

ZONING ORDINANCE*

Of the

TOWNSHIP OF BENONA

Oceana County, Michigan

Effective

December 1, 1980

This edition includes amendments

Through April 23, 2001

As amended: November 26, 2007

July 31, 2009

*Revised in keeping with the Master Plan

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ARTICLE I - TITLE AND PURPOSES

- 1.1 This Ordinance shall be known as the Zoning Ordinance of the Township of Benona.
- 1.2 This Ordinance shall, in its application and interpretation, be deemed to establish minimum requirements for the promotion of public health, safety, general welfare, and physical development of the Township of Benona.
- 1.3 This Ordinance shall not supersede any state law or any private restrictions placed upon property; provided that, where this Ordinance imposes a greater restriction, the provisions of this Ordinance shall control.

It is the responsibility of the property owner or his/her assigned agent to obtain a valid zoning permit prior to any alteration/addition to any property or structures within Benona Township.

ARTICLE II - DEFINITIONS

For the purpose of this Ordinance, certain terms are herewith defined. When not inconsistent with the text, words used in the present tense include the future, words used in the singular number include the plural, and words in the plural number may include the singular; the word "person" may be taken for persons, associations, co-partnerships, or corporations; the word "structure" includes buildings; the word "occupied" includes designed or intended to be used; the word "shall" is always mandatory and not merely directive; and the word "used" includes designed or intended to be used. Other words and terms shall have the following respective meanings:

- 2.1 **Accessory use:** A use naturally and normally incidental and subordinate to the main use of the premises.
- 2.2 **Accessory building:** A subordinate structure on the same lot with a main building, or a portion of the main building, occupied or devoted exclusively to an accessory use.
- 2.3 **Alley:** A public way, not more than twenty (20) feet wide, which affords only a secondary means of access to abutting property.
- 2.4 **Area of special flood hazard:** The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year.
- 2.5 **Automobile repair- major:** General repair, rebuilding or reconditioning of engines, motor vehicles or trailers, collision service, including body frame or fender straightening or repair, overall painting or paint shop, vehicle steam cleaning.
- 2.6 **Automobile repair - minor:** minor repairs, incidental body and fender work, painting and upholstering, replacement of parts, and motor service to passenger automobiles and trucks not exceeding one and one-half (1-1/2) tons capacity, but not including any operation specified under "Automobile repair major".
- 2.7 **Automobile or trailer sales area:** An open area, other than a street, used for the display, sale or rental of new or used motor vehicles or trailers and where no repair work is done.
- 2.8 **Automobile service station or gas station:** A place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into, motor vehicles, including greasing and oiling on the premises.

- 2.9 **Automobile reduction:** The dismantling or disassembling of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.
- 2.10 **Base flood:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year.
- 2.11 **Basement or cellar:** A story having more than one-half (1-1/2) its height or more than one-half (1-1/2) of its circumference below the average grade of the adjoining ground. A basement or cellar shall not be counted as a story for purposes of height measurement.
- 2.12 **Billboard of signboard:** Any surface or structure or portion thereof, situated on private premises on which lettered, figured or pictorial matter is displayed for advertising purposes. Real estate signs advertising the sale or rent of the property on which the sign is located are not defined as billboards or signboards. Banners shall be considered under this description.
- 2.13 **Boarding or lodging houses:** A building or part thereof, other than a hotel or restaurant, where meals and/or lodging are provided for compensation for two or more persons not transients.
- 2.14 **Breezeway:** A covered structure connecting an accessory building with the principal use. For purposes of determining yard and area requirements, such connected building shall be considered as one integral unit.
- 2.15 **Building:** Any structure having a roof supported by columns or walls designed or intended for the support, enclosure, shelter or protection of persons, animals or property.
- 2.16 **Channel or water course:** An elongated depression, either natural or manmade, having a bed and well-defined banks varying in depth, width and length which gives direction to a current of water and is normally described as a creek, stream or river bed.
- 2.17 **Contour Changes:** This includes any grading, filling, digging or excavating that significantly alters the physical characteristic of a Critical Dune Area, except that which is involved in sand dune mining.
- 2.18 **Crest:** This means the line at which the first lakeward facing slope of a critical dune ridge breaks to a slope of less than 18% for a distance of at least 20 feet, if the areal extent where this break occurs is greater than 1/10 acre size.

- 2.19 **Critical dune area:** This means that geographic area designated in the atlas of Critical Dune Areas, dated February 1989, that was prepared by the Department of Natural Resources any other such locally designated sand dune area included on the Benona Township Zoning Map.
- 2.20 **Cross-section:** A graph showing the shape of the stream bed, banks, and adjacent land on either side made by plotting elevations at measured distances along a line perpendicular to the centerline of the stream.
- 2.21 **Curb-level:** The grade elevation, as established by the governmental agency having jurisdiction over the construction and maintenance of streets and highways, of the curb in front of the center of the building or proposed buildings, or the crown elevation of the traveled street in case no curb exists.
- 2.22 **DEQ :** This refers to the Michigan State Department of Environmental Quality.
- 2.23 **Development:** Any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
- 2.24 **District:** A section of the Township of Benona, in all parts of which the regulations of this Ordinance governing the height, area, and use of buildings and premises are the same.
- 2.25 **Dwelling:** A building or portion thereof designated or used exclusively as the residence or sleeping place of one or more persons, including one family, two family and multiple family dwellings, apartments, hotels, boarding and lodging houses.
- 2.26 **Encroachment lines:** Limits of obstruction to flood flows. They are established by assuming that the development of the landward area will permit passage of flood flows. The floodway must be free of encroachment and adequate to convey the regulatory flood without raising the water surface more than one (1) foot.
- 2.27 **Existing building:** A building existing, or a building for which a legal permit has been issued and the foundations are in place or upon which there has been substantial work done prior to the adoption of this Ordinance.
- 2.28 **Farm animals and fowl:** Those animals and fowl usually kept on a farm for the production of income, such as horses, cows, pigs, chickens, turkeys, sheep, ducks, and geese.

- 2.29 **Flood or flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from:
- (a) The overflow of inland or tidal waters.
 - (b) The unusual and rapid accumulation of runoff or surface waters from any source.
- 2.30 **Flood Hazard Boundary Map (FHBM):** An official map of a community, issued by the Federal Insurance Administration, where the boundaries of the areas of special flood hazards have been designated as Zone A.
- 2.31 **Flood Hazard District:** The portion of the flood plain flanking the stream channel required to convey and/or store the waters of the intermediate regional flood.
- 2.32 **Floodplain:** The relatively flat area or lowlands covered by floodwaters originating with either the adjoining channel or a water course, such as a river or stream, or a body of standing water such as an ocean or lake.
- 2.33 **Flood profile:** A graph showing the relationship of water surface elevation to location along the stream. The latter is generally expressed as distance above the mouth of the stream in miles. While it is drawn to show surfaced elevations for the crest of a specific flood, it may be prepared for conditions at any other given time or stage.
- 2.34 **Floodproofing:** Alteration of properties and structures subject to flooding for the reduction or elimination of flood damages to facilities, structures and contents.
- 2.35 **Flood stage:** The elevation at which overflow of the natural streams, banks or body of water occurs.
- 2.36 **Foredune:** This means one or more low linear dune ridges that are parallel and adjacent to the shoreline of Lake Michigan and are rarely more than twenty (20) feet in height. The lakeward face of a foredune is often gently sloping and may be vegetated with dune grasses and low shrub vegetation or may have an exposed sand face.
- 2.37 **Frequency:** The expected recurrence interval for a given size flood, based upon long-term statistical probability. Large floods occur less frequently and smaller floods occur more frequently.

- 2.38 **Garage - private:** A detached accessory building or portion of a main building used only for the storage of self-propelled passenger vehicles or trailers of the occupants of the premises and/or not more than one truck of a rated capacity not exceeding one and one-half (1-1/2) tons.
- 2.39 **Garage - commercial:** A structure or portion thereof other than a private or municipal garage used for the storage, sale, hire or repair of self-propelled vehicles or trailers.
- 2.40 **Garage - storage:** A garage used exclusively for the storage of motor vehicles. Motor vehicles shall not be repaired in any storage garage.
- 2.41 **Harmful increase:** An unnaturally high stage on a river, stream or lake which causes, or may cause, damage to property, threat to life, personal injury, or damage to land or water resources.
- 2.42 **Home occupation:** Any occupation conducted for profit in a dwelling by a member of a family residing in the dwelling and which meets the following conditions:
- (a) No stock in trade is sold from the premises.
 - (b) No person not a resident of the premises is employed.
 - (c) No more than three patrons or customers will normally come to the premises daily.
 - (d) No internal or external alteration of the residence is required to make the premises useable for the occupation.
- 2.43 **Hotel or motel:** A building in which lodging is provided and offered to the public for compensation and which is open to transient guests (as distinguished from a boarding house or lodging house, apartment, fraternity or sorority house).
- 2.44 **Intermediate regional flood:** A flood having a one percent (1%) probability of occurring in any one year at a designated location. It is based on statistical analysis of stream flow records available for the watershed and analysis of rainfall and runoff characteristics in the general region of the watershed.
- 2.45 **Junkyard:** A place where waste, discarded or salvaged materials are brought, sold, exchanged, stored baled, cleaned, packed, disassembled or handled in an open area or partially in an open area.
- 2.46 **Kenel:** Any premises on which three or more dogs four months old or older are kept.

- 2.47 **Lot:** Land occupied or to be occupied by one building and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as are required under this Ordinance and having not less than twenty-five (25) feet of immediate frontage either upon a public highway or a perpetual recorded private road or easement.
- 2.48 **Lot area:** The computed area inside of lot lines.
- 2.49 **Lot corner:** A lot of which at least two adjacent sides abut for full lengths upon a street, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five degrees (135°).
- 2.50 **Lot depth:** The mean horizontal distance between the front and rear lot lines.
- 2.51 **Lot front lines:** In the case of a lot abutting upon only one street and not abutting on a lake or river, it shall mean the line separating such lot from such street. In the case of a lot abutting on only one street and abutting upon a lake or river, the front lot line shall be the mean high water mark as it abuts upon the lot. In case of any other lot, the owner shall, for the purpose of this Ordinance, have the privilege of electing any lot line abutting on any street as the front lot line, provided that such election shall be filed with the Administrator and will not, in the opinion of the Administrator, have an injurious effect on the public health, safety and the development of adjacent properties. Provided anything to the contrary notwithstanding, in the case of a lot with lines on one or more streets, at least one of which is maintained by any governmental entity, then the owner shall not have the privilege of electing a lot line as his front lot line, except to the extent that such front line is adjacent to a governmentally maintained public road.
- 2.52 **Lot interior:** A lot other than a corner lot.
- 2.53 **Lot lines:** The property lines bounding the lot exclusive of a public road right-of-way; except in the Agricultural District lot lines shall be figured to the center of the public road. Measurements for setbacks for construction of structures shall remain to the road right-of-way.
- 2.54 **Lot width:** The mean horizontal distance across the lot between side lot lines measured at right angles to the depth.
- 2.55 **Mobile:** A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers. Mobile structures shall not be used as storage structures.

- 2.56 **New construction:** Structures for which the "start of construction" commenced on or after the effective date of this Ordinance.
- 2.57 **Nonconforming use:** A use which lawfully occupied a structure or land at the time of adoption of this Ordinance, or any amendment thereto, and which does not conform with the use regulations of the district in which it is located.
- 2.58 **Nonconforming structure:** A structure lawfully existing at the time of adoption of this Ordinance, or any amendment thereto.
- 2.59 **Obstruction:** Any structure or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to damage life or property.
- 2.60 **Occupied:** The word "occupied" includes built, altered, converted to, rented or leased for use by individuals.
- 2.61 **Parking area - private:** An open area, other than a street, for the same use as a private garage.
- 2.62 **Parking area - commercial:** An open area, other than a street or other public way, used for the parking of automobiles and available for public use, whether for a fee, free or an accommodation for clients or customers.
- 2.63 **Person:** An individual, partnership, firm, corporation, association, local unit of government, or other political subdivision of the state or state agency.
- 2.64 **Planning Commission:** Means the body or entity within a local government that is responsible for zoning and land use planning for the local unit of government.
- 2.65 **Reach:** A longitudinal segment of a stream or river, including the portion of flood hazard area of which flood heights are influenced by a natural or man-made obstruction.
- 2.66 **Recreational vehicles:** A vehicle primarily designed and used as temporary living quarters for recreational, camping or traveling purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

- 2.67 **Regulatory flood:** A flood representative of large floods known to have occurred in the area and reasonably characteristic of a particular stream. The regulatory flood generally has a frequency of occurrence of once in 100 years, determined from an analysis of floods on the particular stream and other streams in the region.
- 2.68 **Regulatory flood protection elevation:** The elevation to which uses regulated by this Ordinance are required to be elevated or flood-proofed.
- 2.69 **Restabilization:** Means restoration of the natural contours of a Critical Dune to the extent practicable, and the restoration of the protective vegetative cover of a Critical Dune through the establishment of indigenous vegetation, and the placement of snow fencing or other temporary sand trapping measures for the purpose of preventing erosion, drifting and slumping sand. (Soil Conservation District Guidelines shall be used.)
- 2.70 **Residence:** The act or fact of occupying, residing or dwelling in a place for any period of time.
- 2.71 **Setback:** The minimum horizontal distance between the front, side, rear line of the building, including steps and unenclosed porches, and the property lines, exclusive of a public road right-of-way.
- 2.72 **Conditional uses:** Those uses of land which are not essentially incompatible with the uses in a Zoning District, but possess characteristics of locational qualities which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land.
- 2.73 **Conditional Use project:** Any of the following:
- (a) A proposed use in a Critical Dune Area for an industrial or commercial purpose regardless of the size of the site.
 - (b) A multifamily use of more than three (3) acres.
 - (c) A multifamily use of three (3) acres or less if the density of use is greater than two (2) individual residences per acre.

(d) A proposed use in a Critical Dune Area, regardless of sizes of the use, that the Planning Commission determines would damage or destroy features of archaeological or historical significance.

- 2.74 **Standard projected flood:** The flood that may be expected from the most severe combination of meteorological and hydrological conditions that are considered reasonably characteristic of the geographical area in which the drainage basin is located.
- 2.75 **Story:** That portion of a building, other than a cellar or mezzanine, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.
- 2.76 **Street:** A public or private way, square or lane, permanently open to common and general use, which affords the principal means of access to abutting property; this easement shall be at least thirty (30) feet in width. Street width shall be the perpendicular measurement between right-of-way lines.
- 2.77 **Structure:** Anything constructed or erected, which requires permanent location on the ground or attachment to something having such location.
- 2.78 **Structural alterations:** Any change in the supporting member of a building or structure, such as bearing walls, columns, beams or girders.
- 2.79 **Substantial improvement:** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvements" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications, or (2) any alterations of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
- 2.80 **Transitional uses:** A use of land or building located or permitted to be located on a certain lot in more restricted districts along the boundary between certain districts.
- 2.81 **Use:** A developmental, agricultural or recreational activity done or caused to be done by a person that significantly alters the physical characteristic of a critical dune area or a contour change done or caused

to be done by a person, but does not include sand dune mining. Also use is the purpose for which land or any temporary structure is designed, arranged, or intended, or which it is occupied, maintained or leased.

