than the actual additional costs incurred (so no additional revenue is generated) to process the application. NO part of collected fees up to the actual costs shall be returned to the applicant. Any remaining monies, beyond the actual costs, upon conclusion of the application, shall be returned to the applicant.
- F. The deposit required by this Section is in addition to any security required elsewhere in this Ordinance.

#### **10.04. Information Required in Application**

An application for a special or conditional use permit shall include the following information:

- A. An Application form which includes, at a minimum:
  - 1. The applicant's name and address.
  - 2. A signed affidavit that the applicant is the property owner, or has an ownership interest, or is acting on the owner's behalf.
  - 3. The address and legal description of the property.
  - 4. A specific statement and supporting information regarding the required findings for the Special Use Permit, as stated in Section 10.08.
  - 5. A complete description of the proposed development including: The number of lots or units; The number and characteristics of the resident and/or impacted population such as density of persons, family size, number of elderly persons and school children, effect on tourism, temporary residents and related material as applicable.
  - 6. 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.
  - 7. 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.
- B. A site plan which includes, at a minimum:
  - 1. A detailed site plan as specified in Section 11. 6 of this Ordinance.
  - 2. Evidence of having received, or having an agreement for, or concurrent approval for, any other permits required pursuant to the site plan prior to issuance of a Construction Code Permit.
- C. In addition, the applicant may be required to furnish:

## ARTICLE 10: SPECIAL AND CONDITIONAL USES

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.
  4. A detailed cost analysis of all site improvements, including, but not limited to, buildings, parking structures, landscaping or buffers, retention/detention areas, road improvements, etc.
- D. 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 once the Special Use Permit is approved.

### **10.05. Review for Completeness**

Upon receipt of the Special or Conditional Use Permit application, the Administrator will review the application to ensure it is complete.

- A. If the application is not complete, the Administrator will return the application to the applicant with a letter that specifies the additional material required.
- B. 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.
- C. The complete application package must be submitted to the Zoning Administrator at least 30 days before the Planning Commission meeting at which the application will be considered.

### **10.06. Notice of Public Hearing for Special Uses**

- A. If the application is complete, the Administrator shall give written notice to the following persons by prepaid First Class U.S. mail not less than 15 days before the date that the application will be considered:
  1. The applicant.
  2. The owner of the property, if different.
  3. The owners of all parcels having a boundary within 300 feet of the boundary for the property for which the approval has been requested, as shown by the latest assessment roll, whether or not the owner and property are located in the County. For Commercial Wind Energy Systems, owners of all parcels having a boundary within thirteen-hundred twenty (1320) feet of the boundary for the lease boundary for which the approval has been requested.
  4. Occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, whether or not the owner or property are located in the County. For Commercial Wind Energy Systems, occupants of any structures within thirteen-hundred twenty (1320) feet of the boundary for the lease boundary for which the approval has been requested.
  5. The general public by publication in a newspaper which circulates in the County.
  6. The members of the Commission.
  7. The clerk and supervisor of the township board(s) where the property is located.
  8. The clerk and chief elected official or manager of a township(s), village(s), city(ies), and county(ies) which is within one (1) mile of where the property is located.
  9. The manager or operator of any public utility(ies) (water, sewer, storm drain), and the road agency(ies) which have infrastructure within 300 feet of the property boundary.
  10. Utility providers;
  11. Michigan Department of Transportation if within one half (½) mile of a state highway;
  12. Michigan DEQ, if the proposed special use is on property with surface water, wetlands, sand dunes, etc.
  13. The Notice shall also be posted at the property that is subject to the special use permit application in a manner visible to passers-by.

## ARTICLE 10: SPECIAL AND CONDITIONAL USES

- 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) the 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 the application will take place.
  6. The address to which written comments should be directed prior to the hearing.
  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, utility, and road agency 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. The applicant may wish to present his 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.

