

ZONING ORDINANCE

EMMET COUNTY, MICHIGAN
Updated April 23, 2013

ADOPTED:

By the County Board of Commissioners
August 24, 1972

EFFECTIVE DATE:

October 30, 1972

OFFICE OF PLANNING AND ZONING
3434 HARBOR-PETOSKEY ROAD, SUITE E
HARBOR SPRINGS, MI 49740

READERS NOTE:

The reader is cautioned that the provisions and map of the Emmet County Zoning Ordinance are subject to amendment and may, therefore, change from time to time as provided by law. Anyone having questions on final or pending zoning amendments are hereby advised to check with the Emmet County Office of Planning and Zoning, Petoskey, MI (Phone Number: 231-348-1735).

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COUNTY OF EMMET STATE OF MICHIGAN

TITLE

An Ordinance enacted under Act 183, Public Acts of 1943, as amended, governing those portions of Emmet County, Michigan, lying outside the limits of incorporated Cities and Villages, to regulate and restrict the location and use of buildings, structures and other specified uses; and to regulate and limit the height and bulk of buildings and other structures; to regulate and determine the size of yards and open spaces; to regulate and limit the density of population; to regulate the proper use of natural resources; and for said purposes to divide the County into districts and establishing the boundaries thereof; providing for changes in this Ordinance defining certain terms; providing for enforcement; establishing a Board of Appeals; and imposing penalties for the violation of this Ordinance.

INTENT

Pursuant to the authority conferred by the Public Acts of the State of Michigan in such case, health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of Emmet County, by protecting and conserving the character and social and economic stability of the residential, commercial, industrial and other use areas; by securing the most appropriate use of land; preventing overcrowding of the land and undue congestion of population; providing adequate natural light, air and reasonable access; and facilitating adequate and economical provisions of transportation, water, sewers, schools, recreation and other public requirements, and by other means including support for open space or conservation developments, both residential and nonresidential, where natural resource protection influences the design, all in accordance with a Comprehensive Plan now therefore:

ENACTING CLAUSE

The County of Emmet Ordains:

ARTICLE I - SHORT TITLE

SECTION 100. SHORT TITLE

This Ordinance shall be known and may be cited as the “EMMET COUNTY ZONING ORDINANCE”.

ARTICLE II - DEFINITIONS

SECTION 200. DEFINITIONS

(For the purpose of this Ordinance)

ACCESSORY USE, or ACCESSORY: An "accessory use" is a use which is clearly incidental to, customarily found in connection with and located on the same zoning lot as, the principal use to which it is related.

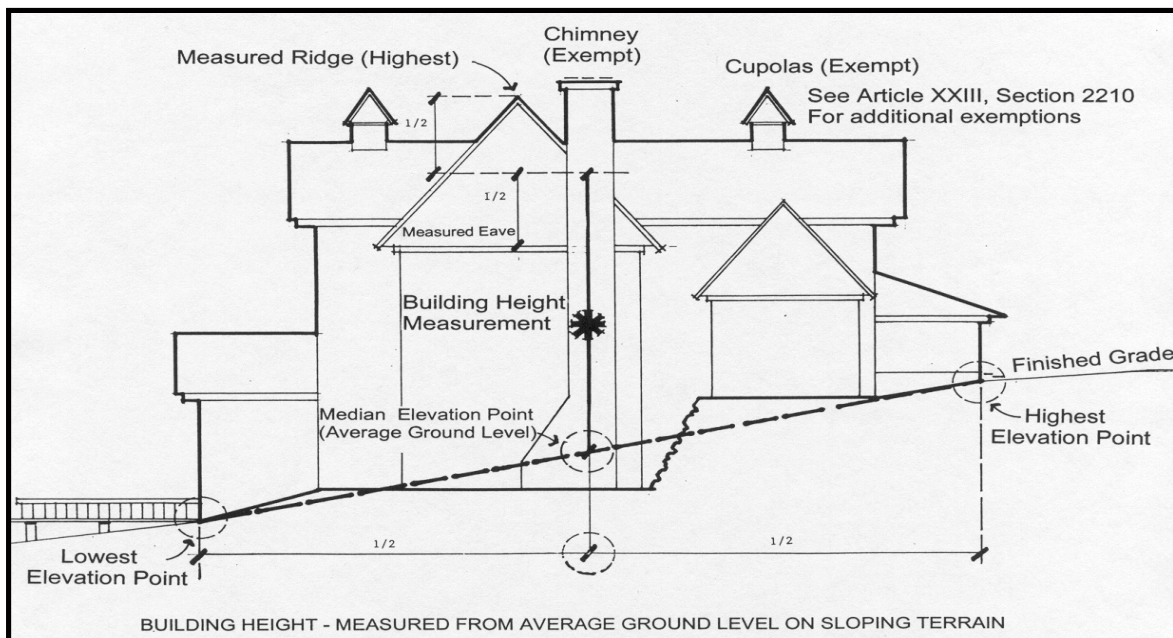
ALTERATIONS: Any change, addition or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".

APARTMENTS: A suite of rooms or a room in a multiple-family building arranged and intended for a place of residence of a single-family or a group of individuals living together as a single housekeeping unit.

BASEMENT: That portion of a building which is partly or wholly below grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

BUILDING: Any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattels or property of any kind.

BUILDING HEIGHT: The vertical distance measured from the uniform finished grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs, and to the average height between the highest eaves and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain the height shall be measured from the average ground level of the grade at the building wall. Average ground level shall be determined by locating the mean between the extreme upper and lower finished grades per building elevation. Final building height shall be the result of averaging the combined building heights for each building elevation, i.e. the entire length of each side of the building.



BUILDING LINE: A line formed by the face of the building. A minimum building line is the same as a front setback line.

CEMETERY: A place set apart for burial or entombment of the dead.

CLUB: A non-profit organization of persons for the promulgation of sports, arts, sciences, literature, politics or the like.

CONDOMINIUMS: For the purpose of this Ordinance, condominiums, as defined by the Condominium Act (PA 59 of 1978 as amended) are subject to the same zoning regulations as subdivisions created under Act 288 of 1967, the Subdivision Control Act. Where the terms recorded plat, subdivision, lot and/or parcel is referred to in this Ordinance, that reference shall also apply to condominiums on lands dedicated for permitted uses with a condominium project, development, or building site plan. Condominiums are a form of ownership that may apply to detached building units and/or to attached building units, either residential and/or non-residential.

CONVALESCENT OR NURSING HOME: A structure with sleeping rooms where persons are housed and furnished with meals, nursing and medical care.

DEVELOPMENT: The construction of a new building or other structure, on a zoning lot, the relocation of an existing building on another zoning lot or the use of open land for a new use.

DISTRICT: A portion of the unincorporated area of the County within which certain regulations and requirements or various combinations thereof apply under the provisions of the Ordinance.

DRIVE-IN: A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

DWELLING UNIT: A building, or portion thereof, designed for occupancy by one (1) family for residential purposes and having cooking facilities.

DWELLING, ONE-FAMILY: A building designed exclusively for and occupied exclusively by one (1) family.

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

ERECTED: Built, constructed, altered, reconstructed, moved upon, or any "physical" operations on the premises which are required for construction. Excavation, fill, drainage, and the like, shall be considered a part of erection.

ESSENTIAL SERVICES: The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead; gas, electrical, steam, fuel or water transmission or distribution system, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and similar equipment in connection herewith, but

not including buildings, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare.

EXCAVATION: Any breaking of ground, except common household gardening, ground care, and soil tilling related to agricultural production or tree plantations.

FAMILY: One or two persons or parents, with their direct lineal descendants and adopted children (and including the domestic employees thereof) together with not more than two persons not so related, living together as a single house-keeping unit. Every additional group of two or less persons in a dwelling unit shall be considered a separate family.

FARM ANIMAL UNIT: A unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a 1,000 pound steer or heifer:

<u>Animal Type (one)*</u>	<u>Unit</u>
Slaughter and Feeder Cattle	1.000
Mature Dairy Cattle	1.430
Swine	0.400
Sheep and Lambs	0.100
Horse	2.000
Turkeys	0.018
Chickens	0.010

- * All other animal classes, types or sizes (eg. Nursery Pigs) not in this table, but defined in the Michigan Right to Farm Act (Act 93 of 1981, as amended) or described in Michigan Commission of Agriculture Policy, are to be calculated as one thousand pounds live weight equals one animal unit. (Michigan Department of Agriculture, General Accepted Agricultural and Management Practices)

FARM, DOMESTIC: A parcel of land used or intended to be used for agricultural purposes on properties other than Commercial Farms. Domestic farming includes keeping farm animals as pets and raising animals for educational experience (regulated per Section 2102). Dogs, cats and other typical household pets are not regulated as a Domestic Farm (see Definition of Kennel).

FARM, COMMERCIAL: Includes the land, plants, animals, buildings, structures, including ponds used for agriculture or aquicultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products. It is a farm operation producing a farm product intending to be marketed and sold at a profit.

FARM OPERATION: The operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, and includes but is not limited to:

- (1) Marketing produce at roadside stands or farm markets.
- (2) The generation of noise, odors, dust, fumes, and other associated conditions.
- (3) The operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway as authorized by the Michigan vehicle

code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

(4) Field preparation and ground and aerial seeding and spraying.

(5) The application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides.

(6) Use of alternative pest management techniques.

(7) The fencing, feeding, watering, sheltering, transportation, treatment, use, handling and care of farm animals.

(8) The management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes.

(9) The conversion from a farm operation activity to other farm operation activities.

(10) The employment and use of labor.

FARM PRODUCT: Those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan commission of agriculture.

FARM USE BUILDING: For a building to be considered a “Farm Use Building” the property must be actively farmed and considered a Commercial Farm by definition.

FLOOR AREA, USEABLE (FOR THE PURPOSE OF COMPUTING PARKING): That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers. Floor area used or intended to be used for the storage or processing of merchandise, hallways or for utilities or sanitary facilities, shall be excluded for the computation of "Usable Floor Area". All floor levels shall be counted.

GARAGE, PRIVATE: Accessory building space designed or used solely for the storage of motor-driven vehicles, owned and used by the occupants of the building to which it is accessory.

GASOLINE SERVICE STATION: A place primarily operated and designed for the dispensing, sale or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories.

GRADE: When expressed as a percent slope, the vertical height of a slope per one hundred feet of horizontal run.

GREENBELT, SCREENING: A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of the Zoning Ordinance.

GREENBELT, SHORELINE: When bordering bodies of water, an undisturbed area of land paralleling the water's edge to a depth of the required zoning setback distance if not otherwise stipulated, which is retained in a natural condition and is essentially void of any structural improvements. Beaches and/or vegetated areas shall be defined as shoreline greenbelts.

GUEST HOUSE: A guest house is an accessory dwelling unit constructed and maintained for the convenience of housing guests visiting a premises occupied by a main residence. Occupancy of a guest house shall be of short duration and shall not include rented or leased dwelling space, as with tourist housing or apartments. Mobile homes, travel trailers, and motor homes shall not be used for guest houses.

HOME OCCUPATION: A permissible accessory use of any residential premises by the occupant which may be carried on for gain, provided that the use does not take on the character of a business or industrial use in terms of signs, open storage, parking bays, visible display, traffic, noise, vibration, smoke, dust, odor or other and/or similar nuisances, and further the activity does not conflict with or operate out of character with any surrounding or adjacent uses.

HOTEL: See definition "Motor Inn".

JUNK YARD: An open area where waste, and/or second hand materials are: bought and sold, exchanged, stored, baled, packed, disassembled or handled including, but not limited to scrap, abandoned vehicles, abandoned recreation vehicles or units or watercraft and other metals, paper, rags, tires, and bottles. The term "Junk Yard" includes automobile wrecking yards and/or includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

KENNEL, COMMERCIAL: Any lot or premise on which three (3) or more household pets of the same species which are over six (6) months old are either permanently or temporarily boarded and/or where household pets are bred or sold.

LIVESTOCK: Animals as defined under "Farm Animal Unit."

LOADING SPACE: An off-street space for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

LOT: A parcel of land occupied or intended to be occupied, used or intended to be used. A lot may or may not be specifically designated as such on public records.

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

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 shall be considered a corner lot if the arc is of less radius than one hundred fifty (150) feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight line extended, form an angle of less than one hundred thirty-five (135) degrees.

LOT, THROUGH: Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lots adjacent to streets shall be considered frontage and front yards shall be provided as required.

LOT, ZONING: A contiguous tract of land which at the time of filing for a Zoning Permit is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control. A Zoning Lot may not coincide with a lot of record, but may include one or more lots of record.

LOT COVERAGE: That portion of the lot occupied by main and accessory buildings.

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

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

- 1) Front Lot Line: Is that line which creates the abutting street right-of-way line.
- 2) Rear Lot Line: That lot line opposite the front lot line. In the case of a lot pointed at the rear (pie shaped), the rear lot line shall be an imaginary line at least ten (10) feet long, parallel to the front lot line but inside the side lot lines.
- 3) Side Lot Line: Any lot line other than the front lot line or rear lot line.
 - a) Side lot lines on properties in RR and/or SR Districts shall be constructed as continuous straight lines from the waters edge or from the access road, on a perpendicular or radial configuration. No such lot line shall be jogged or meandered to circumvent the minimum lot width requirement.
 - b) Side lot lines may deviate from straight or radial in recognition of limitations related to topography, critical dunes, wetlands; or for planned developments where open spaces, greenbelts and common areas would result in a more satisfactory property use plan.

LOT OF RECORD: A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by County officials, and which actually exists as so shown.

LOT WIDTH: The horizontal distance between the side lot lines, measured at the two points where the front building line, or setback line intersects the side lot lines, determined as follows:

- 1) For rectangular, square and/or parallelogram lots, the width shall be measured on a line constructed perpendicular to the side lot lines, which is not necessarily parallel to the road right-of-way line.
- 2) For Pie shaped lots, either increasing or decreasing in width toward the rear, the lot width measurement shall be essentially on a line parallel with the road right-of-way line, or if on a curve, parallel with the chord of the arch between lot lines.
- 3) For other irregularly shaped properties, the lot width shall be determined by the Zoning Administrator by applying a combination of the measuring rules above, or if otherwise not determinable, by a ruling of the Zoning Board of Appeals.

In cases where the side lot line is not at a right angle to the abutting road right-of-way line, then the lot width shall be measured on a line constructed perpendicular from the side lot line.

MAIN BUILDING: A building in which is conducted the principals use of the lot upon which it is situated.

MAIN USE: The principal use to which the premises are devoted and the principal purpose for which the premises exist.

MASTER PLAN: The County Comprehensive Plan as may be amended or updated, including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and other physical development features.

MOBILE HOME: Any structure designed and pre-manufactured as a complete and transportable housing unit to be used as a place of residence for one family. Under the terms of this Ordinance, mobile homes are legally transportable over highways, but shall not include licensed travel trailers.

MOBILE HOME - PERMANENT: Mobile homes shall be considered "permanent" dwellings when the unit is mounted on a continuous masonry foundation or on a foundation of solid masonry pilings spaced to meet at least the minimum manufacturer's specifications. Further, the permanent mobile home shall meet the minimum floor area requirements for one family dwellings, be securely anchored to the ground, and be taxable as real estate on the local assessment roll. When masonry piling supports are used, the mobile home shall be skirted with durable weather resistant materials as recommended by mobile home builders or as specifically manufactured for use as mobile home skirting, and all such skirting to be maintained in place as designed.

Skirting is required around permanent mobile homes not in mobile home parks, and said skirting shall be of an all weather durable material as approved for use and installation by the Building Official administering Building Codes in the jurisdiction of location.

MOBILE HOME - TEMPORARY: Any unit other than a travel trailer or permanent mobile home having no foundation; but which may be equipped with wheels or other devices for transporting from place to place.

MOBILE HOME OR TRAVEL TRAILER PARK: Any plot of ground upon which three (3) or more mobile homes or trailers occupied for dwelling or sleeping purposes are located.

MOTEL: A series of attached, semi-detached or detached rental units, not over two stories, to provide for temporary overnight lodging.

MOTOR INN OR HOTEL: A building or part of a building with a common entrance or entrances in which the dwelling units or rooming units are used primarily for transient occupancy. The hotel or motor inn is distinguishable from a motel in that it is more than two (2) stories above the surface of the ground. A hotel or motor inn may contain a restaurant, cocktail lounge and conference center facilities.

NON-CONFORMING BUILDING: A building or portion thereof lawfully existing at the effective date of this Ordinance or Amendment thereto and that does not conform to the provisions of the Ordinance in the district in which it is located.

NURSERY, PLANT MATERIALS: A space, building or structure or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises including products used for gardening or landscaping. The definition of nursery does not include space used for the sale of fruits, vegetables, gifts, lawn furniture and gardening or farm equipment.

NUISANCE FACTORS: An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as: noise, dust, smoke, odor, glare, fumes, flashes, vibration, heat, electronic or atomic radiation, objectionable effluent, noise of congregation of people, particularly at night, and passenger traffic.

OFF-STREET PARKING LOT: A parking area off the street, which may require drives and aisles for maneuvering, for the parking of four (4) or more vehicles.

PARKING SPACE: An area of definite length and width, exclusive of drives, aisles or entrances giving access thereto and fully accessible for the storage or parking of permitted vehicles.

PLANNED UNIT DEVELOPMENT: A form of development guided by a comprehensive site plan usually characterized by larger site areas, and which emphasizes residential use, provides for cluster building, includes dedicated common open space, and promotes an efficient layout of public utilities, all in accordance with a unified architectural theme.

The PUD may provide for mixed land uses and variety in building types. It permits the planning of a project and the calculation of densities over the entire development rather than on an individual lot-by-lot basis.

PUD is also a process, mainly revolving around site plan review, in which public officials share involvement in determining the nature of the development. It includes aspects of subdivision and zoning regulation and may be implemented through a Special Use Permit or by District rezoning.

PUD standards are commonly used for housing developments, but may also be applied to other forms of development such as shopping centers, industrial and office parks, and to mixed use developments which may be in any combination, depending on Ordinance standards. Planned Unit Development encourages a more desirable and attractive development based on comprehensive site planning principles.

PLANNED UNIT DEVELOPMENT - MIXED USE: Planned Unit Development shall be considered “mixed use” if it portrays a variety of use types or classifications, such as one-family use types or classifications, such as one-family residential, multiple family residential, institutional, commercial and /or industrial. In an overlay district, (PUD-1), if the planned uses are not permitted in the underlying zone, then the PUD shall be considered a mixed use. Any application of a PUD Project that has the effect of permitting uses not allowed in the underlying district shall be considered mixed use.

PUBLIC UTILITY: A person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under Federal, State or municipal regulations to the

public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water. (For the purposes of this Ordinance, personal wireless communication facilities are not included in the definition of a Public Utility.)

RECREATION CAMPS, LODGES & RESORTS: A recreational facility normally operated for gain, which provides overnight lodging and one or more of the following activities: golf, skiing, dude ranching, so called, recreational farming, snowmobiling, pack trips, boating and related. A resort has a minimum site of ten (10) acres.

ROADSIDE STAND: An accessory and temporary farm structure operated for the purpose of selling local agricultural products raised or produced by the proprietor and his employees on the same premises.

ROOM: For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage.

SEPTAGE WASTE: The fluid mixture of untreated and partially treated sewage solids, liquids, and sludge of human or domestic origin which is removed from a wastewater system. Septage waste consists only of food establishment septage, domestic septage, domestic treatment plant septage, or sanitary sewer cleanout septage, or any combination of these.

SETBACK: The distance required to obtain front, side or rear yard open space provisions of this Ordinance.

SHOPPING CENTER: A group, cluster or complex of retail stores within a single architectural plan, and occupying a site under single ownership, management or control. At least three (3) retail stores and services, so arranged or planned, shall qualify as a shopping center for zoning purposes.

SHORELINE BLUFF: The dominant geologic land form consisting of a promontory, cliff, or palisade having a broad steep face, which, more or less, parallels the shoreline of Lake Michigan.

STORY: That part of a building, except a mezzanine and/or basement, between the surface of one floor and the surface of the next floor, or if there is no floor above, than the ceiling next above. A story shall not be counted as a story when more than fifty (50) percent, by cubic content, is below the grade level of the adjoining ground.

STORY, HALF: An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven feet six inches (7'6"). For the purposes of this Ordinance the useable floor area is only that area having at least four feet (4') clear height between floor and ceiling.

STREET OR ROAD: A public dedicated right-of-way, affording the principal means of access to abutting property (excludes alleys).

STREET OR ROAD, PRIVATE: For purposes of this Ordinance, any easement or right-of-way that provides motor vehicle access to three (3) or more lots, parcels, or site unit condominiums.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

TEMPORARY USE OF BUILDING: A use or building permitted to exist during periods of construction of the main building or use, or for special events.

TRAVEL TRAILER AND CAMPER: Any trailer coach, motor home, tent camper, demountable camper or unit designed as a vacation unit for short-term seasonal occupancy, which measures eight (8) feet or less in width and designed to be operated on highways.

USE: The principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

WIRELESS COMMUNICATION FACILITIES: Includes transmitters, antenna structures, towers and other types of equipment necessary for providing wireless services and all commercial mobile services, including all those that are available to the public (for-profit or not-for-profit) which give subscribers the ability to access or receive calls from the public switched telephone network. Common examples are Personal Communications Systems (PCS), cellular radiotelephone services, and paging. Also included are services that are non-licensed, but are deployed through equipment authorized by the FCC and common carrier wireless exchange services designed as competitive alternatives to traditional wireline local exchange providers.

YARDS: The open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, and as defined herein:

- 1) Front Yard: An open space extending the full width of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.
- 2) Rear Yard: An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.
- 3) Side Yard: An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building.

ZONING VARIANCES AND EXCEPTIONS:

- 1) Variance: A modification of the literal provision of the Zoning Ordinance which would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.
- 2) Exception: An exception is a use permitted only after review of the Legislative Body, the Planning Commission, or the Administrative Officer, such review being necessary because the provisions of the Ordinance covering conditions, precedent or subsequent,

are not precise enough to all applications without interpretation, and such review is required by this Ordinance.

The exceptions that are found in this Ordinance appear as "special approval" uses or "special use permit" by the Planning Commission, Legislative Body or Administrative Officer. These land uses could not be conveniently allocated to one district or another, or the affects of such uses could not be definitely foreseen as of a given time because of one or more of the following:

- a) Large area
- b) Infrequency
- c) Unusual traffic volume
- d) Obnoxious or hazardous character
- e) Necessity for public safety and convenience

SECTION 201. CONSTRUCTION OF LANGUAGE

The following rules of construction apply to the text of this Ordinance:

1. The particular shall control the general.
2. In case of a difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
3. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
4. A "building" or "structure" includes any part thereof.
5. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".
6. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
7. Terms not herein defined shall have the meaning customarily assigned to them.

ARTICLE III - ZONING DISTRICTS AND MAP

SECTION 300. DISTRICTS

For the purpose of this Ordinance, the County of Emmet is hereby divided into the following Districts:

RESIDENTIAL DISTRICTS

R-1A	One Family Residential
R-1B	One Family Residential
R-2A	General Residential
R-2B	General Residential
R-2C	General Residential

RR-1	Recreational Residential
RR-2	Recreational Residential
SR-1	Scenic Resource
SR-2	Scenic Resource

NON-RESIDENTIAL DISTRICTS

B-1	Local-Tourist Business
B-2	General Business
B-3	Commercial/Industrial
P-T	Parking Transition
I-1	Light Industrial
I-2	General Industrial

OTHER DISTRICTS

FF-1	Farm and Forest
FF-2	Farm and Forest
FR	Forest Recreation
PUD-1	Planned Unit Development Overlay
PUD-2	Planned Unit Development

SECTION 301. BOUNDARIES

The boundaries of these Districts are hereby established as shown on the County Zoning Map, which accompanies this Ordinance, and which map with all notations, references and other information shown thereon shall be as much a part of this Ordinance as if fully described herein. If there are any questions as to the interpretation of District Boundaries the Board of Appeals shall determine same.

SECTION 302. DISTRICT REQUIREMENTS

All buildings and uses in any district shall be subject to the provisions of General Provisions and General Exceptions.

SECTION 303. AREA AND BULK REQUIREMENTS FOR ALL DISTRICTS

For each District in this Ordinance, see also the Article XIX - SCHEDULE OF REGULATIONS, limiting the height and bulk of buildings, the minimum size of the lot permitted, the maximum density permitted and minimum yard requirements (setbacks).

SECTION 304. ACCESSORY USES ASSUMED

For each District established in the Ordinance it shall be assumed that customary accessory buildings and uses which are incidental to any Principal Uses or Principal Uses Permitted Subject to Special Conditions, are permissible as part of the main use.

ARTICLE IV - R-1A and R-1B ONE FAMILY RESIDENTIAL DISTRICTS

INTENT

This residence district is designed to provide for one-family dwelling sites and the residentially related uses in keeping with the Master Plan of residential development in Emmet County. The uses permitted are intended to promote a compatible arrangement of land uses for homes, with the intent to keep residential areas relatively quiet and free from detrimental use influences.

SECTION 400. PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one or more of the following specified uses:

1. One-family detached dwellings.
2. Permanent mobile homes may be used for dwelling purposes in the R-1B District, but not in the R-1A District. (See SEC. 402).
3. Domestic Farms, per Section 2213.
4. Commercial Farms are exempt from zoning per Section 2300-3
5. Publicly owned recreational lands and facilities.

SECTION 401. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS

The following uses shall be permitted upon approval of the Planning Commission subject to the conditions herein imposed for each use, the Conditional Review Standards in Section 2100, and the approval of the Site Plan:

1. Utility and public service facilities and uses except open storage, when operating requirements necessitates the locating of said facilities within the district.
2. Public buildings (except public works garages and storage yards), churches, public schools, private schools and their local supporting service uses, provided:
 - a) All sites for uses permitted, herein, shall maintain a minimum open space area equal to fifty (50%) percent of the site area (excluding road right-of-way). Open spaces shall not include buildings, parking lots, pedestrian walks, and/or driveways, and other paved or blacktop surfaces.
 - b) The arrangement of property uses shall consider the impact on scenic views, and if feasible, the site design shall endeavor to mitigate negative impacts related to building size, noise, lighting and traffic.

- c) No such use shall locate on or have vehicle access from a subdivision street unless the subdivision (or similar type of development) contains dedicated sites for such uses.
 - d) All school buildings and school facilities shall be limited to serving the area of the school district, unless the Planning Commission finds that serving a larger geographic area will not have detrimental effects on surrounding areas.
 - e) Any uses of church structures or properties for such other purposes as recreation, day care centers, group housing, and the like, shall be separately considered as part of the conditions to granting or denying a special permit in residential districts.
3. Golf Courses and Country Clubs, except mini golf, provided any accessory pro-shops and/or clubhouses are clearly incidental to the golf use, and no commercial driving range or mini-golf facility is included.
 4. Non-public recreational areas and facilities when not operated for a profit.
 5. Nursery schools, day nurseries and child care centers.
 6. Authentic historical restoration or renovation projects including historic communities, archaeological excavations and displays of historical artifacts related to the premises; provided said restoration is not used to circumvent the use intent of the District or the nonconforming status of properties.

SECTION 402. ADDITIONAL REQUIREMENTS FOR DWELLING UNITS

The following performance standards shall apply to housing constructed in or placed in the R-1A One-family Residential District, and shall be in addition to the requirements of other codes, ordinances, or provisions of this Ordinance. These requirements are to assure a degree of structural comparability between site built dwellings and preconstructed or factory built housing intended for one (1) family occupancy. On-site construction modifications may be necessary and shall be permitted to attain the standards of comparability.

1. The minimum building width across any front and any side elevation shall be twenty (20) feet on an unbroken building line, excluding garages and accessory buildings.
2. Every detached dwelling unit shall provide useable accessory storage space in the amount of ten percent (10%) of gross floor area, but not less than 100 sq. ft. of storage space. Basements, attics, closets, or separate accessory structures shall count as storage space.
3. Foundation supports shall extend below the prevailing frost line.
4. Housing units moved onto any lot in the District shall have its wheels removed. Towing devices or hitches shall be removed or be totally obscured from view.
5. Modular or mobile home units shall not be structurally attached to one another or placed together unless specifically designed and engineered at the site of manufacture to be attached.

6. All factory assembled dwelling units constructed prior to June 15, 1976 shall not be placed on or moved upon a lot or parcel unless all minimum code requirements for site built housing are in compliance.

The requirements of paragraphs 1 thru 7 of this Ordinance Section shall not apply to factory built housing or mobile homes sited within legally established mobile home parks.

ARTICLE V - R-2A, R-2B and R-2C GENERAL RESIDENTIAL DISTRICTS

INTENT

The General Residential Districts are designed to provide for structures that are needed to house more than one-family, in order to meet the needs of the apartment dwelling. The R-2B District is further intended to serve a transition use function, and is particularly applicable to areas that already have a degree of residential and non-residential use mix, or in areas where such a mix would be desirable.

SECTION 500. PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one or more of the following specified uses:

1. All principal uses and special approval uses permitted and as regulated in the R-1 District.
2. Two-family dwellings and duplexes.
3. Multiple family dwellings, townhouses and housing for the elderly.
4. Commercial Farms are exempt from zoning per Section 2300-3.

SECTION 501. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS

The following uses shall be permitted upon approval of the Planning Commission, subject to the conditions herein imposed for each use, the Conditional Review Standards in Section 2100, and the approval of the Site Plan:

1. Rooming houses, apartment houses and group quarters, subject to County Health Department approval and compliance with the construction code standards.
2. The following uses may be permitted in R-2B and R-2C Districts, provided there is direct access to a County Primary or State Trunkline Highway, as opposed to a County local road as defined by the County Road Commission:
 - a) Motels, tourist homes, motor inns provided there is a minimum lot width of 150 feet at the road line.

- b) Professional offices, real estate sales offices, credit unions, and savings and loan associations.
- c) Fraternal lodge halls, sportsmen's associations, athletic clubs and related uses.
- d) The personal services of hairdressers, barbers, tailors, dressmakers, and/or photographers, studios for instructing dance, physical exercise, or musical arts.
- e) Funeral home or mortuary, provided; there is at least 150 feet of lot width, all uses, off-street parking areas, and loading areas are within the setback requirements of the District, and the service entrance to the building shall be screened from view of adjoining residential properties, or contained within the confines of the building.
- f) Studio Art services and/or handcrafted products, including artists, potters, leather workers, and similar crafts, when operated in the character of a home occupation in that the primary service or product is produced or provided on the same premises, and that there is no visible outdoor display except for a decorative artifact.

ARTICLE VI- RR-1 AND RR-2 RECREATIONAL RESIDENTIAL DISTRICTS

INTENT

The Recreation Residential District is designed to accommodate cottage and seasonal home developments. It is intended that the seasonal home areas be reasonably homogeneous by discouraging the mixing of recreation home areas with commercial resorts, business services and major institutional or community services.

SECTION 600. PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one or more of the following specified uses:

1. Cottages and recreation homes. House cars, campers, tents and/or R.V.'s shall not be occupied for seasonal or second home purposes.
2. One-family detached dwellings. Permanent mobile homes may be used for dwelling purposes in RR-1 Districts, and RR-2 Districts per Sec. 602.
3. Public parks, parkways, scenic trails, playgrounds, recreation lands, and forests, including accessory shelters and apparatus.
4. Authentic historical restoration or renovation projects including historic communities, archaeological excavations and displays of historical artifacts related to the premises.
5. Domestic Farms, per Section 2213.
6. Commercial Farms are exempt from zoning per Section 2300-3.

SECTION 601. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS

The following uses shall be permitted upon approval of the Planning Commission subject to the conditions herein imposed for each use, the Conditional Review Standards in Section 2100, and the approval of the Site Plan:

1. Utility and public service facilities as regulated in the R-1A & R-1B Districts.
2. Boat launching pads and minor accessory facilities other than marinas and enclosed storage buildings.
3. Golf Courses and Country Clubs as regulated in the R-1A & R-1B Districts.
4. Private, semi-private, and other non-public recreation lands and/or facilities, subject to findings that the uses are compatible with the surrounding residential area, the uses respect the environmental qualities of the site, and no inordinate obstructions to scenic views are established. Recreational uses permitted herein include parks, playgrounds, and common access sites. No such facilities shall have a commercial appearance or be of a commercial character.

For recreational uses defined in this Section which have inland lake frontage, limitations on the extent, number and location of uses or facilities shall be established as follows:

- a) Camping: Not permitted except as an accessory use to a larger resort complex as may be permitted by prevailing zoning regulations.
- b) Vehicle Parking: Permitted only as necessary to afford a reasonable level of access convenience for the type of uses approved per Site Plan, and when in scale with uses on adjacent properties.
- c) Boat Docks: 1-Per 150 ft. of horizontal lot width (not shore line distance). Location to respect swimming beaches and docks on the same property or on adjoining properties.
- d) Boat slips/Mooring: Not more than three motor powered craft per 150 ft. of horizontal property width, but not more than fifteen (15) power craft. No facilities for launching power craft from the site shall be permitted.
- e) Swim Raft: One (1) raft up to 150 sq. ft. in floor area per recreation or park site.
- f) Recreation Apparatus: As approved per site plan, but not in a required setback or greenbelt area.
- g) Club House/Gazebo: Only as an accessory use to a larger development and when there is at least 600 ft. of horizontal lot width, minimum 150 ft. of setback from any property boundary, but only for the exclusive use of occupants and their guests.

These provisions shall NOT apply to accessory shoreline recreational uses on single lots serving individual occupant families.

5. Public and private schools serving preschool and K-12 education levels, as regulated in Article IV, Section 401, Paragraph 2
6. Churches, provided the site does not front on a lake or river that appears on the Zoning Map.

SECTION 602. ADDITIONAL REQUIREMENTS FOR DWELLING UNITS

All dwelling units constructed in RR-2 and/or SR-2 Districts shall comply with the ADDITIONAL REQUIREMENTS FOR DWELLING UNITS in the R-1A District as stated under Section 402.

ARTICLE VII - SR-1 AND SR-2 SCENIC RESOURCE DISTRICTS

INTENT

Because there exists in Emmet County numerous and varied resources that should be protected for their scenic values, environmental stability and character, the SR Scenic Resource Districts are established to protect scenic resources along rivers, highways and streets, lake shores and impounding waters. Because tourism recreation and environmental control are major aspects of the County's development situation, it is deemed to the fullest extent feasible.

SECTION 700. DISTRICT BOUNDARIES

Unless otherwise illustrated or indicated on the Zoning Map, the SR-Scenic Resource District shall be deemed to extend at right angles from the ordinary high water level of rivers, lakes, impoundments, etc., to a depth of four hundred (400) feet; and to a depth of four-hundred (400) feet from the nearest right-of-way line of any scenic highway, street or road, or to the depth of the abutting property, whichever is less.

SECTION 701. PRINCIPAL USES PERMITTED

No buildings or land shall be used and no building shall be erected except for one or more of the following specified uses:

1. All principal uses and special approval uses permitted in the RR-1 Recreation Residential District shall be permitted in the SR-1 District.
2. All principal uses and special approval uses permitted in the RR-2 Recreation Residential District shall be permitted in the SR-2 District.
3. Commercial Farms are exempt from zoning per Section 2300-3.

SECTION 702. REQUIRED CONDITIONS

Every use in the SR Districts shall establish and maintain a forty (40) foot yard or strip on the water side (or roadside if a scenic highway). Said yard or strip to be maintained in its natural

tree and shrub condition. Trees and shrubs may be trimmed and/or pruned through the native strip for a view of the fronting waters and for access to a boat dock and/or a driveway entrance. For the purposes of the SR-2 District, the front setback (roadside) and required greenbelt shall be measured from the road right-of-way line, or measured from a line that is thirty-three (33) feet from the road centerline, whichever is greater.

Nothing in these requirements shall be interpreted to prohibit selective tree cutting in the native strip space to remove dangerous trees (windthrow hazard) or other trees and shrubs that may prevent the native strip area from being retained in a healthful growth condition. Similar cutting shall be permissible where necessary for traffic safety reasons (air, rail or highway).