2.82 **Yard - front:** An open space extending the full width of the lot between a building and front lot line, unoccupied and unobstructed from the ground upward, except as hereinafter specified.

2.83 **Yard - rear:** A space unoccupied except by a building or accessory use as hereinafter permitted, extending for the full width of the lot between rear line of the main building and rear lot line.

2.84 **Yard - side:** An open, unoccupied space between the drip line of the building on such lot and the adjacent sideline of the lot.

2.85 **Variance:** A modification of the literal provisions of this ordinance which the Zoning Board of Appeals is permitted to grant when strict enforcement of the provisions would cause practical difficulty or undue hardship applicable to the individual property for which a variance is sought. In Dunes Overlay Zone requests go through the Zoning Administrator for a variance review by the Zoning Board of Appeals. Variance requests shall be published and notification to property owners within 300 feet shall be given as per Article 13.2, (c).

ARTICLE III - DISTRICTS

3.1 For the purpose of this Ordinance, the Township of Benona is divided into the following districts:

- (a) Agricultural
- (b) Coastal
- (c) Commercial
- (d) Residential
- (e) Dunes Overlay
- (f) Flood Hazard District

3.2 The map entitled Zoning Map, delineating the above districts, is hereby declared to be a part of this Ordinance, except where references by dimensions are shown on said map, the district boundary lines follow lot lines, municipal boundary lines, section lines, fractional section lines or the center line of highways, streets or alleys as they existed at the time of the adoption of this Ordinance.

3.3 Where a district boundary line of the Zoning Map divides a lot, the least restricted use shall not extend beyond such line.

3.4 In the event any property has not been specifically included within a district, the said property is hereby declared to be in the Agricultural District unless otherwise changed.

ARTICLE IV - GENERAL PROVISIONS

- 4.1 No structure, land or premises shall hereafter be used or occupied and no building shall be erected, moved, removed, reconstructed, extended or altered except in conformity with the regulations herein set forth.
- 4.2 Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any structure declared unsafe by the proper governmental officer or agency.
- 4.3 No structure shall hereafter be erected, enlarged, or altered for a change of use or function until a permit has been secured from the Administrator of the Ordinance. No permit shall be issued until the proposed work complies with this Ordinance or a variance has been secured from the Zoning Board of Appeals. Sheds 12 feet by 12 feet or smaller will not require a Zoning Permit, but must meet setbacks as stated in the Ordinance for each District.
- 4.4 In the event permits to erect, enlarge, or alter a building or if the proposed use of any land shall require approval of any country or state official under a county ordinance or state law, no permit shall be issued until evidence of such approval is presented for examination after review of the Township Zoning Administrator.
- 4.5 No lot, yard, parking area or other space shall be so divided, altered or reduced so as to make it less than the minimum required under this Ordinance. If already less than the minimum required, it shall not be further divided, altered or reduced.
- 4.6 At any intersection of public roads, no fence, structure, walls shrubs, trees or plants shall be permitted within twenty (20) feet of the right-of-way lines of the public highways which will obstruct the view of the users of the highways.
- 4.7 Where a lot is bounded by two intersecting streets, the front yard requirement shall be met on one abutting street only and the side yard abutting the other Intersection Street shall not be less than thirty (30) feet or twenty-five feet (25) for lots within special districts.
- 4.8 No dwelling shall be constructed, altered or moved to the rear of a dwelling situated on the same parcel of land, nor shall any dwelling be constructed, altered or moved in front of a dwelling situated on the same parcel of land.

- 4.9 No motor vehicles, house or tent trailers shall be stored or parked within twenty-five (25) feet of the highway right-of-way line.
- 4.10 The following temporary uses are permitted by special temporary permit in districts as regulated therein, all such uses shall be terminated within thirty (30) days after expiration of said permit:
- (a) **Trailers or mobile homes.** An individual trailer or mobile home without permanent foundations, may be used as a temporary living quarters or working quarters for up to one hundred eighty (180) days while a dwelling house is being constructed on the same premises, provided that an approved water supply and an approved sewage disposal system are installed prior to such occupancy. The Zoning Administrator may grant renewals of the permit for an additional one hundred eighty (180) days if construction is progressing on the dwelling house.
 - (b) **Signs and supplies.** The storage of building supplies and machinery, temporary storage buildings and customary trade, contractor or architect's identification signs in connection with a construction project may be authorized until occupancy permit is issued.
 - (c) **Subdivision office.** A dwelling in a new subdivision may be used as a sales and management office for a period of twelve (12) months.
 - (d) **Temporary structure removed.** Temporary buildings for uses incidental to construction work shall be removed promptly upon completion or abandonment of work
 - (e) **Recreational vehicles.** Notwithstanding; any other provision herein, on unimproved parcels, one recreational vehicle may be permitted for use as a temporary dwelling for not more than one hundred (120) days during any one calendar year, provided a permit is obtained from the Township Zoning Administrator and permit fee is paid upon application. In the agricultural district two recreational vehicles may be permitted on parcels of five (5) acres or larger. The proper health department authorities must approve facilities for water supply and disposal of human waste. Any recreational vehicle, which is stored upon a parcel of property and not occupied or used and otherwise complies with the requirements of the zoning act, shall not require a permit. Failure to obtain a permit for the use and occupancy of a recreational vehicle as herein above set forth shall constitute a violation of the zoning ordinance and the Township may remove said recreational vehicle from the property upon thirty (30) days notice of delinquency to the owner of said property and in such case the owner thereof shall be required to pay all charges for towing and storage incurred by the Township.

(1) Between Memorial Day and Labor Day, a single guest RV/Temporary stay, on improved property, will be allowed for up to sixteen days. After 16 days, a "Guest RV" permit will be required. This permit will be limited to 30 consecutive days annually per RV, and will include a section for license number, dates and information on how the owner intends to dispose of sewage waste. A RV permit fee will be charged for this use.

4.11 Mobile/Manufactured homes moved on to a property within the township must not be older than 10 years of age within the current year. Mobile Home Consolidation in Ordinance Book 2009

Mobile: A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

- A.
1. Occupied: The word "occupied" includes built, altered, converted to, rented or leased for use by individuals.
 2. Residence: The act or fact of occupying, residing or dwelling in a place for any period of time.
 3. Minimum size of a dwelling shall be seven hundred twenty (720) square feet first floor living area. No building shall be constructed with any side less than fourteen (14) feet.
 4. Mobile/Manufactured homes moved on to a property within the township must not be older than 10 years of age within the current year.
 5. Mobile structures shall not be used as storage structures
- B.
1. The following temporary uses are permitted by special temporary permit in districts as regulated therein, all such uses shall be terminated within thirty (30) days after expiration of said permit:

(a) Trailers or Singlewide Mobile Homes. An individual trailer or mobile home without permanent foundations, may be used as a temporary living quarters or working quarters for up to one hundred eighty (180) days while a dwelling house is being constructed on the same premises, provided that an approved water supply and an approved sewage disposal system are installed prior to such occupancy. The Zoning Administrator may

grant renewals of the permit for an additional one hundred eighty (180) days if construction is progressing on the dwelling house.

C. Agricultural Zones

1. Singlewide mobile homes are allowed provided they meet the ordinance requirements of the district within which they are located.

2. Except as otherwise specifically provided by this Ordinance, no building or structure or part thereof shall be erected or altered and no use shall be permitted which shall not meet the following yard and area requirements:

(a) Front yard Fifty (50) feet from the edge of the right-of-way of the public highway or private easement. (Road right of ways 66 feet wide-not just gravel/pavement)

(b) Side yards, platted/unplatted lots- To be not less than fifty (50) feet from property lines.

(c) Rear yard-Fifty (50) feet minimum.

See Article VI for additional restrictions

D. Residential Zones

1. Singlewide mobile homes allowed provided they meet the restrictions of this district.

See Article VIII for complete restrictions,

E. 1. Mobile Home Standards in Flood Hazard Areas

All State and County regulations must be met.

4.12 The height limitation in any zone may be exceeded upon application to and approval by the Planning Commission and the Oceana Inspection Department which shall affirmatively find that the proposed height does not create a fire and safety hazard, and is so supported as to not endanger persons or property on the public highways or adjoining property.

4.13 Where municipal utility services are available, no building permit shall be issued for any building to be occupied by human beings, in whole or part, for commercial, residential or recreational purposes unless provisions have been made to install public sewers and water service to such buildings. In the absence of public sewer and/or water, no building permit shall be issued for any building to be occupied by human beings in whole or in part or for commercial or recreational purposes unless sewage disposal system, as required by the County Health Department, is provided.

- 4.14 Unless the Department of Natural Resources, Michigan Department of Environmental Quality, or the Oceana District Department of Health rules and regulations allow, no building, structure, water supply or waste disposal system, except docks, breakwalls, jetties, retaining walls or bridges, shall be constructed within the flood plain (determined by the flood maps) of the edge of any creek, stream, river, lake, bog, swamp or other water course or area where water remains for more than ninety (90) days each calendar year.
- 4.15 No removal of top soil, muck, peat, sand, gravel or other materials in the ground for sale or for use other than on the land from which it is removed shall be permitted and except as authorized and hereinafter provided:
- (a) The Planning Commission may authorize the removal of said materials except oil or natural gas for the above purposes upon written application from the person, firm or corporation proposing to do the removing and the execution of a written contract between the applicant and the Township that the following conditions shall be met and that the violation of any of the terms of the contract shall give the Planning Commission authority to revoke the terms of the permit in writing stating reasons, therefore the minimum conditions to be included in said contract are:
- (1) That the land will be left in a condition that will allow the uses in the zoning district where the removal takes place.
 - (2) That the land will not be covered by stagnant water or be in a swampy condition either during the soil removal or after the removal is completed and that no water will run off onto adjoining lands except by natural drainage or in a county drain under the jurisdiction of the County Drain Commissioner.
 - (3) That except for the area of active removal, all land shall be stabilized to prevent wind and water erosion.
 - (4) That final grades and elevations shall be fixed for all areas where materials are to be removed.
 - (5) That if the area from which materials are to be removed shall exceed twenty (20) acres in size, a proposal for development of ten (10) acres or such other reasonable size units shall be required before new areas are opened for removal of materials.

- (6) That the contract provide that in the event of a default by the applicant of the terms of the contract, the Township shall have a right to enter upon the premises, to do such work as is necessary to restore the premises to the condition provided for in the contract, to have a lien upon the premises for such work, which lien may be foreclosed in court in the manner of a real estate mortgage. The Planning Commission may require, in addition, that a performance bond approved by the Township Attorney guarantee performance.
- (b) The Planning Commission may impose such other requirements as are necessary to preserve the health and safety of the inhabitants of the Township, as are required by other state laws or county ordinances, or are necessary to preserve the goals of the Township Master Plan.
- (c) The Planning Commission shall require the contract to be approved by the Township Attorney before the execution thereof.
- (d) The Owner of a dwelling, which experiences:
 - (1) Blocking of access or entrance on any side of said dwelling; and/or
 - (2) The structural integrity of the dwelling is threatened by sand accumulation against said dwelling, may be granted a permit for removal of such sand if its accumulation was by natural wind action. If the owner can remove the sand by hand, no permit other than reporting the proposed activity in writing to the Zoning Administrator is required.

4.15 No use of land for filling with borrowed fill any kind shall be permitted except as authorized as hereinafter provided:

- (a) The Planning Commission may authorize the filling of land upon written application by the person, firm or corporation proposing to do the filling and the execution of a written contract between the applicant and the Township that the following conditions shall be met and that the violation of any of the terms of the contract shall give the Planning Commission authority to revoke the permit in writing stating reasons therefore. The minimum conditions to be included in said contract are:
 - (1) Approval of the County Health Department and the County Drain Commissioner and any state department having authority therefore of the plans and terms incorporated in the contract.
 - (2) That provision is made for the control of blowing dust, dirt, soil and debris.

- (3) That provision be made so that the fill will not subside due to decay, rot, consolidation, raveling or other known reasons, either during the filling operation or after completion thereof.
 - (4) That upon completion of the proposed fill, the land shall be left in such condition as to be usable for the uses allowed in the zoning district wherein the fill takes place.
 - (5) No fill at or along bodies or streams of water shall exceed three (3) feet higher than the elevation of the high water mark, nor shall any fill be placed in bodies or streams of water or swamps if the loss of wildlife and game habitat shall result; and there shall be no creation of unhealthy conditions.
 - (6) That the contract provide that in the event of default by the applicant of the terms of the contract, the Township shall have a right to enter upon the premises, to do such work as is necessary to restore the premises to the condition provided for in the contract, to have a lien upon the premises for such work, which lien may be foreclosed in court in the manner of a real estate mortgage. The Planning Commission may require in addition that a performance bond approved by the Township Attorney guarantee performance.
- (b) The Planning Commission may impose such other requirements as are necessary to preserve the health and safety of the inhabitants of the Township, as are required by other state laws or county ordinances, or are necessary to preserve the goals of the Township Master Plan.
 - (c) The Planning Commission shall require the contract to be approved by the Township Attorney before the execution thereof.

4.16 No removal or filling operation permitted under the foregoing provisions shall be conducted between two (2) hours after sunset and two (2) hours before sunrise.

4.17 On any developed lake, there shall be no new channelization of lakefront properties, which would increase the numbers of lake users and therefore substantially increase the dangers of polluting or degrading the water quality of the lake.

4.18 The conversion of any building into a dwelling or the conversion of any dwelling shall be permitted only within a district in which a new building for similar occupancy would be permitted under this Ordinance and only when the resulting occupancy will comply with the requirements governing new construction in

the same such district with respect to minimum lot size, lot area per dwelling unit, percentage of lot coverage, dimensions of yards and other spaces, and off-street parking.

- 4.19 Where the Assessor or Equalization Director certifies to the Administrator that an area has been subdivided in violation of the Plat Act or the subdivision regulations hereinafter adopted by the Township, no additional building permits shall be issued until such area is platted. Where an Assessor's Plat is in the process of being made, this requirement shall be waived.

- 4.20 No building permits shall be issued on unplatted land or lots platted prior to January 1, 1973, where the applicant fails to produce evidence that the County Health Officer has certified that the water table and soil structure allows efficient use of septic tanks and a pure water supply. This provision may be waived where the Clerk certifies to the Administrator that the required public utilities are in the process of planning and construction.

- 4.21 No building permits shall be issued where the applicant fails to show that the property for which a permit is requested fronts or abuts for a minimum of thirty (30) feet on a public highway or a permanent, recorded, non-obstructed easement of access or right-of-way to a public highway, not less than thirty (30) feet in width, which easement shall grant a right-of-way to public vehicles and utilities.

- 4.22 From and after the effective date of this Ordinance, no permits will be issued for buildings or structures for parcels of land, which result from a subdivision or conveyance of a larger parcel of land where the parcel divided and/or the parcel remaining have violated the Plat Laws of the State of Michigan.