### **10.07. Hearing and Decision for Special Use Permits**

The Commission shall hold a public hearing to receive input on the Special Use Permit application.

- A. 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) deny the Special Use Permit,
- B. A special or conditional use permit and site plan shall be approved simultaneously, or a special or conditional use permit may be conditionally issued prior to approval of a site plan and conditioned upon final approval of the site plan.

### **10.08. Special and Conditional Use Permit Standards**

In reviewing all requests for Conditional or Special Uses, the Planning Commission or Zoning Administrator shall use the following standards:

- A. Is the use reasonable
- B. Is the use designed to protect the health, safety and welfare of the community?
- C. Is the use consistent with the intent and purpose of the district?
- D. Is the use compatible with adjacent land uses?
- E. Are public services and facilities capable of accommodating increased loads caused by the land use or activity?

## *ARTICLE 10: SPECIAL AND CONDITIONAL USES*

- F. Does the use comply with other general and specific standards in Section 10.16 of this Ordinance if applicable, and the respective district, and general provisions in Article 3 of this ordinance?

### **10.09. Special or Conditional Use Permit Conditions**

- A. Special or Conditional Use Permits may 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 lot in question, of the adjacent area, 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 ensure compatibility with adjacent uses of land and the natural environment;
  7. Designed to ensure that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
- B. The Planning Commission or Zoning Administrator shall have the right to limit the duration of a Special or Conditional Land use where the same is for mining or sweetening plant operation.

### **10.10. Record of Special or Conditional Use Permit**

The application and all other information relating to the Special or Conditional Use Permit shall be filed in the County Zoning Administrator's office.

### **10.11. Security Requirement**

- A. To insure compliance with the site plan and Ordinance and any conditions, limitations or requirements imposed by the Administrator or Commission, 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 deposited with the Wexford County Treasurer at the time of the issuance of the permit authorizing the commencement of the project. 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. The amount of such security shall not exceed the estimated cost of the required conditions, limitations, or requirements.

### **10.12. Amendment of Special or Conditional Use Permits**

Amendments to Special or Conditional Use Permits shall be handled in the same manner as the initial Special or Conditional Use Permit application. However, minor non-substantive changes may be made to an existing Special or Conditional Use Permit by mutual agreement between the Administrator and applicant, if done prior to the issuance of an occupancy permit.

### **10.13. Continuation of Special or Conditional Use Permit**

A Special or Conditional Use Permit, with any and all associated benefits, conditions, and required security, may be transferred to a new owner.

### **10.14. Construction Code Permit**

A Special or Conditional 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.)

### **10.15. Expiration of Special or Conditional Use Permits**

A Special or Conditional Use Permit shall be valid for as long as the approved use continues in accordance with the terms and conditions of the approved permit. The Special or Conditional Use Permit will expire on the first to occur of the following conditions:

- A. If replaced or superseded by a subsequent Special or Conditional Use Permit.
- B. If replaced or superseded by a permitted use.
- C. If the applicant requests rescission of the Special or Conditional Use Permit.
- D. If the use, or component thereof, is not used for a period of one year or the use, or component thereof, is moved, or vacated. Notice of the expiration shall be given to the property owner in writing.
- E. If the special or conditional use permit was issued conditioned upon approval of a site plan and evidence of obtaining all other necessary permits, pursuant to Section 10.04.A.2 of this ordinance and the site plan or evidence was not submitted and approved after one year.

### **10.16. Special and Conditional Use Standards for Particular Uses**

In addition to general special use standards, there are specific standards for some Special and Conditional Uses. The specific standards for determining if the following types of Special or Conditional Use Permits are to be granted are provided in this Section.