Any excavating, filling, grading or other on-site construction activity shall insure that no silting will impact adjacent waters and that all banks, slopes and hillsides are stabilized to prevent soil erosion.

Nothing in these requirements shall be interpreted to require the planting of shrubs or trees on agricultural lands or other parcels where a natural tree stand does not exist or cannot be grown.

ARTICLE VIII - FF-1 AND FF-2 FARM AND FOREST DISTRICTS

INTENT

The FF-Farm and Forest Districts are designed to promote the use of wooded and rural areas of the County in a manner that will retain the basic attractiveness of the natural resources and provide enjoyment for both visitors and the community at large. The intent of the District is to hold the rural County areas for agriculture and forestry purposes and to allow some multiple uses of marginal farm-forest lands.

SECTION 800. PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one or more of the following specified uses:

1. One-family detached dwellings and permanent mobile homes provided that the uses have direct access to a public street or thoroughfare fully maintained twelve (12) months of the year.
2. Hunting and fishing cabins, trappers' cabins, summer homes and/or cottages, including temporary mobile homes.
3. Temporary mobile homes or travel trailers maintained in sound running condition with a current vehicle license, provided occupancy is limited to not more than thirty (30) days in any calendar year.
4. Domestic Farms, per Section 2213.
5. Commercial Farms are exempt from zoning per Section 2300-3.

6. Tree farms, forest production and forest harvesting operations including portable sawmills, log storage yards and related.
7. Golf Courses, Country Clubs and Sportspersons Associations or Clubs.
8. Public parks, playgrounds, recreation areas, hunting grounds, fishing sites and wildlife preserves.
9. Utility and public service facilities and uses, including public buildings and institutional or educational uses.
10. Railroad uses.
11. One customary accessory residential building (e.g., garage, domestic storage building, or similar structure) may be constructed on parcels ten (10) acres or larger (by legal description) without the requirement for a main building subject to review by the Zoning Administrator provided the following standards are met:
 - a) The structure is sited in such a manner as to permit the construction of a legal main use at a future time. A plot plan shall be submitted showing where a future dwelling could be located on the parcel, that if built, would comply in all respects with this Ordinance.
 - b) The footprint of the structure shall not exceed 1,200 sq. ft. if constructed less than 250 feet from the front property line. The footprint of the structure shall not exceed 2,400 sq. ft. if constructed 250 feet or farther from the front property line.
 - c) The structure shall be setback a minimum of 50 feet from the front property line and shall to the greatest extent possible be located in such a manner as to attain natural screening by existing vegetation.
 - d) The building constructed under this section shall only be used for a residential or recreational use consistent with the Farm and Forest Zoning Districts, such as storage of personal property related to permitted uses of the site. It shall not be used as a base for any activities not permitted in the district.
 - e) The applicant shall file an affidavit with the Register of Deeds stating the proposed use of the building. Such affidavit shall be recorded prior to issuance of a zoning permit.

SECTION 801. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS

The following uses shall be permitted upon approval of the Planning Commission subject to the conditions herein imposed for each use, the Conditional Review Standards in Section 2100, and the approval of the Site Plan:

1. Private and semi-private recreation lands when not operated for profit, and when in the character of publicly owned and operated recreation areas.

2. Travel trailer courts, tenting areas and general camping grounds provided that:
 - a) The minimum State of Michigan health requirements governing travel trailer courts and camping areas are complied with.
 - b) The use is developed on a site of at least ten (10) acres and no less than 600 feet of lot width or property width.
 - c) No person shall occupy any travel trailer, tent or house car unit for more than six (6) months in any one year.
 - d) The use is effectively screened from public streets and thoroughfares with a natural or planted greenbelt.
3. Airports and landing fields subject to a Hearing, with appurtenant facilities, provided the operating characteristics do not conflict with wildlife habitat areas, wilderness areas, housing areas, and facilities or uses having high concentrations of people (schools, hospitals, etc.).
4. Portable roadside stands for the sale of agricultural products raised on the premises when properly established with respect to vehicle access and parking off the street.
5. Sawmills, planing mills, veneer mills and accessory or incidental mill operations involving logs, "unprocessed timber" and/or rough sawn lumber, provided:
 - a) The use involves the processing of raw timber and/or rough lumber and shall not include retail lumber yard businesses or hardware supplies, paints, and the like. Log and lumber storage uses are permissible accessory uses.
 - b) The land area of the mill site shall be at least 10 acres with a minimum lot width of 660 feet.
 - c) Structures housing mechanical wood cutting devices (head saws, cut-off saws, planers, lathes, etc.), shall not be located closer to an off-premises residence than 1,000 feet, unless the owner of the residence signs a statement agreeing to a lesser setback.
 - d) Log storage and sawn timber or lumber shall not be located nearer than 500 feet from an off-premises residence unless the owner signs a statement agreeing to a lesser setback.
 - e) The location of a proposed mill shall be determined by the Planning Commission to be compatible with other uses in the general vicinity taking into account traffic flow, noise, scenic values, residential environments where applicable, and any Township, Community, or County Land Use Plans for the area. The mill location shall be determined to be good land use.

In considering applications for forest industries the Planning Commission may permit modifications to the standards in items (a) through (e), where owing to natural or manmade conditions, no good purpose would be served by requiring strict compliance. Such conditions may include, but need not be limited to, steep topography, intensely wooded areas, other natural barriers, existing uses, and the like.

Nothing in this Ordinance shall be interpreted to exclude temporary and itinerant sawmill operations on FF zoned property where the timber harvesting involves only those resources found on the same property. No permit shall be required where the operation involves a period of less than six (6) months on the same property or zoning lot.

6. Portable and temporary uses, including hot and cold mix asphalt plants, ready-mix concrete plants, and similar uses, may be operated in any FF-1 or FF-2 District with a Permit; provided that: (1) the use serves a specific project in the vicinity; (2) the use is active for a period of less than ninety (90) days on any one parcel; (3) the use is not nearer than 300 feet from any off premises dwelling; (4) the use complies with applicable State and Federal laws, rules, and regulations, including, but not limited to, those governing pollution control and environmental protection; and (5) within ninety (90) days after the use ceases to be active, the site is restored to a condition equal to or better than that which existed prior to the use.
7. Authentic historical restoration projects as regulated in the R-1A & R-1B One-Family Residential Districts.
8. In FF-1 and FF-2 Districts, specified contractors uses may be permitted subject to the following standards including Planning Commission review:
 - a) Permitted Uses: The uses permitted pursuant to this section may include one or more of the following:
 - 1) Storage buildings for recreation vehicles, travel trailers, boats, water craft and similar items, but not sales and/or servicing, or commercial warehousing.
 - 2) Buildings to store equipment and materials associated with the following specific trades: landscapers, excavators, nurserymen, building contractors, plumbers, electricians, carpenters, pipe fitters, heating-cooling-refrigeration tradesmen, telephone and communication system installers, provided such individuals are fully licensed to operate in the State of Michigan if a license is required.
 - b) Outside Storage: All primary storage/use activity shall be in enclosed buildings. Any outside storage that may be permitted shall be in areas effectively screened from public view.
 - c) Owner Occupancy: Buildings and uses permitted herein shall only be approved on properties occupied by the owner and be the primary place of the owner's residence.
 - d) Site Size: The minimum property size shall be ten (10) acres or larger by description, having at least 600 ft. of lot width and at least 600 ft. of lot depth.

- e) Building Limitations: The ground floor area of proposed buildings associated with the uses permitted herein shall not exceed an area of 2,400 sq. ft. One additional 2,400 sq. ft. building may be permitted on sites of 20 acres or more, by description, provided the two buildings are separated by at least forty (40) feet. One building up to 3,400 sq. ft. may be permitted if the applicant stipulates not to construct two (2) buildings for contractor uses.
- f) Signs: Accessory identification signs associated with the uses permitted pursuant to this section shall not exceed an area of eight (8) sq. ft., and shall comply in all other respects with the sign section of this Ordinance.

Modifications to the standards listed in items b) thru f) above may be approved by the Planning Commission, provided that the intent of Article VIII is retained and the surrounding properties are protected from nuisances.

- 9. Selected processing and/or production uses may be permitted in the FF-2 Farm Forest District in accordance with the following intent statement and conditions:

INTENT

The intent of this section is to permit limited processing and production uses in the FF-2 Farm Forest Districts, subject to special review, if the overall rural character is retained, and the uses are compatible with properties in the vicinity. Uses herein approved shall be considered as enabling larger tracts of land to be retained open space.

CONDITIONS

Subject to a Public Hearing and approval of a site plan, the Emmet County Planning Commission may permit specific home based industries in the FF-2 Districts, subject to the following standards:

- a. The owner of the industry has a primary residence on the same property which the industry is proposed.
- b. Employees of the operation shall consist of not more than the members of the legally defined family who are living on the property and up to three (3) others.
- c. The site to be impacted by uses proposed herein shall contain at least forty (40) contiguous acres by description. The site shall have a depth to width ratio of two to one (2:1), or less, and the property shall not be divided by existing public roads. The parcel shall not be further split, subdivided, condominiumized, or leased for other uses for as long as the proposed special use remains operational.
- d. The uses permitted shall be regulated as to type and operational effects, such as dust on roads or drives, so as to be compatible with other and similar uses permitted in the District, and that there be a relationship to agriculture, forest products, wood processing, and/or mineral processing and/or production.
- e. The property shall essentially retain a visual farm forest character, and shall not have or tend to have the appearance of an industrial district (factories, warehousing, and the like).

- f. The operational area of the site shall be setback a minimum of 150 feet from all property lines, including road right-of-way lines, with deeper setbacks where warranted by the nuisance potential of a specific use. Mechanical equipment that generates persistent noise levels comparable to sawmills, by pitch, frequency, or decibel measurement, as well as outdoor storage of materials, shall be required to provide isolation distances as regulated for sawmills, per Section 801-5 of this Ordinance.
- g. Fencing, landscaped berms, and/or landscape screening shall be required as necessary to conceal or nearly conceal the use from the view of neighboring owners, and persons using adjacent roads.
- h. Any building intended to house the operation shall not exceed a ground floor area of two-thousand (2,000) square feet.
- i. The site plan submitted for review, shall illustrate specific areas on the site within which the entire use will be confined, including screened storage, buildings, parking, by-product waste storage or waste treatment and related or similar site use elements.
- j. All plans and uses proposed hereunder shall only be permitted if the project is mutually agreeable to the developer or owner, and the township unit of government within which the project is proposed.

Controlled modifications to the standards listed in items f, g, and h may be approved by the Planning Commission, provided that the intent of this section is retained and the surrounding properties are protected from nuisances. The volume and type of traffic, noise potential, visual impacts, and/or emissions associated with the operation may be factors in approving or rejecting the Special Use Permit.

10. Cemetery provided that:

- a) All laws, ordinances, rules, and regulations established by Federal, State, and local governing bodies have been complied with. (See 88 PA 1875 and 251 PA 1968.)
- b) Cemetery boundaries shall be clearly identified. (fencing, signage, etc.)
- c) The cemetery perimeter shall meet a minimum setback of forty (40) feet from a right-of-way and 100 feet from all side and rear property lines.

On the basis of findings at the Public Hearing, the Planning Commission may waive or modify standard c) above where strict compliance is not necessary to protect the public health, safety or general welfare.

ARTICLE VIII-A FR FOREST RECREATION DISTRICT

INTENT

The FR District is intended to apply to large tracts of land, as those in state forests and such other large tracts as their owners deem beneficial to protect natural resources by the application of the FR District.

PURPOSES

1. To retain significant blocks of public land that are major features of public interest, promoting the health, safety, peace and general welfare of citizens in the State of Michigan.
2. To preserve and reserve valuable resource lands that are critical to the forest industry, a sustainable and renewable sector of the economic base (local and state).
3. To continue and perpetuate the use of forest resource lands for broad scale outdoor recreation use, specifically directed at hunting (large & small game), snowmobiling, skiing, hiking, mushrooming, bird watching and the like.
4. To provide habitat for wildlife (plant and animal) with the least amount of disruption from development activities such as building and small lot fragmentation.
5. To retain and perpetuate resource valuable lands in blocks of ownership and sizes to facilitate effective resource management (forestry, wildlife, recreation, etc.).
6. To implement and support the implementation of major components of the vision statement published by the Michigan Land Use Leadership Council, that includes:
 - a. Small towns that serve surrounding Agricultural, Forestry, Mining and tourist economies.
 - b. A healthy, vibrant agricultural and forest products industry in the State.
 - c. Public and private lands are managed to sustain long term use while providing for open space and wildlife habitat.
 - d. Promote an understanding that a healthy environment and healthy economy go hand in hand.
 - e. Preserving ecologically significant natural habitats.
 - f. A solution to Land Use Issues that recognize the unique character, history, economics and culture of the State.
7. To recognize blocks of publicly owned land that now have historic significance and have been an integral feature of Emmet County's natural environment since the 1930s.

8. To protect the value of private properties adjacent to or near large blocks of public land and which private properties have experienced valuation enhancement due to their proximity to valuable outdoor open space resources.
9. To carry out the visions of the Emmet County Land Use Plan that includes protecting the County's rural character, promoting rural open space, discouraging the divestment of State Forest Lands, protecting wildlife habitat, discouraging the fragmentation of large resource parcels (forest and farm) and promoting land use policies that discourage sprawl.
10. To sustain the local economy by perpetuating multi-use forest management to encourage broad scale outdoor recreation uses, such as rifle/bow hunting, snowmobiling, skiing and related activities traditional in the northern Michigan environment, and which may suffer diminishment or loss if the public forest base were parceled off and/or fragmented.
11. To recognize the importance of large forest tracts in the natural chemistry of air purification, water quality protection, soil replenishment and bio-diversity.

SECTION 800-A PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one or more of the following specified uses:

1. All Principal Uses Permitted as regulated in the FF-1 and FF-2 Districts in Article VIII, except golf courses, country clubs, and/or sports person associations.
2. Commercial Farms are exempt from zoning per Section 2300-3.

SECTION 801-A PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS

The following uses shall be permitted upon approval of the Planning Commission subject to the conditions herein imposed for each use, the conditional review standards in Section 2100, and the approval of the Site Plan:

1. All Principal Uses Permitted subject to Special Conditions as regulated under Section 801 of the FF-1 and FF-2 Districts, excepting therefrom: 801-2 uses that include motor inns, motels, hotels, resorts [801-2 repealed 1/24/07]; and 801-9 [became 801-8 1/27/07] uses related to contractors.
2. All minimum lot, parcel, tract, site condominium unit sizes are subject to the standards of the FR District, unless larger sizes are prescribed in FF-1 or FF-2.

SECTION 801-B LOT SIZE STANDARDS

The minimum parcel area and width standards for properties in the FR District shall be as follows:

1. Minimum Lot Area. Forty (40) acres by description.
2. Minimum Lot Width. Three-hundred (300) feet of frontage on a private or public road.

3. Minimum Setbacks. As regulated in FF-1 and FF-2 Districts. (See Schedule of Regulations, Section 1900).

ARTICLE IX - B-1 LOCAL-TOURIST BUSINESS DISTRICT

INTENT

The B-1 Local-Tourist Business District is designed to give the County a Business District that is somewhat more selective than a General Business District, to provide for the establishment of neighborhood shopping areas, personal services and professional office areas that are compatible with and of service to township residential uses. Tourist services are also included as being in character with the District.

SECTION 900. PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one or more of the following specified uses:

1. Office buildings for any of the following occupations: executive, administrative, professional, governmental and sales offices.
2. Medical and dental offices, clinics, funeral homes and mortuaries.
3. Banks and financial institutions.
4. Any generally recognized retail business which supplies such commodities as: groceries, meats, dairy products, baked goods, restaurants or other foods and beverages, hardware, drugs, dry goods, sporting goods, sundries, and flower shops.
5. Any personal service establishment which performs such services as, but not limited to: shoe repair, tailor shops, beauty parlors, barber shops, interior decorators, photographers, dry cleaners and self service laundries, studios for instructing dance, physical exercises, or musical arts.
6. Churches, private clubs and lodge halls.
7. Motels, cabin courts, tourist lodging facilities, travel trailer courts, gift shops, museums and any accessory residence.
8. Utility and public service facilities and uses when operating requirements necessitates the locating of said facilities within the District in order to serve the immediate vicinity.
9. Existing dwellings and dwellings structurally attached to a part of a B-1 District use.
10. Commercial Farms are exempt from zoning per Section 2300-3.

SECTION 901. PRINCIPAL USES SUBJECT TO SPECIAL CONDITIONS

The following uses shall be permitted upon approval of the Planning Commission subject to the conditions herein imposed for each use, the Conditional Review Standards in Section 2100, and the approval of the Site Plan:

1. Gasoline service stations for sale of gasoline, oil and minor accessories provided further that gasoline pumps, air and water hose stands and other appurtenances shall be set back not less than fifteen (15) feet from all street right-of-way lines.
2. Business schools or private schools operated for profit. Charter schools or private schools intending to serve students in grades Kindergarten through 12, subject to same site standards as stated in Sec. 401-2 of the R-1A and R-1B Districts. Day care facilities, and/or child care centers and/or nursery schools occupying a separate building when deemed to be an appropriate accessory service and use in the District, as in affording a safe operational environment for children.
3. Offices and show rooms of plumbers, electricians, decorators or similar trades. The ground floor premises facing upon and visible from any abutting street, shall be used only for entrances, offices or display. All storage of material or any incidental repair shall be within the confines of enclosed buildings or otherwise obscured from view.
4. Commercial printing shops, newspaper offices, and similar publishing enterprises.
5. Wholesale uses with accessory storage space, but not warehousing, provided:
 - a) All incident or accessory storage is within the confines of an enclosed building. Wholesale uses shall also include space for administrative offices, customer services, and interior display.
 - b) Any loading docks or semi-trailer sized overhead doors shall not face upon a public road, or if no practical option is demonstrated, loading doors shall be setback at least seventy (70) feet from the front lot line or be structurally obscured from view.
 - c) Wholesale uses shall not occupy property bordering lakes, or rivers as defined by Act 346 of 1972, the Inland Lakes and Streams Act.
 - d) Sites proposed for wholesale uses may be rejected by the Planning Commission based on a determination that the use is improper or out of character with adjoining uses, by reason of:
 - 1) Breaking the continuity of a planned retail shopping center.
 - 2) Having direct visual exposure to tourist lodging facilities or other uses serving tourist markets.

- 3) Sharing common road frontage with residential uses.
6. Plant materials sales centers, greenhouses, and nurseries, including accessory garden equipment, primarily for use by home occupants on their residential lots.
7. Lawn and garden tractors along with accessory equipment but not farm implement dealers or contractors equipment sales.
8. Marinas and boating facilities, including docks, boat storage facilities, and/or space for selling water craft with accessory repair services.

ARTICLE X - B-2 GENERAL BUSINESS DISTRICT

INTENT

The B-2 General Business District is designed to provide sites for more diversified business types and are located so as to serve passer-by traffic.

SECTION 1000. PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one or more of the following specified uses.

1. All principal uses permitted in the B-1 Local Tourist Business District.
2. Wholesale uses when in a completely enclosed building.
3. Theaters, assembly halls and similar places of assembly.
4. Bottling works and food packaging.
5. Auto laundries when completely enclosed in a building.
6. Restaurants, supper clubs and taverns.
7. Bowling alleys, club, or pool / billiard parlor.
8. Commercial printing and newspaper offices.
9. Uses similar in character to the above listed uses.
10. Commercial Farms are exempt from zoning per Section 2300-3.

SECTION 1001. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS

The following uses shall be permitted upon approval of the Planning Commission subject to the conditions herein imposed for each use, the Conditional Review Standards in Section 2100, and approval of the Site Plan:

1. Gasoline service stations and vehicle repair garages.
 - a) Major engine and body repair, steam cleaning and undercoating when conducted on the site shall be within a completely enclosed building. The storage of damaged or wrecked automobiles on the site shall be obscured from public view, and no vehicle of any kind shall be stored in the open for a period exceeding one (1) week.
 - b) Gasoline pumps, air and water hose stand and other appurtenances shall be setback not less than fifteen (15) feet from all street right-of-ways.
2. Commercially used outdoor recreational space for children's amusement parks, carnivals, rebound tumbling facilities, miniature golf, driving ranges, subject to the following requirements:
 - a) Children's amusement facilities must be fenced on all sides with a minimum four foot and six inch (4' 6") protective wall or fence.
 - b) All manufacturers' specifications for safety are complied with as well as any additional safety measures that may be prescribed by the Planning Commission.
 - c) When discontinued or abandoned, the site shall be left in a reusable condition, free of hazards related to dangerous structures, pits, pools, excavations, electric circuits and similar features.
3. Lumber yards dealing primarily in pre-planed or finished lumber for wholesale or retail markets, and including other building materials, along with accessory hardware, plumbing, and electrical supplies and/or equipment, provided:
 - a) The site is of a configuration as to be compatible with adjoining uses, having at least 200 feet of frontage on a public road, or part of a planned development having 200 feet of frontage.
 - b) Accessory outdoor storage shall be effectively obscured from public view by fences, greenbelts, structures, and/or other devices as approved by the Planning Commission.
 - c) Storage uses, buildings, and parking lots, sidewalks, shall provide a minimum setback of 10 feet from one side yard and 40 feet from the side property line to afford transition space for storm water, snow storage, and/or landscaped buffers.
 - d) The outdoor display of model homes, trusses, garages, storage sheds, etc. shall only be allowable upon Planning Commission approval of specific location on the site, and may be prohibited where site characteristics and adjoining uses would be incompatible with such a display.

Building material centers may include, incidental operations involving fabrication and processing, but only within limits set forth on an approved Site Plan.

4. Outdoor sales lots for automobile, trucks, motorcycles, all terrain vehicles, boats and marine craft, recreation vehicles, trailers, mobile homes, farm implements, contractors

equipment/ vehicles, and similar units, for new and/or used units, subject to the following:

- a) No display shall be permitted in the right-of-way of any abutting road or highway.
 - b) Existing roadside trees and shrubs, shall be retained in a healthy growing condition to an extent determined by the Planning Commission to offer aesthetic value, contribute to shade, while offering reasonable visual access to the display lot.
 - c) The use of racks, berms, platforms, or similar devices intended for the elevated display of units regulated herein shall be limited to not more than two, or one (1) per one hundred fifty (150) ft. of display lot road frontage, whichever is greater. No such display device shall elevate the underframe of a vehicle more than five (5) feet above the ground.
 - d) Display lot lighting shall comply with terms of Section 2212, which shall apply whether or not the lighting is projected from buildings, private poles, or from utility company poles, i.e. as yard lights.
 - e) The display of units regulated herein shall only be in areas indicated or designated on the site plan, and areas shall be differentiated as to the display of new, used and/or inoperable units.
 - f) The front setback line of the vehicle display area shall be marked by a permanent curb of sufficient height and stability to serve as a tire stop.
5. Storage uses, including mini-storage, provided one or more of the following conditions are satisfied:
- a) All proposed buildings nearest to the primary access road shall be site planned to be perpendicular to the road; landscape screening may be required by the Planning Commission per subparagraph c) of this paragraph.
 - b) Proposed storage buildings are positioned to the rear of other approved non-storage or non-warehousing buildings, e.g., retail or office uses, or, the storage buildings are set back at least three-hundred (300) feet from public road right-of-way lines.
 - c) Intense, all season landscape screening, to effectively shield storage buildings from bordering public roads, per an approved Landscape Planting Plan which achieves screening upon installation of proposed plant materials.

Nothing in this section shall prohibit or inhibit storage space as a necessary accessory use to any principal commercial use of the property, and these standards do not apply to internal roads within a planned industrial or commercial park.

6. All special approval uses as regulated in the B-1 District unless otherwise regulated in the B-2 District.

ARTICLE XI - B-3 COMMERCIAL/INDUSTRIAL DISTRICT

INTENT

The B-3 Commercial/Industrial District is intended to accommodate selected industrial uses in locations that also have the potential for general business use. Based on physical site characteristics related to existing buildings, road access, natural buffer features, and other transition conditions with housing and resort areas, the B-3 District can offer greater flexibility in situations where selected industrial uses and commercial uses are feasible. The District is particularly intended to accommodate technical industries suited to Emmet County, and whose physical operational effects can be confined to the site.

SECTION 1100. PRINCIPAL USES PERMITTED

No buildings or land shall be used and no buildings shall be erected except for one or more of the following specified uses:

1. All principal uses permitted in the B-1 and B-2 District except: outdoor sales lots for mobile homes, auto-mobiles, trucks, trailers, recreation vehicles, boats and/or marine craft, modular homes, farm implements, lumber and building materials.
2. Selected production, processing and fabrication uses when the operational effects are determined to be no greater than other uses permitted in the B-2 District with respect to noise, glare, radiation, vibration, smoke, odor, and/or dust, particularly as perceived at the property line, and further, the following uses:
 - a. Trade schools, research, testing, and scientific laboratories.
 - b. Electronic instruments, computers, and electronic components.
 - c. Machine and tool shops and/or light metal products.
 - d. Plastics when cooling towers are not required.
 - e. Solar panels, wind generators, and alternative energy systems.
 - f. Ceramic products using gas or electrically fired kilns, and or glass products.
 - g. Products made of wood, but not sawmills, planing mills or veneer mills.
 - h. Products made from leather and fabrics and/or from artificial fabric materials.
 - i. The manufacture or production of craft products.
 - j. Other fabricating and processing uses when similar in operational effects to the listed uses in this section.
3. Commercial Farms are exempt from zoning per Section 2300-3.

SECTION 1101. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS

(This Section reserved for future Amendments)

SECTION 1102. REQUIRED CONDITIONS

Each use permitted in the B-3 District shall comply with the following site development conditions:

1. No open storage of finished goods or raw materials in front or side yards, except screened dumpster locations for normal waste disposal purposes.
2. The locational and site limitations established for wholesale uses as regulated under Sec. 901-5, b, c, d.
3. Any machinery used in the production process shall be of an operational character that is confined to the premises, and any noise, vibration, glare, smoke, dust, or other operational effects shall not be discernible from off the premises or exceed nuisance levels of other uses permitted in the B-3 District.
4. The 10 ft. side setback may be waived where common wall buildings join a lot line, per Note e, Sec. 1900. Rear and front setbacks, structure height, and signs as regulated in the B-2 District.

The Planning Commission may modify or waive required conditions in this section if the applicant can demonstrate that no good or practical purpose would be served by strict compliance with such requirements, provided however, that any or all waivers or modifications be documented on the site plan and are agreed to by the applicant.

ARTICLE XII - P-T PARKING TRANSITION DISTRICT

INTENT

The Parking Transition District is intended for application in those land use situations where Non-residential Districts and Residential Districts face or may face across a common fronting street, and the nonresidential uses have access from another street or road, primarily on double frontage lots. The P-T District provides for expanded business uses and establishes minimum transition standards.

SECTION 1200. PRINCIPAL USES PERMITTED

No building or land shall be erected except for one or more of the following specified uses:

1. Off-street parking lots and accessory loading areas.
2. One-family homes as regulated in the R-1B District and/or multiple family dwellings as regulated in R-2A Districts.
3. Public buildings, churches, schools, parks, parkways and playlots, but not commercial amusement uses.

4. Home occupations operated in residential buildings by the occupant thereof, but including up to three off-premises employees.
5. Any use that is an expansion of an existing business property from an adjoining B-1, B-2 or B-3 District, as regulated in that district.
6. Any B-1 District use on lots that may face across a common fronting street from any nonresidential zoned property or P-T District zoned property, even though said lot does not have through or double frontage.
7. Commercial Farms are exempt from zoning per Section 2300-3.

SECTION 1201. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS

(This Section reserved for future Amendments.)

SECTION 1202. REQUIRED CONDITIONS

Parking lots occupying P-T District properties shall maintain a minimum of 15 feet of setback when such parking faces or is across from residential zoned property. The 15 foot yard shall be planted with screening materials, fences and/or otherwise treated so as to obscure or break-up the view of parked vehicles.

ARTICLE XIII - I-1 LIGHT INDUSTRIAL DISTRICT

INTENT

The I-1 Light Industrial District is designed to primarily accommodate wholesale activities, warehouses and industrial operations whose external physical effects are restricted to the area of the district and do not affect in a detrimental way any of the surrounding districts. The I-1 District is so structured as to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semi-finished products from previously prepared material.

SECTION 1300. PRINCIPAL USES PERMITTED

In an I-1 Light Industrial District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance:

1. B-2 District uses, provided the site has access features suitable for offering retail services to the public and does not disrupt the continuity of development in any planned industrial park, so called, or the use is accessory to the industrial activity.
2. Laboratories and any use involving the function of basic research, design and pilot or experimental product development when conducted within a completely enclosed building, but excluding high risk products involving, radiation, explosives and the like.
3. Any of the following uses when the manufacturing, compounding or processing is conducted wholly within a completely enclosed building. That portion of the land used for open storage facilities for materials or equipment used in the manufacturing,

compounding or processing shall be totally obscured by a wall, fence or greenbelt when adjoining a zoning district other than I or B Districts:

- a) Warehousing, wholesale establishments, trucking facilities or terminals, meat lockers and/or freezer plants.
 - b) The manufacture, compounding, processing, packaging or treatment of such products as but not limited to: bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery, tool, die, gauge and machine shops.
 - c) The manufacture, compounding, assembling or treatment of articles or merchandise from previously prepared materials: bone, canvas, cellophane, cork, cloth, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semi-precious metals or stones, sheet metal, shell, textiles, tobacco, wax, wire, wood and yarns.
 - d) The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay and using kilns fired only by electricity or gas.
 - e) Manufacture or assembly of electrical appliances, electronic instruments and related products.
 - f) Manufacture of musical instruments, toys, novelties and metal or rubber stamps or other molded rubber products.
 - g) Manufacturing and repair of signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.
 - h) Engine overhauling, vehicle body repair, undercoating and/or rustproofing when completely enclosed.
 - i) Central dry cleaning plants or laundries.
 - j) All public utilities, including buildings, necessary structures, storage yards and other related uses, except major electric generating plants.
4. Warehouse, storage and transfer and electric and gas service buildings and yards. Public utility buildings, telephone exchange buildings, electrical transformer stations and substations and gas regulator stations. Water supply and sewage disposal plants. Water and gas tank holders. Railroad transfer and storage tracks and freight terminals.
 5. Commercial kennels.
 6. Greenhouses and plant materials.
 7. Trade or industrial schools specializing in auto mechanics, heavy equipment operations, engine repair and overhaul and uses with similar industrial type characteristics.
 8. Other uses of a similar and no more objectionable character to the above uses.

9. Accessory buildings and uses customarily incident to any of the permitted uses.
10. Commercial Farms are exempt from zoning per Section 2300-3.

SECTION 1301. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Site Plan by the Planning Commission:

1. Lumbering and planing mills when completely enclosed and located so that no property use is nearer than one-hundred (100) feet from the exterior boundary of the I-1 District.
2. Junk storage and salvage materials when located within a completely enclosed building. Any open storage yards or areas shall be entirely enclosed by an obscuring eight (8) foot wall, fence or greenbelt, and no salvage yard facilities shall be nearer to the exterior boundary of the I-1 District than one-hundred (100) feet.
3. Metal buffing and polishing, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances.
4. Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractor's equipment and supplies, provided such is enclosed within a building or within an obscuring wall or fence on those sides abutting all Residential Districts and on any yard abutting a public thoroughfare.
5. Mineral processing facilities and operations when the primary use is mining, quarrying, crushing, sorting, mixing, screening and/or handling activities.
6. Uses such as water treatment plants and reservoirs, sewage treatment plants, landfills, recycling operations, pyrolysis type incineration and similar uses.
7. Petroleum storage, gases and flammable liquids when accessory to any principal use permitted in the District, excluding tank farms or bulk storage, or when the storage capacity does not exceed the equivalent of 300,000 U.S. gallons of capacity.
8. Other uses of a similar character to the above uses.

SECTION 1302. REQUIRED CONDITIONS

For all uses permitted Subject to Special Conditions and for any industrial uses, which in the opinion of the Zoning Administrator, would constitute a special nuisance or danger because of the nature of the operation (fire, explosion, radiation, noise, air pollution, emissions and the like), the applicant for a permit may be required to submit certified statements that the proposed industrial use meets at least the minimum safety-health environmental standards prescribed by state and/or federal standards pertaining to the specific use.

The extent of walls or fences in the I-1 District, where required, and for all uses Subject to Special Conditions as may be required by the Planning Commission, shall be determined by the

Planning Commission. Fences or walls shall not be less than four feet six inches (4' 6") in height, and may be required to be eight (8) feet in height. A chain link type fence, with heavy evergreen shrubbery inside of said fence, shall be considered to be an obscuring fence.

The Planning Commission may waive, or modify, any wall, fence, greenbelt or special setback provision in the I-1 District, where in its determination no good or practical purpose would be served, including such reasons as large site area, natural isolation, land ownership patterns, natural barriers or screens and the like.

ARTICLE XIV - I-2 GENERAL INDUSTRIAL DISTRICT

INTENT

The General Industrial District is designed primarily for manufacturing, assembling, and fabrication activities including large scale or specialized industrial operations, whose external physical effects will be felt to some degree by surrounding districts. The District is intended to permit the manufacturing, processing and compounding of semi-finished products or products from raw materials as well as from previously prepared material.

SECTION 1400. PRINCIPAL USES PERMITTED

In a General Industrial District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in the Ordinance:

1. Any Principal Uses Permitted in the I-1 District.
2. Heating and electric power generating plants.
3. Packing plants and slaughter houses.
4. Commercial Farms are exempt from zoning per Section 2300-3.

SECTION 1401. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the site plan by the Planning Commission:

1. Any of the following production or manufacturing uses (not including storage of finished products) provided that they are located not less than eight hundred (800) feet distant from any Residential District and not less than three hundred (300) feet distant from any other district.
 - a) Incineration of garbage or refuse when conducted within an approved and enclosed incinerator plant (the non-pyrolysis type).
 - b) Blast furnace, steel furnace, blooming or rolling mill.
 - c) Manufacture of corrosive acid or alkali, cement, lime gypsum or plaster of Paris.

- d) Petroleum or other flammable liquids, production, refining or storage.
 - e) Smelting of copper, iron or zinc and foundries.
 - f) Metal plating operations, provided that no acids, chromates or similar chemicals are discharged into systems in any manner that would endanger sewage treatment plant operations or constitute a hazard to the waters of Emmet County (ground water, lakes, streams, and rivers).
 - g) Research laboratories and experimental operations not permitted in I-1 Districts.
2. Any other use which shall be determined by the Planning Commission to be in the same general character as the above permitted uses in Section 402. The Planning Commission may impose any required setback and/or performance standards so as to insure public health, safety and general welfare.

ARTICLE XV – SEXUALLY ORIENTED BUSINESSES

	Intent
Section 1500.	Definitions
Section 1501.	Location of Sexually Oriented Businesses
Section 1502.	Unlawful Activities; Scierter Required; Penalty; Equitable Remedies
Section 1503.	Severability

INTENT

(a) Purpose. It is the purpose of this Article to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the County, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the County. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Article to condone or legitimize the distribution of obscene material.