- 4.23 No house, structure or other buildings shall be moved from any location in the Township to another location in the Township unless and until a request for permission to so move is first submitted to the Zoning Administrator in writing and a zoning permit for such moving is obtained. No house, structure or other building shall be moved from outside the Township into the Township unless it complies with the Building Code of the County, and unless and until a zoning permit is first obtained from the Zoning Administrator.

- 4.24 Within the Township, advertising signs and similar media shall be permitted within the agricultural, commercial and residential districts as specified in their respective articles together with the following:
 - (a) No Billboards or other advertising media between sixteen (16) and thirty- two (32) square feet shall be displayed in any district without site plans being submitted to the Zoning administrator. Signs must not obstruct the views of operators of vehicles.

- .. (b) Any billboard or signboard found to be in violation of these provisions may be removed
.. fifteen (15) days after the sign's owner has received a written notice of the violation. Any
.. costs for such removal shall be borne by the sign's owner.
- .. (c) Each face of a sign shall be considered a separate sign. Sign structures that are two faced
.. shall be considered one structure for density requirements.
- (d) Banners shall fall under these requirements.
- (e) Maintenance: Signs must be maintained in good repair. After Planning Commission review, owners of signs that are not in good repair will have 30 days after notification by the Zoning Administrator to remove the sign, or make the necessary repairs. The Zoning Administrator will oversee the removal of signs that are not repaired. Reasonable costs associated with this removal will be charged to the owner of the sign.
- (f) Closed Businesses: Off premise signs advertising businesses that are no longer in operation shall be removed by the owner within 6 months. If signs remain after six months, the Zoning Administrator will notify the owner and issue a 90 date time frame for the removal said sign, and will oversee the removal of the sign if necessary by inaction of the sign owner. Reasonable costs associated with the removal of the sign will be charged to the owner of the sign.

A. Agricultural District Within an agricultural district,

- (1) Farm Market signs on premise advertising seasonal products or services may be displayed for the season. Such seasonal signs, no larger than sixteen (16) square feet, may be displayed without a Zoning permit; must be located off the public right of way; and must meet clear vision rules.
- (2) Signs of any size in an agriculture district require a Zoning permit and shall be subject to siting requirements.
- (3) Signs no larger than thirty-two (32) square feet must be sited off the road right of way. Sign height shall be limited to twelve (12) feet. Larger and/or taller signs shall be subject to review by the Zoning Board of Appeals.
- (4) Off premise permitted signs shall be no closer than 660 feet on the same side of the road. On premise permitted signs are exempt from this spacing rule.
- (5) Tree rows along the road become the setback for seasonal signs if those tree rows are in the road right of way. Signs must be post mounted, not attached to the trees.

B. Commercial District

1. Signs may be attached to or be painted upon the building in which the business is operated. Signs not attached to a building require a Zoning Permit and shall be subject to siting requirements. Banners (limit of 4'x8' ,32 SF each, may be displayed in this district without permits (Maximum of four each or 96 Square feet total.).
2. Sign size limited to no more than thirty-two (32) square feet. Sign height shall be limited to twelve (12) feet. Larger and or taller signs shall be subject to review by the Zoning Board of Appeals.
3. Off premise sign density limited to one per two hundred (200) feet of frontage.
4. On premise Temporary signs up to sixteen (16) square feet are allowed without permit.
5. Sign Systems are allowed by special permit only, and will replace all 32 square foot signs on a commercial site. Design and size to be worked out and approved by the Planning Commission. Minimum size to be 48 square ft. Maximum 192 square feet. Individual signs will be no smaller than 16 square feet.

C. Residential District

1. One sign advertising the product or service of a home occupation, or advertising the sale or rent of the premises, not exceeding sixteen (16) square feet is allowed. Such signs must off the road right of way. Billboards or signboards advertising a product or service of a business at a location different from where the sign is displayed are not permitted in the Residential District.

2. Existing non-conforming signs in the residential district may be updated or improved. This is allowed without fee or penalty so long as the sign remains within the size and location originally permitted.

4.25

The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of overhead, surface or underground gas, electrical, steam, or water distribution or transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers poles, electrical substations, gas regulator stations and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health or safety or general welfare, shall be permitted as authorized or regulated by law and other ordinances of the Township of Benona in any use district, it being the intention hereof to except such erection, construction, alteration and maintenance from the application of this Ordinance.

4.26

An ordinance to amend the zoning ordinance of Benona Township, Oceana County, Michigan, by adding a new amendment entitled “wireless communication towers and antennas”: providing definitions: general requirements: for permitted locations, uses, special uses, removal of abandoned antennas and towers. The effective date will take place 30 days after proper publishing and notification of the adoption of this ordinance.

BENONA TOWNSHIP, COUNTY OF OCEANA, AND STATE OF MICHIGAN ORDANANCE:

Section/article IV Amendment

4.26

Background:

After having received applications that have presented discussion by interested and concerned parties the Township of Benona has found it necessary to establish specific guidelines for the siting of communication towers and antennas within the township.

The main purpose of this ordinance is to establish general guidelines to protect the community and establish areas for the placement of towers and antennas. The Township also desires to protect the Township from adverse impact of telecommunication towers and antennas and encourage the location of these structures within non-residential areas. The Township desires to minimize the total number of towers and antennas throughout the Township rather than the construction of additional towers. This ordinance shall encourage the siting of towers within areas where the adverse impact on the Township is minimal. The Township shall promote the configuration of towers and antennas to minimize their visual impact through careful design, siting, and landscape screening. The Township will promote telecommunication services that are quick, effective, and efficient and that protect the public health and safety for the Township and its citizens. All structures shall meet the requirements as established by the Oceana County Bldg. Department. The Township shall consider its Township Master Plan, zoning map, existing land uses, and the environmentally sensitive areas in approving sites for the location of towers and antennas.

Definitions:

For the purpose of this Amendment only, the following terms shall have the following meanings.

- A. **Alternative Tower Structure:** Man made structures eg. spires, light poles, bulk elevator buildings, and similar alternative mounting structures that are present in the community so as to camouflage or conceal the presence of antennas or towers.

- B. **Antenna:** Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signal, analog signal, radio frequencies (excluding radar waves), wireless communication signals or other communication signals.
- C. **FAA:** The Federal Aviation Administration.
- D. **FCC:** The Federal Communications Commission
- E. **Height:** When referring to a tower or other building or structure upon which an antenna is mounted, the distance measured from the finished grade of the parcel at the center of the front of the tower or other building or structure to the highest point on the tower or other building or structure, including the base pad and any antenna.
- F. **Lattice Tower:** A support structure constructed of vertical metal struts and cross braces, forming a triangular or square structure which often tapers from the foundation to the top.
- G. **Preexisting Towers and/or Antennas:** Any tower or antenna for which a building permit or conditional permit has been properly issued prior to the effective date of this amendment to the Ordinance, or any tower or antenna for which no building and/or special use permit was required, including permitted towers or antennas that have not been constructed so long as such approval is current and has not expired.
- H. **Tower:** Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting (i.e. without guy wires or other external means of support) lattice towers, guyed towers, or monopole towers, used for the transmission or reception of radio, telephone, cellular telephone, television, microwave, or any other form of telecommunication signals. The term includes the structure and any support for the structure.
- I. **Tower Pair:** Any two- (2) towers, which are located within one hundred (100) feet of each other.

APPLICABILITY.

- A. New Towers and Antennas:** All new towers and new antennas in the Township shall be subject to this amendment, except as otherwise provided in this section.
- B. Amateur Radio Station Operators/Receive Only Antennas; Television Antennas:** Amateur Radio Station Operators must meet or exceed current standards and regulations of the FAA, FCC, the Benona Township Zoning Ordinance, and other agencies of the State and or Federal Government with the authority to regulate towers and antennas. All towers noted above less than seventy (70) feet would be exempt.
- C. Preexisting towers and Antennas:** Preexisting towers and preexisting antennas shall not be required to meet the requirements of this amendment, other than the general requirements of Article IV General Provisions and the general requirements of this ordinance concerning preexisting structures (i.e. Article V 5.1-5.8 Non-conforming Uses).

GENERAL REQUIREMENTS.

- A. Principal or Accessory Use:** Antennas and towers may be considered either principal or accessory uses. A different existing use of or on the same lot shall not preclude the installation of an antenna or tower on that lot. Likewise, an existing antenna or tower on a lot shall not preclude the location of a different use, building or structure on the same lot.
- B. Lot Size:** Even though antennas or towers may be located on leased portions of a lot, the dimensions of the entire lot shall be used to determine if the installation of a tower or antenna complies with the regulations of the applicable zoning district, including but not limited to setback requirements, lot-coverage requirements, and other such requirements. The area of the lot and the lot dimensions, frontage for example, shall meet the minimum requirements of the zoning district with which it is located.
- C. Inventory of Existing Sites:** Each applicant for an antenna and /or tower shall provide to the Zoning Administrator an inventory of applicant's existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Township or within one (1) mile of the Township border, including specific information about the location, height, and design of each tower or antenna.
- D. Tower Finish:** Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

- E. Tower Site:** At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
- F. Antenna Color:** An antenna and its supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting equipment as visually unobtrusive as possible.
- G. Lighting:** Towers shall not be artificially lighted, unless required by the FAA. All lighting required shall meet the specifications of the FAA.
- H. State or Federal Requirements:** All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Ordinance shall bring their towers and antennas into compliance with such revised and applicable standards and regulations within six (6) months of the effective date of such standards and regulations, unless compliance schedule is mandated by the controlling state or federal agency.
- I. Building Codes; Safety Standards:** The owner of a tower or antenna shall ensure its structural integrity by maintaining it in compliance with the standards contained in applicable state or local building codes and applicable standards published by the Electronic Industries Association or any similar successor organization, as amended from time to time. If the Township suspects that a tower or antenna does not comply with such codes and standard and constitutes a danger to persons or property, the Township may proceed under applicable State of Michigan law (i.e. Michigan Public Act 144 of 1992, as amended, or any successor statute) or common law to bring the tower or antenna into compliance or to remove the tower or antenna at the owner's expense.
- J. Measurement:** Tower setbacks and separation distances shall be measured and applied to facilities located in the Township without regard to municipal and county jurisdictional boundaries.
- K. Not Essential Services:** Towers and antennas shall be regulated and permitted pursuant to this Chapter. They shall not be regulated or permitted as essential services, public utilities, or private utilities.

- L. Franchises:** Owners and /operators of towers or antennas shall certify that all franchises required by law for the construction and /or operation of a wireless communication system in the Township have been obtained; they shall file a copy of all required franchises with the Zoning Administrator.

- M. Signs:** No signs or advertising shall be allowed on an antenna or tower. However, the tower owner may post a sign no larger than thirty-two (32) square feet in area designating a person to contact in an emergency, together with the person's telephone number and address.

- N. Metal Towers:** Metal towers shall be constructed with corrosion-resistant materials.

- O. No Interference:** Towers shall not interfere with television or radio reception on surrounding properties.

- P. Driveway Entrance Requirements:** All parking and drive areas shall be surfaced and maintained with an aggregate material or may be surfaced with concrete or asphalt pavement.

Permitted Uses.

- A. General:** The uses in this section are deemed to be permitted uses by right in any zoning district with the Conditional Use application process and review procedure as outlined in Section XIII of BENONA TOWNSHIP Zoning ordinance book.
 - 1. Antennas or towers located on property owned, leased, or otherwise controlled by the Township are permitted uses provided a license or lease authorizing such antenna or tower shall be approved by the Township Board. This provision shall not be interpreted to require the Township to approve a license or lease.
 - 2. Antennas which are themselves not more that thirty (30) feet in height and located upon legally existing lattice electric transmission towers are permitted uses.

Conditional Use Permits:

- A. General:** The following provisions shall govern the issuance of conditional use permits for towers and antennas by the Planning Commission. These provisions are in addition to the standards required in Article XIII.
 - 1. In granting a conditional use permit, the Planning Commission may impose such conditions that the Planning Commission concludes are necessary to minimize any adverse effect of the proposed tower or antenna on adjoining properties.
 - 2. A licensed engineer shall certify any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical. This engineer shall certify in writing that the

tower or antenna will be structurally sound and will comply with all applicable building and construction code requirements.

B. Processing Conditional Use Applications:

1. **Information required.** Applicants for a conditional use permit for a tower or an antenna shall submit the following information, in addition to any other information required by the guidelines in Article XIII Special Use Permits.
 - a. A scaled site plan showing the location, type, and height of the proposed tower or antenna; on site land use and zoning; adjacent uses (including buildings and structures thereon) within one/ quarter mile, regardless of municipality. A scale sketch of properties, streets and uses shall be required for adjacent properties within 3/4 mile (beyond ¼ mile). The plan shall include setbacks for all planned improvements of main and ancillary buildings.
 - b. Legal description of property and the lease portion of the property if applicable, together with a copy of the applicants deed or lease pertaining to said parcel.
 - c. The separation distance from other towers or antennas described in the inventory of existing sites presently within the jurisdiction of the Township and within one mile of the Township boundaries. The type of construction of existing towers or antennas on this list. The present owners/operators of these towers or antennas/
 - d. A landscape plan showing proposed materials and existing if applicable.
 - e. Fencing plan to insure safety and protection.
 - f. Sealed plans for tower and/or antenna. (6 sets, one each for Planning Commission and Zoning Administrator)
 - g. Compliance certificates if applicable for federal, state or county agencies.
 - h. A notarized statement by applicant for a tower, indicating if the tower will accommodate co-location of additional antennas or future users.
 - i. Present services offered by the applicant
 - j. A description of feasible locations of applicants future planned towers or antennas within the Township based on present information.
 - k. Height extensions available to tower or antenna if permit is granted.

2. **Factors Considered in Granting Conditional Use Permits for Towers or Antennas:** In addition to any other standards specified in this Ordinance for considering conditional use permit applications, the Planning Commission shall consider the following factors in determining whether to issue a conditional use permit under this Chapter.
 - a. Height of proposed structure

- b. Proximity of proposed structure to residential structures and residential district boundaries.
- c. Nature of uses on adjacent properties.
- d. Flora and Topography of surrounding area.
- e. Design characteristics of structure and their affect on the surroundings.
- f. Present similar structures in the area.
- g. Whether Tower or antenna is sited in zoning district conducive for that area and surrounding districts.

3. Township Intentions Concerning the Location of Most if not all Towers and Antennas.

The Township intends that most if not all towers and antennas will be located as described below.