#### **10.16.1. 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 County to 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 for Special Use permits:
  - 1. A Special Use permit must be acquired through the Special Use procedures as described in Section 10.01.
  - 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 300 feet of any other such regulated uses as defined by this Section, nor within 1,000 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, public park, or other

## ARTICLE 10: SPECIAL AND CONDITIONAL USES

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 alcohol shall be served on the premises.
  7. No product or service for sale or gift, or any picture or other representation, that relates in any way 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;
  8. 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 10.01 of this Ordinance;
  9. A Special Use Permit for a sexually oriented business is subject to the terms and conditions of validity set forth in Section 10.01 of this Ordinance.
  10. Signs: It shall be unlawful to erect, construct, or maintain any sign for an adult sexually oriented business other than one "primary sign" and one "secondary sign" as follows:
    - a) The primary sign shall have no more than two (2) display surfaces. In addition to the requirements found in Section 3.19 of this Ordinance, Each display surface shall:
      - (1) Not contain any flashing lights, moving parts or be constructed to simulate movement.
      - (2) Be a flat plane rectangular in shape.
    - b) Secondary signs shall have only one (1) display surface. Such display surface shall:
      - (1) Not contain any flashing lights, moving parts, or be constructed to simulate movement.
      - (2) Be a flat plane, rectangular in shape.
  11. Building Exterior: Buildings and structures shall not be painted or surfaced with colors or textures or any design that would simulate a sign or advertising message. Upon order of the Administrator, graffiti appearing on any exterior surface of the Building or structure shall be removed and that surface restored within seventy-two (72) hours of notification of the owner or person in charge of the premises.
  12. Lighting: All adult or sexually-oriented businesses shall be required to install outdoor low intensity lighting that illuminates the entire parking and vehicular use area. The lighting shall be installed on structures which do not exceed sixteen (16) feet in height from finished grade. The lighting shall be adjusted and shielded to direct, focus, and point all illumination from the lighting onto the parking and vehicular area, and to avoid any spillage of illumination onto surrounding properties in accordance with Section 3.33 of this Ordinance.
- C. Exceptions to Conditions. The Commission may waive the foregoing spacing requirements found in B(2) of this section 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 County Zoning Ordinance or other pertinent County ordinances will be observed.

#### **10.16.2: MINI-CABINS AND COTTAGES**

One Mini-cabin or cottage per parcel shall be permitted as a conditional use in certain districts upon meeting the following conditions, in addition to all other standards for Special or Conditional Use permits:

- A. Must be setback at least one-hundred (100) feet from all property lines,
- B. Must be placed on a permanent foundation,
- C. Must contain a minimum of four-hundred fifty (450) square feet of living area per unit,
- D. Must meet sanitation standards of the local health department,

#### **10.16.3: RESIDENTIAL ACCESSORY BUILDINGS AS A PRINCIPAL USE**

Residential accessory buildings without a principal dwelling shall be permitted as a conditional use in certain districts upon meeting the following conditions, in addition to all other standards for Special or Conditional Use permits:

- F. Must be setback at least one-hundred (100) feet from all property lines,
- E. Maximum allowable building size is fifteen-hundred (1,500) square feet,
- F. Must be screened from view of neighboring properties by means of a natural or man-made buffer meeting the requirements of Section 3.8 of this Ordinance.

#### **10.16.4: GASOLINE STATIONS AND/OR CONVENIENCE STORES**

Gasoline Stations and Convenience Stores shall meet the following standards, in addition to all other standards in this ordinance:

- A. Gasoline Stations and Convenience Stores in non-commercial districts may only be permitted along major roadways, including State or Federal Highways, County Primary Roads, and major city streets and must be located around unincorporated population centers (i.e.: Boon, Meauwataka, Hoxeyville, Sherman, Yuma, etc.) .
- B. Gasoline Stations in non-commercial districts shall be limited to a total of six (6) gasoline or diesel pumps. A pump shall be one unit regardless of the number of hoses.
- C. The hours of operation may be restricted by the Planning Commission by Special Use Permit.
- D. The Planning Commission may relax any of the requirements found in A-C above by Special Use Permit in instances where the requirements are found to be unnecessarily burdensome.