(b) Findings and Rationale. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Board of Commissioners, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 427 U.S. 50 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); and *East Brooks Books, Inc. v. Shelby*

County, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby County*, 588 F.3d 372 (6th Cir. 2009); *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *Deja Vu of Nashville, Inc. v. Metropolitan Gov't of Nashville and Davidson County*, 466 F.3d 391 (6th Cir. 2006); *Sensations, Inc. v. City of Grand Rapids*, 2006 WL 5779504 (W.D. Mich. Oct. 23, 2006); *729, Inc. v. Kenton County*, 2006 WL 2842884 (E.D. Ky. 2006); *Deja Vu of Cincinnati, L.L.C. v. Union Township Bd. Of Trustees*, 411 F.3d 777 (6th Cir. 2005) (*en banc*); *Little Mack Entm't II, Inc. v. Twp. of Marengo*, 2008 WL 2783252 (W.D. Mich. July 17, 2008); *Big Dipper Entm't, LLC v. City of Warren*, 658 F. Supp. 2d 831 (E.D. Mich. 2009); *Flanigan's Enters., Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546 (5th Cir. 2006); *City of Chicago v. Pooh Bah Enterprises, Inc.*, 865 N.E.2d 133 (Ill. 2006); *Sensations, Inc. v. City of Grand Rapids*, 2006 WL 2504388 (W.D. Mich. 2006); *Andy's Restaurant & Lounge, Inc. v. City of Gary*, 466 F.3d 550 (7th Cir. 2006); *181 South, Inc. v. Fischer*, 454 F.3d 228 (3rd Cir. 2006); *Bronco's Entertainment, Ltd. v. Charter Twp. of Van Buren*, 421 F.3d 440 (6th Cir. 2005); *Charter Twp. of Van Buren v. Garter Belt, Inc.*, 258 Mich. App. 594 (2003); *Jott, Inc. v. Clinton Twp.*, 224 Mich. App. 513 (1997); *Michigan ex rel. Wayne County Prosecutor v. Dizzy Duck*, 449 Mich. 353 (1995); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *Kentucky Restaurant Concepts, Inc. v. City of Louisville*, 209 F. Supp. 2d 672 (W.D. Ky. 2002); *Restaurant Ventures v. Lexington-Fayette Urban County Gov't*, 60 S.W.3d 572 (Ky. Ct. App. 2001); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Deja Vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County*, 274 F.3d 377 (6th Cir. 2001); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Ctr. for Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2003); *Bigg Wolf Discount Video Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Kentucky Restaurant Concepts, Inc. v. Metro Gov't*, Case No. 04-CI-01967 (Jefferson Circuit Court, Summary Judgment Order, Dec. 14, 2004); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Brandywine, Inc. v. City of Richmond*, 359 F.3d 830 (6th Cir. 2004); *Currence v. City of Cincinnati*, 28 Fed. Appx. 438 (6th Cir. Jan. 24, 2002); *Broadway Books v. Roberts*, 642 F. Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F. Supp. 378 (E.D. Ky. 1993); *Richland Bookmart v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Bamon Corp. v. City of Dayton*, 923 F.2d 470 (6th Cir. 1991); *Triplett Grille, Inc. v. City of Akron*, 40 F.3d 129 (6th Cir. 1994); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *Threesome Entertainment v. Strittmather*, 4 F. Supp. 2d 710 (N.D. Ohio 1998); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *Plaza Group Props., LLC v. Spencer County*, 877 N.E.2d 877 (Ind. Ct. App. 2007); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *For the People Theatres of N.Y., Inc. v. City of New York*, 793 N.Y.S.2d 356 (N.Y. App. Div. 2005); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25,

2002); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *In re Tennessee Public Indecency Statute*, 172 F.3d 873 (6th Cir. Jan. 13, 1999)(table); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Kennedale, Texas - 2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; New York, New York Times Square - 1994; Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota); Warren Police SID Report/Affidavits - 2005; Louisville, Kentucky - 2004; Dallas, Texas - 2007; Criminal Justice Policy Review - 2008; Detroit, Michigan - 2010; Warren, Michigan - 2008; and Detroit Police Report Summaries - 2005-2009,

the Board of Commissioners finds:

(1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.

(2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

(3) Each of the foregoing negative secondary effects constitutes a harm which the County has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the County's rationale for this Ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the County's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the County. The County finds that the cases and documentation relied on in this Ordinance are reasonably believed to be relevant to said secondary effects.

The County hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

SECTION 1500 DEFINITIONS

For purposes of this Article, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

11. “*Adult Bookstore or Adult Video Store*” means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas.”

A “principal business activity” exists where the commercial establishment:

- (a) has a substantial portion of its displayed merchandise which consists of said items, or
- (b) has a substantial portion of the wholesale value of its displayed merchandise which consists of said items, or
- (c) has a substantial portion of the retail value of its displayed merchandise which consists of said items, or
- (d) derives a substantial portion of its revenues from the sale or rental, for any form of consideration of said items, or
- (e) maintains a substantial portion of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items shall be included in “floor space” maintained for the display, sale, or rental of said items), or
- (f) maintains at least five hundred square feet (500 sq. ft.) of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items shall be included in “floor space” maintained for the display, sale, or rental of said items), or
- (g) regularly offers for sale or rental at least two thousand (2,000) of said items, or
- (h) regularly features said items and regularly advertises itself or holds itself out, by using “adult,” “adults-only,” “XXX,” “sex,” “erotic,” “novelties,” or substantially similar language, as an establishment that caters to adult sexual interests, or
- (i) maintains an “adult arcade,” which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the

images so displayed are characterized by their emphasis upon matter exhibiting “specified sexual activities” or specified “anatomical areas.”

2. “*Adult Cabaret*” means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear semi-nude. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.

3. “*Adult Motion Picture Theater*” means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of Aspecified sexual activities@ or Aspecified anatomical areas@ are regularly shown to more than five persons for any form of consideration.

4. “*Characterized by*” means describing the essential character or quality of an item. As applied in this Article, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

5. “*County*” means Emmet County, Michigan.

6. “*Employ, Employee, and Employment*” describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

7. “*Establish or Establishment*” shall mean and include any of the following:

- (a) The opening or commencement of any sexually oriented business as a new business;
- (b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
- (c) The addition of any sexually oriented business to any other existing sexually oriented business.

8. “*Influential Interest*” means any of the following: (1) the actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business, (2) ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business, or (3) holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.

9. "*Nudity or a State of Nudity*" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

10. "*Operate or Cause to Operate*" shall mean to cause to function or to put or keep in a state of doing business. "*Operator*" means any person on the premises of a sexually oriented business who operates the business or is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.

11. "*Person*" shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.

12. "*Premises*" means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a sexually oriented business license.

13. "*Regularly*" means and refers to the consistent and repeated doing of the act.

14. "*Semi-Nude or State of Semi-Nudity*" means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

15. "*Sexual Device*" means any three (3) dimensional object designed and marketed for stimulation of the male or female human genitals, anus, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

16. "*Sexual Device Shop*" means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to their premises by reason of age.

17. "*Sexual Encounter Center*" shall mean a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is semi-nude.

18. "*Sexually Oriented Business*" means an Adult bookstore or adult video store, an Adult cabaret, an Adult motion picture theater, a Asexual device shop, or a Asexual encounter center.

19. "*Specified Anatomical Areas*" means and includes:

- (a) Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and
- (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

20. "*Specified Criminal Activity*" means any of the following specified offenses, as amended from time to time, for which less than eight (8) years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

- (a) Criminal sexual conduct (MCL 750.520a B 750.520g), child sexually abusive activity (MCL 750.145c), computer crimes against children (MCL 750.145d(1)(a));
- (b) Prostitution-related offenses (MCL 750.448 B 750.449a);
- (c) Offenses related to obscenity (MCL 752.365) and material harmful to minors (MCL 750.142 B 750.143);
- (d) Indecent exposure (MCL 750.335a);
- (e) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses;
- (f) Any offense in another jurisdiction that, had the predicate act(s) been committed in Michigan, would have constituted any of the foregoing offenses.

21. "*Specified Sexual Activity*" means any of the following:

- (a) intercourse, oral copulation, masturbation or sodomy; or

- (b) excretory functions as a part of or in connection with any of the activities described in (a) above.

22. “*Substantial*” means at least thirty-five percent (35%) of the item(s).

23. “*Viewing Room*” shall mean the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video reproduction.

24. “*Floor Space*” means the floor area inside an establishment that is visible or accessible to patrons for any reason, excluding restrooms.

SECTION 1501. LOCATION OF SEXUALLY ORIENTED BUSINESSES

- (a) Sexually oriented businesses shall not be required to obtain a conditional use permit or special use permit.
- (b) It shall be unlawful to establish, operate, or cause to be operated a sexually oriented business in Emmet County in any zoning district other than the B-2, B-3, I-1, and I-2 zoning districts.
- (c) No sexually oriented business may be established, operated, or maintained within any PUD district which is planned residential.
- (d) No sexually oriented business may be located in a PUD-1 or PUD-2 District unless such use is or has been specifically noted as allowable in the PUD District pursuant to appropriate notices, hearings and an on-site location plans.
- (e) No sexually oriented business may be established, operated, or maintained within 500 feet of a residential zoning district per Article III, Section 300.
- (f) No sexually oriented business may be established, operated, or maintained within 500 feet of a part of any PUD district which is planned residential.
- (g) No sexually oriented business may be established, operated, or maintained within 1,000 feet from any recognized house of worship, state-licensed day care facility, public library, public park, public or private educational facilities serving persons age seventeen (17) or younger, cemetery, or public assembly buildings including government offices. This buffer standard applies to any listed use, within or outside of the zoning boundaries of this Ordinance.
- (h) No sexually oriented business may be established, operated, or maintained within 1,000 feet of a parcel occupied by any other sexually oriented business.
- (i) For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest

part of any structure, including signs and roof overhangs, used in conjunction with the sexually oriented business to the closest point on a property boundary or right-of-way associated with any of the land use(s) or zoning district identified in subsections (e), (f), (g), and (h) above.

- (j) No sexually oriented business may be established, operated, or maintained in Emmet County if a person with an influential interest in the business has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this Article.
- (k) No sexually oriented business may be established, operated, or maintained in Emmet County if a person with an influential interest in the business has, in the previous five (5) years, had an influential interest in another sexually oriented business that (at a time during which the applicant had the influential interest in the other sexually oriented business) was declared by a court of law to be a nuisance.

SECTION 1502. UNLAWFUL ACTIVITIES; SCIENTER REQUIRED; PENALTY; EQUITABLE REMEDIES.

- (a) Nothing contained in this Article is intended, or shall be construed, to permit or authorize activities which are unlawful under state law or municipal ordinance. It is unlawful and a violation of this Article for an operator to knowingly or intentionally violate the provisions of this Article or to allow, either knowingly or intentionally, an employee or a patron to violate the provisions of this Article. It shall be a defense to prosecution that the person prosecuted was powerless to prevent the violation.
- (b) No person shall knowingly or intentionally, in a sexually oriented business, appear before a patron or patrons in a state of nudity, regardless of whether such public nudity is expressive in nature.
- (c) No employee shall knowingly or intentionally, in a sexually oriented business, appear within view of any patron in a semi-nude condition unless the employee, while semi-nude, shall be and remain at least six (6) feet from all patrons and on a fixed stage at least eighteen (18) inches from the floor in a room of at least six hundred (600) square feet.
- (d) A sexually oriented business which exhibits on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disk, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements: The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations

designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by that operator station. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

(e) Sexually oriented businesses that do not have stages or interior configurations which meet at least the minimum requirements of this section shall be given one hundred eighty (180) days from the effective date of this ordinance to comply with the stage and building requirements of this section. During said one hundred eighty (180) days, any employee who appears within view of any patron in a semi-nude condition shall nevertheless remain, while semi-nude, at least six (6) feet from all patrons.

(f) No employee who regularly appears within view of patrons in a semi-nude condition in a sexually oriented business shall knowingly or intentionally touch a patron or the clothing of a patron in a sexually oriented business.

(g) No operator shall allow or permit a sexually oriented business to be or remain open between the hours of 12:00 midnight and 6:00 A.M. on any day.

(h) No person shall knowingly or intentionally sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.

(i) No person shall knowingly allow a person under the age of eighteen (18) years on the premises of a sexually oriented business.

(j) *Scienter.* This section does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this section. Notwithstanding anything to the contrary, for the purposes of this section, an act by an employee shall be imputed to the sexually oriented business for purposes of finding a violation of this section only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

(k) *Sanctions; Equitable Remedies.* Any person, business, or entity violating or refusing to comply with any provisions of this section shall be responsible for a municipal civil infraction. The sanction for a violation of this section which is a municipal civil infraction shall be a civil fine in the amount provided in Ordinance 97-10, as amended, which is adopted by reference, plus costs, damages, expenses, and other sanctions as authorized under

Chapter 87 of 1961 PA 236, as amended. Each day that a violation is permitted to exist or occur, and each separate occurrence, shall constitute a separate offense. Further, any premises, building, dwelling, or other structure in which a sexually oriented business, as defined in this Article, is repeatedly operated or maintained in violation of the provisions of this Article shall constitute a public nuisance and shall be subject to civil abatement proceedings initiated by Emmet County in a court of competent jurisdiction. Each day that a violation is permitted to exist or occur shall constitute a separate operation or maintenance of the violation. Notwithstanding the foregoing, the County may employ any remedy available at law or in equity to prevent or remedy a violation of any provision of this Article.

SECTION 1503. SEVERABILITY.

This Article and each section and provision of said Article hereunder, are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said Article, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect of this Article be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this Article.

ARTICLE XVI - XVII

(Reserved for future text additions)

ARTICLE XVIII - PUD-1 & PUD-2 PLANNED UNIT DEVELOPMENT DISTRICTS

INTENT

The Planned Unit Development Districts (PUD-1 and PUD-2) are structured and designed to advance the following goals.

1. To encourage a more imaginative planned community through the application of comprehensive land use planning techniques at the project level.
2. To provide for a controlled mix of land use types when coordinated into an overall property use plan without the incidence of spot zoning.
3. To allow clustering of intensive uses to reduce development costs and provide more protection for natural features and open spaces.
4. To coordinate development on larger tracts of land and encourage efficiency within the project with respect to roads, pedestrian-ways and utility services.

5. To encourage a necessary balance between physical improvements, community needs, and site amenities such as scenic views, open space, recreation areas, and environmentally sensitive areas.
6. To allow more flexibility in land development with respect to building setbacks, building densities and other standard zoning requirements.
7. To encourage a unified and hence potentially more desirable development of large areas of land based on a Project Master Plan.
8. Provide a forum for communication between the developer, community officials, and the public concerning PUD projects.

The PUD-1 Planned Unit Development District is an Overlay Zoning District which, when applied, does not change the underlying district designations. The PUD-2 District is a full Zoning District, and when applied, changes the underlying district to PUD-2 by the rezoning process. Unless otherwise noted, all of the following text provisions apply to both PUD-1 and PUD-2.

SECTION 1800. DEFINITION, PRELIMINARY PROJECT MASTER PLAN

A generalized Master Plan of the Project Area, drawn to scale, and indicating all lands under the control and/or ownership of the applicant or persons representing the owner, if he is not the applicant. The Preliminary Master Plan should be sufficiently detailed to show the arrangement of land uses over the entire project area in a clear and concise manner, but need not show specific building shapes or sizes. A Preliminary Master Plan should be detailed with respect to existing conditions and proposed land uses, property boundaries, delineation of natural features, road, easements, utilities, a vicinity or location map, and other major interest features on or near the project that may impact the plan.

SECTION 1801. DEFINITION, FINAL MASTER PLAN

The Final Master Plan shall contain all of the elements prescribed for the Preliminary Master Plan, as defined in this Ordinance, except that the Final Master Plan shall include details concerning the following: general building configurations and locations, the height of buildings, the specific arrangement of uses, public and/or private roads, identification of permanent open spaces, a contour map, recreation areas, and environmentally sensitive areas. An evaluation of the impact on public utilities including sewer, water, solid waste, and related community services such as schools, roads, fire and police protection.

Detailed information concerning densities of all proposed uses shall be included, such as the number of single family and multiple family dwelling units, design capacities of hotels and/or motels, number of commercial units, and acreage of proposed open space/recreation areas.

SECTION 1802. PROCEDURES

All applications for Planned Unit Development (PUD) projects shall be in accordance with the procedures outlined herein for: (1) Pre-application Conference, (2) Preliminary Master Plan, and (3) Final Master Plan.

1. PRE-APPLICATION CONFERENCE

The applicant is urged to schedule a Pre-Application Conference with the Zoning Administrator to review the basic requirements of the Zoning Ordinance as well as to review the procedures and design standards for a PUD. As one option, the applicant may schedule an informal informational meeting with the Planning Commission, but no official action on the PUD may be taken at such meeting.

The applicant is directed to meet informally with the governing body of the township within which the project is located, and to obtain all pertinent design information from other agencies, including but not limited to the following responsibilities: sanitary sewers, drains, utilities, roads, soil erosion, wetlands, and construction codes (building, electrical, plumbing, mechanical).

2. PRELIMINARY PUD MASTER PLAN REVIEW

Following the Pre-Application Conference, the applicant may file a request with the Zoning Administrator seeking Planning Commission review of a Preliminary PUD Master Plan for the subject property. When a Mixed-Use Preliminary PUD Master Plan is proposed, final approval of the Preliminary Plan shall be by the County Board of Commissioners, who shall have reference to the review findings of the Planning Commission.

Preliminary review shall not imply approval of the Final Master Plan, but is a directional step to show levels of agreement or disagreement under the existing conditions and with the information available at the time of preliminary review.

3. FILING REQUIREMENTS (Preliminary)

- a. Filing of the existing conditions map and the plan with the Zoning Administrator at least twenty-four (24) days prior to the date of the Planning Commission meeting, at which a Public Hearing on the plan is to be scheduled.
- b. At least two (2) full-sized and fourteen (14) reduced sized copies of all maps, and graphic documentation shall be submitted at the time of filing.
- c. At least fifteen (15) days published notice shall be given in a newspaper of general circulation in the community.
- d. Map scale and identification information as prescribed for Site Plans under Sec. 2405 of this Ordinance.

4. PLAN REQUIREMENTS (Preliminary)

The Preliminary Master Plan must contain information concerning existing site conditions and proposed land uses, the rationale for the particular use arrangement selected, the identification of special site features recognized in the design, and pertinent density or quantity data to reflect demands on community services.

There are two graphic requirements for the preliminary step:

- a) An Existing Conditions Map:

Includes a property location map, property dimensions and boundaries, major tree stands, water bodies (streams, rivers, lakes, ponds), rock outcrops, wetlands - both regulated and unregulated, drainage courses, steep slopes, generalized soil conditions, and other natural features. Also, human made features including existing roads within and bordering the project, buildings, easements and utilities.

b) The Preliminary PUD Master Plan Map, Per Sec 1801:

The applicant must submit copies of the preliminary plan to government review agencies, as applicable, to gain compliance with health laws, drain laws, environmental laws, as well as rules governing road construction. Local fire protection agencies must be contacted in the preliminary phase. Specific items to include on or with the plan include: total number of acres in the project for which PUD designation is being sought, the number of residential units, the type and character of nonresidential uses, the acreage to be allotted to each use type, any known deviations from ordinance provisions or items requiring a variance, the number of acres devoted to on-site open space and/or recreation uses, and any natural features or resources to be preserved.

5. REVIEW FOR DECISION (Preliminary)

The Planning Commission, upon a review of the Preliminary Master Plan and all supporting documentation, shall act to approve, conditionally approve or reject the plan. Any conditional approval shall include a listing of conditions necessary to attain approval, and any rejection shall enumerate the reason for rejection.

Approval of a non-mixed use Preliminary PUD Master Plan authorizes the applicant to proceed with the preparation of the Final Master Plan. In a mixed use Preliminary Master Plan, final approval is by the County Board of Commissioners.

6. FINAL MASTER PLAN REVIEW

- a. No PUD plan can be approved until a Final Master Plan has been reviewed and given final approval by the Planning Commission.
- b. When a Mixed Use PUD is proposed, the Planning Commission shall review the Final Master Plan and send recommendations to the County Board of Commissioners, who shall be the final reviewing agency.
- c. The Final Master Plan shall be in basic accord with the approved Preliminary Master Plan and shall be detailed with respect to the following:
 - 1) A definitive Use Plan for the entire land area intended to be approved for PUD project or for the known uses in the project area.
 - 2) Use plans must show the general building configurations and locations, but need not show the exact dimension or shape of buildings, unless their detail for certain specific buildings is critical to the approval of the Final PUD Master Plan. Land allocations for each use area shall be defined.

- 3) All arrangements for design, construction, maintenance and operation of utility systems shall have been finalized, although working drawings need not be completed for this element.
- 4) The PUD's ownership, management, and construction have been determined and documented, and where to be phased, a plan to demonstrate development continuity shall be presented.
- 5) All common open space areas, greenbelts, transition areas, and setback areas shall be documented on the plan, and no use of these areas other than those identified on the plan shall be permitted without a formal revision of the plan.
- 6) On-site circulation routes for vehicles, pedestrians, parking lots, bicycles, and the like shall be included as specific elements of the plan as well as the ingress and egress points from bordering public/private roads.
- 7) Any existing or proposed deed restrictions, easements, or covenants pertinent to the project property shall be presented at this time. Actual filing of the documents need not occur until after site plan review, but before a zoning permit is issued.

7. FILING REQUIREMENTS (Final)

- a) The Final Master Plan shall be filed with the Zoning Administrator at least twenty-four (24) days prior to the date of the Planning Commission meeting, at which a public hearing on the Plan and PUD designation is to be scheduled.
- b) At least two (2) full-sized and fourteen (14) reduced-sized copies of all maps and essential graphic documentation shall be submitted at the time of filing.
- c) Review procedures and graphic requirements shall be the same as that prescribed for the Preliminary PUD Project Master Plan.
- d) Map scale identification information as prescribed for site plans under Sec. 2405-2 (a), (b), with allowable modification for parcels that are too large to practically map under those standards.

8. REVIEW FOR DECISION (Final)

- a) The Planning Commission, upon a thorough review of the Final Master Plan and all essential supporting documentation shall act to approve, conditionally approve, or reject the Final Master Plan.
- b) In the case of Mixed Use PUD's the Planning Commission shall recommend its approval, conditional approval, or rejection to the County Board of Commissioners.
- c) With the approved Final Master Plan the Applicant may proceed with the preparation of Site Plans as provided for in Ordinance (Section 2405), and subsequent thereto, seek the necessary Building and Environmental Permits for Construction.

9. PUD PLAN REVISIONS (Final)

- a) The project must be constructed as indicated on the approved Final Master Plan with respect to lot configurations, uses, density, and all other details as illustrated, unless a formal request for revision is made.
- b) Changes or revisions to an approved Final Project Master Plan may be initiated by the applicant. Requests for revisions shall follow the procedures as set forth for Final Master Plan approval, including the filing, hearing, and graphic requirements.
- c) To add flexibility, the Zoning Administrator, with the approval of the Emmet County Planning Commission, may approve minor working changes to the PUD Master Plan as follows:
 - 1) Reorientation of buildings provided; no such structure is moved more twenty five (25) feet from the original plan location, the move is determined to be necessary based on site conditions not previously known, and the intent, concept, and objectives of the PUD are not circumvented, and no greater impact is exerted on adjacent properties.
 - 2) Redistribution of the dwelling units among the proposed structures, provided building height is not increased, and the dwelling unit density is not increased.
 - 3) Realignment of roads, pedestrian ways, and/or parking lots based on the need to respect site features (topography, soils, bedrock, vegetation); or respond to minor reorientations of buildings.

10. SHORT PROCEDURE ALTERNATIVE

It is recognized that smaller and/or less complicated PUD project plans may benefit from a more simplified procedural alternative. Projects deemed to qualify as smaller and less complicated by the applicant, may elect to by-pass the Preliminary Master Plan step, and proceed directly to Final Master Plan review. In exercising this election, the applicant shall schedule a Pre-Application Conference with the Zoning Administrator, and given the presentation of sufficient detailed information and documentation, the Zoning Administrator shall advise the applicant as to whether or not the preliminary procedural step may be waived.

The Planning Commission may overrule the Zoning Administrator if in its opinion, it feels the Preliminary Master Plan step should not be waived.

11. THE SITE PLAN

Following the approval of the FINAL PUD Master Plan, the applicant shall prepare a site plan pursuant to Sec 2405 SITE PLAN REVIEW. Approval of the site plan shall be necessary before zoning and construction permits can be issued. Site Plans may be for all or part of the project as elected by the applicant and as approved by the Planning

Commission. If sufficiently detailed, a Final PUD Project Master Plan may also be submitted as the Site Plan.

12. MUTUAL CONSENT

No Preliminary or Final PUD shall be approved unless the proposed project, the plan for the project and the land uses(s) are mutually agreeable to the applicant, the municipality and County of Emmet.

13. PUD PLAN EXPIRATION AND RENEWAL

The expiration, repeal and renewal of a PUD Master Plan, whether Preliminary or Final shall be in accord with the following standards:

a) Plan Expiration

An approved PUD Master Plan shall automatically expire after 24 months, following the effective approval date, if one or more of the following apply:

- 1) In the case of a Final Master Plan no earthwork or construction activities are in evidence, and no valid construction permits are in effect.
- 2) The project appears to be abandoned, there is no apparent interest in continuing the PUD as established, and no applications for renewal have been received.
- 3) No apparent effort is being made to market the PUD project or operate it as an active development.
- 4) In the case of a Preliminary Master Plan, the use proposals are different from the approved Preliminary Master Plan.

In the PUD-2 District, the PUD Master Plan may expire, but the PUD-2 District remains with the property unless formally rezoned to another classification.

b) Plan Renewal

To forestall automatic expiration, the PUD owner shall request renewal of the PUD prior to the expiration date. Renewal shall be by formal action of the Planning Commission, or the County Board of Commissioners in the case of a Mixed Use PUD. Renewal requests shall be filed at least twenty-four (24) days prior to the scheduled meeting date of the review body, but no formal public hearing is required. Renewals shall be for periods not to exceed 12 months, and only two such renewals shall be permitted.

14. FEES

Fees for PUD Project Master Plan review shall be set from time to time by the County Board of Commissioners.

SECTION 1803. LAND USE STANDARDS IN NON-MIXED PUDS

The Planned Unit Development Districts shall permit uses and services on lands and in buildings according to the following standards.

1. As a minimum, the uses permitted in the PUD-2 District shall include those uses listed in the R-1A One Family Residential District, as regulated therein. If the regulations of the PUD District are more restrictive, then the standards of the PUD District shall apply.
2. The PUD-1 District is a Special Use Permit overlay zoning classification and only those uses and services identified on or in the approved final "Project Master Plan" shall be permitted in the PUD District even though other uses may be listed as permitted in the underlying district.
3. All PUD Projects shall include only those uses and services identified on or in the approved Final Master Plan. The permitted uses, therefore, are Special Permit Uses and may be approved in a PUD, as follows:
 - a) The applicant can demonstrate by plan or by supporting documentation that there are sound functional reasons for all of the identified uses. If a shopping center is proposed, it is necessary only to identify the use as "shopping center", but must state the intended market and level of service (PUD area, local community, regional area). Similar use group identification may be made for other functional complexes within a PUD, so long as there is a full identification of the usage.
 - b) The applicant can demonstrate that specific uses or use complexes are desired or necessary to the project's success and/or would have a desired benefit to the political unit in which it is located.
 - c) All essential services, public buildings, public or private utilities, and related facilities needed to support the project in the political unit of its location are available.
4. Non-residential uses which are permissible in a Residential PUD include: accessory site services, pools, recreation buildings and grounds, accessory maintenance garages and yards, essential services, and accessory utility buildings and structures.
5. Based on site features of topography, scenic view plains, surface water and vegetation; and based on neighborhood characteristics related to road capacity, prevailing architectural design, adjoining land uses and essential community services; the Planning Commission may limit a PUD cluster housing development to no more than four (4) dwellings per cluster. If appropriate, a mixture of cluster housing, one story garden apartments and single family detached housing may be required to attain a compatible land use transition with adjoining properties.
6. The proposed uses are determined to be in compliance with the Project Master Plan, and would not be contrary to the goals or objectives of any Comprehensive Land Use Plan.
7. A PUD-1 Planned Unit Development Overlay District shall not be permitted to overlay any R-1A, RR-2 or SR-2 District.

SECTION 1804. LAND USE STANDARDS IN MIXED PUDS

An applicant for the Planned Unit Development (PUD) Project may apply for a Mixed Use PUD that provides for any use permitted in the Zoning Ordinance, provided:

1. The announced public hearing specifies that the applicant is seeking a Mixed Use PUD Project.
2. All uses are regulated and permitted as Special Permit Uses, and documented as appropriate to the PUD as stipulated in Sec. 1803.
3. Standard Multiple Family, Commercial or Industrial zoning is not being circumvented by employing a Mixed Use PUD, either by Overlay or by District.

On the basis of findings at the Public Hearing, specific site conditions, community land use plans, and the applicant's intent in establishing nonresidential uses, the Planning Commission may reject a Mixed Use Plan in a PUD-2 District as not being in accord with the land use goals of the community, and/or as not being appropriate for the specific property under consideration. In a PUD-1 District, the County Board of Commissioners may reject the PUD plan for the reasons stated in this paragraph. A PUD-1 Planned Unit Development District shall not be permitted to overlay any R1-A, RR-2 or SR-2 District.

SECTION 1805. DESIGN STANDARDS

Projects proposed to be designed and developed as Planned Unit Developments shall comply with the following design standards:

1. PERIMETER SETBACKS

All PUD projects shall establish and maintain perimeter setback of fifty (50) feet, except where more severe zoning setback standards may apply on water impacted sites. The setback area shall be maintained as open space in lawns or be landscaped, or wooded areas, but shall exclude paved surfaces, parking areas, or buildings of any kind. Pathways and trails may occupy a perimeter setback area, and such space may be used for storm water managements, snow storage, and/or drainage systems.

2. DWELLING UNIT DENSITY, PUD-1

The density of residential units within a designated PUD-1 Project shall not exceed a gross density that equals the minimum lot size for dwelling units in the underlying Zoning District classifications as follows:

Zoning Districts	Gross Dwelling Unit- No Sewer	Density per Acre - Sewers
R-1A and R-1B	1.980 Units/Acre	3.63 Unit/Acre
R-2A, R-2B, R-2C	(See Sec. 1900)	(See Sec. 1900)
RR-1, RR-2, SR-1, SR-2	1.452 Units/Acre	2.50 Unit/Acre
FF-1	.990 Units/Acre	.990 Unit/Acre
FF-2	.495 Unit/Acre	.495 Units/Acre

B-1, B-2, B-3	1.980 Units/Acre	3.00 Unit/Acre
I-1, I-2	1.980 Units/Acre	3.00 Unit/Acre

3. DWELLING UNIT DENSITY, PUD-2

The density of residential units within a designated PUD-2 District Project shall not exceed a gross density that equals the minimum lot size for dwelling units in the R-1A One Family Zoning District classification as follows:

Zoning District	Gross Dwelling Unit Density per Acre
R-1A	1.980 Units/Acre

4. OTHER DENSITY STANDARDS, PUD-1 AND PUD-2

- a) The calculation of gross site density shall exclude land areas proposed for non-residential uses, such as hotels, shopping centers, commercial amusement, and the like. Accessory uses of club houses, maintenance garages, golf courses, and similar community service uses may be counted in the acreage for gross allowable density.
- b) Any lands dedicated to the community for public use or public service (parks, fire halls, schools, etc.) may be counted in the project for density calculation purposes at two times (double) the allowable density, provided such lands are determined to be suitable for development and use (consider slope, water table, soils, bedrock, useable shape, etc).
- c) Land included in the calculation of dwelling unit density shall exclude natural bodies of surface water and any lands designated as or determined to be wetlands by the State of Michigan.
- d) In the case of need to interpret the facts of whether or not the property has wetlands for the purpose of this Section, the Planning Commission shall make the interpretation and may enlist the expertise of recognized outside agencies, such as, the United States Soil Conservation Service, the Michigan Department of Natural Resources, or other professionals in the field.

5. BUILDING HEIGHT, BULK AND ARRANGEMENT

- a) The height, bulk, and arrangement of structures and buildings are declared to be critical elements of a PUD Project, because of the following objectives:
 - 1) Remain in scale with fire protection equipment and services that are within a reasonable response time of the project.
 - 2) Avoid overshadowing adjacent properties and/or, adjacent buildings, a reflection of mutual respect for property values.

- 3) Keeping in scale with the community as a whole, recognizing the role of community image in tourism, recreation, industrial attraction, and other aspects of economic development.
- 4) To the extent feasible or practical, respect scenic views from adjacent parcels, other on-site buildings, and tourist travel routes.

b) Structure / Building Height

The intended height of all structures proposed to exceed a height of thirty (30) feet shall be indicated at the time of filing a Preliminary PUD Master Plan. Structures above 30 feet shall not be approved, unless all of the following criteria are met:

- 1) The applicant can demonstrate that by having taller structures, there will be more ground level space left in a natural condition or in open yard.
- 2) Buildings that are proposed to exceed 30 feet are determined to be good land use in terms of the arrangement of the buildings, and open spaces, in relationship to other buildings and uses on the same property or on adjacent properties, and in terms of the specific location in the community.
- 3) If applicable, the taller buildings result in more protection of on-site environmental features including scenic views, wildlife habitat, wetlands, farmlands, forest stands and the like.
- 4) The project site area is large enough to be in scale with the specific height of proposed taller structures.
- 5) A taller structure request may be denied or scaled back if the surrounding lands are evolving as a single family neighborhood, or otherwise would suffer potential devaluation.
- 6) The height increase can be shown to satisfy the stated objectives for regulating height as listed in this Ordinance Section, Par 3 above.
- 7) The proposed structure must not present an intrusion upon the skyline or shoreline and must not be out of character with adjacent land uses.
- 8) The height of the building must not be out of scale with fire-fighting and other emergency equipment.

c) Bulk, Arrangement and Spacing

The bulk and arrangement of buildings must be critical to the PUD being satisfactorily sited within the community. In reviewing the PUD Master Plan, the Planning Commission may require building spacing and building mass to be modified or altered in order to:

- 1) Comply with the stated objectives in this Article, and in this Section; Building Height, and Bulk and Arrangement.

- 2) Discourage long, unbroken building walls where it could detract from scenic view resources and/or aesthetic values.
- 3) Arrange uses within the PUD Project to serve use transition objectives, where such may be necessary to harmoniously blend the PUD into the specific community area.

Buildings shall be spaced a minimum of thirty (30) feet apart. Add an additional two feet of separation for each foot of approved height above thirty feet.

6. OTHER ZONING STANDARDS THAT MAY APPLY

The design standards of the PUD District shall apply to all PUD projects. Any PUD Project proposing or requiring standards not specifically included in the PUD section, shall be subject to the standards in the zoning ordinance which apply to the particular design element. These include, but are not necessarily limited to, fencing, parking, signing, lighting, greenbelts, and related standards.

7. SITE CONSOLIDATION FOR COORDINATED DEVELOPMENT

The PUD process may be applied for the purposes of consolidating several properties under separate ownership to encourage a coordinated planned development as though the properties were a single parcel. The use of PUD permissives under this subsection will permit adjoining properties to establish a more desirable plan because the two or more parcels may vary in area, width, depth, and shape. By cooperating on a PUD which consolidated two or more ownerships, the following advantages occur:

- a) Joint planning for the most opportune building sites.
- b) Promote architectural unity.
- c) Provide for an integrated road system, including service roads, and/or integrated utility easements and facilities.

A PUD Master Plan for site consolidation for coordinated development shall be binding upon the two or more properties over which projected roads and/or utility improvements have been planned.

8. MODIFICATION TO DESIGN STANDARDS

- a) It is declared that the design of any given PUD is strongly influenced by the specific characteristics of each individual site, and that a universal application of adopted design standards may not be in the best interest of the community and/or the applicant. The modifications are authorized by the approving body and subject to recommendations of the Planning Commission. The approving body is therefore granted authority, in specific cases, to modify and/or alter the PUD design standards where it can be demonstrated that a strict application of those standards would have no good or practical purpose, because of one or more of the following:

- 1) Unusual shape or dimension of the site or to encourage the joint planning of adjacent parcels.

- 2) Presence of limiting conditions relating to soils, topography, bedrock, or other natural conditions that would inhibit good design.
 - 3) The need to respond appropriately to the influence of adjacent land uses, transportation services, or utility needs.
 - 4) Typical applications of setbacks, lot dimensions within the PUD Project may be waived or modified as determined to be appropriate, within the PUD Project boundaries.
- b) In granting any modification to the standards for PUD development, it shall be determined that a better PUD plan can be put into place because of the modification, particularly in the terms of the PUD's impact on the adjacent non-PUD properties and the community as a whole.
 - c) Modifications shall not be granted if they are found to be contrary to the spirit and intent of the zoning ordinance, or would be contrary to the principles and objectives of any County or Township Land Use Plan.
 - d) Modifications shall not be permitted to the basic standards of dwelling unit density.
9. TOWNSHIP REVIEW OF A PUD
The authority to condition a PUD approval (or denial) on the action of a Township Unit of Government is not statutorily feasible. However, it is the declared intent of the PUD process to solicit recommendations from the Township Unit of Government that may be impacted by a proposed PUD, and to consider input, facts and determinations of the Township's decision.