- a. The Township encourages the location of towers and antennas, including the placement of additional buildings or supporting equipment in rural agricultural zoned districts.
- b. The Township encourages the location of antennas on existing structures or towers consistent with the terms of subsections (1) and (2) below.
 - 1. The Township encourages antennas to be sited on existing structures, as an accessory use to any commercial, industrial, or institutional structure/building provided the antenna does not add more than thirty (30) feet above the highest point to said unit.
 - 2. The Township encourages antennas on existing towers, provided that:
 - a. A tower, which is modified or reconstructed to accommodate the co-location of one or more additional antennas, shall be the same type as the existing tower or a monopole.
 - b. A tower which is modified or reconstructed to accommodate the co-location of an additional antenna may be modified or rebuilt to a taller height, not more than once per tower and not to exceed thirty (30) feet over the tower's existing height (this additional height shall not require an additional distance separation per Table 2 of this amendment.)
 - c. A tower which is modified or reconstructed to accommodate the co-location of an additional antenna may be moved on site within fifty (50) feet of its existing location (a relocated tower shall continue to be measured from its original location for purposes of calculating separation distances between towers pursuant to Table 2 of this amendment.

4. Availability of Suitable Existing Towers, Antennas, Alternative Tower Structures, Other Structure, or Alternative Technology.

No new tower or antenna shall be permitted unless the applicant demonstrates to the Planning Commission that no existing tower, antenna, alternative tower structure or alternative technology can provide the services sought by the applicant without the erection of the applicant's requested new tower or antenna. To prove that no existing tower or antenna exists, the applicant shall provide proof of such limiting factors to be discussed during the conditional use review process.

5. Setbacks: The following setback requirements shall apply to all towers for which a conditional use permit is required.

- a. Towers must be set back 300 feet or the height of the tower whichever is greater from any adjoining lot line. The setback is measured from the perimeter or outside edge of the base of the tower.
- b. Guys and accessory buildings must satisfy the minimum setback requirements for the applicable zoning district.
- c. In addition, towers must be set back 500 feet from existing dwellings. This shall be a straight-line measurement between closest points.

6. Separation. The following separation requirements shall apply to all towers for which a Conditional use permit is required.

- a. Separation of towers from off site uses/designated areas.
 - (i) Tower separation shall be measured from the perimeter or outside edge of the base of the tower to the lot line of the off-site uses and/or designated areas. This shall be a straight-line measurement.
 - (ii) Once a tower has been located, all future buildings or structures on the same parcel or lot as the tower was initially located on shall be located so as to comply with the separation requirements below.

Off site use Separation Distance for dwellings.

Residential use, Agricultural/Residential

300 feet or height of the tower, whichever is greater

b. Separation distances between towers and tower pairs

- (i) Separation distances between a tower and a tower pair, or between two towers which are not included in a tower pair, shall be applicable for and measured between the proposed tower and a preexisting tower pair, or between the proposed tower and any preexisting tower which would not form a tower pair with the proposed tower. The separation distances shall be measured by drawing or following a straight line between the base of the closest existing tower and the proposed base of the new tower per the proposed site plan.
- (ii) Separation distances between a tower and a tower pair, or between (2) towers which are not included in a tower pair, shall comply with the minimum distances (linear feet) established in Table #1

TABLE 1 Existing Towers –types

Proposed Tower	Lattice	Guyed	Monopole 75'+	Monopole 75'-
Lattice	3,000	3,000	3,000	1,500
Guyed	3,000	3,000	3,000	1,500
Monopole 75' greater	3,000	3,000	3,000	1,500
Monopole 75' less	1,500	1,500	1,500	1,500

- 6. **Security fencing Towers** and their guy wire, if any, for which a Conditional use permit is required shall be enclosed by security fencing not less than six (6) feet in height. The towers shall also be equipped with appropriate anti-climbing devices.

7. **Landscaping:** The landscaped areas surrounding the Tower enclosure shall be maintained in good condition for the duration of the Conditional use permit. Irrigation for the enclosure shall be required if deemed so by the Planning Commission.

8.
 - a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property then used for dwellings, residential use. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.
 - b. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. On wooded sites the Planning Commission may defer the landscaping requirements.

Accessory Utility Buildings.

All utility buildings and structures accessory to a tower or an antenna shall comply with all other requirements of BENONA TOWNSHIP ordinance. They shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setbacks of the zoning district where the tower is located. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood.

Removal of Abandoned Antennas and Towers.

Notwithstanding anything to the contrary elsewhere in this Ordinance, any antenna that is not operated or any tower that is not utilized for an operating antenna for a continuous period of twelve (12) months shall be considered

Abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Township notifying the owner of such abandonment. Failure to remove abandoned antenna or tower within the period prescribed shall be grounds for the Township to proceed under applicable State of Michigan law to remove the tower or antenna at the owners expense. If there are two (2) or more uses of a single tower, then this provision shall not become effective until all users cease using the tower. The owner of each antenna and/or tower shall submit to the Township on the anniversary of the Conditional Use Permit the current operation status of the unit. In the event the tower owner or antenna owner has forfeited ownership the property owner for the subject parcel will be held accountable as noted above.

Expansion of Nonconforming Use.

Notwithstanding any other provisions of this Ordinance to the contrary, towers that are constructed and antennas that are installed in accordance with this Amendment shall not be deemed to the expansion of a nonconforming use or structure.

Effective Date:

That the foregoing amendment to the BENONA TOWNSHIP Zoning Ordinance was approved and adopted by the Township Board of BENONA TOWNSHIP, Oceana County, Michigan, on _March 19th, 2001, after a public hearing as required pursuant to Michigan Act 184 of 1943, as amended. This ordinance is ordered to take effect on April 23rd, 2001, which date is more than seven (7) days after publication of the ordinance as required by Section 11a of Act 184, as amended, provided that this effective date shall be extended as necessary to comply with the requirements of Section 12 of Act 184, as amended.

ARTICLE V - NONCONFORMING USES AND BUILDINGS

- 5.1 Except as provided in this article, any nonconforming building or structure may be continued indefinitely.
- 5.2 The use of a nonconforming building or structure may be changed to a use permitted in the district in which it is located.
- 5.3 Such repairs and maintenance work as is required to keep it in sound condition may be made to a nonconforming building or structure, provided that no structural alterations shall be made in such building or structure except those required by law or ordinance and those authorized by the Zoning Board of Appeals. Except as hereinafter provided, the total structural repairs and alterations that may be made in a nonconforming building or structure shall not, during its life, subsequent to the date of its becoming a non conforming use, exceed fifty percent (50%) of its assessed value for tax purposes at such date, unless changed to a conforming use. Provided, however, that a nonconforming building or structure which is damaged or partially destroyed by fire, flood, wind, earthquake, or other calamity or act of God or the public enemy, to the extent of not more that seventy-five percent (75%) of the said assessed value of such nonconforming building or structure, no repairs or reconstruction shall be made unless every portion of such building or structure is made to conform with all regulations for new buildings in the district in which it its located except for lot size.
- 5.4 No nonconforming use shall be hereafter enlarged or extended, except that, when authorized by the Zoning Board of Appeals, a building containing a nonconforming use may be enlarged to an extent not exceeding twenty-five percent (25%) of the superficial floor area of the existing building or buildings devoted to a nonconforming use at the time of enactment of this Ordinance, or at the time of its amendment making a use nonconforming. The Zoning Board of Appeals shall not authorize any enlargement which would result in the extension of a nonconforming building, or which would result in a violation of the provisions of this Ordinance with respect to any adjoining premises, or which would occupy ground space suitable and otherwise available for meeting the off-street parking, yard or other requirements of this Ordinance. No nonconforming building or structure shall be moved in whole or in part to any other location unless such building or structure and the off-street parking spaces, yard and other open spaces provided are made to conform to all the regulations of the district in which such building or structure is to be located.

- 5.5 No building or structure of premises where a nonconforming use has ceased for more than six (6) months or has been changed to a use permitted in the district which it is located in, shall again be returned to a nonconforming use.
- 5.6 The provisions of this Ordinance shall not affect any structure the construction of which was commenced or contracted for as of the effective date of this Ordinance.
- 5.7 The foregoing provisions of this article shall also apply to buildings, structures, land or uses which hereafter become nonconforming due to any reclassification of districts under this Ordinance or any subsequent change in the regulations of this Ordinance, provided, however, that where a period of years is specified in this article for the removal of nonconforming buildings, structures or uses, said period shall be computed from the date of such reclassification of change.
- 5.8 Any lot in a recorded plat existing as of the effective date of this Ordinance (December 1980), or any parcel of land created, existing and described as a result of a deed or land contract executed prior to the effective date of this ordinance, which lot or parcel of land fails to comply with the minimum lot width, or area requirements of the Zoning district in which it is located, may be used only as follows:
- (a) **Improved Property.** If the platted lot or parcel of land had a building on it as of the effective date of this Ordinance, it may be used and sold as a separate platted lot or parcel, regardless of whether it meets minimum width, depth, and area requirements in the zoning district in which it is located, and also regardless of whether it adjoins one or more lots owned by the same person, family, partnership, or corporation.
 - (b) **Unimproved Single Property.** If the platted lot or parcel of land did not have a building on it as of the effective date of this Ordinance, and also if the platted lot or parcel of land is not adjacent to another platted lot or parcel of land owned by the same person, family, partnership or corporation, it may be used, built upon, or sold as a separate platted lot or parcel of land. This provision does not apply if the unimproved platted lot or parcel of land is adjacent to another unimproved platted lot or parcel of land owned by the same person, family, partnership, or corporation -- see paragraph 5.8 (c) below.
 - (c) **Unimproved Multiple Properties.** This subparagraph applies in situations where there are two or more platted lots or parcels of land which did not contain a building on them as of the effective date of this Ordinance, and which platted lots or parcels of land are adjacent to each other and which are also owned by the same person family, partnership, or corporation. In such situations, such platted lots or parcels of land shall be deemed joined together so as to create a single

parcel. Such a joined parcel may not be re-divided unless the re-divided parcels each meet at least 80% of the lot width, depth, and area requirements of the Zoning district in which the re-divided parcels are located.

ARTICLE VI - AGRICULTURAL DISTRICT

- 6.1 This area is designed for uncongested use with a minimum of service, such as water supply, sewerage disposal, police and fire protection, hard-surfaced roads, etc.
- 6.2 The following uses shall be permitted in the Agricultural District: (see appendix for additional uses)
- (a) Forestry.
 - (b) Church.
 - (c) Schools, public and private.
 - (d) Telephone exchanges, gas and electric substations.
 - (e) Parks and playgrounds.
 - (f) Licensed animal kennels.
 - (g) Single-family dwelling.
 - (h) Cemetery.
 - (i) Agricultural uses of land, including the keeping of farm animals or fowl, provided the following requirements are met:
 - (1) Housed more than two hundred (200) feet from any dwelling house other than the dwelling house occupied by the owner of the farm animals or fowl; and
 - (2) Penned and housed on a parcel of land containing two and one half (2 1/2) acres or more. Farm animals and fowl are deemed to include horses, cattle, swine, sheep, chickens, turkeys, ducks, pigeons, rabbits, and other similar animals and fowls; this listing being descriptive rather than exclusive.
 - (j) Buildings necessary to permit agricultural uses of land or housing of animals and fowls.

- (k) Governmental buildings and facilities.

- (l) Snowmobile, motor bike, horseback, and other recreational trails, tracks and facilities when permitted by a Conditional Use Permit after review and subject to the following minimum restrictions:
 - (1) Established wholly on property in common ownership and neatly fenced that users cannot trespass on adjoining land.

 - (2) Established so no use will be made within two hundred (200) feet of any adjoining property, except where necessary to cross a public highway.

 - (3) Provision is made to prevent noise, air and water pollution.

 - (4) Such permit shall be revocable by the Planning Commission after hearing before the Planning Commission.

- (m) Marinas, canoe liveries, and boat dock facilities, provided, adequate sewer and waste disposal systems shall be established not less than two hundred (200) feet from the water's edge.

- (n) Home occupation. (No sales or rental operation) On premises sales with approval of Planning Commission under the guidelines of Conditional Use Permit procedure, see Article XIII.

- (o) Licensed migrant worker's housing, which will be occupied not more than nine (9) months in any one- (1) calendar year. Existing licensed facilities and sites are excluded from the requirements of paragraphs 6.3m (a), (2) through (6). Any new migrant housing facilities and sites shall require a Conditional Use Permit.

- (p) Roadside stands for the sale of farm products, provided that fifty percent (50%) of the produce offered for sale shall have been produced on the premises and that the County Road Commission shall approve in writing all facilities for entry from and exit to the public road. Adequate parking off the public road shall be provided for all customers twenty-five (25) feet off the right-of-way.

- (q) With permission of the Planning Commission, any similar use subject to restrictions as may be deemed necessary to preserve the purpose of this district and this Ordinance; application process subject to the same format as for Conditional Use Permit, Article XIII.

- (r) Single mobile homes provided they meet the ordinance requirements of the district within which they are located. No mobile homes to be used as storage structures. See general provisions for age guidelines.
- (s) Two (2) separate family units in one building, provided it meets all applicable requirements of it's district, with the approval of a Conditional Use Permit obtained in accordance with the provisions of this Ordinance. Multiple housing up to four (4) separate family units in one building, situated on not less than a five (5) acre parcel, with the approval of a Conditional Use Permit obtained in accordance with the provisions of this Ordinance.
- (t) Processing uses, provided they comply with the conditional use requirements of this Ordinance.
- (u) Agricultural implement businesses, including retail sales, servicing and rental and excavating services which must comply with the conditional use requirements of this Ordinance.
- (v) A complex or development of a multiple number of "permitted" or designated "Conditional Uses" which do not comply with all conditions and limitations pertinent thereto, but which will comply with the spirit of this Ordinance with the approval of the Planning Commission under the procedure and standards specified in Article XIII for Conditional Uses.
- (w) Campgrounds:
 - (1) Intent and purpose: To provide for recreational vehicle parks, campgrounds, cabin parks, etc., normally operated on a seasonal basis, for the accommodation of cabins, tents, and recreational vehicles designed primarily for temporary living and sleeping.
 - (2) In addition to the specific conditions and requirements herein provided, private and semi-private campgrounds for active and passive recreational uses may be constructed provided such activities shall be permitted as a Conditional Use subject to Planning Commission approval, pursuant to the procedures and standards set forth in Article XIII, and shall comply with provisions of Act 368 of the Public Acts of 1978, as amended, and any administrative rules and regulations issued thereunder.
 - A) Any such facility shall have a minimum of twenty (20) acres in area in the Agricultural District. Provided further that because of the increased traffic and activity which a

campground necessarily entails, no campground shall be allowed if any portion thereof is located within three thousand (3,000) feet of any other campground.

B) Management headquarters, recreational facilities, toilets, showers, laundry facilities, picnic areas, and/or picnic pavilions, softball and baseball diamonds and other uses and structures customarily incidental to the operation of a campground are permitted as accessory uses, PROVIDED that:

1) Such establishments and the parking area primarily related to their operation shall not occupy more than ten percent (10%) of the area of the park.

2) Any commercial facility selling goods or services at retail shall be limited to and for the sole use of campground patrons, and shall not be used for general retail purposes for persons not using the campground for regular camping purposes. Such establishments shall present no visible evidence of their commercial character, which would attract customers other than occupants of the park.

3) No sale of alcoholic beverages shall be permitted in the facility, under any circumstances.