#### **10.16.5: ADDITIONAL DWELLING UNITS ON A PARCEL**

Additional dwelling units on a parcel shall meet the following standards, in addition to all other standards in this Ordinance:

- A. Not more than one (1) one-family dwelling meeting the minimum district dwelling requirements shall be permitted in addition to the primary dwelling on the same parcel in a zoning district zoned for residential use, provided however that the minimum lot size is at least two (2) times the district minimum lot size per Article 5 of this Ordinance.
- B. Property owners must prepare a site plan for the parcel depicting the theoretical property lines for the individual lots in compliance with the district lot dimensional requirements in Article 5 of this Ordinance. The site plan shall also be prepared in accordance with the Land Division Act, and shall locate the additional dwelling(s) as if the property were divided into individual lots. In locating the additional dwelling(s), the site plan shall ensure compliance with the dimensional requirements of Article 5 for the Zoning District in which the property is located. The site plan shall be approved by the Zoning Administrator prior to issuance of a Zoning Permit. No such plan

*ARTICLE 10: SPECIAL AND CONDITIONAL USES*

shall be approved unless the Zoning Administrator determines compliance with district lot dimensional requirements in Article 5 of this Ordinance.

- C. Additional dwellings are encouraged to share driveway access with the primary dwelling; however, if an additional driveway access is requested, the property owner, notwithstanding any provisions to the contrary contained in this Ordinance, shall receive approval of the additional driveway location and cross-section specifications from the County Road Commission if the additional driveway will connect to a County road or to a private street, or from the Michigan Department of Transportation if the additional driveway will connect to a State Highway. Additional driveways shall be approved by the appropriate road agency prior to receiving approval by the Zoning Administrator.
- D. Regardless of whether access is shared or separate, the property owner must obtain an address for any additional dwelling.
- E. This section is not applicable to any land within a platted subdivision.
- F. Travel trailers, motor homes, or recreational vehicles are not allowed to be used as accessory dwellings.
- G. No short-term rentals (for periods less than one month) of additional dwellings on a parcel are allowed.



## **ARTICLE ELEVEN: SITE PLAN REVIEW**

### **11.1: INTENT**

It is the intent of this Article to require site plan review approval for certain buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development This Site Plan Review is a necessary step in obtaining compliance permits for all uses, whether permitted By right or by Special Use Permit, except for one - and two-family dwellings.

### **11.2: USES SUBJECT TO SITE PLAN REVIEW**

Site plan review by the Planning Commission is required for the following:

1. Special land uses in all districts
2. Off-premise signs
3. Planned Unit Developments
4. Developments under Open Space Preservation Options.

Site plans not required to be reviewed by the Planning Commission shall be reviewed by the Zoning Administrator. The Zoning Administrator shall review such plans in accordance with the same procedures, requirements and standards used by the Planning Commission.

### **11.3: SITE PLAN REVIEW PROCEDURES**

Applications for site plan approval shall be submitted to the County Planning Department on a special form for that purpose. Applications for preliminary site plan approval shall consist of the following:

1. An application form supplied by the Zoning Administrator.
2. A reproducible copy of the preliminary site plan at a scale of not less than one (1) inch equals one hundred (100) feet with the following minimum information:
  - a) Property dimensions.
  - b) Topographic elevations at intervals determined by the zoning administrator.
  - c) Significant vegetation.
  - d) Water courses and water bodies, including man-made surface drainage ways and wetlands.
  - e) Existing public right of way, pavements, and/or private easements.
  - f) Existing and proposed uses, buildings and structures and distances from each other as well as from property lines.
  - g) Zoning classification of abutting properties.
  - h) The name and address of the person and firm who drafted the plan and the date on which the plan was prepared.
  - i) North arrow.
  - j) Location of existing and planned wells and septic systems.
  - k) Scale

The Commission or Zoning Administrator may require written statements relative to the effects on the existing traffic capacity of streets, and the proposed development's impact on schools, existing utilities, or natural features. The Planning Commission or Zoning Administrator shall review the preliminary site plan and approve, approve with conditions, or deny the plan.