**ARTICLE XIX - SCHEDULE OF REGULATIONS
SECTION 1900 - LIMITING HEIGHT, BULK, DENSITY AND AREA
BY LAND USE**

DISTRICTS	Minimum Lot Size per Unit or Use		Maximum Height of Structure in Feet	Minimum Yard Setback in Feet			Maximum Percent of Lot Coverage by the Area of all Buildings (2)	Minimum Floor Area in Square Feet (1)
	Area	Width in Feet		Front	Sides	Rear (3)		
R-1A & R-1B One Family Residential	½ acre (a)	100	30 (g)	30 (h)	10 (h)	25	30%	720
R-2A, R-2B & R-2C General Residential	- (d)	- (d)	30 (g)	30 (h)	20 (b, c, h)	35	35%	none
RR-1 & RR-2 Recreation Residential	½ acre (a)	100	30 (g)	40 (h)	10 (b)	35	30%	720
SR-1 & SR-2 Scenic Resource	30,000 Sq. ft. (a)	150	30 (g)	40 (h)	15 (b, h)	40	30%	720
B-1 Local Tourist Business	none	100	30 (g)	25 (f)	10 (e)	20	none	none
B-2 & B-3 General Business	none	100	30 (g)	25 (f)	10 (e)	20	none	none
P-T Parking Transition	-	-	30 (g)	See (4)	10 (e)	20	-	-
I-1 & I-2 Light & General Industrial	-	100	30 (g)	30 (f,h)	10 (e)	20	none	none
FF-1 Farm Forest	1 acre	150	30 (g)	40 (h)	20 (b, h)	35	35%	720
FF-2 Farm Forest	2 acres	200	30 (g)	40 (h)	20 (b, h)	35	35%	720
FR Forest Recreation	40 acres	300	30 (g)	40 (h)	20 (b, h)	35		
PUD Planned Unit Development	SEE ARTICLE XVIII							

(1) For permanent dwelling units and not cottages, cabins, motels or similar uses.

(2) These provisions shall not apply to structures four (4) feet in height or less.

(3) Refer to Section 2210 for Minimum Waterfront Setback.

FOR RESIDENCES ONLY: Setback sixty (60) feet from the 1986 High Water Mark.

(4) Refer to Article XII, Section 1202 for setback standards in P-T Districts.

(a)-(n) See notes to Section 1900, on the pages following.

NOTES TO SECTION 1900 - SCHEDULE OF REGULATIONS

- a. Unless approved central domestic water and sewerage facilities serve the development, the minimum lot requirements shall be stated in the “Schedule of Regulations”. If central water and/or central sewerage facilities serve the development, the minimum lot requirements may be reduced to 12,000 square feet (100 x 120).
- b. In the case of a rear yard abutting a side yard of an adjacent lot, the side yard abutting a street shall not be less than the required front yard of that district.
- c. For the purpose of applying yard regulations, multiple dwellings shall be considered as one (1) building occupying one (1) lot. When more than one multiple dwelling building occupies one lot, the two or more structures must be separated by at least 20 feet when end to end and fifty (50) feet when face to face or back to back for structures up to two stories. These isolation distances shall be increased by eight (8) feet for each story above the first two stories.
- d. Multiple family and/or apartment buildings, including row houses, town houses and the like, shall not exceed a density expressed in dwelling units per acre as follows:
 - 1. Where detached single family units are constructed, apply the R-1 One-family District lot standards.

2. MULTIPLE FAMILY DENSITY SCHEDULE: R-2A, R-2B AND R-2C DISTRICTS

Type of Units in R-2A & R-2B Districts	Minimum Land Area per Dwelling Unit Excluding Public Roads	Net Density in Units per Acre
Efficiency	6,000 Square Feet	7.260
One Bedroom	6,000 Square Feet	7.260
Two Bedroom	8,500 Square Feet	5.125
Each Additional Bedroom - Add	4,000 Square Feet	n/a
Type of Units in R-2C Districts	Minimum Land Area per Dwelling Unit Excluding Public Roads	Net Density in Units per Acre
Efficiency	4,000 Square Feet	10.890
One Bedroom	4,000 Square Feet	10.890
Two Bedroom	5,667 Square Feet	7.687
Each Additional Bedroom, Add	+3,000 Square Feet	n/a

DENSITY NOTES:

- 1. A "den" or "library" or "extra room" shall count as a bedroom for the purposes of computing density.
- 2. In a rooming house, boarding house, group quarters, or residential care facility, every three (3) persons of occupancy shall count as being equivalent to one (1) bedroom for purposes of computing density.
- 3) Unless the construction plans include tying into an existing municipal or community sewer and/or water system, the on-site services to be constructed shall be designed so

that central collection/distribution points are installed in anticipation of future tie-ins with a municipal type system. The local sewer/water authority having jurisdiction shall be consulted on matters of service tie-ins and pre-utility plans to minimize site disruption on future tie-in or hook-up projects.

- 4) Storm water problems shall be anticipated and resolved to the satisfaction of the Emmet County Planning Commission, subject to review by the County Drain Commissioner or any other property owner or municipality that may be impacted by storm water runoff.
- e. Side yards may be omitted for common party walls which abut a side yard, provided the adjoining building is constructed at the same time. Pedestrian access-ways may pass through party walls if constructed to meet all codes. On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the side abutting the Residential District.

Driveways, sidewalks, parking areas, loading zones shall not occupy required side yards and/or required rear yards unless the Planning Commission approves a plan for shared parking, shared loading, or shared access.

- f. Parking may be permitted in the front yard, provided there is at least a ten (10) foot buffer area between the road right-of-way and the off-street parking lot.
- g. Subject to a Public Hearing and the conditions outlined in this Note, the County Planning Commission may approve controlled height increases above the maximum in all districts. The conditions for approving taller structures are as follows:
 - 1) It is determined by the Planning Commission that the added height will not significantly interfere with line-of-sight scenic views.
 - 2) The density of the use shall not exceed the maximum allowable density as stated in the Schedule of Regulations.
 - 3) The percent of lot coverage for all buildings, parking lots and other impervious surfaces, shall not exceed fifty (50%) percent.
 - 4) If Applicable, the added height will retain or establish more open space areas for wildlife habitat, wetlands, woodlands, farmlands, shore lands and other resource features or will involve the reconstruction, duplication or restoration of historic buildings as so recognized by local historical authorities.
 - 5) The applicant can demonstrate that the added height will result in more ground level open space through the lot toward the scenic view to compensate for higher structures or otherwise demonstrate to the Planning Commission that the added height will result in a better use of the premises from the standpoint of the arrangement of parking areas, buildings, open spaces and relationship to adjacent buildings and uses.
- h. On nonconforming lots measuring 60 feet in width, or less, one side yard setback may be reduced to five (5) feet for one accessory residential building.

On nonconforming lots measuring 100 feet or less in width, where two or more primary residences, or accessory buildings with more than 200 square feet of ground floor area, are on the same side of the road and located in the same block (or within 200 feet) and have less than the required front yard depth, then the front setback need not be greater than the average depth of the front yards of such buildings, but no such front yard shall be less than 15 feet.

SECTION 1901. SUBDIVISION and SITE UNIT CONDOMINIUM OPEN SPACE PLANS

Subject to a Public Hearing, the Emmet County Planning Commission may approve Open Space Subdivision and Site Unit Condominium Plans intended to preserve on-site open space, to protect natural resources, and to encourage site planning concepts that interrelate building sites and resource amenities in a freer pattern than that permitted by conventional subdivision techniques. No such plan shall be approved without first considering the recommendations of the affected Township Board and/or that Township's designated review agency.

In reviewing and approving the Open Space Subdivision and Site Unit Condominium Plans, the following requirements shall apply as permitted modifications to the standards as outlined in the SCHEDULE OF REGULATIONS:

1. Provided the densities stated on the SCHEDULE OF REGULATIONS are maintained (allow for the initial lot size reduction for utilities), the lots used for dwelling purposes may be reduced as stated in the following Table. Corresponding reductions on lot width may also be permitted, but no lot shall be less than 80 feet wide.

Open Space Lot Variances Minimum Lot Sizes by Available Community Utilities			
DISTRICTS	No Utilities Health Department Approval Required	Water or Sewer Services	Both Water and Sewer Services
R-1 and R-2	None	None	9,600 Sq. Feet
RR	None	None	9,600 Sq. Feet
SR	20,000 Sq. Feet	12,000 Sq. Feet	9,600 Sq. Feet
FF-1	20,000 Sq. Feet	12,000 Sq. Feet	9,600 Sq. Feet
FF-2	20,000 Sq. Feet	12,000 Sq. Feet	9,600 Sq. Feet

2. Under the provisions of this Section for each square foot of land gained within a subdivision through the reduction of lot size below the minimum requirements as outlined in the SCHEDULE OF REGULATIONS, at least equal amounts of land shall be dedicated to the common use of the lot owners of the subdivision.

3. The land area necessary to meet the minimum requirements of this Section shall be of a useable shape and dimension and further shall not include bodies of water, swamps or lands that normally would not be developed. The entire area may, however, be located in a flood plain.
4. This plan for reduced lot sizes, shall be permitted only if it is mutually agreeable to the Legislative Body of the County and the developer.
5. Under this planned unit approach, the developer shall dedicate the total open space (see item a) at the time of filing of the final plat on all or any portion of the plat, and indicate the use on the Preliminary Plan.

SECTION 1902. RESIDENTIAL BUILDING CLUSTERING PLAN

Subject to a Public Hearing, the Planning Commission may consider Cluster Housing Plans, subject to the following conditions:

1. The gross dwelling unit density shall not exceed the maximum allowable for detached single family homes in the same District.
2. Common open space areas dedicated for the use of residents in the development shall be shown on the Site Plan and the full extent of planned uses in the open space shown.
3. Based on site features of topography, scenic view planes, surface water and vegetation; and based on neighborhood characteristics related to road capacity, prevailing architectural design, adjoining land uses, and essential community services; the Planning Commission may limit a cluster housing to no more than four (4) dwellings per cluster. If appropriate, a mixture of cluster housing, one story garden apartments and single family housing may be required to attain a compatible land use transition with adjoining properties.
4. As determined by the Planning Commission on the basis of existing subdivisions, proposed subdivisions, existing homes, the level of road services, and any local or County plans for the area, the development does not break-up an established or evolving one family detached housing pattern.
5. Because of the nature of cluster housing units and their greater demand for community type structures, including, but not necessarily limited to; club houses, swimming pools, tennis courts, carports, garages and maintenance buildings, and the like, the Planning Commission may specifically rule on the height, bulk, and/or location of buildings and all accessory facilities on the property, to harmonize with and be in character with uses on adjacent sites. The Planning Commission may exclude such accessory facilities where the Planning Commission determines such facilities would conflict with uses on adjacent sites.
6. No such cluster building plan shall be approved in an area zoned R-1A, RR-2 or SR-2.
7. A site proposed for the cluster housing option shall have a contiguous area (not divided by an existing public road) of at least twenty (20) acres, exclusive of existing road right-of-ways, and shall have at least 590 feet of frontage on a public road. Smaller and

narrower sites may be approved by the Planning Commission in allowable Districts if one or more of the following apply:

- a) It borders R-2B, R-2A, B-1, B-2, I-1 or I-2 zoned properties and would be a suitable transition use with detached housing areas.
 - b) It abuts an existing cluster housing development and would be a suitable location for additional cluster housing uses in the opinion of the Planning Commission.
 - c) It borders a State Trunkline Highway.
8. The applicant or developer can construct a sanitary sewer system and domestic water system that will pass Health Department requirements.
 9. The Site Plan contains an engineered plan for the control of storm water run-off. Drainage ways, sedimentation ponds or similar water control measures shall be illustrated as applicable.
 10. A Site Plan is submitted according to the terms of Section 2405-Site Plan Review.

A Building Cluster Plan shall not be approved without first considering the recommendations of the Township Board in the affected Township or the Township's designated review agency.

ARTICLE XX - GENERAL PROVISIONS: NON-CONFORMITIES

INTENT

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

It is the intent of this Ordinance to permit these nonconformities to continue until they are removed but not to encourage their survival.

SECTION 2000. BOARD OF APPEALS VARIANCE

Although it is the intent of this ordinance to restrict the expansion and perpetuation of nonconforming uses of land and/or buildings, the Board or Appeals, subject to a Hearing, may allow an expansion or enlargement, provided that it is conclusively shown that such extension or enlargement:

1. Will not further reduce the value or otherwise limit the lawful use of adjacent premises.
2. Will essentially retain the character and environment of abutting premises.

3. Will not materially increase or perpetuate the nuisance aspects of the use upon adjacent uses (noise, glare, traffic congestion and land over-crowding and related).

SECTION 2001. NON-CONFORMING LOTS

A permitted single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, even though such lot may fail to meet the district requirements for area or width or both. Yard dimensions and other requirements not involving area or width or both shall conform to the regulations of the district in which such lot is located. Variance to yard requirements shall be obtained through the Board of Appeals.

SECTION 2002. NON-CONFORMING USE OF LAND AND/OR STRUCTURES

1. No nonconforming use of land shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date.
2. No such nonconforming use of land or building shall be moved in whole or in part to any other portion of the lot or parcel occupied.
3. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity.
4. Should such structure be destroyed by any means to an extent of more than eighty (80) percent of the usable cubic space or floor area of the principal structure, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
5. Any nonconforming use may be carried on throughout any parts of a building which were manifestly arranged or designed for such use, but no such use shall be extended to occupy any land outside such building.
6. Any nonconforming use of a structure, land or structure and land, may be changed to another nonconforming use provided that the proposed use is equally or more appropriate to the district than the existing nonconforming use.
7. Any structure or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed. Changes in tenancy and ownership of nonconforming premises is permissible.
8. When a nonconforming use of land, structure, or structure and land in combination, is discontinued or ceases to exist for twelve (12) consecutive months, the structure or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
9. Removal or destruction of the use and/or structure shall eliminate the nonconforming status of the land (premises).

SECTION 2003. REPAIRS AND MAINTENANCE

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

SECTION 2004. USES UNDER EXCEPTION PROVISIONS NOT NONCONFORMING USES

Any use for which a general exception or special condition is permitted as provided in this Ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

ARTICLE XXI - GENERAL PROVISIONS: SPECIAL AND CONDITIONAL LAND USES

INTENT

The Special and Conditional Uses in this Article are uses requiring special reviews because they may have activities that have effects which project beyond property lines, may require lengthy standards for review and/or may not be currently allocated to one zoning district, uses herein may be considered to be Special Uses, Conditional Uses, and/or Exception Uses.

SECTION 2100. SPECIAL APPROVAL USE AND CONDITIONAL USE REVIEW STANDARDS

In reviewing all requests for Principal Uses Subject to special Conditions and Conditional Uses Authorized by Special Permit, The Planning Commission or Zoning Administrator shall require compliance with any of the following as may reasonably apply to the particular use under consideration (See also Section 2405 and 2407):

1. Non-detrimental impact upon the surrounding uses in the District, particularly as related to traffic generating potential, servicing by trucks, hours of operation and pedestrian traffic.
2. Site size to accommodate the use, its future expansion, customary accessory uses and on site services (sewage disposal and water supply).
3. Impact of the proposed use on the quality and quantity of water resources, domestic water supplies and capacity to absorb the anticipated sewage disposal demand.
4. Entrance drives to the use and off-street parking areas shall be no less than twenty-five (25) feet from a street intersection (measured from the road right-of-way) or from the boundary of a different Zoning District.
5. The use does not conflict with the principles, goals, or objectives of the County Comprehensive Plan.
6. Suitability of access to the use, assuring that minor residential streets are not used to serve uses that have larger area-wide patronage.

7. Allowance is made for vehicles to enter and exit the use safely and no visibility impediments to drivers are created by signs, buildings, land uses, plantings, etc.
8. Open spaces and common areas, when offered by an applicant as an integral element of a Planned Unit Development or Special Use Permit Project, may be required to be formally assured by one or more of the following instruments:
 - a) Scenic Easement
 - b) Conservation Easement
 - c) Deed Restriction
 - d) A similar dedication mechanism

The open space dedication instrument shall name the State, the County, a Local Unit of Government, or a land conservation/conservancy organization, as a party to the instrument, as determined to be most acceptable for the particular property and agency involved.

SECTION 2101. SPECIAL USE AND CONDITIONAL USE PERMIT - TERMINATION

1. A special or conditional use permit shall be valid for as long as the approved permitted use continues in accordance with the terms stated in the approved permit. A special use permit shall expire or be discontinued by one or more of the following conditions:
 - a) When a special use replaces or supersedes the original special use on a property, provided however, that the Planning Commission may approve two or more special uses as appropriate to occupy a site simultaneously.
 - b) When the original special use is replaced by a Principal Permitted Use, and the applicant does not include the special use on his site plan.
 - c) When the applicant requests the rescinding or removal of the Special Use, and a hearing is held to document the planned rescinding.
 - d) When after 48 months, from the date of a signed permit, and based on evidence of vacating, abandoning and/or moving to another location, the Planning Commission by public hearing declares a special use to be null and void for reasons stated.
 - e) When, after 12 months from the date of a signed permit, the specific terms of the Special Use Permit have been violated and are not in compliance. Notice of the expiration shall be given to the applicant in writing.
2. Once granted a Special or Conditional Use Permit becomes a Permitted Use within the district in which such use is located, provided:
 - a) Such permit was issued in conformity with the provision of this ordinance.
 - b) Such permit shall be deemed to effect only the lot or portion thereof and uses thereupon for which the Special Use Permit shall have been granted.

- c) Such permit authorizes a use which is subsequently built, operated and maintained in compliance with the Ordinance, and all conditions established at the time of its approval.
- d) The Special or Conditional Use has not expired or has not been terminated as provided for herein.

The general standards and regulations of this Section are applicable to all uses authorized by Conditional or Special Use Permit in this Ordinance, except PUD Districts which have integral expiration terms.

**SECTION 2102. SPECIAL USES AND CONDITIONAL USES
AUTHORIZED BY SPECIAL PERMIT**

In every case the uses herein-after referred to shall be prohibited from any Districts not specifically listed. These uses require special consideration since they may service large areas, require sizeable land areas and/or may create problems of control with reference to abutting use Districts.

1. OUTDOOR THEATERS

Outdoor theaters shall be permitted in B-2 Districts and I Districts, upon approval by the Planning Commission after a Hearing. Outdoor theaters shall further be subject to the following:

- a) Point of ingress and egress shall be from streets and roads capable of serving the use, but shall not impair the use of abutting properties, especially residential uses.
- b) All vehicles, waiting or standing to enter the facility, shall be provided off-street waiting space.
- c) The area shall be so laid out as to prevent the movie screen from being viewed from residential areas or adjacent major thoroughfares.

2. COMMERCIAL TELEVISION AND RADIO TOWERS AND PUBLIC UTILITY MICROWAVES AND PUBLIC UTILITY T.V. TRANSMITTING TOWERS AND PERSONAL WIRELESS COMMUNICATION FACILITIES

A) Radio and television towers, public utility microwaves and public utility T.V. transmitting towers, may be permitted by the Planning Commission after a Hearing, in B-2, I, and FF Districts provided said use shall be located centrally on a contiguous parcel of not less than one (1) times the height of the tower measured from the base of said tower to all points on each property line. The setback standard may be reduced by up to fifty (50%) percent, if the construction plan, the tower, and its guying/anchoring systems are Certified by a Registered Professional Engineer as being safe from the hazard of falling onto public roads or adjoining properties. All guy wires/cables and anchors shall meet the zoning setback standards of the district.

In order to protect the rural dark sky environment and reduce lighting confusion for approaching aircraft, all towers shall be designed or painted to be without lighting. If

the FAA requires lighting, the applicant shall apply to the FAA for painting requirements and red lighting. Intermittent strobes shall be a last option and only then with written documentation from the FAA certifying its necessity.

No antenna or similar sending/receiving devices appended to the tower, following its approved construction, shall be permitted if it exceeds the engineered design capacity of the tower thereby jeopardizing the tower's structural integrity.

B) The following standards will be required for all Wireless Communication Facilities:

- 1) Wireless Communication Facilities may be permitted by the Zoning Administrator in any zoning district if located on an existing building or structure, or is otherwise hidden from view by being incorporated in an existing building, or if it co-locates on an existing tower, and the proposed height does not require lighting by FCC and/or FAA regulations.
- 2) Wireless Communication Facilities may be permitted by the Planning Commission, after a public hearing, if it is found that there is no reasonable opportunity to locate per item 1 above. Information must be submitted to show efforts made to screen, co-locate or place such facilities on an existing structure. The proposed tower must also meet the following conditions and standards:
 - a) The proposed height meets FCC and/or FAA regulations.
 - b) Towers must be equipped with devices to prevent unauthorized climbing.
 - c) All reasonable measures are taken to blend the tower into the landscape, including greenbelt planting and/or screening, painting and/or concealing the tower in a "stealth" design.
 - d) New towers should be engineered as appropriate for co-location of other antennae. Wireless communication facilities shall be required to co-locate, unless there are proven technical limitations related to tower strength or signal interference. Collocation may be denied for reasons of aesthetics or other negative impacts on other properties in the vicinity.
 - e) Protective fencing and screening may be required to be placed around all guy wire anchor points as appropriate to the site.
 - f) All new towers must meet the applicable requirements for a commercial tower, per Section 2102 paragraph 2 subsection a) of this Ordinance.
- 3) Wireless communication facilities may be approved, by the Planning Commission, for locations in R1A, R-1B, R-2A, R-2B, and R-2C Residential Districts, subject to the following conditions and findings:
 - a) All reasonable measures to co-locate or locate on or adjacent to an existing structure must be documented; and such location proves infeasible.

- b) The type of facility is a pole, and not a tower.
 - c) All reasonable efforts to locate in Commercial or Farm Forest zones have been made and are proven to be infeasible, unavailable, or not a compatible land use as deemed by the Planning Commission.
 - d) The structure shall not exceed a height of 115 feet, including the antenna, and no lights are used or required.
 - e) The applicant must find a location, and/or use construction materials that will blend the pole into the physical or natural landscape in such a manner as to be compatible with the surrounding neighborhood, and so as not to be a dominant structural feature in the neighborhood skyline. The Planning Commission finds that the structure or planned site, does not change the character of the residential area.
 - f) The applicant proposes, or can incorporate innovative design and construction methods (or materials), and by locating in a Residential District, the applicant uses poles that are lower in height and/or narrower in profile than towers.
 - g) The Planning Commission finds that a location in a Residential District is the best overall alternative considering all factors of land use, visibility, and satisfactory signal coverage and that the proposed pole complies with the standards of Item 2) b) above.
- 4) All wireless communication facilities shall be removed and the site restored to its original condition by the property owner or lessee within ninety (90) days of being abandoned (no longer used).
- C) The following standards will be required for any other private or individual television/radio reception tower:
- 1) A private or individual television/radio tower may be permitted in any zoning district by the Zoning Administrator subject to the following conditions:
 - a. The tower shall be so constructed and placed that there is no danger of the structure falling on adjacent properties or off premises electric power lines
 - b. The operation of any such facilities shall not interfere with normal radio/television reception in the area
 - c. The tower does not exceed a height of 50 feet above the natural grade.
 - 2) A private or individual television/radio tower that exceeds 50 feet above the natural grade may be approved by the Planning Commission, after a public hearing, if the tower meets the conditions set forth in (c)1) a. and b. above, and if it is determined that the tower height in excess of 50 feet above the natural grade is necessary to reasonably accommodate amateur communications.

3. RACE TRACKS (INCLUDING MIDGET AUTO AND CARTING TRACKS)

Because race tracks develop a concentration of vehicular traffic and cause noise levels which project beyond the property, race tracks shall be permitted only in the I and B-2 Districts subject to the following conditions and such other controls as the Planning Commission, after holding a Hearing deems necessary to promote health, safety and general welfare in the County:

- a) All parking shall be provided as off-street parking within the boundaries of the development.
- b) All access to the parking areas shall be provided from major traveled roads. Approval of ingress and egress points by the police or sheriff authority having jurisdiction in the community.
- c) All sides of the development except access points shall be provided with a twenty (20) foot wide greenbelt planting so as to screen from view all activities within the development.

4. RIDING ACADEMIES OR STABLES

Commercial facilities for horseback riding may be allowed in the B-2, FF and I Districts, subject to the review and approval of the Planning Commission, who shall find that animal housing facilities are located at least 300 feet from any off-premises residential structure. Riding facilities in R-1 and RR Districts may be allowed on farms or on a temporary permit basis, subject to a finding by the Planning Commission that there is protection for developing residential uses including seasonal home areas.

5. RECREATION CAMPS, RECREATION LODGES AND RESORTS

Recreation camps, recreation lodges, campgrounds and resorts for either profit or non-profit, may be permitted to locate in the RR-1 Recreation District and the SR-1 Scenic Resource District by the Planning Commission, provided the following conditions are met:

- a) The use is established on a minimum site of forty (40) acres.
- b) All outdoor activity areas, parking lots, main buildings and accessory buildings are located at least 100 feet from all property lines. The resulting 100 foot yard shall be maintained as a buffer area wherein all natural tree/shrub cover is retained in a healthful growing condition. Planted greenbelts may be required by the Planning Commission as deemed necessary.
- c) The use does not locate within the confines of a platted subdivision intended for single residential occupancy or parcels which are deemed by the Planning Commission to be logical extension of such a platted area.

6. MOBILE HOMES AND MOBILE HOME PARKS

Mobile home parks intended for residential occupancy may be permitted in the R-2B Districts, or as a transition use in the I-Districts, after a Hearing by the Planning Commission provided the following conditions are satisfied:

- a) Mobile home parks of three (3) or more mobile homes shall be developed pursuant to state laws and regulations governing mobile home parks, and specifically including Act 419 of 1976, the Mobile Home Commission Act.
- b) The land parcel being proposed for mobile home parks shall be of such area as to provide a minimum of twenty (20) mobile home sites or pads.
- c) No mobile home shall be nearer to a mobile home park boundary line or property line than the minimum required setback in the District where located.
- d) Mobile home sites within a mobile home park shall contain a minimum area of at least 5,000 square feet, exclusive of service drives, facilities, and recreation space.
- e) The perimeter setback areas of a mobile home park shall be in lawn, or landscaped, or kept in a natural wooded state as applicable.
- f) Recreation space and other improvements within a mobile home park shall be in accordance with the laws and rules of Act 419 of 1976, the Mobile Home Commission Act.

7. OTHER USES OF MOBILE HOMES AND TRAILERS

Mobile homes, travel trailers and motor homes may be used as follows:

- a) As temporary dwellings in any District until the owner or occupant thereof completes the construction or erection of a conventional housing unit for which a Building Permit has been issued. The temporary dwelling may be included on the Building Permit, and maintained as long as diligent progress is being made on the main property use, and shall be removed upon issuance of an Occupancy Permit for the main use.
- b) As a watchman's or caretaker's office in B-1, B-2, B-3, I-1 and I-2 Districts, but only as an accessory use to the main use of the premises.
- c) As a temporary contractors office and/or equipment shed in any district when in connection with a construction project authorized by Zoning and Building Codes.
- d) Other temporary uses of mobile homes, travel trailers, or motor homes for a period not to exceed 24 months upon review and approval by the Planning Commission, provided it is determined that the use is consistent with the spirit and intent of the Zoning Ordinance and would not be detrimental to any surrounding uses or properties.
- e) The unoccupied storage of a motor home or travel trailer on any residential property by the owner thereof on his own property, shall be allowable as a permitted accessory use of the premises where there is a main use, provided such storage is confined to the rear yard when the rear yard is accessible. If the rear yard is not accessible, then storage in the side yard is permissible, if no nuisances, hazards, or blocking of views are created for the adjoining property.

8. HOSPITALS AND NURSING HOMES

General hospitals, nursing and convalescent homes, medical care facilities and similar uses may be established in R-1, R-2 and FF Districts on sites of at least five (5) acres, subject to approval by the Planning Commission.

9. VETERINARIAN HOSPITALS AND KENNELS

May be permitted in B-2, I and FF Districts, provided all facilities for housing, treating and keeping of animals are located at least five-hundred (500) feet from a residential district boundary and provided further that the location is approved by the Planning Commission and all animals on the premises shall be housed within a completely enclosed building between the hours of 10:00 p.m. and 8:00 a.m.

10. RESOURCE MINING, EXTRACTION OR FILL

INTENT

The location of mining and extractive operations are dependent in large part, upon the sites which contain natural deposits of material having economic value, particularly to the construction industry. Sites nearest to the built-up areas are generally more viable economically, but they would be more sensitive environmentally, because of their close proximity to homes and smaller building sites. The treatment of extractive operations as a special use (conditional) is necessary to build-in the flexibility needed to permit these activities where the resources are found, and at the same time, to afford protection to adjoining properties to the extent necessary with each particular site. Public agencies, government units, and private operations are included.

a) Site Plan Requirements

Site plans for Special Use Permits shall be in accord with the site plan requirements of Section 2405, as applicable to the particular site, and shall in addition show:

- 1) Proposed location, area, extent and depth of excavation or fill.
- 2) Pertinent time schedules for starting and concluding dates of the proposed operation per Permit.
- 3) Location of spoils dumps, sediment basins, earth stockpiled and any permanent or temporary machinery or buildings to be used.
- 4) Roads to be used by any hauling equipment and show all planned ingress/egress points to the excavated area, stockpiled resources, and on-site equipment.
- 5) A statement on general ground water conditions, including levels and any possible impact on wells in the area.
- 6) A statement outlining the type of material to be extracted or deposited, the type of mining operation and processing equipment to be used and measures to control noise, pollution, run-off and any steps to relieve any adverse effects to adjoining properties and the environment.

- 7) Plans and statements outlining all work to be done on site reclamation, assuring that sufficient steps are taken to blend into the surrounding landscape or neighborhood as applicable.

The map scale of the site plan shall be commensurate with the size of the excavation on site, but shall be sufficient to show the site operating details as required by each Permit.

b) Site Plan Review Levels Required

The site plan review procedures required for an extraction/fill site will vary with the scope, extent and complexity of the proposed operation. The following site plan review levels shall apply:

Level I: No Site Plan Review or Permit shall be required if:

- 1) The intended fill/extraction is for earth materials to be used on the same parcel, by tax description.
- 2) The operation involves minor or incidental earth work in connection with a building construction project, i.e. berms, regraded slopes, retention ponds, and/or similar work.

Level II: Site plan approval shall be sought from the Zoning Administrator if:

- 1) Intended or projected extraction/fill areas are three (3) acres in area or less, and the operation is not located in a Residential District.
- 2) At least 100 feet separates the edge of the earth disturbance area from the nearest property line.
- 3) There are no buildings or on-site structures related to the operation. Crushing equipment, batch plants and related processing equipment shall not operate or occupy the site for a period longer than 45 days.
- 4) The total extraction and site reclamation operation will be completed within a 12-month period, except stockpiled material which can stand for a longer period not to exceed 24 months.
- 5) The extraction is not visible from a public road and the side slopes are to be restored to a safe angle of repose, and there are no unsafe/unprotected standing water conditions.

Level III: Site Plan approval by the Planning Commission if:

- 1) Intended or projected extractive/fill sites are larger than three (3) acres and any sites other than those included in Level I and Level II reviews.
- 2) Operations expected to run longer than (12) twelve months, including long term access to stockpiled resources.

- 3) Includes on-site processing machinery, batch plants and other equipment that will be used for periods longer than 45 days.
- 4) Questionable, unusual or special site conditions where the Zoning Administrator determines that Planning Commission review would be appropriate.

c) Performance Standards

The following shall apply to all proposed extraction, mining, fill operations:

- 1) All excavations or extractive work shall maintain a minimum perimeter setback of 50 feet from road right-of-way and all property lines. Controlled work in the 50 foot setback area may be permitted if spoils, over burden, or other earth fill material replaces the resources removed as the work progresses (in cases of a pit).
- 2) The working face of an excavation shall maintain slope angles sufficient to prevent sloughing, erosion or earth disturbances of any kind of adjoining properties.
- 3) Leave sufficient native topsoil on the site as a ready resource to be used in reclamation work following excavation/extraction activity, unless a guaranteed replacement plan is approved.
- 4) Fences, berms, walls, and visual screening devices may be required, if necessary, to protect adjoining properties and/or persons in the vicinity of the site. Factors of safety and aesthetics shall be addressed.
- 5) The operation of mechanical equipment of any kind may be limited by the day and/or the hour if the site is in a location that directly impacts homes, by creating an operating nuisance.
- 6) All structures, equipment, and machinery of any kind shall be considered temporary and shall be removed from the site upon completion of the terms of the Special Use Permit. This item shall not apply to industrially zoned sites.
- 7) Air pollution, noise, and vibration factors shall be controlled within the limits governed by State and/ or Federal regulations applicable to the facility.
- 8) If necessary to protect the area, access routes serving the site may be limited as stated on the Permit or as illustrated on the site plan, it being the intent to minimize the exposure of residential streets to earth moving vehicles.
- 9) The location of earth stockpiles, machinery, equipment and any buildings, shall be approved by Permit but only in terms to protect adjoining properties, and obtain the optimum use of the site. Topography, vegetation, screening devices, and physical isolation from residential properties shall be considered in locating site facilities and earth stockpiles.

d) Site Reclamation

The final grading and land reclamation plan for each permitted excavation shall be in general accordance with the character of uses and natural features on adjoining lands to

the extent practical. Excavations shall be finished with evenly contoured grades to blend in with the adjoining terrain. In Residential Districts, the final grade of an excavation may be required to be brought back to a level determined reasonable to continue future residential development, i.e. as along a common street or road with adjoining residential land.

- 1) Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Where possible, such rehabilitation and reclamation shall be accomplished concurrently with the mining or excavation operations. An alternate reclamation plan may be filed for cases where continuous reclamation is not practiced or feasible, and a surety bond is provided therewith.
- 2) Excavations which encounter ground water or trap surface water, shall be treated in one or more of the following, as applicable to a particular situation:
 - a) Stagnant water conditions shall not be permitted to continue and back filling with approved materials may be required.
 - b) Where water is to remain, either by planned re-use or because no other option exists, the depth shall be sufficient to avoid stagnation, and the shoreline and bottom land grade shall be uniform at one ft. vertical to five ft. horizontal (1:5). The water depth shall be posted.
 - c) Depending on the nearness of residential neighborhoods, and access by children, the created water body may be required to be safety fenced, posted for no trespassing, or similar safety precautions deemed appropriate for the site.
- 3) The final banks of all excavations shall be sloped at a grade which is not steeper than one (1) ft. vertical to three (3) ft. horizontal (1:3) from the top to the pit bottom, or otherwise be established to blend in with the adjacent terrain and/or stabilize at the soils natural angle of repose.
- 4) Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are desired. Where used, top soil shall be applied to a depth sufficient to support vegetation.
- 5) Vegetation may be required to be restored by seeding of grasses or sodding and/or the planting of trees and shrubs.
- 6) Upon cessation of mining operations, and within a reasonable period of time not to exceed 24 months thereafter, all plant structures, buildings, and equipment shall be removed, except for that necessary to manage on-site stockpiled materials. This does not preclude a restart at another time upon permit renewal.

Specific site reclamation requirements may vary somewhat depending on the location of the site in terms of its exposure to view, physical isolation, influence on residential

areas, sensitivity to the natural environment and/or re-use potential (or plan). The Planning Commission shall rule on such variations with reasons stated.

e) Special Use Permit

Nonconforming mining operations, those which are active or have been active within the last 24 months, and established as a business operation, shall not require a permit, provided such operations do not increase their nonconformity relative to the performance standards of this Ordinance, and no hazardous site conditions are maintained. No such operation, however, shall extend into the required 50 feet setback area and precautions shall be taken to avoid leaving hazardous conditions.

To avoid duplication, the Zoning Administrator may accept the documents required for permits under Act 347, of 1972, the Soil Erosion and Sedimentation Control Act, provided, the terms, standards, and review requirements of the Zoning Ordinance are complied with. Any extraction or fill operation subject to regulations and licensing under state law, shall be exempt from zoning laws where such exemption is extended by state law.