C) Outdoor fire facilities shall be constructed for each site and open fires shall be prohibited except in these facilities.

D) There shall be provisions for garbage disposal facilities for camper's use.

E) All camping sites shall have a central water supply system with potable water under pressure piped to within three hundred (300) feet of each recreational vehicle site, tent site, camper site or cabin.

F) An enclosed toilet and sewage facility, approved by the Michigan state and County Health Departments, with hot and cold running water available within, shall be provided for every recreational vehicle, tent, cabin, or campsite, not further than five hundred (500) feet of any portion of the land the park system shall be connected thereto. No pit toilets, porta johns or other non-flush disposal facilities shall be allowed.

G) No recreational vehicle, tent, camper, cabin, or building, other than a single family residence, shall be placed, parked, or erected within fifty (50) feet of any property line of the campground. Because of significant noise and congestion which such facilities may generate, the Planning Commission may impose reasonable screening requirements, which may include the use of earthen berms, natural topography, vegetation and/or open/vacant areas to reduce the impact of such facilities use on neighboring properties.

H) A site in a campground, unless designated on an approved plan as a walk-in-site, shall abut on a roadway, and shall be of such size and so arranged as to provide for a recreational unit and shall have at least fifteen (15) feet of road frontage width for each camping unit.

I) A road right-of-way shall be provided having a minimum width of thirty (30) feet. This right-of-way shall be free of obstruction to provide free and easy access to abutting sites. The traveled portion of the right-of-way shall be maintained in a passable and dust-free condition when the campground is in operation.

J) After obtaining a Conditional Use Permit from the Planning Commission a person shall not begin to construct, alter, or engage in the development of a campground without first obtaining a construction permit and license from the Oceana Building/Inspection Department. Applications for a construction permit shall be submitted to the Oceana Health department, which will forward the application to the Oceana Building/Inspection Department.

Wind Tower Generators- See separate Ordinance for requirements. Note: franchise agreement requirements may be required prior to formal application. Conditional Use Permit procedure shall be followed for review.

Ordinance enacted March 25th/effective April 25, 2002.

**BENONA TOWNSHIP
AMENDMENT TO SECTION 6.2 OF
THE BENONA TOWNSHIP ZONING ORDINANCE**

The following provisions propose to amend Section 6.2 (Permitted Uses Within the Agricultural District) of the Benona Township Zoning Ordinance, by adding a sub-section (y) thereto, as follows:

6.2 The following uses shall be permitted in the Agricultural District . . .

(y) Subject to the approval of the Planning Commission, and subject to the standards and conditions provided for Special Uses as set forth in Article XIII, and further subject to the terms and conditions of this paragraph 6.2(y), Wind Turbine Generators (herein called “WTGs”) shall be authorized in the agricultural district as follows:

1. **Purpose.** The Township has received inquiry regarding the construction and operation, on property within the Township, of one or more WTGs. The Township has been advised that there are areas within the Township that have sufficient wind to justify the construction and operation of WTGs. However, the Township has undertaken extensive investigation of WTGs in other locations, and determined that there are possible negative consequences and circumstances associated with the operation of WTGs, which reportedly include but are not limited to: strobe-like shadows, interference with TV reception, noise, and negative aesthetic effects. These conditions reportedly have been associated with declining property values with respect to residences in the vicinity of WTGs in other areas. The Township desires to authorize the construction and operation of WTGs in appropriate settings, thus increasing the economic benefit to the landowners containing the WTGs, while at the same time avoiding or at least minimizing the potential negative effects of the operation of WTGs to neighboring residences.

2. **General Requirements.** WTGs shall be subject to all of the “General Requirements”, including sub-paragraphs (A) through (P), which General Requirements are otherwise applicable to towers and antennas, as set forth in Article 4 of the Benona Township Zoning Amendment.

3. **Applications.** In addition to the information ordinarily required for a Conditional Use permit, as set forth in Article XIII, the following additional information shall be required by any applicants seeking Conditional Use permit for a WTG:

- a. A scaled plan showing: the location, type and height of the proposed WTG; on-site land use and zoning; and adjacent uses (including buildings and structures thereon) within on/quarter mile, regardless of municipality.
- b. Legal description of property and the leased portion of the property, if applicable, together with a copy of the applicant's deed or lease pertaining to said parcel.
- c. The separation distance from other WTG sites presently within the jurisdiction of the Township and within 1/2 mile of the Township boundaries. The names of present owners/operators of these WTGs.
- d. A landscape plan showing proposed materials and existing if applicable.
- e. Fencing plan to insure safety and protection.
- f. Construction plans for WTGs. (6 sets, one each for Planning Commission members and Zoning Administrator).
- g. Compliance certificates if applicable for federal, state or county agencies.
- h. All information of an engineering nature submitted by the applicant and/or required by this Ordinance, whether civil, mechanical or electrical, shall be certified by a licensed engineer. The engineer shall certify in writing that the WTG will be structurally sound and will comply with all applicable building and code requirements.

4. Additional Factors to be Considered in Granting Conditional Use Permits for WTGs. In addition to any other standards specified in this Ordinance for considering Conditional Use Permit applications, the Planning Commission shall consider the following factors in determining whether to issue a special use permit.

- a. Height of proposed structure.
- b. Proximity of proposed structure to residential structures and residential district boundaries.
- c. Nature of uses on adjacent properties.
- d. Flora and Topography of surrounding area.
- e. Design characteristics of the structure and their effect on the surroundings.

f. Present similar structures in the area.

5. Setbacks from Adjacent Property Lines and Public Road Rights-of-Way. The base of all WTGs shall be set back from the nearest lot line, including the nearest public road right-of-way, a distance equal to 75% of the height of the WTG. As used in this Ordinance, the term “height” when applied to WTGs shall mean the distance from the ground at the base of the WTG to the top of the radius of the WTG propeller, when a propeller arm is extended vertically from the surface (i.e. straight up). The setback is measured from the outside edge of the base of the tower. Guys and accessory buildings must satisfy the minimum setback requirements for the zoning district.

6. Setbacks from Existing Residences. When initially constructed, the base of all WTGs shall be located no closer than 1/2 mile radius (2,640 feet) from any portion of the nearest residential structure. Provided further, that the Township recognizes that the potential adverse affects of WTGs may effect various individuals differently, and some individuals may not be disturbed by the potential negative affects of WTGs, or may be willing to waive their rights to be free from the negative affects of WTGs. Hence, applicants for WTGs may avoid imposition of the 1/2 mile setback requirement for residences for which the owners of which are willing to grant permanent licenses authorizing the construction and operation of such WTGs. The owners of each such residence shall execute a license, in recordable form to be recorded with the Oceana County Register of Deeds, in substantial form as set forth on the license attached as Exhibit “A” to this Ordinance provision. Residences for which licenses have been obtained from the owners shall not be deemed counted or applicable as residences within the 1/2 mile setback as required by this Ordinance provision.

7. Security Fencing. WTGs shall be enclosed by security fencing not less than six (6) feet in height. The support structures of WTGs shall also be equipped with appropriate anti-climbing devices.

8. Accessory Utility Buildings. All utility buildings and structures accessory to WTGs shall comply with all other requirements of the Benona Township Zoning Ordinance.

9. Removal of Abandoned WTGs. Notwithstanding anything to the contrary elsewhere in this Ordinance, any WTG that is not operated or utilized for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such WTG shall remove the same within ninety (90) days of receipt of notice from the Township notifying the owner of such abandonment. Failure to remove abandoned WTGs within the period prescribed shall be grounds for the Township to proceed under applicable law to remove the WTG at the owner’s expense. The owner of each WTG shall submit to the Township on the anniversary of the Conditional Use Permit the current operation status of the unit. The WTG owner and the property owner for the subject parcel shall both be held jointly and severally accountable for reimbursement to the Township.

Note: Approved March 21st 2002, Effective April 22nd 2002.

LICENSE FOR CONSTRUCTION AND OPERATION
OF WIND TURBINE GENERATORS

WITNESS THIS License executed as of the following date: _____.

1. Identity of Owners. This License is being executed by the undersigned persons (herein called the "Owner(s)") who own real property within Benona Township of Oceana County. The name(s) of the Owner(s) is/are: _____. The address of the Owner(s) is: _____, Shelby, Michigan 49455. The tax parcel number of the real property owned by the Owner(s) is: _____. The legal description of the real property owned by Owner(s) is described on an attached exhibit "A".

2. Background Facts and Circumstances. Benona Township has received a request to construct and operate one or more wind turbine generators on property located within the Township. The Township zoning ordinance authorizes the construction and operation of such wind turbine generators, under appropriate circumstances. The zoning ordinance prohibits the construction and operation of wind turbine generators under circumstances where, at the time of the initial construction of the wind turbine generators, that there is neighboring land owned by other persons with a residence located within 2,640 feet of the base of such proposed wind turbine generator. The purpose of this zoning ordinance provision is to protect the present and future owners of residential dwellings within the vicinity of the proposed wind turbine generators from the possible negative effects of the operation of such wind turbine generators, which from time to time has been observed in other situations in the country. However, the Township recognizes that the possible negative effects of the operation of such wind turbine generators may affect people differently. Some people might be greatly troubled and bothered by the effects of the operation of a wind turbine generator, and others may not be bothered at all. Hence, the Township recognizes that it may be appropriate for wind turbine generators to be initially constructed closer than 2,640 feet from a residence on neighboring land owned by other persons, if the owners of the other land understand the possible negative effects of the operation of a wind turbine generators and are willing to grant the operators of such wind turbine generators a license to construct and operate same, even though the wind turbine generators would be closer to the Owner(s)' land than otherwise authorized by the Township's zoning ordinance. It is the Township's position that zoning exists, among other reasons, for the purpose of protecting the Township's residents' property from possible negative effects of potentially undesirable activities. However, the Township also recognizes that residents have the right to contract with the owners of said activities to grant a license for the operation thereof, if the neighboring owners are willing to surrender their rights to otherwise be protected by the Township's zoning ordinance.

3. Grant of License. The Owner(s) hereby grant a permanent and irrevocable license for the operation of the proposed wind turbine generator(s), which are to be constructed in the location(s) as indicated on exhibit

"B" to this license. This license shall run with the land. It shall bind not only the present owner(s), but also any and all future owner(s) of the property as described on exhibit "A".

Witnesses:

Print

Owner

Name:

STATE OF MICHIGAN
COUNTY OF OCEANA

On this _____ day of _____, 200__, before me, a Notary Public, personally appeared _____, who executed the above General Durable Power of Attorney, and acknowledged the same to be his/her free act.

_____,
Notary Public Oceana County, Michigan
My commission expires: _____

After recording return to: Attention Benona Township Zoning Administrator

- (X) Firewood sales. Firewood sales are allowed without a permit in the Agricultural district of Benona Township. Wood and signs must be off the road right of way, adequate parking must be provided off the road right of way.

6.3 Except as otherwise specifically provided by this Ordinance, no building or structure or part thereof shall be erected or altered to a height greater than:

- (a) (1) Dwelling houses - forty (40) feet to gable/ridge height measured from average ground level
- (2) Accessory non-farm buildings - or thirty (30) feet to gable ridge height measured from average ground level.
- (3) Farm buildings - no limitation
- (4) All other buildings and structures - thirty (30) feet to gable/ridge height measured from average ground level.
- (b) Personal Radio and TV antennae and windmills shall be exempted from these height restrictions.

6.4 Except as otherwise specifically provided by this Ordinance, no building or structure or part thereof shall be erected or altered and no use shall be permitted which shall not meet the following yard and area requirements:

- (a) Front yard Fifty (50) feet from the edge of the right-of-way of the public highway or private easement. (Road Right of ways 66 feet wide- not just gravel/pavement)
- (b) Side yards, platted/unplatted lots -To be not less than fifty (50) feet from property lines.
- (c) Rear yard - Fifty- (50) feet minimum.
- (d) Minimum parcel width required for single-family residence. - Three hundred thirty feet (330) wide (at road frontage or equivalent) and minimum lot area of one hundred and eight thousand, nine hundred (108,900) square feet (2-1/2 acres).
- (d) Multiple dwellings for migrant housing shall comply with all requirements of the State Migrant Housing Authority

6.5 The number of off-street parking spaces (a parking space is nine (9) feet in width and eighteen (18) feet in length) required shall be as set forth in the following:

- (a) Two spaces for each dwelling unit or in the case of such uses as tourist homes, motels, etc., one space for each sleeping unit.
- (b) Places of public assembly. One parking space for each five (5) seats.

6.6 Minimum size of a dwelling shall be seven hundred twenty (720) square feet first floor living area, A drive in garage on the first floor shall require the 720 square feet to be placed on the immediate floor above (2nd floor) No building shall be constructed with any side less than fourteen (14) feet.

6.7 No mobile homes shall be used a storage structures.

6.8 P.U.D.'s Refer to residential district for protocol regarding requirements within Ag district.

ARTICLE VII - COMMERCIAL DISTRICT

- 7.1 **Use Regulations.** In the Commercial District, no land or buildings shall be used, and no buildings or structures shall be erected or converted for any use or under any condition other than the following: (see appendix for additional permitted uses)
- (a) Those non-residential uses, which are permitted in the Residential Zoning Districts, subject, except as specifically provided otherwise in this section, to the same conditions, restrictions, and requirements as are provided in the Residential Zoning District.
 - (b) Barber or beauty shop.
 - (c) Clinics - dental and medical including laboratory.
 - (d) Drugstore.
 - (e) Food establishments takeout and sit down
 - (f) Grocery store and meat market.
 - (g) Offices - professional and business.
 - (h) Retail stores providing the sale of goods to the general public.
 - (i) Other similar retail business or service establishments, which supply convenient commodities or performs services primary for residents of the surrounding neighborhood when, authorized by the Planning Commission as a Conditional Use. In determining whether a Conditional Use Permit shall be granted to an applicant under this provision, the Planning Commission shall adhere to those standards set forth in Section 13.3, et seq. of this Ordinance and shall further insure that the Conditional Use shall otherwise comply with existing State and County regulations.
 - (j) In addition, the Planning Commission may grant permission, as a Conditional Use, for a portion of a commercial building or a separate building on the same real property parcel to be used as a single family dwelling, provided that the following terms and conditions are met:

- (1) The area of any dwelling unit shall be a minimum of seven hundred twenty (720) square feet with no one side less than fourteen (14) feet, except an efficiency apartment which is in a portion of a commercial building may have a minimum of four hundred (400) square feet.
 - (2) Only one (1) dwelling unit shall be permitted on each commercial real property parcel.
 - (3) The number of off street parking spaces (a parking space is nine (9) feet in width and eighteen (18) feet in length) shall be two (2) parking spaces per dwelling in addition to spaces required for commercial use.
 - (4) The residence shall comply with all Residential District requirements, except as noted in #1 above for an efficiency apartment.
 - (5) In determining whether a Conditional Use Permit shall be granted to an applicant under this provision, the Planning Commission shall adhere to the above conditions, as well as to those standards set forth in section 13.3, et seq. or this Ordinance and shall further insure that the Conditional Use shall comply with existing State and County regulations.
- (k) The owner or owners of any tract of land comprising an area of not less than five (5) acres may submit a request for a Conditional Use Permit to the Benona Township Planning Commission with a site plan for the use and development of the land as a planned unit development ("PUD").
- (1) In addition to those standards set forth in Section 13.3 et seq. of this Ordinance the following required standards of approval shall be adhered to:
 - A) The maximum number of dwelling units permitted shall be determined by dividing the net development area by the minimum lot area per dwelling unit required by the underlying districts in which the PUD site is located. Net development area is determined by subtracting water, muck and peat areas, and areas set aside for churches, schools, and similar facilities and the area proposed for streets from the gross development area. The area of land set aside for common land, open space or recreation, except as above indicated, shall be included as a part of the next development area.
 - B) The proposed unit is of such size, composition, and arrangement that it's construction and marketing operation is a complete development, without dependence on any subsequent development.