## *ARTICLE ELEVEN: SITE PLAN REVIEW*

Approval of the site plan is valid for a period of one (1) year. If construction of the development, or any phase of the development, has not been initiated during that period, the approval of the site plan shall be null and void.

Upon written application, filed prior, to the termination of the one (1) year review period, the Planning Commission or Zoning Administrator may authorize a single extension of the time limit for approval of a final site plan for a further period of not more than one (1) year. Such extension shall only be granted based on evidence from the applicant that the development has a likelihood of commencing construction within the one (1) year extension.

### **11.4: SPECIAL LAND USES**

For special land uses, the County Planning Commission shall also review a site plan to be submitted with the application. The Planning Commission shall then shall approve, approve with conditions or deny the submitted site plan. Reasons for denial shall be set forth in writing. The applicant shall be provided with a copy of the Planning Commission action concerning the site plan review. Although a rejected site plan will not void a special use approval, construction permits may be denied until the site plan meets the requirements of this Article and approved.

### **11.5: STANDARDS FOR SITE PLAN APPROVAL**

Prior to approving a site plan, the Planning Commission, where applicable, shall require that the following standards be satisfied: If these standards and the other requirements noted in this Article or in other county ordinances are met, the site plan shall be approved.

1. All elements of the site plan shall be designed to take into account the site's topography, the size and type of plot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
2. The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those, alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance.
3. The site plan shall provide for reasonable visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, to accomplish these purposes.
4. All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the Fire Department.
5. A pedestrian circulation system which is separated from the vehicular circulation system may be required. In order to ensure public safety, special pedestrian measures, such as crosswalks, crossing signals and other such facilities may be required in the vicinity of schools, playgrounds, shopping areas and other uses which generate a considerable amount of pedestrian traffic.
6. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate storm water, prevent erosion and the formation of dust. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas.
7. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened by an opaque wall or landscaped screen not less than six (6) feet in height.

8. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.

### **11.6: AMENDMENTS TO APPROVED SITE PLANS**

Any person who has been granted site plan approval shall notify the Zoning Administrator of any proposed amendment to such approved plan. The Zoning Administrator shall determine whether the proposed amendment constitutes a minor or major amendment based on, but not necessarily limited to, the following:

1. the addition of land to the legal description of the original site plan approval;
2. the establishment of another use or uses;
3. the addition of more sales or service area, or the addition of dwelling units;
4. an expansion or increase in intensity of use;

A major amendment to an approved site plan shall comply with the same filing and review procedures of the original approval. A minor amendment may be approved by the Zoning Administrator.

### **11.7: APPEALS OF FINAL SITE PLANS**

Any person aggrieved by the decision of the Planning Commission in granting or denial of a final site plan approval shall have the right to appeal the decision to the County Zoning Board of Appeals. The aggrieved party must allege and prove to the satisfaction of the County Zoning Board of Appeals that he/she has suffered some special damages not common to other property owners similarly situated. The mere increase in traffic in the area, proof of general economic and aesthetic losses or the mere fact that the appellant owns adjacent property are not sufficient to show special damages. The appeal shall state the aggrieved parties' grounds for appeal and shall be filed with the County Zoning Administrator within five (5) days of the decision of the Planning Commission.

On hearing such appeal, the County Zoning Board of Appeals shall review the record before the Planning Commission and shall determine whether or not there was support on the record for the original decision. The appellant shall not have the right to present new evidence, but shall be bound by the record before the Planning Commission. The Appeal Board shall determine if there exists significant reason to have the Planning Commission re-examine the site plan. If the Board sends the application back to the Planning Commission, they shall also send a detailed record of their findings and reasons for their action.