Permits shall contain the full extent of the operation as specified in each Permit, and any deviation or enlargement of the scope of operation shall require a separate Permit.

f) Performance Guarantees

In those instances, where in the opinion of the Planning Commission or Zoning Administrator, a resource excavation/fill operation entails extensive reclamation work and/or safety precautions, financial guarantees or assurances as prescribed in Sec. 2405-7 of the Zoning Ordinance may be required as a condition to issuing a Special Use Permit under the terms of this Ordinance.

In lieu of a bond requirement or financial guarantee, the Planning Commission may substitute a staged or phased excavation program wherein performance on reclamation shall be substantially completed prior to undertaking the next phase.

11. SANITARY LANDFILLS

All sanitary landfill operations shall be approved by the Planning Commission and shall comply with standards prescribed by applicable State and County health regulations; provided no such operation shall be permitted in any R-1, RR or SR District and further shall be conducted on sites located no less than 1,000 feet from any public street and be screened from sight by natural terrain, greenbelts, natural wooded areas or finished and maintained screening fences.

12. HOME OCCUPATIONS

Home occupations that are operated in accordance with the Definition in Section 200, may be approved by the Planning Commission subject to the following conditions:

- a) Any structural additions to the home for purposes of operating said occupation shall be of an architectural style that is comparable with the architecture of the existing home, or surrounding homes, and further, is designed so that the addition can readily be used for housing purposes if the occupation is discontinued.

- b) Only the occupant or family living on the premises shall conduct the home occupation and no off-premises person(s) shall be employed in connection with the home occupation.
 - c) If an accessory building is to be used for a home occupation, the building shall be sited, designed, and located on the property in such a manner as to avoid the appearance of a retail store or industrial building, and it shall be readily re-useable for residential purposes if no longer used for the home occupation. Accessory building space for home occupations shall not exceed a total floor area of 600 sq. ft. and shall not exceed one per parcel.
 - d) The Planning Commission shall deny a Special Use Permit for a home occupation in those instances where it is determined that the proposed use would:
 - 1) Lack an occupied residence on the property.
 - 2) Conflict with the residential character of the neighborhood or surrounding area, because of the type of use proposed, or hours of operation, and/or number of vehicles attracted to the site.
 - 3) Have parking, traffic or loading demands that would exceed the carrying capacity of the property, serving streets, or utilities.
 - 4) Require vehicles, machinery, mechanical devices, or equipment that would generate operational nuisances in direct conflict with homes in the vicinity.
 - 5) Require physical design, display, sign or locational features that are inconsistent with the residential character of the area.
 - e) There shall be no open display of goods, materials or services in connection with a home occupation, and no off-street parking shall be permitted within the setback area.
 - f) Home occupations shall only be approved on the basis of individual merit and the special conditions stated in the permit. The permit shall automatically be revoked upon the sale, lease, or rental of the premises to a party other than the applicant, and/or the conditions of the permit have been violated, either by intent or by the unforeseen nuisance conditions arising from its operation.
- 12.A. Home Occupations may be approved by the Zoning Administrator if the following performance standards are satisfied:
- 1. The operation is administrative in character with no discernable outside effects (visual or otherwise).
 - 2. Only the occupants of the property are involved in the use and there are no signs identifying a home occupation on the property.
 - 3. The use does not involve any product inventory or any delivery services other than typical mail services.

4. Clients or customers are not required to visit the property other than on a few occasions, not to exceed an average of one (1) person per day.

The use may be referred to the Emmet County Planning Commission if there are questions concerning actual impacts and the use may be ordered to be abated if not operating within the prescribed standards.

13. SALVAGE YARDS, METAL RECYCLING AND SCRAP

INTENT

Salvage yards are declared to be Special Uses in that they:

- Are generally not acceptable in organized industrial parks.
- Usually require large sites for self isolation.
- Are necessary for the re-use, recycling and recovery of metal resources.
- Have unusual physical characteristics in terms of appearance, land coverage, noise, and related features that constitute difficult site location standards.
- Have the potential to release hazardous and/or toxic liquids into the groundwater.

a) Salvage Yard Classifications

Salvage yards that can be considered shall be defined and regulated by type or class depending on the scope of its intended operation. These are:

Type I

A full service metal salvage center intended for the collection, storing and/or processing of scrap metals of all kinds, and other materials defined as junk in Sec. 200 of this Ordinance.

Type II

A limited salvage facility with open storage on less than 10,000 sq. ft. of land and where the materials are not stacked. This facility is not a vehicle repair or sales use except as an incidental function to the salvage operation.

Type III

A site used for short periods of time for community vehicle collection programs. This facility does not include continuous processing or repairing, and is intended for annual clean-up programs to collect sufficient materials to warrant a visit by vehicle crusher, shredder, or similar processor.

In approving Special Use Permits for salvage operations the Planning Commission shall classify the facility as being Type I, Type II, and/or Type III, and shall weigh the type of a facility in requests to modify any siting standards.

b) Requirements

Metal recycling centers or yards, or facilities, including salvage yards or scrap yards, and which uses include the storage, dismantling, sorting, cutting, crushing, and/or other processing activities primarily associated with metal goods, provided:

- 1) All activity and uses are within a defined and confined space as opposed to being dispersed over the site. Only that area designated on the site for these uses shall be permitted to be so used.
- 2) No oils, lubricants, or other liquids from vehicles, machinery, or equipment or other materials, shall be disposed of on-site, unless State of Michigan approved facilities are properly in place and properly functioning. No burial of wastes shall be permitted on the property under this ordinance section.

The applicant shall state in writing and/or illustrate how potentially hazardous liquids are to be prevented from entering the groundwater, and present a written plan for handling and disposal of such hazardous liquids.

The applicant may be required to provide a written contingency plan for hazardous/toxic spills. The Planning Commission may require a roofed work area with an impervious floor with floor drain collection system.

- 3) Unless the applicant can demonstrate that no good purpose would be served, the proposed site shall have a minimum of six (6) feet of vertical isolation from groundwater, and be at least 1,000 feet from an identified surface water.
- 4) Screening devices to include but not necessarily be limited to fences, greenbelts, berms or natural features shall be employed to provide maximum visual obscurity of the use. No such device shall be constructed without approval of the structural details and type of materials to be used, and adhere to a stated installation schedule.
- 5) Entrance/exit points shall give due consideration to minimizing conflicts with adjacent properties, and the views from adjacent properties and/or public roads shall be a major consideration in positioning the use on the property.
- 6) Activity that generates continuous and persistent noises or vibrations that are perceptible from off the site shall not be permitted before the hour of 8:00 a.m. and after 6:00 p.m. and no such activity shall operate on Sundays. Exceptions may be permitted for annual or semi-annual on-site crushing operations, or the like.
- 7) Open burning shall not be permitted except by State Permit, and it shall apply with paragraph 6 of this subsection.
- 8) Once approved, no other portion of the property shall be used for activities regulated herein without an amended site plan and Special Use Permit, and there shall be no presumption that any usage beyond that in the original permit would be approved.

- 9) The minimum site size to consider for uses permitted herein shall be 35 acres or more by description and have at least 900 feet of width and depth throughout. All salvage yard uses shall be at least:
 - a) 200 feet from a property line
 - b) 300 feet from on off premises residence
 - c) 500 feet from a Residential District Boundary
- 10) The height of stacked metals and/or materials shall be regulated by screening and the physical characteristics of the site, but in no instance be higher than twenty (20) feet.

The Planning Commission may modify the terms of this section where it can be demonstrated that no good or practical purposes would be served by strict compliance, and for temporary collection sites to be used for less than 12 months.

c) Reasons for Denial

The Planning Commission may refuse to grant a permit for any salvage uses regulated herein, because of one or more of the following:

- 1) The topography is such that the use has wide visual exposure to surrounding properties and public roads, and/or land conditions are such that screening plans would be ineffective or impractical.
- 2) There are conflicts with natural water courses and/or there are undesirable impacts on wetlands, farmlands, and forest lands.
- 3) It is determined by the Planning Commission that the proposed use on the proposed site is inappropriate for the area, and not in accord with the principles of land use expressed or implied in the interpretation of appropriate use shall also consider, but not necessarily be limited to: recognized scenic resources, recreation lands, neighborhoods, historic sites, tourist attractions, and similar uses that would be adversely affected, and not be in the best interests of public welfare.
- 4) Failure to show an ability to comply with the standards listed in this Ordinance Section.

d) Violations Not Nonconforming

Any salvage yard or junk storage use determined to have been established in violation of the terms of the Emmet County Zoning Ordinance shall not be accorded the status of "nonconforming" as defined in this ordinance, but shall be pursued as ordinance violations. Such uses, however, shall have the right to hearings and procedures to qualify for a legal Special Use Permit as prescribed in this Section 2102-13.

14. LAND DEVELOPMENT STANDARDS

Land development projects may be permitted upon review and approval by the Emmet County Planning Commission. Applications for projects under this Section 2102, paragraph 14, are also eligible for simultaneous review as Subdivision and Site

Unit Condominium Open Space Plans under Article XIX, Section 1901. The following standards for Land Developments shall apply:

a) Uses Subject to Review

All proposed land development projects that involve condominiums and non-platted land division which will result in five (5) or more site units or zoning lots within a ten (10) year period of time are subject to review. Any parcels that are created for common areas for roads, pathways, or open spaces, and/or results in development parcels larger than fifteen (15) acres and wider than 330 ft., need not be included in the count of the five (5) parcel division standard. However, such parcels shall be subject to Zoning Administrator approval.

Minor or limited re-arranging of lot lines within an approved land development project may be approved by the Zoning Administrator, provided that the number of building sites, lots or site unit condominiums are not increased and that driveways, sanitary sewage disposal facilities, stormwater management and emergency access is not diminished thereby.

b) Unit Configuration and Design Standards

Condominium units and their adjoining common element yards (not roads) and other non-platted land divisions as described in 14A above shall conform to the zoning lot dimensional, area, height, bulk and setback provisions as regulated in Article XIX, Sec. 1900, Schedule of Regulations. Said zoning lots may be required to be staked in the field for use in identification.

Zoning lots or condominium site units abutting a public or private road may be required to be designed with reverse lot frontage, have a side-lotted orientation to roads, and/or be accessed from a service road(s).

All proposed projects shall conform to the standards of Sec. 2405, Site Plan Review, and shall include an inventory of on-site natural features. The plan shall illustrate how the arrangement of proposed zoning lots relates to the natural features defined in Sec. 2405.

1. *Access Road Design Standards*

The following standards shall apply to all land development projects as described above.

Unless the proposed access roads conform to Emmet County Road Commission Standards, all vehicle accessways shall provide sufficient side and overhead clearance to accommodate fire fighting equipment, other emergency vehicles, snow plows, school buses, sanitation vehicles and similar service units, in accord with the following schedule:

Access Types	Land Division Size Categories	
	3 to 4 lots	5 lots and over
• Road Easement	50'	50'

• Road Surface	20'	22'
• Shoulders	2'	2'
• Cul-de-sac Easement (Diameter)	–	140'
• Cul-de-sac Surface (Diameter)	–	120'
• Maximum Road Grade	–	10%
• Maximum Cul-de-sac grade	–	–

2. *Road Sub Base*

All road sub bases shall be designed and constructed to withstand usage by utility/service vehicles. Roads shall meet the zoning setback standards of the District in which located (measured from the property line to the edge of the 30 ft. right-of-way or easement) in order to provide snow storage from plowing and minimum storm runoff dissipation space. Roads intended to serve adjacent parcels, by mutual agreement of the property owners involved, are exempted from this setback requirement.

3. *Utility Provisions*

To the extent applicable, provisions shall be made to accommodate utility services that are to be installed, such as telecommunications, electric power, gas lines, water mains, sanitary sewage collection, storm water run-off, snow storage, and the like.

4. *Intersections*

Street intersections shall be laid out so as to be at or as near to a ninety (90) degree angle as possible.

5. *Road Names*

Roads shall be named according to current Road Commission specifications to avoid duplication and confusion.

c) Engineering Requirements

All plans subject to review as described in the "Land Development Standards" paragraph must have road plans prepared and sealed by a Michigan registered professional engineer. Said engineer must perform adequate oversight during construction and give his/her professional opinion in writing that the work conforms to the standards of this Section. Road construction shall not result in accelerated storm water runoff on any adjacent properties that are not a part of the project. Storm drainage design shall include road drainage systems that prevent flooding, roadway/ditch erosion and damage to adjacent properties.

d) Exceptions

It is declared that the design of any given development plan is strongly influenced by the specific characteristics of each project area site, and that a universal application of adopted design standards may not be in the best interest of the community and/or applicant. The Planning Commission is therefore granted authority to modify and/or

alter the standards at the public hearing. Any modifications are subject to a showing that the strict application of those standards would serve no good or practical purpose.

In granting any modification to these standards, it shall be determined that a better development plan can be put into place, particularly in terms of the impact on the adjacent properties and on the community as a whole. Modifications shall not be granted if they are found to be contrary to the purposes and intent of this ordinance or contrary to any applicable county or township comprehensive plan.

15. DRIVE-THROUGH / DRIVE-IN BUSINESSES

INTENT

To provide adequate vehicle stacking space on business properties that offer drive-in or drive-through services in order to avoid congestion on adjacent streets and to require site designs that address on-site circulation patterns, recognizing potential pedestrian conflicts with vehicles entering/exiting the property, vehicles using parking lots and vehicles using drive-through service lanes.

Businesses which provide a drive-in or drive-through service (but not retail fueling stations) may be permitted, as regulated in their respective Zoning Districts, subject to the review of the Planning Commission and the following conditions:

- a) Vehicular access drives shall be located at least 60' from the nearest right-of-way line of all intersecting streets.
- b) Drive-through / drive-in service windows and order areas shall only be located in the side or rear yard of the property.
- c) Site design shall show compatibility between pedestrians and parking areas, stacking lanes, access lanes to parking spaces, and to drive-through lanes.
- d) Service windows, order kiosks, and/or service pedestals shall not be located along that side of the building which borders a Residential or Farm Forest Zoning District boundary, in order to protect residential areas from the nuisances of sound systems, running engines, and exhaust pollution.
- e) Planted greenbelts, berms, and/or fencing may be required by the Planning Commission if deemed appropriate to achieve compatibility with adjacent uses.
- f) Stacking spaces shall be provided for drive-through operations subject to the standards listed in the parking requirements in Section 2202.

Exceptions

The Planning Commission may modify or waive the standards contained in this section where it can be demonstrated that no good or practical purpose would be served by strict compliance.

16. WIND ENERGY SYSTEMS (WES'S)

A. Definitions – For purposes of this section, the following definitions shall apply:

ANEMOMETER TOWER or MET means a freestanding meteorological tower containing instrumentation such as anemometers that is designed to provide present moment wind data.

AMBIENT means the sound pressure level exceeded 90% of the time (L90).

dB(A) means the sound pressure level in decibels. It refers to the “a” weighted scale defined by American National Standards Institute. A method for weighting the frequency spectrum to mimic the human ear.

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

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

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

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

SHADOW FLICKER means alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as but not limited to a window at a dwelling.

SOUND PRESSURE means an average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

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

UTILITY GRID WIND ENERGY SYSTEM means a land use designed and built to provide electricity to the electric utility grid by use of wind and includes accessory uses such as but not limited to an ANEMOMETER TOWER, electric substation, and related appurtenances.

WIND ENERGY SYSTEM means a land use for generating power by use of wind; use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid. See also ON-SITE WIND ENERGY SYSTEM and UTILITY GRID WIND ENERGY SYSTEM.

WIND SITE ASSESSMENT SYSTEM (WSAS) means a land use using a MET or ANEMOMETER TOWER to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

B. On-site Wind Energy Systems (WESs or WES singular) Under Sixty Feet

On-site WESs may be located and permitted in all zoning districts except SR-1 and SR-2 Scenic Resource as an accessory use only if all of the following standards are met:

1. Zoning Administrator Review. The Zoning Administrator shall review all applications for on-site WESs. WESs that meet all of the following standards of Section 2102, Paragraph 17, sub-paragraph B. 2 thru 6 may be approved by the Zoning Administrator.
2. Minimum Site Area. The minimum site area for an on-site WES shall be as necessary to meet required setbacks and other applicable standards of this ordinance.
3. Setbacks. All on-site WESs shall be setback a distance equal to one time the height of the WES from the property line of the property on which the WES is located.
4. Maximum height. The maximum height of an on-site WES shall not exceed sixty (60) feet from the ground to the top of the blade or tower whichever is greater.
5. On-site WESs. On-site WESs are intended to primarily serve the needs of the consumer on the site of the WES and is designed primarily to serve the needs of a home, farm, or business. If the total height exceeds sixty (60) feet, a Special Use Permit is required and must follow the procedures in Section 2102-17-C of this zoning ordinance.
6. Maximum Noise Levels. Any proposed WES shall produce sound pressure levels that are no more than thirty-five (35) decibels as measured on the dB(A) scale at the property lines of the site in question. A manufacturer's specification sheet or similar data shall be provided documenting decibel levels.

C. On-site Wind Energy Systems over Sixty Feet and Wind Site Assessment Systems

On-site WESs over sixty feet (60') and WSASs shall require a Special Use Permit and may be located and permitted in all zoning districts except SR-1 and SR-2 Scenic Resource only if all of the following standards are met:

1. Planning Commission Review. The Planning Commission shall review all applications for WESs over sixty feet (60') and/or WSASs. Notification of the review shall be sent to all property owners within 300' of the property boundary where the WES and/or WSAS is proposed.
2. Minimum Site Area. The minimum site area for a WES shall be as necessary to meet required setbacks and any other applicable standards of this ordinance.
3. Setbacks. All WESs shall be set back a distance equal to one time the height of the WES from the property line of the property on which the WES is located.

4. Maximum Height. The maximum height for on-site WESs or WSASs shall be one hundred fifteen feet (115) feet in residential districts or one hundred ninety nine (199) feet in non-residential districts measured from the ground to the top of the blade or tower, whichever is greater. The Planning Commission, following a duly noted Public Hearing and notification of every land owner within 300' of the parcel where the on-site WES or WSAS will be located, may approve an increased height for on-site WESs and WSASs, if the following conditions are met:
 - a. The increased height will result in the preservation of a substantial stand of trees, existing land forms or structures that would otherwise be removed to increase wind velocity and/or reduce turbulence.
 - b. The increased height is the minimum necessary to achieve a reasonable rate of return on the operation of the WES given the documented wind speeds and other site conditions. A reasonable rate of return is not equivalent to maximizing economic return to the operator. The Planning Commission shall not grant the increased height if economic return is not met due to the use of inefficient equipment that does not utilize current commercial technologies.
 - c. The increased height will not result in increased intensity of lighting on the tower due to FAA requirements.

5. Minimum Rotor Wind Vane or Blade Clearance. The lowest point of the arc created by rotating wind vanes or blades on a WES shall be no less than sixteen (16) feet. Additional clearance may be required by the Planning Commission if potential safety concerns are identified.

6. Maximum Noise Levels. Any proposed WES shall produce sound pressure levels that are no more than thirty-five (35) decibels as measured on the dB(A) scale at the property lines of the site in question. A noise report shall be submitted with any application for a WES.

7. Maximum Vibrations. Any proposed WES shall not produce vibrations humanly perceptible beyond the property on which it is located.

8. Shadow Flicker. The facility shall be designed such that shadow flicker will not be visible on, or in, an existing off-site dwelling. Shadow flicker expected to be visible on a roadway or a portion of a residential parcel may be acceptable under the following circumstances:
 - 1) The flicker will not exceed 30 hours per year; and
 - 2) The flicker will not be visible within 100 feet from a structure designed for human occupancy; and
 - 3) The flicker will not be visible on a county primary road, or state or federal highway.

9. Transmission Lines. The on-site electrical transmission lines connecting the WES to the public utility electricity distribution system shall be located underground.

10. Interference with Commercial/Residential Reception. WESs shall be constructed and operated so that they do not interfere with television, microwave, navigational, or radio reception.

11. Landscaping. Existing natural land forms on the site which effectively screen the base of the WES from adjacent property used for residential purposes shall be preserved to the maximum extent possible.
12. State or Federal Requirements. Any proposed WES shall meet or exceed any standards and regulations of the FAA, the Michigan Public Service Commission, National Electric Safety Code, and any other agency of the state or federal government with the authority to regulate WESs or other tall structures in effect at the time the permit is approved.
13. Safety All WESs shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All WESs shall have lightning protection.
14. Visual Impact. All WESs shall meet the following requirements:
 - a. Each WES shall either be white or maintain a galvanized steel finish.
 - b. Each WES shall be sited on the property in a location that reduces to the maximum extent possible any adverse impacts on significant view corridors from adjacent properties, while at the same time maintaining contact with economically viable wind resources.
 - c. Each WES, except for anemometer towers, shall be monopole or monotube style construction (as distinguished from a lattice-style tower) and shall not utilize guy wires. Anemometer towers may, for up to two (2) years, be lattice type towers and may use guy wires.
 - d. Each WES shall be designed to aesthetically complement the color and design of any existing WES within a one-mile radius
15. Complaint Resolution: The applicant shall develop a process to resolve complaints from nearby residents concerning the construction or operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude Emmet County from acting on a complaint.
16. Unintended/misrepresented nuisances: Following construction and operation of the WES, should shadow flicker, noise levels, or vibrations exceed those projected by the developer, the WES shall not be operated until such nuisance is eliminated.

D. Utility Grid Wind Energy System(s)

Utility Grid WESs applications and projects shall comply with the following standards:

1. Planning Commission Review. The Planning Commission shall review all applications for Utility Grid WES(s). Notification of the review shall be sent to all property owners within 300' of the property boundary where the Utility Grid WES is proposed.
2. Minimum Site Area and Location. The minimum site area for a WES shall be as necessary to meet required setbacks and any other applicable standards of this ordinance. Utility Grid WESs may be permitted in the FF-1, FF-2 Farm and Forest, or FR Forest Resource zoning districts.

3. Setbacks. All Utility Grid WESs shall be set back a distance equal to one time the height of the WES from the property line of the property on which the WES is located or from the lease unit boundary, including public rights-of-way.
4. Height. The minimum vertical blade tip clearance from grade shall be forty (40) feet for a WES employing a horizontal axis rotor. The maximum height for Utility Grid WESs and WSASs is four hundred (400) feet.
5. Maximum Noise Levels. Any proposed Utility Grid WES shall produce sound pressure levels that are no more than thirty-five (35) decibels as measured on the dB(A) scale at the property lines of the site in question. A noise report shall be submitted with any application for a WES. A noise report shall be prepared by a qualified professional and shall include the following, at a minimum:
 - a. A description and map of the project's noise producing features, including the range of noise levels expected, and the basis of the expectation.
 - b. Description and map of the noise sensitive environment, including any sensitive noise receptors, i.e. residences, hospitals, libraries, schools, places of worship, parks, areas with outdoor workers and other facilities where quiet is important or where noise could be a nuisance within two (2) miles of the proposed facility.
 - c. A survey and report prepared by a qualified engineer that analyzes the preexisting ambient noise (including seasonal variation) and the affected sensitive receptors located within two (2) miles of the proposed project site. Potential sensitive receptors at relatively less windy or quieter locations than the project shall be emphasized and any problem areas identified;
 - d. A description and map of the cumulative noise impacts with any problem areas identified; and
 - e. A description of the project's proposed noise control features and specific measures proposed to mitigate noise impacts for sensitive receptors as identified above to a level of insignificance.
6. Maximum Vibrations. Any proposed Utility Grid WES shall not produce vibrations humanly perceptible beyond the property on which it is located.
7. Shadow Flicker: The applicant shall provide a shadow flicker model for any proposed WES. The model shall:
 - a. Map and describe within a one-mile radius of the proposed project site the topography, existing residences, locations of other structures, wind speeds and directions, existing vegetation and roadways;
 - b. The model shall represent the most probable scenarios of wind constancy, sunshine constancy, wind directions and speeds, moon positions and reflection directions;
 - c. Calculate the locations of shadow flicker caused by the proposed project and the expected durations of the flicker at these locations;
 - d. Calculate the total number of hours per year of flicker at all locations;
 - e. Identify problem areas where shadow flicker will interfere with existing or future residences and roadways and describe proposed measures to mitigate these problems, including, but not limited to, a change in site location of the facility, a

change in the operation of the facility, or grading or landscaping mitigation measures.

- f. The facility shall be designed such that shadow flicker will not be visible on, or in, any existing dwelling. Shadow flicker expected to be visible on a roadway or a portion of a residential parcel may be acceptable under the following circumstances:
 - 1) The flicker will not exceed 30 hours per year; and
 - 2) The flicker will not be visible within 100 feet from a structure designed for human occupancy; and
 - 3) The flicker will not be visible on a county primary road, or state or federal highway.
8. Transmission Lines. The on-site electrical transmission lines connecting the Utility Grid WES to the public utility electricity distribution system shall be located underground.
9. Interference with Commercial/Residential Reception. Utility Grid WESs shall be constructed and operated so that they do not interfere with television, microwave, navigational, or radio reception.
10. Landscaping. Existing natural land forms on the site which effectively screen the base of the WES from adjacent property used for residential purposes shall be preserved to the maximum extent possible.
11. State or Federal Requirements. Any proposed Utility Grid WES shall meet or exceed any standards and regulations of the FAA, the Michigan Public Service Commission, National Electric Safety Code, and any other agency of the state or federal government with the authority to regulate Utility Grid WESs or other tall structures in effect at the time the permit is approved. Certification that the applicant has complied with or will comply with all applicable state and federal laws and regulations including copies of all such permits and approvals that have been obtained or applied for at time of the application shall be required.
12. Safety. All WESs shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All WESs shall have lightning protection.
13. Visual Impact. All Utility Grid WESs shall meet the following requirements:
 - a. Each Utility Grid WES shall either be white or maintain a galvanized steel finish.
 - b. Each Utility Grid WES shall be sited on the property in a location that reduces to the maximum extent possible any adverse impacts on significant view corridors from adjacent properties, while at the same time maintaining contact with economically viable wind resources.
 - c. Each Utility Grid WES shall be monopole or monotube style construction (as distinguished from a lattice-style tower) and shall not utilize guy wires.
 - d. Each Utility Grid WES shall be designed to aesthetically complement the color and design of any existing WES within a one-mile radius.
 - e. Visual simulations of how the completed project will look from a minimum of four viewable angles shall be provided by the applicant.

14. Soil Conditions. A proposal for any Utility Grid WES tower shall be accompanied by a report of the soils present on the site based on soil borings, and a description of the proposed foundation size, materials, and depth.
15. Sign. A sign of no more than four (4) square feet in area displaying an address and telephone number for emergency calls and informational inquiries shall be posted at the WES site. The emergency telephone number shall allow a caller to contact a responsible individual to address emergencies at any time during or after regular business hours, on weekends or holidays. No Utility Grid WES tower or anemometer tower or site shall include any advertising sign.
16. Lighting. WESs shall not be artificially lighted, unless required by the FAA or other applicable governmental authority. If lighting is required, the lighting alternatives and design chosen:
 - a. Shall be the lowest intensity allowable under FAA regulations.
 - b. Shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by the FAA. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to the FAA.
 - c. May be a red top light that does not pulsate or blink.
 - d. All tower lighting required by the FAA shall be shielded to the extent possible and acceptable to the FAA to reduce glare and visibility from the ground.
 - e. The Planning Commission may require design changes in order to lessen the visual clutter associated with the site location of multiple wind turbines with non-complementary, inconsistent design within sight of each other.
17. Removal of Abandoned or Unsafe WESs

Any WES that is not operated for a continuous period of twelve (12) months shall be considered abandoned. Any WES found to be unsafe or not in compliance with the standards related to noise or shadow flicker shall be found to be in violation of the permit. The owner of any WES that is abandoned or in violation of the permit shall remove the same within twelve (12) months of receipt of notice from the County of such abandonment or violation. In addition to removing the WES or anemometer tower, the owner shall restore the site of the WES to its original condition prior to location of the WES, subject to reasonable wear and tear. Any foundation associated with a WES shall be removed to grade. Failure to remove an abandoned WES within the twelve (12) month period provided in this subsection shall be grounds for the County to remove the WES at the owner's expense. The Planning Commission shall require the applicant to provide a performance guarantee equal to the reasonable cost of removing the WES and attendant accessory structures as a condition of a permit given pursuant to this section.
18. Complaint Resolution: The applicant shall develop a process to resolve complaints from nearby residents concerning the construction or operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude Emmet County from acting on a complaint.

19. Unintended/misrepresented nuisances: Following construction and operation of the WES, should shadow flicker, noise levels, or vibrations exceed those projected by the developer, the WES shall not be operated until such nuisance is eliminated.
20. Site Plan Review: In addition to the Special Use Permit standards and review, a site plan and a site plan review, meeting the requirements of Section 2405 of the Emmet County Zoning Ordinance, shall be required.
21. Additional requirements for Utility Grid WESs:
The application shall also include:
 - a. A copy of an Environment Analysis by a third party qualified professional to identify and assess any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.
 - b. A copy of the Avian and Wildlife Impact Analysis by a third party qualified professional to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.
22. Maps shall be presented showing all of the following:
 - a. The physical features and land uses of the project area, both before and after construction of the proposed project;
 - b. Project area boundaries;
 - c. The location, height, dimensions, color, and materials of all existing and proposed structures and fencing;
 - d. The location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest county or state maintained road; and
 - e. All new infrastructure above ground related to the project.
23. Insurance: Proof of the applicant's public liability insurance shall be provided prior to issuance of a Zoning Permit. This insurance shall be maintained throughout the life of the project and proof provided upon the County's request.
24. Technical assistance: For wind energy systems and/or meteorological data regarded to be complex the Planning Commission may require additional studies, information, and/or review. The applicant shall be required to reimburse the actual cost of any such independent review prior to a decision by the Planning Commission.

17. Customary Accessory Building without a main use

Except as otherwise regulated, customary accessory residential buildings may be constructed without the requirement for a main building in all Zoning Districts subject to a Hearing and approval of the Site Plan by the Planning Commission when the following conditions are met:

- a. The structure is sited in such a manner as to permit the construction of a legal main use at a future time, but shall be subject to the size limitations stated in Sec. 2201-1b. For these regulations, rear yard shall refer to a location 100 feet or deeper from the front property line, which is also the road right-of-way line.
- b. The structure is constructed of materials and is of a design that is not so at variance with existing dwellings in the immediate vicinity as to have a devaluing influence, in the opinion of the Planning Commission. The applicant shall provide elevation sketches and floor plans of the proposed structure in order to assist in the determination of architectural variance.
- c. The structure may be required to locate in such a manner as to attain natural screening by existing vegetation, or plantings may be required to at least partially screen the use from the view of adjoining properties and/or public roads.
- d. All uses of the property must be in keeping with the residential or recreational use character of other properties in the immediate vicinity.
- e. The applicant shall file an affidavit with the Register of Deeds stating the proposed use of the building.

18. MINOR STORAGE BUILDINGS AS A MAIN USE

Where there is no residence or other permitted use on the same property, minor storage buildings may be permitted in all districts, by the Planning Commission, subject to the following conditions:

- a) Only one such structure shall be permitted.
- b) The ground floor area shall not exceed 200 sq. ft. in Residential and Farm Forest Districts.
- c) The top height of any such building shall not exceed 10 ft.
- d) Landscaping/plantings may be required to at least partially screen the building from adjacent roads and/or properties.
- e) Structures shall not be improved with slab floors or permanent foundations in Residential Districts.
- f) Structures in the Farm Forest District which meet these requirements can be approved by the Zoning Administrator.

Buildings constructed under this section shall not be used for any purposes except to store personal property related to permitted uses of the site, and such structures shall not be occupied by or used to house persons or animals (unless on a farm) or otherwise be a base for any activities prohibited in the district.

ARTICLE XXII - GENERAL PROVISIONS: PERFORMANCE USES

INTENT

Performance Uses are regulated herein as development features that are generally in addition to the main uses of a property. It is intended that these features be separated in the zoning text from Special Permit Uses.

SECTION 2201. ACCESSORY BUILDINGS

1. ACCESSORY RESIDENTIAL BUILDINGS SETBACKS AND FLOOR AREAS

Customary residential accessory buildings are permitted by right provided they are incidental to and customarily found in connection with a main residential use of the property on which it is located.

Accessory residential buildings shall be regulated as to size and setback according to the following standards:

- a. Accessory residential buildings shall be subject to the side and front setback requirements as regulated by District in Article XIX, Section 1900, but no accessory building with 600 sq. ft. or less floor area, need be farther from a lot line in the rear yard than ten (10) feet. This setback provision shall not apply to lots fronting on a lake, river or stream.
- b. Residential accessory building sizes shall be regulated as follows:

Zoning District	Location on the Property	Maximum Ground Floor Area*
R-1A, R1-B, R-2A, R-2B, R-2C, RR-1, RR-2, SR-1, and SR-2	Front Yard Side Yard Rear Yard**	1,000 Sq. Feet 1,000 Sq. Feet 1,200 Sq. Feet
FF-1 and FF-2	Front Yard Side Yard Rear Yard**	1,200 Sq. Feet 1,200 Sq. Feet 2,400 Sq. Feet
B-1, B-2, B-3, I-1 and I-2	N/A	N/A

*On a corner lot, i.e. with two front yards, the Zoning Administrator may approve one yard to qualify for an accessory building that meets the size standards for a rear yard accessory building.

**Rear Yard is an area behind the back wall of the main use, or is at a point 250 ft. or farther from the road right-of-way line.

The front or side yard accessory building size may be increased to the maximum size as allowable in the rear yard in FF-1 and FF-2 Districts, provided all of the following standards can be met, as determined by the Zoning Administrator:

- 1. The lot is a minimum of five (5) acres in lot area and at least 300' of lot width.

2. The structure is located in such a manner as to attain natural screening by existing vegetation or topography to at least partially screen the use from the view of adjoining properties and/or public roads.
3. The structure meets all side, rear and waterfront setback standards, as applicable, of the zoning district.
4. The structure is sited a minimum of 100' from a private or public road right-of-way.
5. The applicant shall file an affidavit with the Register of Deeds stating the proposed use of the building.

Only one such structure may be approved by the Zoning Administrator under these provisions.

- c. Accessory Residential Buildings in all Residential Districts (Sec 300) may be attached or detached. Detached accessory buildings shall be limited as follows:
 1. One (1) detached accessory residential building up to the maximum allowable size per zoning lot of five (5) acres or less.
 2. For each additional five (5) acres of zoning lot area, above five (5) acres, one (1) additional accessory building up to the maximum allowed floor area may be permitted, but not more than four (4) such buildings.
 3. In addition to the standards listed in 1) and 2) above, one (1) detached accessory building not to exceed 200 sq. ft. in ground floor area, may be permitted for such use as tool shed, wood storage, equipment housing, animal shelter, and the like.
- d. For purposes of this section an attached accessory residential building is one that is designed and constructed so as to be an integral architectural feature of the main residence, i.e. structurally attached and of the same or equivalent building materials.
- e. Existing accessory residential buildings shall be considered to be conforming buildings for the purposes of this Section.

2. ADDITIONAL ACCESSORY BUILDINGS AND USES

Properties are not limited from having more than one accessory building or accessory use such as gazebos, pool houses, garden tool shelters, wood storage sheds. Such additional uses, however, shall be in keeping with the definition of accessory uses and further shall be in keeping with the spirit and intent of Section 2201.

3. GUEST HOUSE

Guest Houses may be permitted as an accessory use in a Residential or Farm-Forest District provided sufficient zoning lot area can be provided so that the guest house can meet the lot size and yard requirements of the District.

4. ENTRANCEWAY GATEHOUSES and OTHER ENTRANCE FEATURES

Structures marking entrances to subdivisions, condominiums, planned unit developments, and similar projects whether residential or non-residential are permitted in the front yard setback, and includes, walls, columns, gates, gatehouses and similar entrance markers. Entranceway structures shall not constitute a visual safety hazard or impediment for persons entering, exiting, or passing by the entryway on adjacent streets (e.g. corner clearance).