C) The common open space, and any other common properties, individual properties and all other elements of the planned unit residential development are so planned that they shall achieve a unified environmental scheme, with open spaces and all other elements in appropriate locations, suitably related to each other, the site and surrounding land.

D) In view of the "Conditional Use" nature of the PUD application procedure, deed restrictions and covenants entered into or proposed to be contracted for by the developer, become an appropriate consideration of the Planning Commission. The Planning Commission shall consider the manner in which the lawful contractual techniques can augment lawful zoning techniques in attaining the objectives of the PUD and may make its recommendations conditional upon contractual relations between private parties.

E) Compliance with any requirements peculiar to the particular district in which the use is intended.

- (2) Required provisions in site plan: The plan shall contain such proposed covenants, easements, and other provisions relating to bulk, location and density of residential units, accessory uses, thereto, and public facilities as may be necessary for the welfare of the PUD and not inconsistent with the best interests of the entire Township.

The applicant may be required to dedicate land for street or parking purposes, and by appropriate covenants, to restrict areas perpetually (or for the duration of the PUD) as open space for common use. The development as authorized shall be subject to all conditions of this Ordinance only to the extent specified in the authorization.

- (3) A complex or development of a multiple number of "permitted" or designated Conditional Uses which do not comply with all conditions and limitations pertinent thereto but which will comply with the spirit of this Ordinance with the approval of the Planning Commission under the procedure and standards specified in the Ordinance for Special Uses, Article XIII.

7.2 Accessory uses which are customarily incidental to a permitted use under this section are subject to the provisions of Article XIII.

- 7.3 Commercial buildings cannot exceed three (3) stories or fifty (50) feet in height.
- 7.4 Except as otherwise specifically provided by this Ordinance, no building or structure or part thereof shall be erected or altered and no use shall be permitted which shall not meet the following yard and area requirements:
- (a) Front yard - Fifty (50) feet minimum setback from the edge of the right-of-way of the public highway or private easement. For non-conforming lot of record, 25 feet
 - (b) Side yard - None except where abutting agricultural or residential parcel where the minimum shall be Fifteen (15) feet.
 - (c) Corner lots - Fifty (50) foot setback from each right-of-way line. For non-conforming lot of record, 25 feet
 - (d) Rear yard - Main building ten (10) feet minimum, accessory building five (5) feet minimum.
 - (e) Lot area - Fifteen thousand (15,000) square feet minimum, with a minimum width of one hundred (100) feet and an minimum depth of one hundred fifty (150) feet or a minimum width of one hundred fifty (150) feet and a minimum depth of one hundred (100) feet.
- 7.5 The number of off-street parking spaces (a parking space is nine (9) feet in width and eighteen (18) feet in length) required shall be as set forth in the following:
- (a) One parking space for every one hundred (100) square feet of building area.
- 7.6 **Specified Commercial Areas** - The following described areas are designated as commercial districts.
- (a) Beginning at the southeast intersection of 16th Avenue (Scenic Drive) and Thomas Street; thence easterly along the south right-of-way line of Thomas Street 150 feet to a point; thence southerly along a line parallel to and 150 feet east of 16th Avenue 480 feet to a point; thence westerly along a line parallel to Thomas Street, 216 feet to a point in the west side of 16th Avenue; thence southerly along 16th Avenue to Main Street; thence westerly along Main Street 215 feet to a point; thence northerly at right angles 210 feet to the south side of Pleasant Street; thence westerly along Pleasant Street 70 feet; thence northerly along a line parallel to and 150 feet west of 16th Avenue to the south line of Thomas Street; thence easterly to the point of beginning.

- (b) Beginning at the southeast intersection of Scenic Drive and Stone Road; thence south 465 feet; thence east and parallel with Stone Road 465 feet; thence north 996 feet thence west 996 feet; thence south 531 feet; thence east to the point of beginning.

- (c) Beginning on the line of center of Shelby Road 465 west of the intersection of the center lines of Scenic Drive and Shelby Road; thence north 498 feet along a line 465 feet west of and parallel to Scenic Drive; thence east 996 feet along a line 498 feet north and parallel to Shelby Road to a point; thence south 996 feet along a line parallel to and 465 feet east of Scenic Drive to a point; thence west along a line 465 feet south of and parallel to Shelby Road 996 feet to a point; thence north along a line 465 feet west of and parallel to Scenic Drive 498 feet to the point of beginning.

- (d) Beginning at the intersection of the lines of center of Shelby Road and 64th Avenue; thence north along the center line of 64th Avenue 340.54 feet to a point; thence west along a line parallel to and 340.54 feet north of Shelby Road 452.42 feet to a point; thence south along a line parallel to and 452.42 feet west of 64th Avenue 340.54 feet to a point in the center line of Shelby Road; thence east along said center line 452.42 feet to the point of beginning. Beginning at the intersection of the lines of center of Shelby Road and 64th Avenue; thence west 498 feet to a point; thence south 498 feet to a point; thence east 498 feet to a point; thence north to the point of beginning.

- (e) Beginning at the intersection of the lines of center of Stony Lake Road and 64th Avenue; thence west 498 feet to a point; thence 498 feet to a point; thence east 498 feet to a point; thence south to the point of beginning.

- (f) In the Village of Benona, that parcel of land situated west of the Scenic Drive Bridge over Stony Creek along north bank of Stony Creek to the eastern edge of Benona Park and south of Scenic Drive.

- (g) Beginning at the intersection of the lines of 58th Avenue and Shelby Road; thence north along the center line of 58th Avenue 330 feet to a point; thence west along a line parallel to and 330 feet north of Shelby Road 660 feet to a point; thence south along a line parallel to and 660 feet west of 58th Avenue 330 feet to a point in the center line of Shelby Road; thence east along said center line 660 feet to the point of beginning.

ARTICLE VIII - RESIDENTIAL DISTRICT

- 8.1 This area is designed for urban type single-family residential uses at densities of one unit per forty-three thousand five hundred and sixty (43,560) square feet.
- 8.2 Except as otherwise specifically provided by this Ordinance, no building or structure or part thereof shall be erected or altered to a height greater than:
- (a)
 - (1) Single-family dwelling houses - excluding basement, maximum forty (40) feet to gable height
 - (2) Accessory buildings – thirty (30) feet to gable height
 - (3) Multiple-family dwelling units - two (2) stories or forty (40) feet to gable height.
 - (4) All other buildings and structures - subject to approval of Zoning Board of Appeals
 - (b) Personal Radio and TV antennae and personal windmills shall be exempted from these height restrictions.
 - (c) The height of a building shall be measured from the ground level to the ridge/gable line of the roof. Median grade.
 - (d) Height of structure may be increased with approval of Zoning Board of Appeals and approval of the Oceana Building Department.
- 8.3 Except as otherwise specifically provided by this Ordinance, no building or structure or part thereof shall be erected or altered and no use shall be permitted which shall not meet the following yard and area requirements:
- (a) Front yard - Fifty (50) feet from the edge of the right-of-way of the public highway or private easement. For property located on Stony Lake the front yard shall be considered the property line abutting the water's edge. Back lots shall have their road frontage equivalent considered as frontage.

- (1) On a non-conforming lot of record, structures may be sited at line of site to neighboring structures, but no closer than twenty-five (25) feet to front road right-of-way or private easement.
 - (b) Side yard - Existing non-conforming lot of record ten (10) feet each side minimum. Newly plotted lots fifteen (15) feet each side minimum.
 - (c) Minimum width - One hundred fifty (150) feet width.
 - (d) Minimum depth – to meet one acre size lot.
 - (e) Rear yard - Twenty-five (25) feet minimum.
 - (f) Lot area - Forty thousand (43,560) square feet, one acre minimum.
- 8.4 The number of off-street parking spaces (a parking space is nine (9) feet in width and eighteen (18) feet in length) required shall be as set forth in the following:
- (a) Two spaces for each dwelling unit or in the case of such uses as tourist homes, motels, etc., one space for each sleeping unit.
 - (b) **Places of public assembly.** One parking space for each five (5) seats, or one space per 100 square feet of building size, whichever is greater.
- 8.5 Minimum size of a dwelling shall be seven hundred twenty (720) square feet with no one side less than fourteen (14) feet in length. (square footage measured at first main floor living area)
- 8.6 The following uses shall be permitted in the Residential District: (see appendix use chart for amended uses)
- (a) Forestry
 - (b) Church
 - (c) Schools, public and private
 - (d) Telephone exchanges, gas and electric substations

- (e) Parks and playgrounds
- (f) Single-family dwellings
- (g) Cemetery
- (h) Household pets must be controlled in compliance with county animal control regulations. Animals or fowl, kept for whatever purpose may not roam, be housed, penned or tethered in such a way or place as to cause health hazards or public nuisance to any dwelling or property in this district. The keeping of farm animals and fowl is allowed provided the following requirements are met:
 - (1) Housed more than two hundred (200) feet from any dwelling house other than the dwelling house occupied by the owner of the farm animals or fowl, and
 - (2) Penned and housed on a parcel of land containing two and one half (2-1/2) acres or more. Farm animals are deemed to include horses, cattle, swine, sheep, goats, chickens, turkeys, ducks, pigeons, rabbits and other similar animals and fowl, this listing being descriptive rather than inclusive.
- (i) Governmental buildings and facilities
- (j) Marinas, canoe liveries, and boat dock facilities, provided, adequate sewer and waste disposal systems shall be established not less than two hundred (200) feet from water's edge.
- (k) Home occupation, see general provisions (article 2.42)
- (l) Single mobile homes provided they meet the restrictions of this district. No mobile home shall be used as storage structures. See general provisions for age guidelines.
- (m) Two (2) separate family units (duplex) in one building on a conforming lot of record. Structure must meet all applicable requirements with the approval of a Conditional Use Permit obtained in accordance with the provisions of this Ordinance. Multiple housing up to four (4) separate family units in one building, situated on not less than a 300x267 foot parcel, with the approval of a Conditional Use Permit.

(n) **Campgrounds:**

(1) Intent and purpose: To provide for recreational vehicle parks, campgrounds, cabin parks, etc., normally operated on a seasonal basis, for the accommodation of cabins, tents, and recreational vehicles designed primarily for temporary living and sleeping.

(2) In addition to the specific conditions and requirements herein provided, private and semi-private campgrounds for active and passive recreational uses may be constructed provided such activities shall be permitted as a Conditional Use subject to Planning Commission approval, pursuant to the procedures and standards set forth in Article XIII, and shall comply with provisions of Act 368 of the Public Acts of 1978, as amended, and any administrative rules and regulations issued there under.

A) Any such facility shall have a minimum of eight (8) acres in area in the Residential District. Provided that because of the increased traffic and activity which a campground necessarily entails, no campground shall be allowed if any portion thereof is located within three thousand (3,000) feet of any other campground.

B) Management headquarters, recreational facilities, toilets, showers, laundry facilities, picnic areas, and/or picnic pavilions, softball and baseball diamonds and other uses and structures customarily incidental to the operation of a campground are permitted as accessory uses, PROVIDED that:

1) Such establishments and the parking area primarily related to their operation shall not occupy more than ten percent (10%) of the area of the park.

2) Any commercial facility selling goods or services at retail shall be limited to and for the sole use of campground patrons, and shall not be used for general retail purposes for persons not using the campground for regular camping purposes. Such establishments shall present no visible evidence of their commercial character, which would attract customers other than occupants of the park.

3) No sale of alcoholic beverages shall be permitted in the facility, under any circumstances.

C) Outdoor fire facilities shall be constructed for each site and open fire shall be prohibited except in these areas. All outdoor fire facilities shall be inspected by the local fire official and must meet all applicable safety standards.

D) There shall be provisions for garbage disposal facilities for camper's use.

E) All camping sites shall have a central water supply system with potable water under pressure piped to within three hundred (300) feet of each recreational vehicle site, tent site, camper site or cabin.

F) An enclosed toilet and sewage facility, approved by the Michigan state and County Health Departments, with hot and cold running water available within, shall be provided for every recreational vehicle, tent, cabin or campsite, not further than five hundred (500) feet of any portion of the land the park system shall be connected thereto. No pit toilets, port-a-johns or other non-flush disposal facilities shall be allowed.

G) No recreational vehicle, tent, camper, cabin or building, other than a single family residence, shall be placed, parked, or erected within fifty (50) feet of any property line of the campground. Because of significant noise and congestion which such facilities may generate, the Planning Commission may impose reasonable screening requirements, which may include the use of earthen berms, natural topography, vegetation and/or open/vacant areas to reduce the impact of such facilities use on neighboring properties.

H) A site in a campground, unless designated on an approved plan as a walk-in site, shall abut on a roadway, and shall have at least fifteen (15) feet of road frontage width for each camping/RV unit.

I) A road right-of-way shall be provided having a minimum width of thirty (30) feet. This right-of-way shall be free of obstruction to provide free and easy access to abutting sites. The traveled portion of the right-of-way shall be maintained in a passable and dust-free condition when the campground is in operation.

J) After obtaining a Conditional Use Permit from the Planning Commission a person shall not begin to construct, alter, or engage in the development of a campground without first obtaining a construction permit and license from the Oceana Building Department and all other required permits.

(o) The owner or owners of any tract of land comprising an area of not less than five (5) acres may submit a request for a Conditional Use Permit to the Township Planning Commission, a site plan for the use and development of the land as a planned unit development ("PUD").

(1) In addition to those standards set forth in Section 13.3 et seq. of this Ordinance, the following required standards of approval shall be adhered to:

A) The maximum number of dwelling units permitted shall be determined by dividing the net development area by the minimum lot area per dwelling unit required by the underlying districts in which the PUD site is located. Net development area is determined by subtracting water, muck and peat areas, and areas set aside for churches, schools, and similar facilities and the area proposed for streets from the gross development area. The area of land set aside for common land, open space or recreation, except as above indicated, shall be included as a part of the net development area.

B) The proposed unit is of such size, composition, and arrangement that its construction and marketing operation is a complete development, without dependence on any subsequent development.

C) The common open space, and any other common properties, individual properties and all other elements of the planned unit residential development are so planned that they shall achieve a unified environmental scheme, with open spaces and all other elements in appropriate locations, suitably related to each other, the site and surrounding land.