## **ARTICLE TWELVE: AMENDMENTS**

### **12.1: POWER TO AMEND**

The regulations and provisions incorporated within the text of this Ordinance and the boundaries of zoning districts shown on the zoning map may be amended, supplemented, or changed by Ordinance of the County Board of Commissioners, following public hearing and recommendation of the County Planning Commission.

### **12.2: WHO MAY INITIATE**

Proposals for amendments, supplements, or changes may be initiated by the Board of Commissioners on its own motion, by the Planning Commission, or by petition of one or more owners of property to be affected by the proposed amendment.

### **12.3: PROCEDURE FOR INITIATING AND PROCESSING AN AMENDMENT**

1. Each petition by one or more persons for an amendment shall be submitted in application to the County Planning Commission through the Zoning Administrator on a standard form provided, and shall be accompanied by a fee pursuant to Article Seven of this Ordinance to cover administrative and publication costs. No part of such fee shall be returnable to a petitioner.
2. When a request for amendment is initiated, the Zoning Administrator shall notify the County Board of Commissioners of the request for an amendment at the same time he transmits the zoning amendment request to the Planning Commission.
3. The Planning Commission shall consider each proposal for amendment in terms of its own judgment on particular factors related to the individual proposal and in terms of the most likely effect on the community's physical development. The Planning Commission may recommend any additions or modifications to the original amendment proposal.
4. After deliberation on any proposal the Planning Commission shall conduct at least one public hearing, notice of the time and place of which shall be given by two publications in a newspaper of general circulation in the County; the first to be printed not more than thirty (30) days nor less than twenty (20) days, and the second not more than eight (8) days before the date of such hearing. Not less than twenty (20) days notice of the time and place of such shall also be given by mail to each public utility company and to each railroad within the zone affected. The notice shall include the places and times at which the tentative text and any maps of the Zoning Ordinance may be examined. The County Planning Commission shall maintain a file of each affidavit of mailing for each mailing made under this section. If an individual property, or several adjacent properties are proposed for rezoning, notice of the proposed zoning and hearing shall be given to the owners of the property in question at least twenty (20) days prior to the hearing.
5. After the hearing, the County Planning Commission shall submit a summary of the comments received at the public hearing, along with the proposed amendment and any zoning maps, to the County Board of Commissioners. After receiving the recommended zoning plan, the County Board of Commissioners, 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 County Board of Commissioners. The County Board of Commissioners shall not make a change or departure from a proposed text amendment as certified by the Planning Commission unless the proposed change or departure is first submitted to the Planning Commission for its advice or suggestions. The Planning Commission shall have thirty (30) days from and after receipt of the proposed change or departure to send its report to the County Board of Commissioners.

*ARTICLE TWELVE: AMENDMENTS*

6. No application for a rezoning which has been denied by the County Board of Commissioners shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the County Planning Commissioners to be valid.
7. Amendment(s) to this Ordinance and/or to the district zoning maps of Wexford County shall become effective on the day following the date of their approval by the Michigan Department of Commerce.

## **ARTICLE THIRTEEN: CLAM LAKE CORRIDOR OVERLAY ZONE**

### **13.1: PURPOSE**

The Clam Lake corridor Overlay Zone is established for the purpose of allowing a planned office and commercial area to develop. The planned nature of this area is intended to promote uses that are not only compatible but beneficial to one another. Additionally, the Overlay Zone is intended to:

1. Minimize impacts to natural resources.
2. Protect the property values and investments made by present and future property owners.
3. Regulate site and building development to ensure compatibility between adjacent and neighboring sites and buildings.
4. Provide regulations that supplement existing ordinances by creating additional standards and site plan requirements.

### **13.2: APPLICABILITY**

The regulations set forth in this Article are applicable to lands which are within the Clam Lake Overlay Zone as depicted on the Zoning District Map of Wexford County, Michigan, as amended.