5. EXEMPTIONS

The following uses of accessory buildings are exempt from size regulations under this Section.

- a) Accessory buildings when legally constructed in connection with an approved main use that is other than residential.
- b) Farm Use Buildings, as defined in Article II - Definitions. In the case of farm use buildings, a plot plan submitted to the Zoning Administrator illustrating compliance with zoning setback requirements will suffice for the zoning permit.
- c) Accessory garages and carports in multiple family housing developments.

6. EXCEPTIONS

Where it can be demonstrated to the Planning Commission by the applicant that no good purpose would be served by a strict compliance with the provisions of this Section 2201, the Planning Commission may waive or modify said standards subject to a public hearing and notifications to adjoining property owners within 300 feet.

SECTION 2202. PARKING REQUIREMENTS

There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces.

- 1. Off-street parking for other than residential uses shall be either on the same lot or within four hundred (400) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.
- 2. Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.
- 3. In the instance of dual function of off-street parking spaces where operating hours of uses do not overlap, the Board of Appeals may grant an exception by reducing the total number of spaces required.
- 4. The storage of merchandise, motor vehicles for sale, trucks or the repair of vehicles is prohibited on required off-street parking lots.
- 5. Residential off-street parking spaces shall consist of a driveway, parking strip, parking bay, garage, carport or combination thereof.

6. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the Board of Appeals considers as being similar in type.
7. For the purpose of computing the number of parking spaces required, the definition of USEABLE FLOOR AREA shall govern.
8. The deferral of off-street parking spaces may be allowable on premises that at the time of submittal, the applicant does not know his future parking demands and he may, therefore, wish to determine actual parking needs by experience and research prior to investing in physical improvements. In allowing a deferral the Planning Commission does not waive its rights to require providing the full number of spaces at a future time.

The number of off-street parking spaces required by this Ordinance shall be considered the minimum required, however, the Planning Commission, subject to approval of the Site Plan, may defer until a future time the construction the full number of parking spaces based on the following:

- a) The Site Plan shall indicate that the legal number of spaces required per Sec. 2202 can be physically provided to serve the use.
- b) The Planning Commission may rule to defer the actual construction of up to 50% of the required parking space for the following reasons:
 1. The proprietor/owner can demonstrate to the Planning Commission that providing 100% of the required parking would not be necessary to serve the level of the property use.
 2. The land proposed for the full amount of parking would better serve the community or the use as landscaped yard or other on-site open space use.

At such times as the intensity of vehicle access to the use increases and/or the Planning Commission determines that the deferred parking spaces are needed to prevent congestion on adjacent streets, increase safety, and/or maintain patron convenience, the Planning Commission shall order that all or part of the deferred parking space shall be constructed at the earliest possible time.

Based on any determined construction limitations, the Planning Commission and the applicant shall establish and agree on a construction timetable within which any deferred off-street parking spaces will be completed. The construction schedule shall consider time limitations caused by weather/climate conditions; soils, land area, and site conditions; and the nature of the construction and steps involved in construction.

9. The minimum number of off-street parking spaces by use shall be in accordance with the following schedule:

a) Residential

Residential Use	Number of Minimum Parking Spaces Per Unit by Measure
1) One-Family & Multiple-Family Dwelling	Two (2) per Dwelling
2) Mobile Home Parks and Trailer Courts	Two (2) per each Mobile Home or Trailer
3) Housing for the Elderly	One (1) for each three (3) Dwelling Units
4) Rooming Houses	One (1) for each two (2) beds

b) Public & Quasi-public

Public and Quasi-Public Use	Number of Minimum Parking Spaces Per Unit by Measure
1) Studios specializing in the instruction of dance, physical exercise and musical arts	One (1) for each two hundred(200) sq. ft. of useable floor area
2) Churches, Temples, theaters, stadiums, auditoriums and assembly building	One (1) for each three seats in the main unit, plus one for each two (2) employees
3) Elementary and junior high schools	One (1) for each teacher, employee and administrator
4) High schools, colleges and universities	One (1) for each teacher, employee, administrator and one (1) for each ten (10) students
5) Private clubs or lodges	One (1) for each four (4) members or one (1) for each one hundred (100) sq. ft of useable floor area whichever is greater
6) Regulation golf course	Six (6) per green
7) Par "3" or mini golf	Four (4) for each golf hole

c) Commercial & Business

Commercial & Business Use	Number of Minimum Parking Spaces Per Unit by Measure
1) Bank, Business offices or nonmedical professional offices	One (1) for each two hundred (200) sq. ft. of useable floor area. Two (2) stacking spaces are required for each service bay, window or pedestal.
2) Offices of doctors, dentists or similar professions	One (1) for each fifty (50) sq. ft. of useable floor area in the waiting room, plus one (1) for each examining room or dental chair. Three (3) stacking spaces are required for each service bay, window or pedestal.
3) Retail stores except as otherwise specified	One (1) for each one hundred (100) sq. ft. of useable floor area

Commercial & Business Use	Number of Minimum Parking Spaces Per Unit by Measure
4) Furniture and appliance, hardware, household equipment, repair shops, shoe repair, showroom of a plumber, decorator, electrician or similar trade and other similar use	One (1) for each eight hundred (800) feet of useable floor area, plus one (1) for each two (2) employees
5) Planned commercial or shopping center by sq. ft. of floor area: (a) 1 to 15,000 sq. ft. (b) 15,001 to 45,000 sq. ft. (c) 45,001 sq. ft. and larger	Spaces per sq. ft. of useable floor area: One (1) space per 100 sq. ft. One (1) space per 125 sq. ft. One (1) space per 150 sq. ft.
6) Beauty parlor or barber shop	Three (3) for each service chair
7) Laundromat	One (1) space for each three (3) wash and dry units
8) Mortuary establishments	Three (3) for each one hundred (100) sq. ft. of useable floor area
9) Motor vehicle sales and service establishments	One (1) for each two hundred (200) sq. ft. of useable floor area of sales room, plus one (1) for each auto service stall in the service room
10) Marine Sales and Service Centers, including RV's	One (1) space for each employee, and one (1) for each service stall. Add one (1) space for each 200 sq. ft. of showroom, but not less than five (5) spaces with or without a showroom
11) Pool hall, private club, dance hall or places for the consumption of food or beverages	One (1) for each two (2) persons of the legal capacity as established by health, fire or building officials
12) Restaurants and establishments for on premises sale and consumption of food, refreshments and/or beverages	One (1) for each two (2) persons of seating capacity
13) Food consumption services or drive-in, drive-through or take out	Use seating capacity standards as applicable for sit-down restaurants. A minimum of five (5) stacking spaces shall be provided for each service window where a drive-through operation is present.
14) Bowling alleys	Five (5) for each bowling lane
15) Hospitals	One (1) for each one (1) bed
16) Homes for the aged and convalescent	One (1) for each three (3) beds
17) Hotels and motels	One and one half (1½) for each rental unit
18) Auto service stations	Two (2) for each service rack or pit: and one (1) for each (1) single or dual gasoline pump, but not less than six (6) spaces
19) Auto Wash or drive through service stations other than fueling stations	One (1) for each employee and five (5) stacking spaces for each service bay.

d) Industrial & Wholesale

Industrial and Wholesale Use	Number of Minimum Parking Spaces Per Unit by Measure
1) Industrial or research establishments	Five (5), plus one (1) for each employee in the largest working shift
2) Wholesale establishments	Five (5), plus one (1) for every employee in the largest working shift or one (1) for every seventeen hundred (1700) sq. Ft. or usable floor area, whichever is greater
3) Warehouse and/or storage building	Five (5) spaces, plus one (1) for each employee over three (3) employees, or one (1) for every 1,700 square feet or usable floor area, whichever is greater

10. PARKING SPACE DIMENSIONS

All required off-street parking spaces shall meet the following dimensional standards:

Parking Pattern in Degrees	Maneuvering Lane Width	Parking Space Width	Parking Space Length
0 (Parallel Parking)	12 feet	8 feet	23 feet
30 to 53	12 feet	9 feet	20 feet
54 to 74	15 feet	9 feet	20 feet
75 to 90	20 feet	10 feet	20 feet*

* May include a maximum two (2) foot unobstructed vehicle parking area at the front of the parking space to account for normal vehicle overhang.

11. VEHICLE STACKING SPACE

Stacking spaces required for vehicles waiting to access service windows, pumps, pedestals or other service facilities shall be dimensioned to be twenty (20) feet by ten (10) feet per space, but shall not include the space vehicles actually use at the time of service. Where a use provides a drive-through or similar service, but is not within the use categories for which specific standards are provided, the Planning Commission may require a minimum number of stacking spaces which are equivalent to the number required for a use which the Commission determines to be most similar.

SECTION 2203. OFF-STREET LOADING AND UNLOADING

On the same premises with every building, structure or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot, space for standing, loading and unloading in order to avoid undue interference with public use of dedicated streets or alleys.

Applicants must demonstrate that loading and unloading can be accomplished without using the abutting road right-of-way for maneuvering space. A registered professional engineer's certification of a loading/unloading plan may be required to assure compliance.

SECTION 2204. FENCES, GREENBELTS, WALLS

1. FENCES (GENERAL)

Fences designed to enclose property in any district shall be subject to the following conditions:

- a) Fences in any platted subdivision or lot of record shall not contain barbed wire or be electrified.
- b) No fence shall obscure the vision of drivers of vehicles at any driveway entrance or exit, street intersection or other pedestrian or vehicle property access point.

2. GREENBELTS, WALLS OR FENCES (PROTECTIVE AND SCREENING)

For nonresidential uses, except farms, which abut a permitted residential use, or which are adjacent to a Residential District boundary, there shall be provided and maintained greenbelts, fences or walls as required below. These requirements do not apply whenever the use, storage area, etc. is more than 200 feet from an adjacent Residential District boundary.

Specific Non residential Uses Requiring Fences	Greenbelt, Fence or Wall Height at Property line	Protective	Primary Function (s) Screening or Obscuring
Drive-in restaurants, gasoline station & vehicle repair	4 to 6 feet	X	X
Institutional and school playground	4 to 6 feet	X	
Parking lot accessory to nonresidential uses	4 to 6 feet		X
Hospital and Funeral home service entrances	4 to 6 feet		X
Utility buildings and substations	4 to 6 feet	X	
Junk yards	8 feet	X	
Open storage areas larger than 200 square feet	4 to 6 feet		X

All plans for greenbelts, fences or walls must be approved by the Zoning Administrator for construction specifications and shall be designed and maintained to fulfill the primary function of protection and/or screening.

The Planning Commission shall be empowered to modify greenbelt, fence or wall requirements as deemed necessary by conditions affecting a particular development or to waive requirements where no good purpose would be served by compliance with these standards.

3. OUTDOOR SPEAKERS AND SOUND DEVICES

Uses requiring outdoor speakers, outdoor public address systems or similar sound devices shall not operate said equipments without the written consent of the Planning Commission, who shall determine that no public nuisance will be established.

SECTION 2205. SANITARY PROVISIONS - SEWERAGE AND WATER FACILITIES

Sanitary sewer and domestic water supplies shall be constructed, installed and/or serviced as required by the applicable codes of the health service agencies having jurisdiction in Emmet County.

1. Septage Waste Storage/Treatment

Uses associated with septage waste include hauling vehicles, storage structures and related on-site facilities. Uses associated with septage shall be permitted in FF-1/FF-2 Farm Forest and I-1/I-2 Industrial Districts by Special Use Permit, subject to review and approval by the Planning Commission and satisfying the following conditions:

- a) All uses approved under this section must comply with the rules, regulations, and standards established by Federal, State, and local governing bodies.
- b) All structural elements shall be identified on the proposed site plans and shall provide minimum setbacks of:
 - 1) 500 feet from surface water,
 - 2) 100 feet from all wells.
- c) Above ground structures used for storage of septage waste must be surrounded by an engineered berm structure and shown on site plans. The berm represented on the site plans must be sealed and certified by an engineer to contain the septage waste in the event of a catastrophic structural failure. Berms, natural tree stands, and/or planted vegetation used for screening may be prescribed as a condition of approval.
- d) Applicant must demonstrate on the proposed site plans, that the maximum groundwater table is at least 36 inches below both the final grade and any of the proposed structures, including underground storage tanks.
- e) Final approval by a health agency of jurisdiction and/or a State Department/Agency responsible for authorizing the use may be a condition of final approval.
- f) Additional requirements in I-1 and I-2 - Industrial Districts:
 - 1) Storage structures must be 50 feet from all lot lines.
 - 2) Storage structures must be below final grade as shown on site plans.
 - 3) Processing and handling of waste must take place within an enclosed building.
 - 4) Storage structures and processing facilities must be setback a minimum of 200 feet from non-industrial zones.
- g) Additional requirements in FF-1 and FF-2 - Farm and Forest Districts:

- 1) The lot area shall be at least 10 acres with a minimum lot width of 660 feet.
- 2) Structures must be 200 feet from a road right-of-way and property lines.

SECTION 2206. PLANT MATERIALS

Wherever in this Ordinance a greenbelt or planting is required, it shall be planted within seven (7) months from the date of issuance of a Building Permit and shall thereafter be reasonably maintained, including permanence and health of plant materials to provide a screen to abutting properties and be free of weeds and foreign debris. Spacing and plant sizes, as required by this section, shall be provided in any greenbelt or designated planting.

1. PLANT MATERIAL - MINIMUM SIZED - MAXIMUM SPACING

- a. Plant material shall not be closer than four (4) feet from the fence line or property line, except for vines intended to attach to fence structures.
- b. Where plant materials are installed in two or more rows, planting shall be staggered to provide for maximum screening.
- c. Minimum plant sizes permitted and maximum on-center spacing in any required greenbelt shall be as follows:

General Plant Types	Maximum Spacing Center to Center (feet)		Minimum Allowable size		
	Single Row	Grouping	Hgt.	Cal.	Sprd.
<u>TREES</u>					
Large Deciduous (Canopy)	30	40	-	2½"	-
Large Evergreen	15	20	7'	-	-
Medium-Small Deciduous	10	15	-	1½"	-
Columnar Deciduous	8	10	10'	-	-
Narrow Evergreen	5	8	8'	-	-
<u>SHRUBS</u>					
Large: Upright Spreader	4	6	4'	-	-
	6	8	-	-	3'
Medium: Upright Spreader	3	4	3'	-	-
	4	6	-	-	2'
Small: Upright Spreader	1½	2	18"	-	-
	1½	2½	-	-	15"
Conical	2	3	2'	-	-

2. SUGGESTED PLANT MATERIALS

a) Trees

1) *Large Deciduous (Canopy):*

Oak, Linden, Hard Maple, Beech, Ash, Birch, Honey locust (Seedless/Thornless), Ginko (Male Only)

2) *Large Evergreen:*

Pine, Hemlock, Spruce, Cedar, Fir

3) *Medium-small Deciduous:*

Crabapple, Amelanchier, Cherry, Hawthorn (Thornless), Plum, Redbud, Bradford Pear, Mountain Ash, Amur Maple, Russian Olive, Magnolia

4) *Columnar Deciduous (Varieties Of):*

Crabapple, Oak, Maple, Linden

5) *Narrow Evergreen (Varieties Of):*

Arborvitae, Cedar, Cypress, Yew, Juniper

b) Shrubs

1) *Large Upright:*

Lilac, Forsythia (Var.), Privet, Viburnum (Var.), Dogwood, Honeysuckle, Sumac, Smoketree, Cotoneaster (Var.), Witch Hazel, Buckthorn Common Ninebark, Bayberry, Mt. Laurel, Mockorange, Holly, Pyracantha

2) *Large Spreaders (Varieties Of):*

Juniper, Pine, Cotoneaster, Yew

3) *Medium Upright:*

Burning Bush, Rhododendron, Yew, Quince, Sumac (Var.), Forsythia (Var.), Viburnum (Var.), Barberry (Var.), Holly (Var.), Weigela (Var.), Rose (Var.), Arborvitae (Var.)

4) *Medium Spreader (Varieties Of):*

Juniper, Yew, Cotoneaster

5) *Small Upright:*

Azalea, Deutzia, Yucca, Leucothoe, Weigela (Var.), Fl. Almond, Arborvitae (Var.), Rose (Var.), Potentilla, Spiraea, Yew (Var.)

6) *Small Spreader (Varieties Of):*

Juniper, Yew, Cotoneaster, Spruce, Barberry

7) *Conical:*

Hinoki False Cypress, Yew (Var.), Arborvitae

3. SECONDARY TREES

- a) The following list of trees are generally not permitted for landscape purposes in areas near buildings, parking lots, utilities, or any other places where the following trees might, create a nuisance or become a potential hazard to persons or property:

Box Elder	Tree of Heaven	Poplars
Willows	Soft Maples	Catalpa
Elms	Horse Chestnut (nut bearing)	

- b) Trees listed above may be permitted, upon review and approval of the Planning Director. Approval will be given only upon determination that selected trees will serve a specific purpose, e.g.:
- Provide windbreaks
 - Assist in soil stabilization
 - Provide distant screening
 - Provide over-story protection for permanent tree seedlings
 - Animal Habitat

It must also be shown that any of the above trees, subsequent to installation, will not create safety hazards to any populated areas.

- 4) Whenever greenbelts or any designated planting areas are required under provisions of this Ordinance, a detailed Planting Plan shall be submitted for approval prior to the issuance of a Building Permit. The Planting Plan shall indicate scale, location, spacing, starting size and description for each unit of plant material proposed for use within the required planting area. Detailed Planting Plans shall be submitted in accordance with the following:

- a) Minimum Scale 1" = 20'.
- b) Planting Plan indicating location, size, spacing of all plant materials.
- c) Typical straight cross section indicating slope, height and width of berms and type of ground cover, or height and type of construction of walls, including footings.
- d) Significant construction details to resolve specific site conditions, e.g., tree wells to preserve existing trees, culverts to maintain natural drainage patterns.
- e) Planting and staking details in either text or drawing form to insure proper installation and establishment of proposed plant materials.

5. The Planting Plan shall be reviewed relative to:

- a) Proper spacing, placement and location of plant materials relative to the length and width of greenbelt so as to insure that the required horizontal and vertical obscuring effect of proposed land uses will be achieved.

- b) The selection of plant materials so that branching of root systems not interfere with public utilities and so that fruit and other debris (other than leaves) will not constitute a nuisance within public rights-of-way or to abutting property owners.
 - c) The proposed relationship between deciduous and evergreen plant materials so as to insure that the desired obscuring effect will be accomplished.
 - d) The size of plant materials (both starting and ultimate) to insure adequate maturity and optimum screening effect of proposed plant materials.
6. For any off-street parking lots of twenty (20) spaces or more, there shall be provisions for the planting of canopy trees subject to the following conditions:
- a) One (1) such tree shall be required for each ten (10) surface parking spaces.
 - b) Trees shall be of the deciduous type, not less than two and one-half (2-1/2") in caliper.
 - c) Trees shall be planted prior to the issuance of a Certificate of Occupancy and shall be maintained in a healthy, growing condition.
 - d) The required trees may be evenly distributed or concentrated in clusters as approved by the Planning Commission. If evenly distributed each tree shall be provided with an open land area of not less than eighty (80) square feet to provide area for infiltration and with a minimum diameter of five (5) feet at the trunk base for added protection. Tree plantings shall also be protected from automobiles with curbing, bollards or other suitable devices.
7. Landscaped areas and plant materials required by this Ordinance shall be kept free from refuse and foreign debris. Plant materials, including lawn, shall be maintained in a healthy growing condition, neat and orderly in appearance. If any plant materials required by this Ordinance die or become diseased, they shall be replaced within forty-five (45) days of written notice from the County or within an extended time period as specified in said notice.

SECTION 2207. SIGNS AND BILLBOARDS

Sign plans shall be reviewed for approval, conditional approval or rejection by the County Planning Commission or by the Zoning Administrator, in consultation with any Advisory Sign Review Committee appointed by the County Planning Commission. Non-illuminated signs or replacement signs which meet the standards of this section may be reviewed and approved by the Zoning Administrator. For disagreements with the rulings of the Zoning Administrator, the applicant may seek a review by the Planning Commission, who in such instances has final authority on the sign plan.

INTENT

The sign standards contained in this Ordinance are declared to be necessary to protect the general health, safety, and welfare of the citizens of Emmet County, and are based on the following objectives:

- To reflect the primary purpose of signage as being the identification of a particular user or use on a property, but not necessarily every activity or service performed thereon.
- To promote signs which are visible at eye level and can be readily seen from moving vehicles with the least amount of eye distraction.
- To encourage native plants and other landscaping materials around all freestanding signs so as to complement the site and integrate the sign with the buildings, parking areas and natural site features.
- To avoid excessive use of signs in order to give each use optimum visibility to passer-by traffic and if possible, to prevent one sign from blocking the view of another sign.
- To place and size signs in such a way that scenic views are protected and visual obstructions to the natural landscape are minimized.
- To protect the resource character and Northern Michigan image of Emmet County by encouraging the design of institutional, business, and industrial signs that reflect the County's favorable environment as a permanent and seasonal home community..
- To maintain and enhance economic stability by retaining aesthetic appeal to tourists, resorters, and visitors, and encouraging sign planning that will complement the County's natural environment and preserve its scenic and natural beauty by minimizing visual obstructions to the natural landscape.
- To encourage the use of aesthetically pleasing sign materials and colors, and to encourage signs to be predominately natural in appearance, through the use of weather tolerant wood or material of equivalent character.
- To encourage the use of subdued colors, with bright colors used only for accent.
- To avoid creation of obstacles or traffic hazards by distracting or confusing motorists, impairing motorists' ability to see pedestrians, read other traffic signs, or see other vehicles.
- To enhance the effectiveness of necessary directional and warning signs.
- To preserve property values from the negative impacts of unsafe, cluttered, and otherwise unregulated signs on abutting property or in the area.
- To avoid bright lights and reflection, and to protect views of the night sky against poorly shielded lights.
- To encourage wall-mounted signs not to violate the architecture of the building to which it is attached. For example, signs should not cut across columns or be placed on architectural features.

The standards in this Article are determined to be the minimum necessary to achieve the above stated purposes.

Compliance with this Section does not relieve the applicant from the responsibility of compliance with other local, state or federal sign regulations, nor does the issuance of a Sign Permit grant permission to the applicant to place signs on any property, including road rights-of-way, other than property owned or otherwise legally under the control of the applicant. The issuance of a Sign Permit only assures the applicant that the sign meets the requirements of the County Zoning Ordinance.

It is also acknowledged that the county's economic well being is heavily dependent upon the resort and tourist industry. This dependence makes the preservation of the environment from unreasonable signage a matter of critical importance to this County.

DEFINITIONS

The following definitions apply only to words and phrases used in this Section.

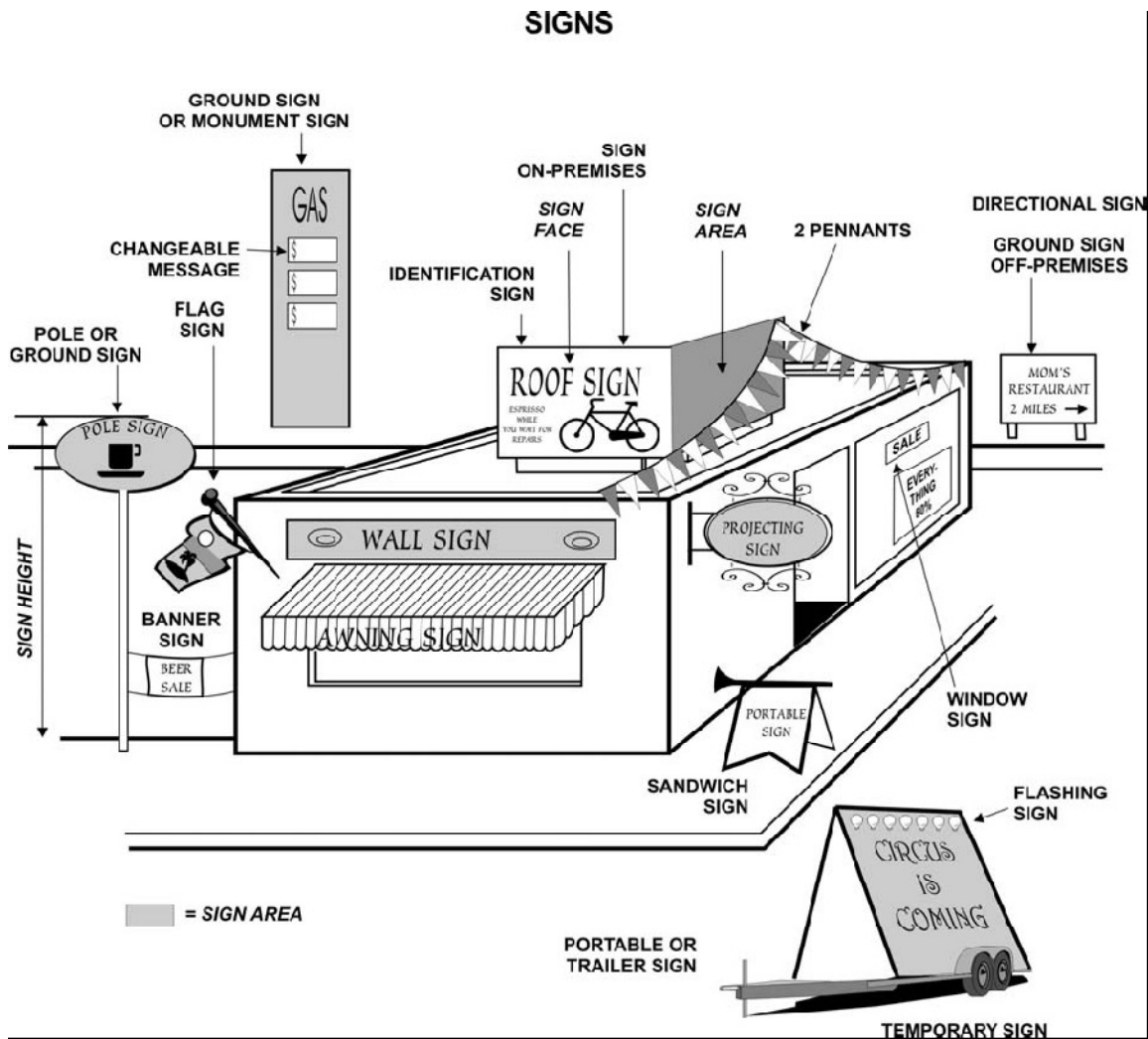
1. **ACCESSORY SIGN**: See Sign, Accessory.
2. **BANNER**: A flexible sign made of natural, synthetic or plastic material used to call attention to a land use or product, service or activity; however, not including pennants or flags.
3. **BILLBOARD**: An off-premises sign owned by a person, corporation or the entity that engages in the business of selling the advertising space on that sign and may be subject to regulation under the Highway Advertising Act, Public Act 106 of 1972.
4. **BUSINESS CENTER SIGN**: A sign which identifies and may give direction to a business center and which does not contain any additional information regarding individual stores, businesses, institutions, organizations, located within the planned complex, or contiguous stores.
5. **CHANGEABLE MESSAGE SIGN**: A sign on which the message can be changed by hand, mechanically, or electronically.
6. **DIRECTIONAL SIGN**: An on- or off- premises sign which provides no advertising display or commercial message, but is used to direct visitors or customers to a particular land use.
7. **FLAG**: Usually a rectangular piece of fabric made of natural, synthetic or plastic material having a distinctive size, color and design used as a symbol or emblem.
8. **FREESTANDING SIGN**: A sign supported by one (1) or more uprights, poles, braces, or some other structure, placed in or upon the ground surface and not attached to any building.

9. HOME OCCUPATION SIGN: A non-illuminated sign announcing a home occupation.
10. IDENTIFICATION SIGN: A sign containing the name of a business operating on the premises where located, the type of business, the owner, or resident, and/or the street address and containing no other advertisement display.
11. ILLUMINATED SIGN: A sign that provides artificial light by either emission (usually from inside) or reflection (usually either from light above or below the sign).
12. INGRESS-EGRESS SIGN: A sign located adjacent to the entrance or exit drives of a development to identify the points of vehicular ingress and egress.
13. MARQUEE SIGN: An "identification or business" sign attached to a marquee, canopy, or awning projection from the building.
14. NON-ACCESSORY SIGN: See Sign, Non-Accessory
15. NON-CONFORMING SIGN: A sign lawfully existing on the effective date of this Ordinance which does not conform to one (1) or more of the regulations set forth in this Ordinance.
16. OFF-PREMISES DIRECTIONAL SIGN: A sign which advertises a business or activity conducted elsewhere than on the premises where the sign is located.
17. PENNANT: A small, often triangular, tapering flag used in multiples as a device to call attention to a land use or activity.
18. PORTABLE SIGN: A freestanding sign not permanently anchored or secured to either a building or the ground (such as a sandwich sign), and includes trailered or similarly mounted signs or signs on parked vehicles where the sign is the primary use of the vehicle or wheeled object while it is parked.
19. PROJECTING SIGN: A sign which is affixed to any building or structure other than a marquee and projects in such a way that the message is not parallel to the wall to which it is attached.
20. ROOF SIGN: A sign erected, constructed, or maintained upon, or which projects above, the roof line of a building.
21. SIGN: Any identification, description, illustration, display or device illuminated or non-illuminated which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, banner, pennant, placard, or temporary sign designed to advertise, identify or convey information. For the

purpose of removal, signs shall also include all sign poles and similar supporting structures. House or building numbers and tenant nameplates under one-square foot in size on or next to a door or on a mailbox or post are not considered signs.

22. SIGN, ACCESSORY: A sign which is accessory to the principal use of the premises.
23. SIGN, NON-ACCESSORY: A sign which advertises a product, service, or business that is located on a property other than the property on which the sign is located.
24. SIGN FACE: That part of a sign structure which is used to graphically communicate a message or announcement.
25. TEMPORARY SIGN: A display sign, or advertising device with or without a structural frame such as a portable or trailer sign, intended for a limited period of display.
26. WALL-MOUNTED SIGN: A sign which is attached directly to or painted upon a building wall which does not project more than twelve (12) inches there from. The exposed face of the sign must be in a plane parallel to the building wall or structure (such as a water tower). The sign shall not extend above the height of the building, wall or structure.

The figure below illustrates many of the different types of signs defined above.



Graphic reproduced from the Keweenaw County Zoning Ordinance, prepared by the Planning & Zoning Center, Inc. and used with permission.

1. SIGNS AUTHORIZED REQUIRING A PERMIT

a) Accessory Signs in R-1, R-2, RR-1, RR-2, SR-1 and SR-2

For permitted nonresidential uses, one (1) freestanding sign not to exceed eighteen (18) square feet in area, or eight (8) feet in height, and/or one (1) wall mounted or projecting sign that is wood crafted or is a sign of equivalent character, which may project outward up to three (3) feet, not to exceed eight (8) square feet. (See Section 2207-8, Measuring-Area & Height of Sign)

b) Accessory Signs in FF-1 and FF-2 Districts

For permitted nonresidential uses, one (1) non-dwelling sign not to exceed thirty-two (32) square feet and no such sign shall be longer than four (4) times its width. Signs may be freestanding or, if attached, shall not project beyond or overhang the wall face by more than five (5) feet. No sign shall project above the ridge line of a hip, gambrel, gable, or mansard roof, or above the parapet of a flat roof. Freestanding signs shall not exceed a height of ten (10) feet. (See Section 2207-8, Measuring-Area & Height of Sign)

c) Accessory Signs in B-1, B-2, B-3, and I Districts

Accessory signs placed in B-1, B-2, B-3 and/or I Districts may be permitted at the rate of two (2) per business or industrial premises, except that at least one sign shall be affixed to or be within two (2) feet of and be parallel with the wall of the main building. One (1) sign may be a freestanding sign.

Signs mounted on and parallel with the wall of the main building shall not exceed a total area of fifteen (15) percent of the surface area of the mounting wall and computed on the ground level story only. For purposes of this Ordinance, the ground level story height may not exceed twelve (12) feet. A second wall mounted sign may be permitted on buildings located on a corner lot bordering a County Primary or State Trunkline, provided the same calculation is used to determine the area of the sign. The second wall mounted sign may be in addition to the other permitted signs. A banner may be permitted in lieu of a wall mounted sign provided it is securely attached to the wall and it meets all other requirements of a wall mounted sign.

No sign shall project beyond or overhang the wall or any permanent architectural feature by more than five (5) feet. No sign shall project above the ridge line of a hip, gambrel, gable, or mansard roof, or above the parapet of a flat roof.

Freestanding signs shall not exceed a height of ten (10) feet. The total sign area of all freestanding signs shall not exceed an area of fifty-six (56) square feet, and no such sign shall be longer than four times its width. (See Section 2207-8, Measuring-Area & Height of Sign).

Signs located in a road right-of-way shall not exceed an area of thirty-two (32) square feet or a height of eight (8) feet. Signs in a right-of-way are subject to any

further rules, provisions, or prohibitions as determined by the governmental unit or agency having jurisdiction.

d) Canopy or Marquee Signs

Integral canopy signs shall be allowed in place of permitted wall mounted signs with message information, i.e., letters, numerals, symbols etc., not to exceed fifteen (15) percent of the canopy surface. For the purposes of calculation, the subject canopy will be considered to fall within a measurable square or rectangular enclosure.

e) Accessory Signs in all Districts

In addition to the business center sign or main identification sign, a development may have one non-illuminated free standing directory sign, located within the project area, for each separate main building. Such sign shall not be readily visible from the frontage road. Also one (1) tenant identification sign mounted on and parallel with the wall may be permitted for each tenant provided the signs in total do not exceed the area standards for the wall mounted signs in the applicable Zoning District.

f) Non-accessory Signs and Billboards

Billboards, poster boards, and other non-accessory signs shall be restricted to the B-2 District on vacant parcels provided the area of the sign does not exceed fifty-six (56) square feet, the height of the sign does not exceed ten (10) feet, there is at least two thousand (2,000) feet of separation between any two such signs on both sides of the road and 200 feet of separation between a billboard and an accessory sign, and 200 feet of separation between a billboard and any other existing building over 200 square feet.

A billboard may not include a changeable message sign or changeable message component.

All required permits from the Michigan Department of Transportation shall also be obtained prior to erecting the billboard.

g) Changeable Message Signs

Changeable message signs, including, but not limited to, electronic changeable message signs, shall be permanently affixed to, and be parallel with the wall of the main building or designed into the freestanding sign as an integral part of the freestanding sign structure. Changeable message signs may not exceed 40% of the allowable sign area. Such changeable message signs shall have no moving parts. The background shall be unlit, and the letters shall be all one color. Electronic changeable message signs must meet all other standards of Section 2207 and may be permitted to change the message up to four (4) times per hour at the quarter hour. Electronic changeable message signs may not be illuminated between the hours of 10:00 P.M. and 6:00 A.M., except for premises that are open for business after 10:00 P.M., then the lighting shall be turned off at the close of business.

h) Replacement Signs
An existing sign that is removed shall only be replaced if it conforms to the size, area, height, and lighting requirements of this ordinance.

i) Accessory Signs In PUD Districts
In PUD-1 Overlay Districts, signs may be permitted as in the underlying Zoning District. In cases where a project encompasses more than one (1) Zoning District, signs may be permitted by the standards of one (1) of the encompassed Zoning Districts as determined to be appropriate by the Planning Commission.

In PUD-2 Zoning Districts, sign standards shall be determined by site plan, PUD master plan and proposed uses. Residential PUD projects may be allowed signs as regulated in Residential Zoning Districts. Business and/or Industrial uses may be permitted to have signs as regulated in Business and/or Industrial Zoning Districts.

j) Temporary Signs
Temporary signs may be permitted for periods not to exceed ten (10) consecutive days within any sixty (60) day period. Temporary signs include banners, sandwich boards, and other freestanding signs not to exceed twelve (12) sq. ft. A permit for temporary signs shall be required and obtained from the Zoning Administrator. Signs shall only be approved if they are placed outside of the right-of-way and in an area which will not cause a hazard.