D) In view of the "Conditional Use" nature of the PUD application procedure, deed restrictions and covenants entered into or proposed to be contracted for by the developer, become an appropriate consideration of the Planning Commission. The Planning Commission shall consider the manner in which the lawful contractual techniques can augment lawful zoning techniques in attaining the objectives of the PUD and may make its recommendations conditional upon contractual relations between private parties.

E) Compliance with any requirements peculiar to the particular district in which the use is intended.

- (2) Required provisions in site plan: The plan shall contain such proposed covenants, easements and other provisions relating to bulk, location and density of residential units, accessory uses, thereto, and public facilities as may be necessary for the welfare of the PUD and not inconsistent with the best interests of the entire Township.

The applicant may be required to dedicate land for street or parking purposes and by appropriate covenants, to restrict areas perpetually or for the duration of the PUD as open space for common use. The development as authorized shall be subject to all conditions of this Ordinance only to the extent specified in the authorization.

- (p) With permission of the Planning Commission, any similar use subject to restrictions as may be deemed necessary to preserve the purpose of this district and this Ordinance; application process subject to the same format as for Conditional Use Permit, Article XII.

**ARTICLE IX –
COASTAL ZONE DISTRICT & DUNE OVERLAY ZONE**

9.0 Glossary of terms

MDEQ

Michigan Department of Environmental Quality.

DNR

Department of Natural Resources

HRCO

High Risk Critical Dune

MLWM

Michigan Land and Water Management

NREPA

Natural resources environmental protection agency

PA

Public Act

PUD

Planned Unit Development

9.1 Boundary and Map

- (a) **Eastern Boundary of the Coastal Zone District** - Commencing at the intersection of Lake Michigan mean high water elevation and the north section line of Section 2, T14N R19W; thence east to the northeast corner of Section 2, T14N, R19W; thence south along the east line of that Section 2 and the east section line of Section 11. T14N. R19W to the east quarter post of that Section 11; thence east along the E-W quarter line of Section 12, T14N, R19W to the southeast 1/8 line of the northeast quarter of that Section 12; thence south along the 1/8 line of the southwest quarter of that Section 12 and the west 1/8 line of the northwest quarter of Section 13, T14N, R19W to the intersection of said 1/8 line with the E-W quarter line of that Section 13; thence east to the center post of that Section 13; thence south along the NS quarter line of Sections 13 and 24, T14 N, R19W to the center post of that Section 24; thence east along the E-W quarter line of that Section 24 to the 1/8 post of the E-W quarter line of that Section 24; thence south to the 1/8 post on the E-W section line between that Section 24 and Section 25, T14N, R19W; thence east to the northeast corner of Section 25, T14N, R19W; thence south along the east section line of that Section 25 to the east quarter post of that Section 25; thence east to the west 1/8 post on the E-W line of Section 30, T14N, R18W; thence south along the west 1/8 line of that Section 30 to the south line of that Section 30; thence east along the E-W section line between Sections 30 and 31 to the north 1/4 post of Section 31; thence south to the center post of Section 31; thence east to a point on the E-W quarter line of Section 31 where the west village limit of the unincorporated Village of Benona extended north meets the E-W quarter line of Section 31; thence south along the aforementioned line and the west Village limit line of the unincorporated Village of Benona to the E-W section line of Section 31 and Section 6, T13N, R18W; thence east to the northeast section corner of Section 6; thence south to the south section line of Section 6 to the south 1/8 post; thence east 660 feet; thence south to the south section line of Section 5, T13N, R18W; thence west to the mean high water elevation of Lake Michigan, all being in the Township of Benona, Oceana County, Michigan.
- (b) **Maps** - The Coastal Zone District shall be designated on all zoning maps and shall be superimposed on all land use zoning districts.

- 9.2 **Applications of Residential Provisions.** Except when in conflict with the provisions of this Article IX all provisions of Article VIII (including, but not limited to use limitations) shall apply to the Coastal Zone District. A DEQ permit for High Risk/ Critical Dune areas is required prior to the processing of a zoning permit application.(12-31-08).

9.3 Except as otherwise specifically provided by this Ordinance, no building or structure or part thereof shall be erected or altered to a height greater than:

(a) (1) Single family dwelling houses -maximum of forty (40) feet to gable height, measurement at average ground level grade.

(2) Accessory buildings - maximum of thirty (30) feet to gable height

(3) All other buildings and structures - subject to approval of Zoning Board of Appeals.

(4) The height of any structure may be increased with the approval by the Zoning Board of Appeals after review through the variance application process and approval of the Oceana County Inspection Department.

(b) Personal Radio and TV antennae and personal windmills shall be exempt from these height restrictions.

(c) The height of a building shall be measured from the ground level to the ridge/gable line of the roof.

9.4 Except as otherwise specifically provided by this Ordinance, no building or structure or part thereof shall be erected or altered and no use shall be permitted which shall not meet the following yard and area requirements:

(a) Front yard - minimum setback to be as required by Act No.353, Public Acts of 1970, as amended, Shorelands Protection Act and the Rules and Orders of the Department of Environmental Quality pertaining to coastal zone frontage. For lots not fronting on Lake Michigan, fifty- (50) feet minimum setback from the edge of the right-of-way of the public highway or private easement.

(1) On a non-conforming lot of record, structures may be sited at line of site to neighboring structures, but no closer than twenty-five (25) feet to front road right-of-way or private easement.

(b) Side yard - existing plats: five (5) feet each side minimum. New plats: fifteen (15) feet each side minimum.

(c) Minimum width - eighty (80) feet.

- (d) Minimum depth - two hundred fifty (250) feet.
- (e) Rear yard - existing plats: ten (10) feet. New plats: thirty (30) feet.
- (e) Lot area - twenty thousand (20,000) square feet minimum.
- (f) Setbacks are measured to the drip line of the roof edge in relationship to the ground.

9.5 **Vegetation, Clearance, Building Location and Lot Area.** The following minimum standards shall be met in the Coastal Zone District. All vegetation removal of trees greater than 3 inches shall be reviewed by MDEQ.

- (a) The property owner shall not clear cut the natural vegetation between the bluffline and the water within the coastal zone. Clear cutting is not permitted anywhere within the Dunes Overlay Zone.
- (b) Natural shrubbery shall be preserved as far as practicable; and where removed, it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and preserving natural beauty.
- (c) To protect the dunes, property owners are encouraged, but not required, to build and use stairs down the face of a bluff for access to the beach, rather than using footpaths. Adjoining property owners or groups of owners are encouraged, but not required, to build one set of stairs for joint use rather than each individual owner building separate stairs.
- (d) Stairway systems and ramps limited to five (5) feet in width. All decking shall comply with MDEQ requirements.

9.6 **Parking.** In the Coastal Zone District, in connection with all uses, there shall be provided off street parking at the time any building or structure is erected or enlarged. Such parking shall meet the following requirements.

- (a) All parking areas shall conform to CD shoreline setback requirements.
- (b) All off-street parking areas shall be constructed so as to prevent drainage onto adjacent properties and shall be constructed of materials resistant to erosion.

(c) Parking space size shall be minimum of nine (9) feet wide by eighteen (18) feet in length per vehicle.

9.7 **Sewage Disposal Requirements.** In addition to the requirements established by the Michigan Department of Health and the District No. 10 Health Department, the following site development and use requirements shall apply.

(a)

ptic systems or waste handling facilities erected or installed, or replaced in a designated high-risk/critical dune erosion area must meet or exceed the minimum setback requirements established by the DEQ for a structure.

9.8 **Drainage Provisions.** Any new landscaping shall be landscaped so as to provide adequate surface drainage to prevent pollutant run-off into the Great Lakes or onto adjacent property.

9.9 **Slope Provisions.** Prior to any excavation the MDEQ shall review all natural slopes. This also applies to any sand moving activity within the HRCD area.

9.10 **Buildings, Structures, Alterations, and Uses Requiring Site Plan.** A valid MDEQ permit shall be made available prior to any such activity.

9.11 **Variance from Minimum Setback Requirements.** A variance from the minimum setback for principal structures required by the Township may be granted by the Zoning Board of Appeals under exceptional circumstances and prior review and permitted approval by the MDEQ. An appeal for a special exception may be made to the Michigan Land and Water Management Department, MDEQ.

(1) Any special exception issued by the DEQ shall be considered for such reasonable use of the property is allowed and provided that the use of adjacent properties and/or road right-of-ways are not adversely affected.

(2) The said structure shall meet all requirements established by the MDEQ and will not adversely affect neighboring property owners.

9.12 **Modification of the Minimum Setback Requirement.** A Township zoning variance shall be reviewed after primary review and approval for said structure by the MDEQ. The Township Zoning Ordinance shall take the recommended site plan into consideration with respect to the Township's requirements for minimum site requirements.

9.13 **Dune Overlay Zone.**

(a) **Purpose.** In keeping with the findings of the Michigan Legislature and the authority granted to local governments in Public Act 222 of 1976, as amended, the Township of Benona hereby declares that:

- (1) The Critical Dune Areas of Benona Township are a unique, irreplaceable and fragile resource that provide significant recreational, economic, scientific, geological, scenic, botanical, educational, agricultural and ecological benefits to the people of this community, to the state, to people from other states and countries who visit this resource.
- (2) The benefits derived from alteration, industrial, residential, commercial, agricultural, and the recreational use of Critical Dune Areas shall occur only when the protection of the environment and the ecology of the Critical Dune Areas for the benefit of the present and future generations are assured.
- (3) The regulations embodied in this article as adopted, are the minimum measures necessary to achieve these ends. As of December 31, 2008 the MDEQ has taken over the primary review and permitting for HRCD areas.

9.14 **Area Affected.**

(a) The provisions of this Dune Overlay Zone apply to all the lands so depicted on the map entitled Benona Township Zoning Map, which is a part of this Ordinance. These lands include the entire Critical Dune Area as designated by the DEQ pursuant to PA 222 of 1996, the Sand Dunes Protection and Management Acts, as amended, and to such other lands as locally designated and depicted thereon. Part 353 as amended by the NREPA. Locally designated sand dunes together with dunes designated under PA 222 shall be known as Critical Dune Areas for the purpose of this Ordinance.

Lands that are determined by the Planning Commission to be essential to the hydrology, ecology, topography or integrity of a Critical Dune Area shall also receive all the protection afforded to critical dunes in this Overlay Zone even if not shown on the Benona Township Zoning Map. As amended by Part 353, Sand Dunes Protection and Management, of the NREPA.

- (b) This Overlay Zone establishes regulations, which apply in addition to those of the underlying district. Lot size, density, and front and side setbacks shall be as established in the underlying district except that lots created after the effective date of this article shall be at least eighty (80) feet in width and shall have a depth of not less than two hundred fifty (250) feet. Where the provisions of this zone conflict with those of the underlying district, the provisions of the Dune Overlay Zone shall supersede.

9.15 Lots Affected.

- (a) After the effective date of this article:
 - (1) No subdivision or condominium development shall occur within the Dune Overlay Zone except in compliance with the minimum standards of this Ordinance and after review and approval of a site plan and other documents as required herein by the Michigan DEQ, LWMD. As amended 12-31-2008.
 - (2) No structure shall be constructed, reconstructed, altered or relocated except in strict compliance with the requirements of this Ordinance.
 - (3) No use, which is in existence as of the effective date of this article, shall be expanded except in strict compliance with the minimum standards of this Ordinance.
 - (4) Prior to the creation and recording of any new lot, the property owner is required to seek approval by the Oceana Health Department #10 and the MDEQ to insure the lot will be usable for a purpose permitted under this Ordinance.

9.16 Application Requirements.

- (a) All applicants for a Conditional Use Project Permit for the use of a Critical Dune Area shall be required to include in writing a showing of the following evidence:

The Michigan Department of Environmental Quality has reviewed such plans and will give preliminary approval to proceed with the application for the Conditional Use Permit.

- (1) That the county enforcing agency designated pursuant to the Soil Erosion and Sedimentation Control Act, PA 347 of 1972, as amended, being sections 282.101 to282.125 of the Michigan Compiled Laws, finds that the project is in compliance with PA 347 of 1972 and any applicable soil erosion and sedimentation control ordinance that is in effect within Benona Township.
- (2) That a proposed sewage treatment or disposal system on the site has been approved .. by the Oceana County Health Department #10 and meets all High Risk/Critical Dune guidelines for the systems placement.
- (3) The name, address and professional qualifications of the proposed professional design team members, including the designation of the person responsible for the preparation of the environmental impact statement.
- (4) The description and purpose of the proposed use.
- (5) Six copies of the site plan of the proposed uses 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 outcroppings, wetlands and wooded areas.
- (6) The location of the existing utilities and drainage ways.
- (7) The location and notation of public streets, parks, and railroad and utility rights-of-way within or adjacent to the proposed use.
- (8) The location and dimensions of proposed streets, driveways, sidewalks, pedestrian ways, trails, off-street parking and loading areas.
- (9) The location with approximate dimensions of proposed structures.
- (10) Major proposed change of land forms such as new lakes, terracing, or excavating.

- (11) Approximate existing and proposed contours and drainage patterns showing at least five (5) foot contour intervals.
- (12) Sketches showing the scale, character, and relationship of structures, streets, driveways, and open space.
- (13) Approximate location and type of proposed drainage, water, and sewer treatment and disposal facilities.
- (14) A legal description of the property.
- (15) An aerial photo and contour map showing the development site in relation to the surrounding area.
- (16) A description of the physical site, including its dominant characteristics, its vegetative character, its present use, and other relevant information.
- (17) A soil review giving a short descriptive summary of the soil types found on the site and whether the soil permits the use of septic tanks or requires central sewer. The review may be based on the "unified soil classification system" as adopted by the United States Government Corps of Engineers and Bureau of Reclamation, dated January 1951, or the National Cooperative Soil Survey classification system, and the standards for the development prospects that have been offered for each portion of the site.
- (18) A natural hazards review consisting of a list of natural hazards such as periodic flooding, poor soil bearing conditions, and other hazards peculiar to the site.
- (19) A substrata review including a descriptive summary of the various geologic bedrock formation underlying the site, including the identification of known aquifers, the approximate depths of the aquifers, and if being tapped for use, the principal uses to be made of these waters, including irrigation, domestic water supply, and industrial usage.
- (20) An erosion review showing how erosion control will be achieved and illustrating plans for programs that may be required by any existing soil erosion and sedimentation ordinance.
- (21) At a minimum, plans for compliance with all of the following standards shall be required for construction and post construction periods:

A) Surface drainage designs and structures are erosion proof through control of the direction, volume, and velocities of drainage patterns. These patterns shall promote natural vegetation growth that is included in the design so that drainage waters may be impeded in their flow and percolation is encouraged.

B) The design shall include trash collection devices when handling street and parking drainage to contain solid waste and trash.

C) Watercourse designs, control volumes, and velocities of water to prevent bottom and bank erosion. In particular, changes of direction shall guard against undercutting of banks.