### **13.3: ADDITIONAL SITE DEVELOPMENT REGULATIONS**

In addition to the dimensional requirements found in Section 4.2 of this Ordinance, the following requirements shall apply to the Office/Service and commercial Zoning Districts.

### **13.4: OFFICE/SERVICE DISTRICT**

1. Minimum Lot Area: 22,500 square feet.
2. Maximum Percentage of Lot Coverage by Buildings: 35.
3. Maximum Building Height: 35 feet.
4. Front Setback: 75 feet or 25 feet from a lot that fronts on an internal access road system.
5. Side Yard: 30 feet, unless adjacent to residentially zoned area, in which case the side yard shall be 50 feet.
6. Rear Yard: 60 feet.
7. Minimum Lot Width: 150 feet.
8. Parking Areas: In addition to the required parking requirements set forth in Section 3.18, the following shall apply.
  - a) All required parking spaces shall have an asphalt or concrete surface.
  - b) No more than 35 of the total number of parking spaces required may be placed in a front yard.
  - c) Parking areas shall be located at least 15 feet from any road or street right of way or easement.
  - d) Parking areas shall be located at least 10 feet from any property line. Access drives linking parking areas on separate properties are permissible, and are not subject to the 10 foot separation requirement.
  - e) Landscape islands shall be placed in all parking areas that exceed 30 total spaces. Islands shall be provided on the basis of 200 square feet of landscape material for each ten (10) parking spaces.
9. Buffer Areas: Where a rear yard or side yard is adjacent to a residentially zoned area, a 20 feet wide buffer shall be provided. No buildings, structures, signs, or parking areas shall be placed or

#### ARTICLE THIRTEEN: CLAM LAKE CORRIDOR OVERLAY ZONE

located within the buffer area. Fences, walls, or screens, if in accordance with other provisions of this Ordinance, are permissible. The buffer area may be landscaped, and may be used to satisfy dimensional yard requirements.

10. Signs: In addition to the requirements set forth in Section 3.19, the following shall also apply:
  - a) All signs shall be located at least 15 feet from all property lines.
  - b) The maximum display area of any sign face shall not exceed 75 feet.
  - c) One (1) free-standing sign shall be permitted per parcel, lot, or site.
  - d) One (1) wall mounted sign shall be permitted, provided, that it is attached flat against the building
  - e) The maximum height of free-standing signs including support structures is fifteen (15) feet.

### **13.5: COMMERCIAL DISTRICT**

1. Minimum Lot Area: 43,560 square feet.
2. Maximum Percentage of Lot Coverage by Buildings: 50.
3. Maximum Building Height: 35 feet.
4. Front Setback: 75 feet or 25 feet from a lot that fronts on an internal access road system.
5. Side Yard: 25 feet, unless adjacent to residentially zoned area, in which case the side yard shall be 75 feet.
6. Rear Yard: 60 feet, unless adjacent to residentially zoned area, in which case the rear yard shall be 75 feet.
7. Minimum Lot Width: 150 feet
8. Parking Areas; In addition to the required parking requirements set forth in Section 3.18, the following shall apply:
  - a) All required parking spaces shall have an asphalt or concrete surface.
  - b) No more than 50 of the total number of parking spaces required may be placed in a front yard.
  - c) Parking areas shall be located at least 15 feet from any road or street right of way or easement.
  - d) Parking areas shall be located at least 10 feet from any property line. Access drives linking parking areas on separate properties are permissible, and are not subject to the 10 foot separation requirement.
  - e) Landscape islands shall be placed in all parking areas that exceed 30 total spaces. Islands shall be provided on the basis of 200 square feet of landscape material for each ten (10) parking spaces.
9. Buffer Areas: Where a rear yard or side yard is adjacent to a residentially zoned area, a 30 feet wide buffer shall be provided. No buildings, structures, signs, or parking areas shall be placed or located within the buffer area. Fences, walls, or screens, if in accordance with other provisions of this Ordinance, are permissible. The buffer area may be landscaped, and may be used to satisfy dimensional yard requirements.
10. Signs: In addition to the requirements set forth in Section 3.19, the following shall also apply:
  - a) All signs shall be located at least 15 feet from all property lines.
  - b) The maximum display area of any sign face shall not exceed 100 square feet.
  - c) One (1) free-standing sign shall be permitted per parcel, lot, or site.