2. NON-CONFORMING SIGNS

INTENT:

It is the intent of this Section to permit the continuance of all permanent signs or outdoor advertising structures existing at the effective date of this Section although such sign or outdoor advertising structure may not conform to the provisions of this Article. It is also the intent that nonconforming signs shall not be enlarged upon, expanded, or extended. Further, it is the intent that nonconforming signs shall be gradually eliminated and terminated upon their natural deterioration, destruction, removal, or replacement. The continuance of all nonconforming signs and outdoor advertising structures within the County shall be subject to the conditions and requirements set forth below.

- a. Structural Changes: Signs may be repaired, or renovated, and kept in good repair, provided that, the faces, supports, or other parts of any nonconforming sign or outdoor advertising structure shall not be structurally changed, altered, substituted, or enlarged unless the resultant changed, altered, substituted, or enlarged sign or outdoor advertising structure conforms to the provision of this Section for the use it is intended.
- b. Placement: No nonconforming sign shall be relocated on a property, unless located in conformance with this Ordinance and sized so as to conform with this Ordinance.

- c. Illumination: Illumination may not be added to any nonconforming sign.
- d. Destruction: Should any nonconforming sign or any portion thereof be destroyed by any means, to the extent of 80 percent or more, it shall be reconstructed only in conformity with the provisions of this ordinance.
- e. Change on Sign Face: The message of a nonconforming sign may be changed so long as this does not create any new nonconformities (for example, by creating an off-premises sign under circumstances where such a sign would not be allowed.)

3. SIGNS PROHIBITED

- a) Signs containing flashing, intermittent, or moving: lights, images, motion pictures, messages, graphics, or similar mechanisms.
- b) Signs with moving or revolving parts and/or messages.
- c) Signs affixed to trees, rocks, shrubs, fences, utility poles, or other similar features.
- d) Signs which are insecurely fixed, unclear, in need of repair, or signs which imitate official traffic signals or traffic directional signs or devices.
- e) Portable signs utilizing vehicles, trucks, vans, or other wheeled devices; or tripod, sandwich boards, or changeable message signs, except that licensed vehicles painted or affixed with signs shall not be prohibited from properly parking in a designated parking space.
- f) Advertising devices such as banners, balloons, advertising flags, pennants, pinwheels and searchlights or other devices with similar characteristics unless otherwise permitted in this Section.
- g) Signs which overhang or extend into a dedicated public right-of-way without the written consent of the governmental unit having jurisdiction.
- h) Signs that have concrete foundations or other solid anchoring devices that project above the surface of the ground and located so as to constitute a safety hazard to vehicle traffic.
- i) Signs, and sign structures, which advertise a business or service use that no longer occupies the premises, and has not occupied the premises for sixty consecutive days.
- j) Signs using luminous or phosphorescent paints or, tapes, glass beads, and/or reflectors of any kind shall be prohibited as main background treatment of the sign,

but may be used in minor proportions for lettering or incidental artistic details, provided there are no visual conflicts with official traffic signs.

4. SIGNS NOT REQUIRING A ZONING PERMIT

The following, provided such signs are established in a lawful manner and placed so as not to cause a nuisance or create a safety hazard:

- a) Identification Sign
One (1) residential name plate per use which is not illuminated and does not exceed a total area of two (2) square feet, and may be in addition to any other permitted sign. Business and Industrial uses may be permitted one (1) name plate per business up to three (3) square feet.
- b) Home Occupations signs in all Districts are permitted one (1) non-illuminated sign not to exceed an area of two (2) square feet, provided the home occupation is approved per Section 2102 (12).
- c) Signs that have been approved in conjunction with a valid Zoning Permit or Building Permit for any principal use or accessory use in connection with a Plot Plan or Site Plan. Signs required by Federal or State agencies in connection with federal or state grant projects and programs.
- d) Street name signs, route markers and other traffic control signs, signs established by or approved by state, county or township units of government when necessary for giving proper directions or otherwise safeguarding the public, in any district.
- e) Non-advertising signs erected by any organization, person, firm or corporation that are needed to warn the public of dangerous conditions and unusual hazards such as but not limited to; caving ground, drop-offs, high voltage, fire danger, explosives, severe visibility limits, etc.
- f) Non-advertising signs exclusively devoted to controlling property access (no trespassing, private property, keep out, no hunting, hiking trail, day use only, and similar instructional messages) provided the sign size limitations are observed.
- g) Non-advertising signs demarcating a historically or environmentally significant place, building or area when sanctioned by national, state or local historic or preservation oriented agencies/organizations provided the sign size limitations are observed.
- h) Temporary real estate signs, not exceeding ten (10) square feet, on individual lots in platted one family residential subdivisions advertising a premises as being for lease, rent, or sale. Temporary real estate signs are further regulated as follows:

DISTRICTS OR AREAS	Maximum Sign Area in Square Feet
Platted One-family Subdivision in any District	10 square feet
Unplatted parcels or groups of lots in all Districts	32 square feet

- i) Accessory signs on farms in the FF-1 and FF-2 Districts, not to exceed thirty-two (32) square feet, advertising stock, produce and other farm products produced or raised on the premises.
- j) Accessory directional signs each not to exceed four (4) square feet in area on buildings, such as, but not necessarily limited to: entrance, exit, loading dock, low clearance, garage, office, warehouse, service and the like.

Ingress-Egress signs not to exceed four (4) sq. ft., but not more than one (1) such sign per approved driveway, and may be in addition to the allowable main sign.

It is intended that freestanding ingress-egress signs be included on the sign plan for approval as to location and number by the Planning Commission.

- k) Temporary poster or sign announcing local community events involving educational, charitable, historical, institutional, sporting events or similar activities of general community wide significance is permitted provided the sign does not exceed thirty-two (32) square feet in sign area and is placed on the lot where the activity is to take place. Such sign may be erected not sooner than two (2) weeks before the event and must be removed not later than two (2) days after the event.
- l) Political Signs erected in connection with elections or political campaigns are permitted. Such signs shall be removed within six (6) days following the election or conclusion of the campaign. Such sign shall not exceed the maximum area allowed in the underlying zoning district for an accessory sign.
- m) Window signs attached or applied to the surface of any exterior window will be limited to coverage of ten (10) percent of the total window space. The area of such signs shall not be deducted from the total area of signs allowed.
- n) Signs on public hiking, biking, snowshoeing, skiing and snowmobile trails identifying the trail, providing direction and/or identifying the availability of products, services or businesses ahead, provided all such signs are made of materials and erected per the requirements of the entity responsible for trail

maintenance and operations, and provided all product, services, and business signs are posted not less than two-hundred (200) feet from the intersection of a public road right-of-way, the sign face with a message is not visible from the right-of-way, and the sign area of each sign is not more than two (2) square feet.

- o) Construction site identification signs may identify the development project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain related information including, but not limited to, sale or leasing information on lots in a subdivision, site condominium or PUD. Not more than one such sign, not exceeding thirty-two (32) square feet in sign face area, shall be erected per site. In the place of the one large sign up to four (4) individual smaller signs may be erected on the site, upon the condition that each such smaller sign shall not exceed four (4) square feet in sign face area per sign. All such signs shall be removed not more than one (1) year after the sale of seventy (70) percent of the lots or dwelling units within the development or no more than thirty (30) days after a project has been completed.

- p) Temporary activity signs, such as yard or garage sale signs, auction signs, or other similar temporary activity signs not covered in the foregoing categories, so long as such signs meet the following restrictions:
 - 1. Not more than one (1) such sign may be located on any lot or parcel.
 - 2. Such sign shall not exceed the sign area permitted in the underlying zoning district upon which the sign is located.
 - 3. Such signs may be erected not more that three (3) days prior to the event and shall be removed immediately following the event.
 - 4. Such signs shall not be erected more than one (1) time per each six (6) months.
 - 5. Directional signs not exceeding two (2) square feet in area may be erected, but no advertising signs may be installed on public or utility poles, or within the public right-of-way unless permitted by the road agency having jurisdiction.
 - 6. All directional signs shall be removed within twenty-four (24) hours of the temporary activity.

- q) Temporary off-premise directional signs, intended to direct traffic to a property during times of road construction, may be permitted by the Zoning Administrator provided the sign meets the following standards:
 - 1. The sign does not exceed a height of eight (8) ft.
 - 2. The sign does not exceed an area of eight (8) sq.ft.
 - 3. The sign is located a minimum of 30 ft. from the edge of the roadway (or the white line along the edge on highways without barrier-type curbs) or a minimum of 3 ft. from the back of the curb on highways with barrier curbs, and the sign must allow for clear vision areas at intersections or driveways.
 - 4. The sign owner is responsible for obtaining written permission from the property owner prior to placing the sign on the property.

5. The sign must be removed at the end of the road construction, as determined by the Zoning Administrator, in consultation with the road agency having jurisdiction.
- r) Memorial signs or tablets, names of buildings, and dates of erection.
- s) Banners, balloons, advertising flags, pennants, and pinwheels, or other devices with similar characteristics may be used temporarily for periods not to exceed fifteen (15) days to announce the opening of a new type of business or use by a new owner.

Other temporary signs, not listed in paragraph 4, shall be regarded and treated in all respects as permanent signs which require a permit.

5. PLACEMENT OF SIGNS AND SETBACKS

Accessory signs may be located at the right-of-way line, but shall not be located within the right-of-way unless permitted by the road agency having jurisdiction. Accessory signs shall be sited to prevent one sign from blocking the view of another sign.

Billboards are main property uses and shall be setback the required distance in the zone (front and side).

6. FLAGS

Flag pole heights shall not exceed thirty (30) feet. The total number of flagpoles shall be limited to three (3) per site.

Advertising flags are deemed to be signs and shall be subject to the provisions of this article. (Examples: "Open", "Sale", etc.)

7. SIGN LIGHTING

Sign lighting should be of no greater wattage than is necessary to make the sign visible at night and should not unnecessarily reflect onto adjacent properties. Lighting sources shall not be directly visible to passing pedestrians or vehicles and should be concealed so that direct light does not shine through, under, or over any element of a sign.

- a. Sign lighting other than street and security lights shall be turned off between the hours of 10:00 P.M. and 6:00 A.M., except for premises open for business after 10:00 P.M., then the lighting shall be turned off at the close of business.
- b. For internally lighted signs, the sign background, or field, shall be dark colored. Letters, numerals, logos, and similar message elements may be of a translucent material to permit internal lighting to reveal the message or information for which the sign is intended. All other lighted signs shall incorporate the lighting source as part of the sign structure, i.e.-top, bottom, or side mounting. Ground mounted lighting sources are prohibited.

- c. Night lighting of non-advertising flags shall be of sufficient wattage to illuminate flag surfaces only and shall not be excessive thus contributing to light pollution of the night sky. It is recommended that the flag be illuminated from the top down and directed so as not to interfere with passing pedestrians or vehicles. Ground mounted lighting is prohibited.
- d. Neon lighting and/or other gas filled light tubes are permitted when used for the indirect illumination of signs, and/or when placed in windows.

8. MEASURING - AREA AND HEIGHT OF SIGN

The area of sign shall be determined by circumscribing the exterior limits of each display erected on one sign structure, including the sign background (but not supporting features or roof like covers) with the smallest square, rectangle, triangle, circle, parallelogram, or trapezoid, that will connect all extreme points of the sign display and including voids, unused space, or air spaces between multiple display features. The structural features and supporting elements of a freestanding sign, including decorative facades, canopies, and base treatments, shall not have a facing surface area that exceeds the area of the message portion of the sign. The area of sign measurement shall be based on one display face, but both sides of the display face may be used for sign purposes without increasing the area of sign. Sign panels, if not back-to-back and the back face is separated or angled from the other by more than four (4) feet for parallel faces, and/or angled on the inside more than forty-five (45) degrees, the second face shall be added to the area of sign.

The height of all free standing signs as specified in this ordinance shall be measured from the average existing grade at the base of the sign to the top of the sign and shall include roof like covers and supporting structures.

9. OFF-PREMISES DIRECTORY SIGN-PRIVATE

When the owner of a use requests an off-premises directory sign, the Planning Commission or the Zoning Administrator, may permit such sign upon determining an appropriate site and location, subject to the following:

- a. One off-premises directory sign may be permitted, but such sign shall not exceed an area of eight (8) square feet for one user.
- b. The maximum sign size may be increased up to the maximum allowed in the affected zoning district in sign size increments not to exceed eight (8) square feet for each user sharing the same sign structure.

10. SIGN EXCEPTIONS

In order to allow greater flexibility in property and use signing, the Emmet County Planning Commission may permit signs that:

- a. Exceed the maximum number of signs permitted when there is more than one bordering County Primary or State Trunkline Highway, and the sign is placed

directly in front of the building wall, which faces each road, or farther from the intersection line than the wall,

- b. Exceed the maximum sign area for the following reasons: Deep use setback, cooperative sign use (joint use or community type advertising), large site area, and/or natural feature limitations to attaining reasonable signing of the use, or if the property shares a common front or side lot line with a B or I Zoning District.

In granting sign exceptions, the Planning Commission shall consider the impact of each sign on adjoining residential districts, scenic views, out of character skyline intrusions, and obstructions to signs or uses on adjoining properties. The purpose of the sign and its applicability to uses that serve tourists or passerby motorists shall be considered in granting or denying a sign exception.

11. REVIEW

Sign permits shall be denied, approved, or approved with conditions within 45 days after submission of the complete application. If a decision on the application has not been made within 45 days, the application shall be deemed approved. Sign Exceptions per Section 2207-10 shall be denied, approved, or approved with conditions within 90 days after submission of the complete application. If a decision on the Sign Exception application has not been made within 90 days, the application shall be deemed approved.

12. APPLICATION PROCEDURE

The location and placement of all signs for which a Permit is required by this Ordinance, shall be authorized in accordance with the applicable review procedures established for Site Plan Review and approval in Section 2405 of the Ordinance. A ten day advance submittal shall be required for sign review; however, Sign Exceptions shall follow the procedures for a Special Use Permit (Section 2407). The sign plan may be separately submitted or be an integral feature of the Site Plan, however, a separate application process and fee applies. Sign Review applications and detailed procedures are available through the office of the Zoning Administrator.

No provision of this Section shall be construed to prevent an applicant from seeking prompt judicial review of a decision on an application.

SECTION 2208. HIGH RISK EROSION AND ENVIRONMENTAL AREAS

The following regulations are applicable to those areas of the County which are generally defined as to be controlled by the Shore Lands Protections and Management Act of 1970 (Act No. 245 of the Public Acts of 1970, as amended).

The shore lands area affected consists of land which borders Little Traverse Bay and Lake Michigan situated at least one thousand (1,000) feet landward from the ordinary high water mark as defined in Section 2 of Act No. 245 of the P.A. of 1970, as amended. These regulations are intended to effectively control development of the shore lands where property damage during high water periods have resulted in or may result in:

- structural property damage (homes, cottages, marinas, boathouses, commercial developments, etc.)

- actual loss of physical property (land)
- loss of recreation swimming beaches
- loss of access to the lake
- occurrence of sedimentation along the shoreline areas

Further, developments permitted within environmental areas shall be controlled to assure the protection and maintenance of fish and wildlife.

1. All uses permitted in the high risk erosion area are subject to the conditions herein after imposed for each use and subject to Site Plan Review by the Planning Commission.
 - a) The minimum setback from the bluffline for all uses, both above and below the ground, shall be no less than that which would prevent or is likely to prevent damage or destruction to permanent buildings or structures within a 30-year period of life. In no instance shall this setback be less than that which is required in the applicable zoning district. This distance shall be based upon the average recorded shoreline recession rates as determined by the Natural Resources Commission.
 - b) Individual docks, boat hoists and related installations shall not exceed one per unit. Group docking, hoists and other related facilities shall be subject to review and approval by the Planning Commission.
 - c) Removal of shore cover to a depth of one hundred (100) feet from all points along the ordinary high water mark shall be limited as follows:
 - 1) Natural ground cover shall be preserved to the fullest extent feasible and where removed it shall be replaced with vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.
 - 2) All development proposals submitted for an environmental area or High Risk Erosion Area shall include an environmental impact statement indicating how the natural character of the area and fish and wildlife will be protected and maintained. This statement shall address itself to some or all of the following conditions, wherever it pertains:
 - a) Sewerage, drainage and water controls
 - b) Street and traffic systems
 - c) Topography
 - d) Vegetation
 - e) Wildlife
 - f) Water areas or other natural features
 - g) Construction effects
 - h) Unusual site features
 - 3) The environmental impact statement shall be reviewed as part of the Site Plan. The Planning Commission shall request technical assistance from County and/or State agencies as may be necessary. Maps shall be provided to detail the characteristics of the site.

2. MAPS

The mapping requirements of Section 2405 - Site Plan Review, shall apply to maps necessary to document the shoreline areas or environmental areas of this section. A more detailed drawing may be required in those instances where site conditions and site treatment measures cannot be clearly shown on map scale standards in Section 2405.

3. DEFINITIONS

For the purposes of the Section, HIGH RISK EROSION AND ENVIRONMENTAL AREAS, the following definitions shall apply:

a) Bluff line

The edge or crest of the elevated segment of the shoreline above the beach or beach terrace which may be subjected to wave attack and normally presents a precipitous front and inclines steeply on the water side. (Dunal terraces which accrete and erode depending on water level conditions would not be considered a permanent bluffline.)

b) Structure

A permanent residential, commercial or industrial building not including stairways, docks or permitted underground utilities.

SECTION 2209 - SHORELINE BLUFF PROTECTION

INTENT

The Shoreline Bluff regulations are established with the following intent:

To protect the natural environment and the integrity of the Shoreline Bluff, which is a distinctive and valuable natural feature of Emmet County's Lake Michigan shoreline.

To recognize the potential for hazards to health and safety to persons and property from Bluff development.

To protect the stability of the Shoreline Bluff, and thereby reduce the risks of erosion, undermining, slumping, or collapse of the Bluff, and to protect the waters of Lake Michigan from unnatural sedimentation.

To promote the recommendations of the Emmet County/City of Petoskey Comprehensive Plan relative to the constraints that should be considered in developments that impact hillside environments.

Regulation of Shoreline Bluff Protection Zone

Except as otherwise provided in this Section, excavation or construction activity is prohibited within the Shoreline Bluff Protection Zone. The Shoreline Bluff Protection Zone includes an area within fifteen (15) feet of the top of the bluff, the face of the Shoreline Bluff as it extends lakeward from the top of the bluff to the toe of the bluff and the area extending lakeward fifteen (15) feet from the toe of the bluff. For purposes of this Section, the following terms shall mean:

Top of the Bluff is the point where the slope toward Lake Michigan first exceeds a grade of 33%.

Toe of the Bluff is the point where the slope toward Lake Michigan first decreases to a grade of less than 33%.

This Section shall not apply to:

1. **Stairways.** The installation, repair and maintenance of open stairways, open landings of 200 square feet and under, pathways and trams, all intended to access the areas below the bluff.
2. **Remodeling.** Interior remodeling, changed floor plans, re-roofing, re-siding, replaced walls and the like, provided that no footing or foundation work within the Bluff Protection Zone is involved.
3. **Existing driveways.** The reconstruction of existing driveways including the replacement of existing surface materials and maintaining the existing driveway width or otherwise where no new excavation work would be needed.
4. **Utilities.** The repair, replacement or reconstruction of utility services to include all elements of sanitary sewage systems, wells and water services and other existing accessory service utilities.

Regulated Shoreline Bluff

The regulated Shoreline Bluff, for purposes of this Section, is the single continuous and highest bluff feature that generally parallels the west side of Highway M-119 and where applicable, N. Shore Drive and only on the west side of said roads. Any shoreline bluff feature that is regulated as a Critical Dune is not subject to the Shoreline Bluff regulation in this Section. Where the Shoreline Bluff is within a Critical Dune area, but is not regulated as a critical dune, it shall be subject to this Section.

Excavation and construction activity in the Shoreline Bluff is further subject to regulations related to soil erosion and sedimentation control, stormwater management, endangered species, and other pertinent environmental regulations, and regulations related to construction, sanitation, access and the like.

Shoreline Bluff Identification

The Shoreline Bluff feature is best determined by on-site surveys, but is discernable on aerial photographs and on topographic maps published by the US Geological Survey (USGS). The extent of the Shoreline Bluff for purposes of this Section begins at the south 1/8th line in Section 30, T36N-R6W, Friendship Township and extends north through Friendship, Readmond and Cross Village Townships, (T37N-R6W) to a point on Chippewa Drive that is approximately 700 feet westerly of Shore Drive in the NE 1/4 of the NE 1/4 of Section 34, T38N-R6W, Cross Village Township. The Shoreline Bluff is illustrated on the Zoning Map.

Site Plan Review

Site plan approval by the Emmet County Planning Commission, in accordance with this Section,

is required prior to any excavation or construction in the Shoreline Bluff Protection Zone.

1. Site Plan Content

In addition to the graphic requirements for site plans set forth in Section 2405(2) of this Ordinance, site plans required under this Section shall contain the following information:

1. All lake shorelines, streams, wetlands, groundwater seeps, springs, soil types, soil strata and groundwater table on the disturbed area at the site.
2. All existing roads, driveways, structures, culverts, and other pertinent features on the site or within 100' of the site area to be disturbed.
3. Existing ground contour lines and proposed ground contour lines at 5-foot intervals encompassing the area to be disturbed and in the immediate area of influence of the disturbed areas, e.g. within 15 feet.
4. All proposed construction activities on the site, including, but not limited to, the installation of the sanitary sewage disposal system, the storm water management system, including outflow and outlet facilities, and other areas proposed to be disturbed.
5. An inventory of existing vegetation and individual trees measuring three inches (3") or more in diameter (caliper) proposed to be disturbed/removed.
6. Slope stability assessment based on the proposed construction activity and the impact on the bluff.
7. Construction staging and progress schedule.
8. Additional information if determined necessary or helpful by the Planning Commission in reaching a decision.

Certification

All site plans required under this Section shall be signed and sealed by a Michigan Registered Professional Engineer.

In addition, upon the completion of construction, a Michigan Registered Professional Engineer shall certify that all work has been done in accordance with the approved site plan. Such certification shall be provided within forty-five (45) days of the completion of the work.

Impact Statement and Environmental Assessment

All site plans required under this Section shall meet the impact statement requirements for site plans set forth in Section 2405(3) of this Ordinance. In addition an environmental assessment shall be provided, and it shall include the following information concerning the site of the proposed use:

1. The name and address of the applicant
2. A description of the applicant's proprietary interest in the site.

3. The name, address, and professional qualifications of the person preparing the environmental assessment and his or her opinion as to whether the proposed development of the site is consistent with protecting features of environmental sensitivity and archaeological or historical significance that may be located on the site.
4. The description of the proposed use.
5. The location of existing utilities and drainage ways.
6. The general location and approximate dimensions of proposed structures.
7. Major proposed change of land forms such as new lakes or ponds, terracing, fills or berms, or excavating.
8. Sketches showing the scale, character, and relationship of structures, streets, or driveways, and open spaces.
9. Approximate location and type of proposed drainage, water, and sewage facilities.
10. Legal description or clear identification of the property.
11. A physical description of the site, including its dominant characteristics, its vegetative character, its present use, and other relevant information.
12. A natural hazards review consisting of a list of natural hazards such as periodic flooding, poor soil bearing conditions, and any other hazards peculiar to the site.
13. An erosion review showing how erosion control will be achieved, and illustrating plans or programs that may be required by any existing soil erosion and sedimentation ordinance.

and/or the following environmental impact statement may be required if deemed to be necessary or helpful in reaching a decision, it shall include all of the information of the previous 13 items, in addition to the following:

1. Six (6) copies of a schematic use plan of the proposed site showing the general location of the proposed use and major existing physical and natural features on the site, including, but not limited to, watercourses, rock outcropping, wetlands, and wooded areas. One (1) reproducible transparency may be requested or more copies requested if necessary for proper review.
2. Specific location and dimensions as applicable of the following existing and/or proposed features: utilities, drainage ways, public streets, parks, railroads, utility rights-of-way, driveways, sidewalks, pedestrian ways, trails, off-street parking, loading areas, existing structures and proposed structures.

3. Approximate existing and proposed contours and drainage patterns, showing at least 5-foot contour intervals.
4. Sketches showing the scale, character, and relationship of structures, streets or driveways, and open space.
5. Approximate location and type of proposed drainage, water and sewage treatment and disposal facilities.
6. A short description of the soil types found on the site and whether the soils hold limitations for construction and/or for on-site sanitary sewage treatment.
7. At a minimum, plans for compliance with all of the following standards shall be required for construction and post construction periods:
 - a) Surface drainage systems designed to prevent erosion through control of the direction, volume, and velocities of storm water runoff.
 - b) The design shall provide for debris collection devices when handling street and parking drainage.
 - c) Water courses designed to control volumes, and velocities of water to prevent bottom and bank erosion.
 - d) If vegetation has been removed or has not been able to occur on exposed surface areas, stabilization measures shall be taken to prevent wind erosion and the blowing of surface material.

2. **Procedure**

The Emmet County Planning Commission shall review a site plan required under this Section, with due notice given to all owners of record within 300 feet of the subject property, and shall:

1. Determine whether or not the requirements of this Ordinance have been met.
2. Require an independent engineering review of the site plan, if determined to be necessary or helpful in reaching a decision.
3. Recommend alterations of the plan to minimize adverse effects on the natural environment and/or neighboring properties as a condition of approval.
4. Seek the assistance of the Natural Resource Conservation (NRCS) and/or Soil Erosion/Stormwater Management Officer relative to issues of soil erosion or stormwater runoff control, if determined to be necessary or helpful in reaching a decision.
5. Within forty (40) days of the filing of a complete application, render a decision to approve, reject or conditionally approve the plan, provided that a decision may be postponed for up to an additional sixty (60) days to allow for an independent

engineering review of a site plan, or with the consent of the applicant, establish a different schedule.

6. In approving a site plan under this Section, the Planning Commission may impose reasonable conditions to ensure compliance with the standards, requirements and intent of this Section and this Ordinance.

A site plan shall be approved if it contains the information required by this Ordinance and is in compliance with this Ordinance, and any conditions imposed under this Ordinance. An approved site plan shall become part of the record of approval, and subsequent actions relating to the activity permitted shall be consistent with the approved site plan unless a change conforming to this Ordinance receives the mutual agreement of the owner of the land affected and the Planning Commission.

Fees

In addition to any other fees required under this Ordinance, a supplemental fee shall be required from the applicant to cover the actual costs of any independent engineering review before, during and after excavation or construction.

Performance Guarantees

An adequate performance guarantee in the form of a surety bond, cash, certified or cashier's check, certificate of deposit, or irrevocable bank letter of credit, as selected by the applicant, may be required by the Planning Commission to insure faithful completion of construction/improvements in accordance with the plan required under this Section. The amount of the guarantee shall be set by the Planning Commission based upon reliable estimates of the costs of completing the work. Said guarantee shall be refunded upon satisfactory completion of the work, per engineer's certification as required in this Section.

Shoreline Bluff Standards

The Planning Commission shall not approve a site plan for a property where the planned construction is in the Bluff Protection Zone where there exists a feasible and prudent alternative location on the owner's lot of record, which shall include owner's land lying east of Highway M-119.

The Zoning Board of Appeals may only hear and decide appeals from decisions of the Planning Commission regarding the existence of a feasible and prudent alternative location on the owner's lot of record. In addition to meeting the applicable requirements of Article XXV, the applicant must show that the lot of record was not created strictly for the purpose of avoiding the consideration of alternative locations under this Section.

The necessity to prove a prudent/feasible alternative shall not apply to existing residential buildings within the Bluff Protection Zone that may be destroyed by fire or other means (even to 100%).

To be approved by the Planning Commission, a site plan must comply with the standards set forth in Section 2405(4) of this Ordinance and with the following standards:

1. The amount of disturbed area shall be minimized at any one time.

2. The impact to wildlife and native vegetation shall be minimized by preserving the natural habitat.
3. Existing native vegetation shall be preserved to the maximum extent possible. Where feasible, the existing soil mat (topsoil, root structure, tree stumps, etc.) shall be maintained when trees and brush are removed. Vegetation shall be restored in areas affected by construction activities, and where feasible, native vegetation shall be used in such restoration.
4. The site plan shall, as appropriate in each case, include a Shoreline Greenbelt (See Section 200) to: (a) act as a natural trap or barrier for soil/debris that slumps, falls or erodes from the bordering bluff slope, and (b) serve as a natural erosion control measure. The extent of the Shoreline Greenbelt shall be based on site plan information as pertinent to each specific property.
5. All driveways intersecting public roads shall intersect at an angle between 70 and 110 degrees with the public road.
6. The maximum longitudinal driveway entrance shall be no steeper than a 4% grade for a minimum of 30' from the edge of the traveled lane of a public road.
7. The maximum longitudinal driveway grade shall be 12%.
8. A vehicle safety barrier shall be installed along all driveway sections with parallel drop off grades steeper than 33% and greater than a 10-foot vertical height to level ground.
9. New driveways may be constructed down the bluff face in those cases where there is a nearly level natural shelf below the face of the bluff that is of sufficient length and width to site a residence (or two) that will meet the bluff toe setback standards and the 1986 record high water mark setback. Driveways in the Bluff Protection Zone shall also meet the side setback standards of the District. Any such access drive shall be essentially straight and not have a switch-back feature that impacts the bluff face.

The Planning Commission may waive or allow a modification of one or more of standards 1. through 8., but not 9., above, if supported by construction plans signed and sealed by a Michigan Registered Professional Engineer who shall take into account the concerns of affected road agencies, environmental protection agencies and public safety authorities.

Conflicting Regulations

The requirements of Article XXVIII, Conflicting Regulations notwithstanding, the terms, conditions and standards of the Critical Dune Act (P.A. 451 of 1994, as amended) shall supersede the terms, requirements and conditions of the Shoreline Bluffs regulations.

Lot of Record

A lot of record shall not be created strictly for the purpose of avoiding consideration of alternative locations under this Section.

SECTION 2210. MINIMUM WATERFRONT SETBACK

INTENT

To provide minimum setback standards in the Zoning Ordinance to protect surface water resources and flood plains from adverse construction or alteration. These measures being deemed to be the minimum necessary in order to:

- Avoid excessive structural encroachment of the natural waters and waterways, except uses traditionally depending upon direct water access.
- Promote high water quality through encouragement of an undisturbed natural area to trap nutrients and sediment from entering natural waters, and prevent erosion. It is suggested that a minimum shoreline greenbelt of 35 feet be maintained.
- Protect the natural environment of streams and lakes for wildlife habitat purposes and to preserve, to the extent practical, the natural image of landscapes.

1. MINIMUM WATERFRONT SETBACKS

Any property which borders on or contains a natural river, stream, pond, or lake, which is identifiable on the U.S. Geological Survey Maps of Emmet County, shall be subject to waterfront setbacks for buildings and uses, as follows:

- a) No fill or permanent construction in any floodway appurtenant to a natural river, stream, pond, or lake, which is identifiable on U.S. Geological Survey Maps of the 7' or 15' quadrangle series, and further identified as an area that is prone to annual flooding, i.e. a natural storage basin during high water levels. Fill can be approved if accomplished in such a way as to not reduce or diminish the water holding capacity of the natural floodway, and that such is documented by a Registered Professional Engineer or similarly qualified professional.
- b) Permanent structures, parking lots, and other impervious surfaces, except boat docks, boat slips, ramps, or marinas, or other water dependent uses, shall observe a minimum setback of sixty (60) feet from the documented 1986 High Water Mark in all Residential and Farm-Forest Districts, and twenty-five (25) feet in Commercial and Industrial Districts. Except for a potential interference in floodways, the setbacks of this paragraph shall not apply to drains or intermittent streams. An intermittent stream is one which holds water at some time during each year, but for not more than eight (8) months. Where the shoreline of a lake, river, or stream is altered by any means, after the effective date of this ordinance amendment (insert date), the setback shall be measured from the altered shoreline location or the documented 1986 High Water Mark, whichever is further inland.
- c) Ground decking and patios without railings and which are less than eighteen (18) inches above the natural grade at the deck building line may extend into the setback area, but not nearer to the shoreline than twenty-five (25) feet. Railed decks and enclosed patios over four (4) feet high shall observe the setback lines for main buildings, in the applicable zoning district. Walkways and pathways, if not wider than six (6) feet, and if perpendicular to the shoreline, are not restricted by this section.

2. OTHER ENVIRONMENTAL RULES
Any filling or construction within flood plains or wetlands, or other environmental areas protected by State Law, or other laws, shall require appropriate permits from the government unit or agency having jurisdiction.
3. SECTION 1900. SCHEDULE OF REGULATIONS
Property boundary setbacks contained in the Schedule of Regulations, Section 1900, are superseded by this Section (2210) for parcels bordering or containing surface waters. In case of a conflict in applying setbacks, the Ordinance Section with the deeper setback shall apply.

SECTION 2211. SUPPLEMENTARY HEIGHT AND AREA REGULATIONS

INTENT

When a permitted building is constructed in any District, structural appurtenances (architectural features) shall be permitted to exceed the building height limitations, as follows:

1. **ORNAMENTAL**
Superstructures, e.g. church steeples, belfries, cupolas, domes, ornamental towers, spires and flagpoles if the structural elements do not exceed twenty (20) percent of the gross roof area.
2. **MECHANICAL AND STRUCTURAL FUNCTIONS**
Building elements, e.g., chimney and smoke stacks, water tanks, elevator and stairwell, ventilators, bulkheads, radio/tv towers, aerials, fire and hose towers, cooling towers, solar panels and utility screens.

The foregoing permitted exceptions shall not be used for human occupancy and can only be accessed for maintenance purposes.

SECTION 2212. OUTDOOR LIGHTING

Intent and Purpose

It is acknowledged that the county's economic well being is heavily dependent upon the resort and tourist industry. This makes preserving the visual quality of the nighttime experience critical to Emmet County.

The purpose of the Section is to help protect the health, safety and welfare of the public by recognizing the need for buildings and sites to be illuminated for safety, security, and visibility from both pedestrian and motorist viewpoints. The goal is to provide guidelines that balance the functional requirements of nighttime lighting with sensitivity to light pollution, visual comfort, and aesthetics and further, to preserve the restful quality of nighttime by eliminating intrusive artificial light and lighting that unnecessarily contributes to sky glow.

This section provides standards for various forms of lighting that will: minimize light pollution and light trespass, conserve energy, and enhance safety.

Definitions

As used in this section the following terms shall have the indicated meanings:

ARTIFICIAL SKY GLOW: The brightening of the night sky attributable to man made light sources which obscure stars, comets, the moon, northern lights, and other natural phenomena.

CANOPY: A roof-like covering over an area, that allows pedestrians/vehicles to pass in or under and upon which a light source is mounted.

DEVELOPMENT PROJECT: Any residential, commercial, industrial, institutional or mixed use construction project submitted to the County for approval.

DISPLAY LOT OR AREA: Outdoor areas where active nighttime sales activity occurs and where accurate color perception of merchandise by customers is required. To qualify as a display lot, the property must meet the standards outlined in Article X, Section 1001 of the Ordinance.

FULLY SHIELDED LIGHT FIXTURE: A lighting fixture constructed so that all light emitted by the fixture, either directly from the light source, lamp, or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane as determined by photometric test or certification by the manufacturer. Any structural part of the lighting fixture providing this shielding must be permanently affixed.

GLARE: Light emanating directly from a light source, lamp, reflector or lens that creates visual discomfort or momentary blindness when viewed.

LIGHTING LEVEL MEASUREMENT: The measurement of outdoor light output from a luminaire expressed in footcandles. Lighting shall be measured with a properly calibrated light meter. Measurements shall be taken at final grade or in some cases when light is reflected on a vertical surface.

LIGHT TRESPASS: Light falling where it is not needed or wanted, typically across property lines.

LUMINAIRE: (LIGHT FIXTURE) A complete lighting device consisting of one or more lamps or light sources along with the other components sufficient to produce light.

OUTDOOR LIGHT FIXTURE: An outdoor illuminating device, outdoor lighting or reflective surface, lamp or similar device, used for illumination or advertisement.

MAXIMUM OUTDOOR LIGHT OUTPUT: The maximum total amount of light, measured in footcandles from all outdoor light fixtures. For lamp types that vary their output as they age (such as high pressure sodium, fluorescent and metal halide) the initial output as defined by the manufacturer, is the value to be considered.

General Provisions

1. Projects requiring a permit:

An outdoor lighting permit shall be required for all new development projects, except for single-family homes on existing lots of record and farms. Projects which by addition or modification, increase the number of existing dwelling units, gross floor area and/or parking spaces by twenty-five (25) percent or greater are subject to the requirements of this section.

Outdoor Lighting subject to review includes but is not limited to lights used for:

- Parking Lot Lighting
- Security Lighting
- Roadway Lighting
- Buildings & Structures
- Recreational Areas
- Landscape Lighting
- Building overhangs and open canopies
- Signage and advertisement

2. Shielding and Security Lighting

- a. All outdoor luminaires subject to this section shall be fully shielded lighting fixtures to minimize artificial sky glow.
- b. All outdoor lighting fixtures shall be placed to prevent light trespass or glare beyond the property line.
- c. All outdoor lighting shall be of a type, and placed, to prevent any light above the horizontal plane, as measured at the luminaire.
- d. Flood or spot lamps shall be fully shielded and aimed no higher than 45 degrees above straight down (nadir) when the source is visible from any offsite residential property or public roadway.
- e. All lighting for commercial, industrial, and any other non-residential activities including billboards and electronic message centers shall be extinguished between 10:00 p.m. or the close of business, whichever is later and 6:00 a.m. or the opening of business, whichever is earlier. Security lighting for these establishments shall be designated on the lighting plan and conform to the regulations of this section.

3. Outdoor Lighting Districts

For the purposes of this section there shall be three (3) lighting districts established as follows:

District 1:

Those areas designated on the County Zoning map as B-1, B-2 and/or PUD along the State Trunk Lines north of Intertown Road and south of Graham and Powell Roads.

District 2:

Those areas designated on the County Zoning Map as B-1, B-2, B-3, PUD, I-1 and/or I-2 along State Trunk lines to a depth of 200' from the road right-of-way, excepting those properties in District 1.

District 3:

Those areas of Emmet County outside of Districts 1 and 2.

4. Outdoor Lighting District Standards

The following lighting level measurement standards shall apply to uses established within each Outdoor Lighting District. The values shown are the maximum allowed outdoor light levels as measured from any spot that is illuminated, expressed in footcandles (fc).

USE	District 1	District 2	District 3
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Parking Lots (non-display)	8 fc	7 fc	4 fc
Gas Station Canopy Lighting	30 fc	20 fc	20 fc
Display lots	24 fc	20 fc	16 fc
Private Roadway Lighting	3 fc	2 fc	1 fc
Building/Landscape ambient lighting	2 fc	1 fc	1 fc

All uses regulated in this section shall not exceed 0.5 footcandles at the property line. Where it can be demonstrated by the applicant that allowing a greater intensity at the property line would not negatively affect the lighting quality, health, safety, and welfare of the community, the Planning Commission, or committee appointed by the Planning Commission may modify the standards. This does not apply to the limits set in the table above.

Additional Uses: For those uses not listed above the reviewing agency shall use the Illuminating Engineering Society of North America (IESNA) current lighting guidelines for illumination levels. The current issues of these publications shall be maintained and available to the public at the Office of Planning and Zoning.

5. Luminaire Mounting Heights

- a. All luminaires shall be located and/or mounted at a height no greater than twenty (20) feet measured from final grade to the bottom of the luminaire.
- b. The reviewing agency may approve greater mounting/pole heights for the interior of development projects when all of the following conditions are met:
 - 1. Fewer luminaires will be required for the site.
 - 2. The greater mounting height will not cause light trespass and/or glare beyond the property line for reasons of topography, screening or similar circumstances.
 - 3. The greater mounting height will contribute less artificial sky glow by reducing the intensity of the lighting beneath the luminaire.

6. Prohibited Lighting

- a. Unshielded luminaires of any type.
- b. Luminaires designed such that the light source is visible from off-site.

7. Application/Review Procedures

To obtain a permit required by this Section, a lighting plan shall be submitted for approval prior to installation. The lighting plan shall at a minimum, contain all of the following:

- a. Site plan including the location of all proposed and existing illuminating devices. All directional lighting shall have arrows indicating target areas of illumination indicated in drawings.
- b. Description of all illuminating devices, fixtures, lamps, supports, reflectors. The description shall include manufacturer's data sheets, illustrations and the like.

- c. Photometric data superimposed on the site plan; provided, however, that for smaller or less complex projects, the reviewing body may accept photometric data supplied by the manufacturer which is separate from the site plan.
- d. Such other information about the site or adjoining sites as may be essential for the reviewing body to determine if the requirements of this section are being met.

Following submission of a complete lighting plan in accordance with this section, the reviewing body shall act to approve, conditionally approve, or deny the lighting plan with reasons stated. The reviewing body shall commence formal review of the lighting plan at its next regularly scheduled meeting provided a complete plan has been submitted at least ten (10) days prior to the meeting.

8. Exceptions

Subject to a hearing and notification to adjoining property owners of record within 300 feet of the subject parcel, the Planning Commission may grant an exception of the standards of this Section if all of the following are met:

- a. Neighboring properties will not be adversely affected.
- b. Unique conditions exist on the site.

No modifications shall be granted with respect to the standards regarding luminaire shielding.

9. Exempt Lighting

The following types of lighting are exempt from the standards of this section.

- a. Holiday lighting.
- b. Lighting required by governmental agencies
- c. Airport lighting
- d. Emergency lighting as used by law enforcement, firefighters, and other public safety agencies.
- e. Temporary construction lighting when used for periods up to 30 days, which are fully shielded and do not emit lighting levels greater than 0.5 fc at the property boundary lines.”

SECTION 2213. DOMESTIC FARMS & FARM ANIMALS

Domestic Farms as defined in this Ordinance are allowed without a permit in Residential Districts (listed in Section 300) and Farm Forest (FF) Districts provided that the following standards are met:

a) Domestic Farms in Residential Districts

Domestic Farms that include livestock must be on sites of 2.0 acres or larger, as follows:

- 1) Animal density of two Farm Animal Unit for the first 2.0 acres, plus one additional Farm Animal Unit for each additional acre of contiguous land (ownership or lease). Animal densities are calculated from Farm Animal Unit.
- 2) Corrals, stables, and enclosure fencing shall meet the setbacks of the District, and building sizes comply with Section 2201, Accessory Buildings.

- 3) Other farm animals subject to approval by the Planning Commission, who shall determine that the densities related to item (a) herein, and/or meet one acre per “Farm Animal Unit” as defined in this ordinance, and that no nuisances are maintained to the detriment of neighboring owners. Swine, roosters, or other animals may be prohibited by the Planning Commission, if determined to cause a nuisance.

In the case of disputes or needed interpretations, the Planning Commission may review and take action to continue, modify, or abate a domestic farm use in keeping with the spirit and intent of the Zoning District, and the level of management and care given the subject livestock.

b) Domestic Farms in FF-1 & FF-2 Districts

The following standards apply to Domestic Farms in FF-1 and FF-2 Districts as differentiated from Commercial Farms defined in this Ordinance:

- 1) Domestic Farms that include livestock on sites of 2.0 acres or larger, will be regulated as stipulated for Residential Districts.
- 2) Greenhouses, hatcheries, apiaries, hydroponics, fur bearing animals, mushroom farms, shall only be permitted, as Domestic Farms, on sites of a minimum of five (5) acres, subject to approval by the Zoning Administrator who shall find that the uses:
 - (a) Do not conflict with surrounding residential uses that may be adjacent or nearby.
 - (b) Retail traffic is not attracted to the property.
 - (c) Corrals, stables, enclosure fencing and all buildings shall meet the setback standards of the District, and building sizes shall comply with Section 2201, Accessory Buildings.
 - (d) The property is at least 300 feet in width.
 - (e) The use is not a Commercial Farm as defined in the Ordinance.

In the case of disputes or needed interpretations, the Planning Commission may review and take action to continue, modify, or abate a domestic farm use in keeping with the spirit and intent of the Zoning District, and the level of management and care given the subject livestock.

ARTICLE XXIII - GENERAL EXCEPTIONS

SECTION 2300. AREA, HEIGHT AND USE EXCEPTION

The regulations in this Ordinance shall be subject to the following interpretations and exceptions:

1. ESSENTIAL SERVICES

Essential Services shall be permitted as authorized and regulated by law and other Ordinances of the County, it being the intention hereof to exempt such essential services from the application of this Ordinance.

2. VOTING PLACE

This Ordinance shall not be construed to interfere with the temporary use of any property as a voting place in connection with a public election.

3. COMMERCIAL FARMS

This Ordinance shall not be construed to interfere with commercial farm operations as defined in this ordinance and protected under the Michigan Right To Farm Act (Act 93 of 1981, as amended).

4. HEIGHT LIMIT

Height limitations shall not apply to farm silos, chimneys, church spires or public monuments; provided, however, that the Board of Appeals may specify a height limit for any such structure when such structure requires authorization as a use permitted on special condition or a use permitted in the Section **CONDITIONAL USES AUTHORIZED BY SPECIAL PERMIT** of this Ordinance.

5. YARD REGULATIONS

When yard regulations cannot reasonably be complied with, as in the case of a planned multiple family development, or where their application cannot be determined on lots existing and of record at the time this Ordinance became effective and on lots of peculiar shape, topography, or due to architectural or site arrangements, such regulations may be modified as determined by the Board of Appeals.

6. PROJECTIONS INTO REQUIRED OPEN SPACES

- a. Outside stairways, fire escapes, vestibules, balconies, bay windows and similar projections from the face of a building extending more than four (4) feet above the established grade shall be considered part of the building and shall not extend into any required yard or open space.
- b. For lots which have less than 100 feet of width, architectural features such as, but not limited to window sills, cornices, eaves and bay windows may extend or project into a required side yard not more than four (4) inches for each one (1) foot of width of such side yard; and may project or extend into a required front yard or rear yard not more than three (3) feet. Architectural features shall not include those details which are normally de-mountable.
- c. Unenclosed paved areas, patios and other surfaced areas may occupy a required yard.

ARTICLE XXIV - ADMINISTRATION

SECTION 2400. DUTIES OF ZONING ADMINISTRATOR

The Zoning Administrator shall have the power to grant Zoning Compliance Permits and to make inspections of buildings or premises necessary to carry out the duties of enforcement of this Ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or issue any Permits for the excavation or construction until such plans have been inspected in detail and found to conform to this Ordinance. The Zoning Administrator shall record all nonconforming uses existing at the effective date of this Ordinance for the purpose of carrying out the provisions of the Section "Nonconformities".

The Zoning Administrator shall under no circumstances be permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out duties of Zoning Administrator.

The Zoning Administrator shall not refuse to issue a Permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said Permit.

SECTION 2401. PLOT PLAN

The Zoning Administrator shall require that all applications for Zoning Permits shall be accompanied by plans and specifications including a Plot Plan showing the following:

1. The shape, location and dimensions of the lot.
2. The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or other structures already on the lot.
3. The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
4. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed, including, but not limited to dimensions drawn to scale and certified survey.

Deviations from the approved Plot Plan may result in Enforcement action as outlined in Sections 2409, 2410 and/or 2411 of this Ordinance.

SECTION 2402. ZONING PERMIT

The following shall apply in the issuance of any Permit:

1. PERMITS FOR NEW USE OF LAND
No land heretofore vacant shall hereafter be used or an existing use of land be hereafter changed to a new or different use unless a Zoning Permit is first obtained.
2. PERMITS FOR NEW USE OF BUILDINGS
No building or structure or part thereof, shall be changed to or occupied by a new or different use unless a Zoning Permit is first obtained.
3. PERMITS REQUIRED
No building or useable exterior parts thereof shall hereafter be erected, moved, expanded, or diminished in floor area unless a Zoning Permit shall have been first issued for such work. No Zoning Permit fee shall be applied to farm use buildings if not for human occupancy.
4. PERMIT VALIDITY
Zoning Permits shall be valid for a period not to exceed twenty-four (24) months from the date of issuance.

Deviations from the approved Permit may result in Enforcement action as outlined in Sections 2409, 2410 and/or 2411 of this Ordinance.

SECTION 2403. FEES

Fees for inspection and issuance of Permits or copies thereof required or issued under the provisions of the Ordinance shall be collected by the Zoning Administrator in advance of issuance. The amount of such fees shall be established by resolution of the County Board of Commissioners.

SECTION 2404. INTERPRETATION

In interpreting and applying the provisions of this Ordinance, they shall be held to be minimum requirements for the promotion of the public health, safety, and welfare.

SECTION 2405. SITE PLAN REVIEW

1. USES REQUIRING APPROVAL

Except for one family or two family dwellings or permitted accessory buildings, per Section 2201, a complete Site Plan shall be submitted to the Emmet County Planning Commission (or Board of Appeals if so required), for the approval of any use for which a Site Plan is required by this Ordinance.

2. GRAPHIC REQUIREMENTS FOR SITE PLANS

Site Plans submitted in compliance with this Ordinance shall be presented in terms of the following:

- a) A map scale that provides a large enough image to adequately display the proposed site development and pertinent details, and existing site features considering legibility and site area.
- b) Date, north point, scale, property dimensions, street names, and necessary property identification information.
- c) At least two (2) full sized and fourteen (14) reduced size (maximum 11"x17") copy of all maps or graphics. Digital format including data layers may be required, if deemed necessary by the Zoning Administrator.
- d) All existing and all proposed structures with dimensions on the subject property, including signs and lighting, other structures within 100 feet of the subject property, ingress drives, roads and parking areas; and indicate the height of all structures.
- e) All existing easements, utility lines, rights-of-way and other services, including well and septic locations, within and bordering the subject property.
- f) Topography information based on United States Geological Survey (USGS), or selected on-site elevations; if deemed necessary by the Zoning Administrator. More detailed information may be required where the Planning Commission determines that the site and use warrant a more critical review of topography.

- g) Mapping of soil data as recognized in the United States Department of Agriculture, Soil Survey of Emmet County, Michigan (December 1973), or a more detailed analysis of soils, shall be included. Soil data and analysis should include engineering interpretations as to the suitability for the construction and maintenance of roads, building foundations, facilities for storing water, structures for controlling erosion, drainage systems, and systems for disposing of sewage. In addition, soil properties should include permeability, drainage, depth to water table, flooding hazard, depth to bedrock, and slope. More detailed information may be required where the Planning Commission determines that the site and use warrant a more critical review of the soils.
- h) An inventory of special site features that may be present including, but not necessarily limited to regulated wetlands as defined in law, critical dunes, bluff lines, wooded areas, water courses, and natural or man made drains, as are known to the applicant or as may be suspected based on reviews of soil maps, aerial photographs, USGS Quadrangle maps, on-site inspections, and/or other competent sources.
- i) All site plans shall comply with the terms of the Soil Erosion and Sedimentation Control Act.

3. IMPACT STATEMENT

The statement shall address itself to the following as applicable to the type of use:

- a) A complete description of the proposed development including: areas of the site, the number of lots or units; and characteristics of the demographic impact including, but not limited to: density, age and income level of population to be served, seasonal/permanent and other related statistics.
- b) 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 ground water reserves or community system capacity, change in traffic volume on adjacent streets and other factors that may apply to the particular development.
- c) 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.

4. SITE PLAN REVIEW STANDARDS

The Planning Commission shall consider whether the following standards have been addressed to promote public health and safety, protect land values and carry out the spirit and intent of the Ordinance:

- a) The location and design of driveways and entrances features with respect to vehicular and pedestrian traffic.
- b) The arrangement of uses on the property, including the orientation of buildings, parking areas, open spaces, the visual exposure of waste storage facilities, snow storage, loading docks and service doors.

- c) The traffic circulation plan and off-street parking with respect to public safety, on-site uses and adjacent properties.
- d) Buffer techniques, screening, fences, walls, greenbelts, and landscaping may be required by the Planning Commission in pursuance of the objectives of this Section and/or as a condition of the establishment of the proposed use.
- e) Methods proposed to prevent or minimize damage to sensitive or critical environmental areas.
- f) Storm water drainage plans shall address flows onto the site from adjacent sites and roads, storm water impact on the site (soils, impervious surfaces, potential impervious surface, retention ponds, detention ponds, and related management facilities as appropriate), and the storm water outfall, or flow control into adjacent drainage courses, ditches and the like.

The drainage plan shall indicate the manner in which surface drainage is to be disposed of. This may require making use of the existing ditches, natural watercourses, or constructing tributaries, but shall not result in storm water that exits the detention pond and/or property site at an erosive velocity. Additional hard surfaces proposed for a site must provide for detention and/or retention. The minimum requirements for retention and detention facilities are as follows: For sandy sites the volume of retention and/or detention shall be equal to the volume of 1 and ½" of water depth multiplied by the area of additional hard surface. For all sites other than sand, the volume of the retention and/or detention shall be equal to the volume generated from 2" of water depth multiplied by the area of additional hard surface. Both detention and retention facilities must be designed to assure that water is released within 72 hours. Detention facilities are to have a pipe no larger than 4" exiting the ponds at a grade no greater than 1%.

All storm water drainage plans shall be sealed by a Michigan Registered Professional Civil Engineer. The Planning Commission may waive the requirement, defer the requirement, or determine that a fully engineered storm drainage plan is not necessary, or can be deferred to a future date. Improvement guarantees shall be required, unless waived by the Planning Commission, for all storm water drainage plans in the form and amount acceptable by the Planning Commission to guarantee completion of the project in accordance with the conditions of the zoning permit. The performance guarantee will be released upon final inspection and approval by the Zoning Administrator, and receipt of sealed as built plans for storm water drainage.

Storm water retention basins designed to retain a fixed pool of water shall include one or more of the following safety features: 1) safety ledge(s) at least (10) feet wide at the basin perimeter, 2) vegetation surrounding the basin to discourage wading, or 3) fencing to prevent unauthorized access to basin.

Sandy – for the purpose of this Section 2405(4)f), shall be defined as soils that meet a percolation rate consistent with the Emmet County Sanitary Code of 0 to 15 minutes.

- g) Spaces, right-of-ways, easements, and related site plan elements needed to serve the proposed use or development for such services as fire protection, sanitary sewers, water supplies, solid waste, storm drainage systems, and related.

5. CERTIFICATION

For developments regarded to be complex or where deemed appropriate for such special conditions as questionable soils, steep grades or other environmental features, complex street patterns, housing density or similar conditions; the final approval of a Site Plan may be withheld pending the signature and seal of a Michigan registered landscape architect, architect, or engineer, as applicable to the design subject.

The Planning Commission may require that engineered storm drainage systems, including appropriate grading and earth work, be certified by a Michigan Registered Professional Civil Engineer as having been completed according to the stipulations of the approved site plan. Other critical site construction features may also be subject to engineering certification as to site plan compliance.

Where required, the owner or applicant shall provide such certification within 45 days of the completed construction.

6. APPLICATION PROCESS

The Planning Commission shall commence formal review of the Site Plan at its next regularly scheduled meeting provided a complete Application is submitted at least twenty-four (24) days prior to that meeting. A complete application shall include the application form, signed by the property owner, Site Plan which meets the standards of Section 2405-2, Impact Statement, Site Plan Review Checklist and applicable fees.

7. PERFORMANCE GUARANTEES

A performance guarantee in the form of a bond, cash, certified check, or irrevocable letter of credit shall be required for all commercial projects and for all other projects with unusual or challenging site conditions determined by the Planning Commission. The Planning Commission may require a performance guarantee where enforcement or collection action was required relative to a previous permit issued to the applicant or developer. The performance guarantee shall be in the form and amount acceptable to the Planning Commission to guarantee completion of the project in accordance with the conditions of the permit. The performance guarantee will be released upon final inspection and approval by the Zoning Administrator or Enforcement Officer. Performance guarantees will not be released if there are monies owed to the enforcing agency.

8. DECISION

Following the submittal of a Site Plan in accordance with the requirements of this Section, and any other rules governing Site Plan submittals in Emmet County, the Planning Commission shall approve, conditionally approve or reject the proposed development, with reasons stipulated.

No land use, zoning compliance, and/or building permits shall be issued except for uses that are in full compliance with the provisions and conditions specified in the Site Plan Review process. If no action is taken to establish a use and/or construct a building

pursuant to an approved site plan, or an approved site plan amendment, such approval shall lapse and cease to be in effect after twenty-four (24) months from the date of approval.

9. AS BUILT REVIEW

An as-built site plan shall be submitted within 12 months of completion of the project. A site plan based upon as built condition shall be submitted within 24 months of permit issuance. If as built is substantially different from the design site plan, as determined by the Zoning Administrator, the permit holder will be required to remedy such discrepancies and to pay penalties as deemed appropriate by the Zoning Administrator.

10. ENVIRONMENTALLY SENSITIVE AREAS

The protection of areas of environmental concern, such as wetlands, high risk erosion, dunelands, floodplains, or steep slope areas, must be considered in conjunction with development and such areas must be developed in conformance with the following regulations of state and county agencies as applicable:

- a. Dune Formations and High Risk Erosion Areas are sensitive sandy and clay areas under protection of the Michigan Natural Resources & Environmental Protection Act, 451 PA 1994, Parts 353 and 323 respectively (formerly, the Sand Dunes Protection Act, 222 PA 1976, as amended by 146 PA and 147 PA 1989, and the Shorelands Protection and Management Act, 245 PA 1970, as amended).
- b. Wetlands are defined by degree of soil wetness, generally including those soils classified by the Michigan Natural Resources & Environmental Protection Act, 451 PA 1994, Part 303, Section 324.30301 et seq. (formerly, the Goemere-Anderson Wetlands Act, 203 PA 1979) as being able to support aquatic vegetation regardless of whether it has standing water or not. No activity shall be permitted on a site with regulated wetlands, unless a wetlands permit has been obtained by the applicant from the Michigan Department of Environmental Quality.
- c. Sensitive Riverine Areas are defined as areas on each side of streams that could be subject to flooding or erosion and alterations of land may require a soil erosion and sedimentation control permit under Part 91, Section 324.9101 et seq of the Michigan Natural Resources & Environmental Protection Act, 451 PA 1994, (formerly, 346 PA 1972). See also e. below.
- d. Inland Lakes are sensitive areas around the water body, including the watershed, which could be subject to flooding, erosion, or pollution per Part 301, Section 324.30101 et seq. of the Michigan Natural Resources & Environmental Protection Act, 451 PA 1994, (formerly, 345 PA 1966).
- e. Flood Plain Areas are low areas adjacent to inland lakes and streams subject to flooding according to the one hundred (100) year flood hazard boundary map as administered by the Federal Emergency Management Agency (FEMA) or an Intermediate Regional Flood map prepared by the Army Corps of Engineers. A structure proposed within a floodplain is not permitted to be erected until a permit from the Michigan Dept. of Environmental Quality is obtained pursuant to Part 31 of the Michigan Natural Resource & Environmental Protection Act, 451 PA 1994.

- f. Shoreline Bluff Protection Zone. See Section 2209 of this Ordinance.

SECTION 2406. DEVIATIONS FROM SITE PLANS

1. The Zoning Administrator may authorize insignificant deviations from an approved site plan or from Zoning Permits. A deviation is insignificant if it has no discernible impact on the site, neighboring properties, the general public, or those intended to occupy or use the proposed development. All requests for modifications of an approved site plan or permit issued under the provisions of this Ordinance shall be in writing on a form provided by the Zoning Administrator. The Zoning Administrator shall keep a record of any authorized deviation.
2. Minor site design modifications or changes in permits (including approved site plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, minor modifications are those which will have no foreseeable effect or discernible impact to natural features on the property, beyond the property boundary such as minor changes in the location of buildings or structures, the alignment of utilities, and the alignment of walkways, interior roadways and parking areas. Minor changes for good cause may be authorized provided no such changes shall increase the size or height of structures, increase the number or type of dwelling units or square feet of nonresidential uses, add another land use, reduce the efficiency or number of public facilities serving the development, reduce usable or other required open space, or encroach on or impair air, water, other natural resources and natural features. Minor modifications or changes shall not violate a requirement of this Ordinance, or involve a modification or change that otherwise would require a variance from the ZBA. The Zoning Administrator shall keep a record of all minor design modifications or changes granted and report each modification as part of the annual report, except that for the first twelve months of employment, the Zoning Administrator must report each modification approved to the Planning Commission at the monthly meeting.
3. Any modification, change, or deviation not qualifying as a minor or insignificant deviation is considered to be a major modification, change, deviation or amendment and must be approved by the permit issuing authority following the same procedure required for the original permit or approval.
4. All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Planning Commission or Zoning Board of Appeals, new or modified conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing his request for a modification, change, deviation or an amendment and may then proceed in accordance with the previously issued permit.
5. An applicant requesting approval of a request for an insignificant deviation or a minor design modification or change shall submit a written request to the Zoning Administrator identifying the requested changes and stating the reasons for making their quest. Action on all changes shall be given in writing, and may be appealed by an affected person to the Zoning Board of Appeals pursuant to Article XXV.

SECTION 2407. CONDITIONAL and SPECIAL USE REVIEW PROCEDURES

1. AUTHORITY TO APPROVE USES

Whenever in this Ordinance the lawful exercise or existence of a use requires the approval of the Planning Commission, the Commission is hereby authorized and directed to investigate the matter to conduct a Hearing where required, to make a determination, to either grant or refuse the approval and to do all things reasonably necessary to the making of the investigation and determination, subject to the provisions of this Ordinance.

2. HEARING: NOTICE

Prior to conducting a Public Hearing, where required, or deemed necessary, public notice, stating the time and place of Hearing, shall be published, at least fifteen (15) days prior to the Hearing date, in a newspaper of general circulation in the County; and written notices, stating the time and place of Hearing, shall be sent by mail at least fifteen (15) days prior to the Hearing date, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet.

3. RULES OF PROCEDURE

The Planning Commission is hereby authorized to adopt Rules of Procedure consistent with the statutes of Michigan and the provisions of this Ordinance.

4. SURVEYS AND PLANS

Where the Planning Commission is empowered to approve certain uses of premises under the provisions of this Ordinance, or in cases where the Commission is required to make an investigation, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said Commission for the proper evaluation and consideration of the matter.

5. HEARING: MATTERS TO BE CONSIDERED

In making any recommendations or approval authorized by the provisions of the Ordinance, the Planning Commission shall consider:

- a. Whether or not there has been compliance with the provisions of this Ordinance, including, but not limited to Sections 1900 and 2100.
- b. Whether or not there is proper setback, parking facilities, loading space, percentage of lot coverage, greenbelts, size of buildings, lot area and other conditions required by this Ordinance, including but not limited to Sections 1900 and 2202 thru 2206.
- c. Whether or not the use involved is in accord with the spirit and purposes of this Ordinance.
- d. Whether or not the use involved would constitute a public or private nuisance.
- e. Whether or not the use involved would disturb or interfere with the natural or planned development of the surrounding neighborhood.

SECTION 2408. AMENDMENTS

The County may from time to time, on recommendation from the Planning Commission, or on petition, amend, supplement or change the District boundaries or the regulations herein or subsequently established herein pursuant to the authority and procedure established in, Public Act 110 of 2006, as amended.

In addition, an owner of property or his authorized agent, or other petitioner, shall not initiate action for an amendment to the Zoning Map affecting the same parcel more often than once every twelve (12) months. An exception to this rule may be made in those cases where the Planning Commission determines that: conditions affecting the property have changed substantially, or the nature of the request has changed substantially, thereby justifying a repetition before twelve (12) months have elapsed from the date of the previous petition.

SECTION 2409. ENFORCEMENT

Except where herein otherwise stated, the provisions of this Ordinance shall be administered by the County Zoning Administrator or by such deputies of the Zoning Administrator's department as the Zoning Administrator may delegate to enforce the provisions of this Ordinance.

The Zoning Administrator, or any Zoning Administrator's Deputy so designated by the Zoning Administrator, is hereby designated as the authorized County official to issue Municipal Civil Infraction action.

Procedures for processing violations of this Ordinance are set forth in Ordinance 97-10, the Municipal Civil Infraction Ordinance of Emmet County, as amended.

SECTION 2410. VIOLATIONS AND PENALTIES

A use of land or of a building, or a building erected, altered, razed, or converted in violation of this Ordinance is a nuisance per se.

Any person, partnership, corporation or association who creates or maintains a nuisance per se, as defined in the preceding paragraph, or who violates or fails to comply with this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction. The penalties for a violation of this Ordinance are stated in Ordinance 97-10, and those penalties are adopted herein by reference. Everyday that such violation continues may constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this section shall exempt the offender from compliance with the provisions of this Ordinance.

SECTION 2411. STOP WORK ORDER

If construction or land uses are being undertaken contrary to a zoning permit, the zoning enabling act, or this ordinance, the enforcement officer or zoning administrator is authorized to post a stop work order on the property at a suitable location in order to prevent the work or activity from proceeding in violation of the ordinance.

A person shall not continue, or cause or allow to be continued, construction or uses in a violation of a stop work order, except with permission of the enforcing agency to abate a dangerous condition or remove the violation, or except by court order. If an order to stop work is not obeyed, the enforcing agency may apply to the court for an order enjoining the violation of the

stop work order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent civil prosecution for failure to obey the order.

ARTICLE XXV - BOARD OF APPEALS

There is hereby established a Board of Zoning Appeals which shall perform its duties and exercise its powers as provided in 2006 PA 110, as amended and in such a way that the objectives of this Ordinance shall be observed, public safety secured and substantial justice done. The Board shall consist of the following: five (5) regular members, and up to two (2) alternate members.:

1. The first member shall be a member of the County Planning Commission.
2. The second member shall be an elector from the unincorporated area of the County appointed by the County Board of Commissioners for a period of three (3) years.
3. And, the third, fourth and fifth members shall be selected in the same manner as the second member to serve for a period of three (3) years; provided that no elected officer of the County, nor any employee of the County Board of Commissioners may serve simultaneously as a member or employee of the Board of Appeals.
4. The alternate member(s), if appointed, shall serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend 1 or more meetings, or for the purpose of reaching a decision on a case in which a regular member has abstained for reasons of conflict of interest.

SECTION 2501. MEETINGS

Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine or specify in its rules of procedure. All Hearings conducted by said Board shall be open to the public and held in compliance with 1976 PA 267 , as amended. The Board shall adopt its own rules of procedure and keep a record of its proceedings showing the vote of each member upon each motion, or if absent or failing to vote, indicating said fact; and shall file a record of its proceedings in the Office of County Clerk, and shall be a public record.

SECTION 2502. APPEAL

An appeal from the ruling of the Zoning Administrator concerning the enforcement of the provisions of this Ordinance may be taken to the Board of Appeals within such time as shall be prescribed by said Board by a general rule. Such appeal may be taken by a person aggrieved or by an officer, department, board, or bureau of this state or the local unit of government. The appellant shall file with the Board, on blanks or forms to be furnished by the Zoning Administrator, a notice of appeal specifying the grounds thereof.

The Zoning Administrator shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken. The final decision of such appeal shall

be in the form of a motion either reversing, modifying or affirming, wholly or partly, the decision or determination appealed from.

An owner of property, or his authorized agent, shall not file an appeal for a zoning variance affecting the same parcel more often than once every twelve (12) months. An exception to this rule may be made in those cases where the Board determines that: conditions affecting the property have changed substantially, or the nature of the request has changed substantially from the date of the previous petition.

SECTION 2503. STAY

An appeal to the Zoning Board of Appeals stays all proceedings in furtherance of the action appealed. However, if the body or officer from whom the appeal is taken certifies to the Zoning Board of Appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, proceedings may be stayed only by a restraining order issued by the Zoning Board of Appeals or circuit court.

SECTION 2504. JURISDICTION

The Board of Appeals shall have the following powers and it shall be its duty to:

1. Administrative Appeals: Hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Zoning Administrator or other person in the administration or enforcement of this Ordinance. The Board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination on appeal, and shall have the power of the officer from whom the appeal was taken and may issue or direct the issuance of a permit.
2. Interpretations:
 - a. Interpret provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one (1) meaning. In deciding upon the request, the Board shall insure that its interpretation will carry out the intent and purpose of this Ordinance.
 - b. Determine the precise location of boundary lines between zoning districts.
 - c. Determine the classification of any use of land not specifically mentioned as a principal use permitted, principal use permitted subject to special conditions, or special or conditional land use, so that it conforms to a comparable permitted use of land in accordance with the purpose and intent of each District.
3. A. Dimensional Zoning Variance
Permit zoning variances from the strict requirements of this Ordinance, so that the spirit of the Ordinance is observed, public safety is secured, and substantial justice done, but only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following:

1. That the practical difficulty was not created by an action of the applicant or property owner (self created); and either existed at the time of adoption of the requirement from which the zoning variance is requested, or is necessary as the result of governmental action such as a road widening.
2. That the strict compliance with the regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
3. That the requested zoning variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.
4. That the requested zoning variance will not cause an adverse impact on surrounding property values, or the use and enjoyment of property in the neighborhood or zoning district.

B. Conditions

The Zoning Board of Appeals may attach reasonable conditions with the approval of a zoning variance. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity. Any conditions imposed, however, shall meet all of the following requirements:

1. Be designed to protect natural resources and/or the health, safety, and welfare of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of police power, and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration and be necessary to insure compliance with those standards.

4. Temporary Use Permits

Permit a temporary use or building for a period not to exceed two (2) years, but which may be reviewed for renewal, upon request, for not more than two (2), two-year periods each, but not more than six (6) years total.

5. Limitations of Authority

Nothing herein contained shall be construed to give or grant to the Board the power or authority to alter or change the Zoning Ordinance or the Zoning Map, such power and

authority being reserved to the County Board of Commissioners in the manner hereinafter provided by law.

SECTION 2505. BOARD REVIEW

The Zoning Board of Appeals shall commence review of the Case at its next regularly scheduled meeting provided a complete Application is submitted at least twenty-two (22) days prior to that meeting. A completed application shall include: 1) the application form, 2) property owner authorization; 3) surveys, plans, or other information as may be required by said Board for the proper consideration of the matter, nine (9) copies of each document, and 4) applicable fees.

SECTION 2506. NOTICE OF HEARING

The Board of Appeals shall make no recommendation except upon receipt of written request as described in Section 2505 above. Upon receipt of a written request, the Zoning Board of Appeals shall conduct a Public Hearing and notices shall be provided as required by 2006 PA 110.

SECTION 2507. MISCELLANEOUS

No order of the Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than two (2) years, unless a Zoning Permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

ARTICLE XXVI - VESTED RIGHT

It is hereby expressly declared that nothing in this Ordinance shall be held or construed to give or grant to any person, firm or corporation any vested right, license, privilege or permit.

ARTICLE XXVII - SEVERANCE CLAUSE

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the Courts to be unconstitutional or invalid, such holdings shall not effect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

ARTICLE XXVIII - CONFLICTING REGULATIONS

Except as otherwise provided by law, if any provision of this Ordinance conflicts with any other provision or with any law, the more stringent provision or law shall control.

ARTICLE XXIX - EFFECTIVE DATE

Public Hearing having been held hereon, the provisions of this Ordinance are hereby declared to be immediately necessary for the preservation of the public health, peace and safety and are hereby ordered to take immediate effect after final passage. Made and passed this 30th day of October, 1972.

Hugh Heynig, Chairman
Emmet County Board of Commissioners

Ward Walstrom, Chairman
Emmet County Planning Commission

STATE OF MICHIGAN)
) SS
COUNTY OF EMMET)

I, Harriet L. Kilborn, Emmet County Clerk and Clerk of the Circuit Court for the County of Emmet, the same being a Court of Record and having a seal, do hereby certify that I have compared the foregoing copy of the EMMET COUNTY ZONING ORDINANCE, adopted by the Emmet COUNTY BOARD of Commissioners, August 24th, 1972 with the original record thereof now remaining in my office, and that it is a true and correct transcript therefrom, and of the whole thereof. IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Petoskey this 24th day of August, 1972.

(SEAL)

Harriet L. Kilborn
Emmet County Clerk

Public Hearings: March 29, 1972 and March 30, 1972
Adoption by the Emmet County Board of Commissioners: August 24, 1972
Approval by the State of Michigan, the effective date: October 30, 1972