- d) One (1) wall mounted sign shall be permitted, provided that it is attached flat against the building face.
- e) The maximum height of free-standing signs including support structures shall be fifty (50) feet.

### **13.6: LANDSCAPING AND LANDSCAPE PLANS**

1. As part of site development landscaping shall be required. All landscape material shall be at a minimum hardy in Zone 5 in accordance with U.S.D.A. Zones of Plant Hardiness.
2. Minimum Landscape Material Size:
  - a) Deciduous Canopy Trees shall be at least 2 1/2" in caliper.
  - b) Evergreen Trees shall be at least six (6) feet in height.
  - c) Ornamental Trees shall be at least 2" in caliper.
  - d) Upright Shrubs shall be at least 18" in height.
  - e) Spreading Shrubs shall have at least an 18" spread.
3. A Landscape Plan showing the location, variety, and size of all plant material shall be submitted for review as part of the submission for site plan review, as required by Articles 11 and 14.
4. All landscaped areas shall be maintained and replaced as necessary.

### **13.7: SITE PLAN REVIEW**

In addition to the requirements set forth in Article Eleven, and the standards for approval in Section 11.5, the following standards and requirements shall apply:

1. Site development shall take place in areas of the site where impacts to mature trees, hill tops, and scenic vistas will be minimized.
2. Driveways/Curb Cuts:
  - a) At least 150 feet, measured from centerline to centerline, shall separate driveways or curb cuts located on the same side of the street or road, regardless of property ownership.
  - b) No more than two (2) driveways or curb cuts shall be allowed per site or development that access the same street or road. Additional driveways or curb cuts are permissible, provided that they access a different street or road.
  - c) Insofar as possible, curb cuts shall be aligned with those occurring on the opposite side of the street.
3. Utilities: All utilities, including electric, telephone, and cable television shall be installed underground.. All utility installations shall be carried out in accordance with rules and standards promulgated by the Michigan Public Service commission. In the event that utilities can not be installed underground they shall be located along the base of hill sides and long tree lines, all transformers or mechanical structure associated with the utilities that are ground mounted, shall be landscaped.
4. Buildings and site Amenities: Insofar as possible, building material and site amenity materials that blend with the natural surroundings shall be used. Buildings and site amenities shall be harmonious with surrounding developments.
5. Mechanical Equipment: all mechanical equipment structures including those on building roofs shall be screened from grade view.



## **ARTICLE FOURTEEN: VALIDATION AND ENACTMENT**

### **14.1: VALIDITY**

Should any article, section, or provision of this Ordinance be found unconstitutional or invalid by the courts, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so determined to be unconstitutional or invalid

### **14.2: ENACTMENT**

This Ordinance is hereby declared necessary for the preservation of the peace, health, safety, and welfare of the inhabitants of Wexford County, Michigan.

### **14.3: REPEAL OF PRIOR ORDINANCES**

The Interim Wexford County Zoning Ordinance, adopted by the Wexford County Board of Supervisors, effective October 15, 1968, and all subsequent amendments hereof, are hereby repealed effective coincident with the approval of this Ordinance by the Office of Economic Development Michigan Department of Commerce.

### **14.4: EFFECTIVE DATE**

This Ordinance shall take effect on the date following its approval by the Michigan Department of Commerce. Enacted by the County Board of Commissioners of Wexford County Michigan on the 14<sup>th</sup> day of June, 1971. (Amended 2/15/95)