D) If Vegetation has been removed or has not been able to occur on surface areas such as infill zones, it shall be the duty of the developer to stabilize and control the impacted surface areas to prevent wind erosion and the blowing of surface material through the planting of grasses, windbreaks, and other similar barriers.

9.17 Permitted and Prohibited Uses.

(a) The following uses are allowed within the Critical Dune Area:

- (1) Residential as defined in Article VIII, subparagraph 8.1 except a density of one unit per twenty thousand (20,000) square feet is permitted. Effective 1/2009 minimum lot size is mandated by the Oceana Health Dept. to be one acre (43,560 square feet) for a residence serviced by a septic system.
- (2) Parks and playgrounds.
- (3) The owner or owners of any tract of land comprising an area of not less than multiples of one acre (43560 square feet) may submit a request for a Conditional Use Permit to the Township Planning Commission a site plan for the use and development of the land as a planned unit development ("PUD"). Refer to 9.17, (a), (1) for structures with primary septic systems.

A) In addition to those standards set forth in Section 13.3 et seq. of this Ordinance the following required standards of approval shall be adhered to:

1) If the parcel has frontage on Lake Michigan, the maximum number of dwelling units permitted shall be determined by dividing the net front footage by the minimum width, which is eighty (80) feet in the Critical Dune Area. Net development area is determined by subtracting water, muck and peat areas, and for streets from the gross development area. The area of land set aside for common land, open space, or recreation, except as above indicated, shall be included as a part of the net development area.

2) The proposed unit is of such size, composition, and arrangement that its construction and operation is a complete development, without dependence on any subsequent addition.

3) The common open space, and any other common properties, individual properties and all other elements of the planned unit residential development are so planned that they shall achieve a unified environmental scheme, with open spaces and all other elements in appropriate locations, suitably related to each other, the site and surrounding land.

4) In view of the "Conditional Use" nature of the PUD application procedure, deed restrictions and covenants entered into or proposed to be contracted for by the developer, become an appropriate consideration of the Planning Commission. The Planning Commission shall consider the manner in which the lawful contractual techniques can augment lawful zoning techniques in attaining the objectives of the PUD and may make its recommendations conditional upon contractual relations between private parties.

5) Compliance with any requirements peculiar to the particular district in which the use is intended. In the Critical Dune Area a PUD of multiple family use shall require prior approval, of a Conditional Use Project, from the DEQ.

B) Required provisions in site plan: The plan shall contain such proposed covenants, easements and other provisions relating to bulk, location and density of residential units, accessory uses, thereto and public facilities as may be necessary for the welfare of the PUD and not inconsistent with the best interests of the entire Township of Benona

The applicant may be required to dedicate land for street or parking purposes and by appropriate covenants, to restrict areas perpetually (or for the duration of the PUD) as open space for common use. The development as authorized shall be subject to all conditions of this Ordinance only to the extent specified in the authorization.

(b) The following uses are not permitted in a Critical Dune Area:

- (1) The disposal of sewage on-site, unless the standards of applicable codes are met or exceeded.
- (2) A use that does not comply with the minimum requirements required by rules that are promulgated under the Shorelines Protection and Management Act of 1970, PA 245 of 1970, as amended, being sections 281.631 to 281.644 of the Michigan Compiled Laws. As amended by Part 323 Shorelines Protection and Management Act, of the NREPA.

9.18 **Site Plan Review**

(a) In reviewing a site plan submitted along with all the application information required in Articles X, XI and in Section 9.7 above, the Zoning Administrator shall:

- (1) Insure that the requirements of the Zoning Ordinance have been met and that the plan is consistent with existing laws known to the Planning Commission.
- (2) If needed, recommend alterations of a proposed development to minimize adverse effects anticipated if the development is approved and to assure compliance with all applicable state and local requirements.

9.19 **Use Standards**

(a) Any lot or parcel, which in whole or part falls within the Dune Overlay Zone, shall not be used except upon receipt of a Zoning Permit from the Zoning Administrator for that part which lies within the Dune Overlay Zone. No Zoning Permit shall be issued for use of lands within this Zone until a site plan meeting the requirements of this section and those of Section 9.8 above have been met.

The Zoning Administrator shall make the final determination as to whether or not these standards have been met, and shall exercise lawful discretion in all cases in favor of protection of the critical dune area.

- (b) Prior to any zoning activity within the Coastal Dune Overlay district all necessary government permits shall be obtained prior to the issuance of a Township Zoning Permit. Contact the Michigan State Department of Environmental Quality to confirm that any activity is a permitted use and the extent and number of permits are obtained.

9.20 **Conditional Use Project Review Procedures**

- (a) Preliminary discussion of any Conditional Use project is recommended to aid in outlining the steps and requirements necessary for the proper review by external State and County governing bodies. Contact the Zoning Administrator to be placed on the agenda for discussion by the Benona Township Planning Commission at their regularly scheduled monthly meetings.
- (b) Prior to the formal review of any Conditional Use Permit within the Coastal Dune Overlay district, a MDEQ review of the proposed use is recommended to assure compliance to Michigan DEQ guidelines and requirements.
- (c) Any proposed Conditional Use Project shall be reviewed and a recommendation for approval, or approval with conditions, or denial made by the Planning Commission pursuant to the conditional land use procedures of Article XIII of this Ordinance.
- (d) Prior to issuing a zoning permit following a Conditional Use Project application, within a Critical Dune Area, all necessary State and County permits shall be submitted for review by the Zoning Administrator.

9.21 **Nonconforming Uses**

- (a) The lawful use of land or a structure, as existing and lawful within a Critical Dune Area at the time of the adoption of this Overlay Zone, may be continued although the use of that land or structure does not conform to the provisions of this Overlay Zone. The continuance, completion, restoration, reconstruction, extension or substitution of existing nonconforming uses of land or a

structure may continue consistent with the nonconforming use requirements of this Ordinance subject to formal approval by the MDEQ.

- (b) A structure or use located in a Critical Dune Area that is destroyed by fire, other than arson for which the owner is found to be responsible, or an act of nature, except erosion, may be rebuilt or replaced if the structure or use was lawful at the time it was constructed or commenced and the structure does not exceed in size or scope that which was destroyed and does not vary from its prior use. Subject to formal approval by the MDEQ.

9.22 Variances

- (a) The Zoning Board of Appeals: may grant a variance from the requirements of this Overlay Zone if it is found that a practical difficulty will occur. This is subject to prior review and approval of the proposed use variance by the MDEQ.

- (1) A variance shall not be granted from a setback requirement of this article unless the property for which the variance is requested is one of the following:

- A) A nonconforming lot of record that is recorded prior to July 5, 1989 and that becomes nonconforming due to the operation of PA 222 of 1976, as amended NREPA PA 451, Part 353, or by this Zoning Ordinance.

- B) A lot legally created after July 5, 1989 and that becomes nonconforming due to natural shoreline erosion.

- C) Property on which the base of the first landward Critical Dune of at least twenty (20) feet in height, that is not a foredune, is located at least five hundred (500) feet inland from the first foredune crest or line of vegetation of the property. However, the setback shall be a minimum of two hundred (200) feet measured from the foredune crest or line of vegetation. Or is deemed non-conforming by the MDEQ.

- (2) In determining whether a practical difficulty will occur if a variance is not granted, primary consideration shall be given to insuring the human health and safety are protected by the determination and that the determination complies with other applicable provisions of this Ordinance and applicable state and federal laws. See Health Department and MDEQ requirements.

9.23 **Penalties**

- (a) In addition to the penalty provisions of this Ordinance, the provisions of the Michigan Compiled Laws section 281.672 shall apply in the event of any violation. A court may impose on a person who violates any provision of this Dune Overlay Zone, or provision of a permit issued hereunder, a civil fine. In addition to other sanctions provided herein or elsewhere in this Ordinance, persons determined to be in violation of this Ordinance shall be required to pay and reimburse the Township for its actual costs of prosecution or litigation, including court costs and actual reasonable attorney fees. Effective 12-31-2008 the Michigan Department of Environmental Quality has taken over primary review for permits and any deviation from an approved DEQ permit of record as it relates to an acceptable use within HR/CD area will be subject to any and all fines levied by the MDEQ.as amended and approved by the Benona Township Board 6-22-2009.

ARTICLE X - FLOOD HAZARD DISTRICT

- 10.1 The Flood Hazard District is hereby designated as those special hazard areas depicted on Federal Insurance Administration Flood Hazard Boundary Maps of Benona Township. See Article 11.2. The Zoning Administrator has a copy of the applicable maps. The DEQ floodplain engineer shall review all building/use requests and issue a DEQ permit prior to Township issuance of a zoning permit or Conditional Use permit. Minimum floodplain elevations are required and may be reviewed by a licensed surveyor to establish a structures floodplain elevation within this district. All requirements established by the Oceana County Building Inspection Department, Oceana Health Department, Soil Erosion/ Drain Commission shall be adhered to for proper siteing and construction.
- 10.2 Where the uses provided in area zoned residential and agricultural conflict, the provisions of Article X shall control in the Flood Hazard District.
- 10.3 Within and area designated as a Flood Hazard District, the following shall be permitted:
- (a) Agricultural uses such as general farming, pasture, grazing, outdoor plan nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - (b) Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
 - (c) Residential uses such as lawns, gardens, parking areas and play areas.
 - (d) Extraction of sand, gravel and other materials, provided that standards set forth elsewhere in this Ordinance are met, and that the land is restored to an acceptable condition after the period of exploitation. Subject to all restrictions established by the MDEQ.
 - (e) Fill for roads, drains or flood control devices.
- 10.4 No buildings, structures or other temporary or permanent improvements or changes in the topography or storage of materials shall be permitted except by a conditional permit granted as follows:

- (a) Structures shall have no flood damage potential.
- (b) The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.
 - (1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and
 - (2) As far as practicable, structures shall be placed approximately on the same flood flow lines as those adjoining structures.
 - (3) Structures shall be raised on a "stilt" supported platform such that materials placed in the floodway shall constitute no more than ten percent (10%) of the total coverage of the structure.
- (c) Structures shall be firmly anchored to prevent flotation, which may result in damage to other structures, restriction of bridge openings and other narrow section to the stream or river.
- (d) Service facilities such as electrical and heating equipment shall be constructed at or above the regulatory flood protection elevation for the particular area flood proofed.
- (e) Any fill proposed to be deposited in the Flood Hazard District must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the fill land will be put and the final dimensions of the proposed fill or other materials.
 - (1) Such fill or other materials shall be protected against erosion by riprap, vegetative cover or bulk heading.
- (f) The storage or processing of materials that are in time of flooding buoyant, flammable, and explosive or could be injurious to human, animal or plant life is prohibited.
 - (1) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation, or readily removable from the area within the time available after flood warning.

- (g) No structure may be constructed on a slope of more than five degrees (5°) or eight percent (8%).
- (h) Any use listed in this Ordinance as requiring a conditional use permit may be allowed only upon application to the Planning Commission on forms furnished by it and issuance of a conditional special exception by the Commission.
- (i) Procedure to be followed by Planning Commission in passing on a Conditional Use exception permits. Upon receiving an application for a Conditional use permit involving the use of fill, construction of structures, or storage of materials, the Planning Commission may, prior to rendering a decision thereon;
 - (1) Require the applicant to furnish such of the following information as is deemed necessary by the Planning Commission for determining suitability of the particular site for the proposed use:
 - A) Plans in triplicate drawn to scale, showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, utilities, streets, sanitary facilities, storage of materials, flood proofing measures, and the relationship of the above to the location of the channel floodway and regulatory flood protection elevation.
 - B) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
 - C) Photographs showing existing land uses and vegetation upstream and downstream, soil types, and other pertinent information.
 - D) Profile showing the slope of the bottom of the channel or flow line of the stream.
 - E) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
 - (2) Transmit one (1) copy of the information described in subsection 1 to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness

of flood damage to the use, the adequacy of the plans for protection and other technical matters.

- (3) Based upon the technical evaluation of the designated engineer or expert, the Planning Commission shall determine the specific flood hazard at the site and shall evaluate the suitability of the proposed use in relation to the flood hazard.
- (j) Factors upon which the decision of the Planning Commission shall be based. In passing upon such applications, the Planning Commission shall consider all relevant factors specified in other sections of this Ordinance, and
- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - (2) The danger that materials may be swept onto other lands or downstream to the injury of others.
 - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
 - (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (5) The importance of the services provided by the proposed facility to the community.
 - (6) The requirements of the facility for a waterfront location.
 - (7) The availability of alternative locations not subject to flooding for the proposed use.
 - (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - (9) The relationship of the proposed use to comprehensive land use and water quality plans and flood plain management programs for the area.
 - (10) The safety of access to the property in times of flood for ordinary and emergency vehicles.

- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
 - (12) Such other factors which are relevant to the purposes of this Ordinance.
- (k) Conditions attached to Special Exception Permits. Upon consideration of the factors listed above and the purposes of this Ordinance, the Planning Commission may attach such conditions to the granting of special exceptions or variances, as it deems necessary to further the purposes of this Ordinance. Such conditions may include:
- (1) Modification of waste disposal and water supply facilities.
 - (2) Limitations on periods of use and operation.
 - (3) Imposition of operational controls, sureties, and deed restrictions.
 - (4) Requirements for construction of channel modifications, dikes, levees, and other protection measures.
 - (5) Flood proofing measures, such as the following, shall be designed consistent with the flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydronamic forces, and other factors associated with the regulatory flood. The Planning Commission may require that the applicant submit a plan or document certified by a registered professional engineer that the flood proofing measures may be required without limitation:
 - A) Anchorage and/or additional weight to resist flotation and lateral movement.
 - B) Installation of watertight doors, bulkheads, and shutters or similar methods of construction.
 - C) Construction and/or reinforcement of walls to resist water pressures and floating debris.
 - D) Use of paints, membranes, or mortars to reduce seepage of water through walls.

E) Installation of pumps and/or sumps to lower water levels in structures.

F) Construction of water supplies and waste treatment systems so as to prevent the entrance and contamination of floodwaters.

G) Pumping facilities or comparable practices for subsurface drainage system for buildings to relieve external foundation wall and basement flood pressures.

H) Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and storm waters into the basements.

I) Location of all electrical equipment, circuits, and installed electrical appliances in a manner, which will assure they are not subject to flooding and to provide protection from inundation by the regulatory flood.

J) Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety, and welfare in a manner in which will assure that regulatory flood protection elevations above the height associated with the regulatory flood protection elevation to prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into floodwaters.

K) Drainage of floodway fringe areas.

10.5 Nonconforming uses. A structure or the use of a structure or premises which was lawful before the passage or amendment of the Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:

- (a) No such use shall be expanded, changed, enlarged, or altered in any way, which increases its nonconformity or flood damage potential.
- (b) No structural alterations, additions, or repairs to any nonconforming structure over the life of the structure shall exceed its state-equalized value at the time of its becoming a nonconforming use, unless the structure is permanently changed to a conforming use.

- (c) If any nonconforming use or structure is damaged or destroyed by any means, including floods, to a value equal to or in excess of its state equalized value, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

ARTICLE XI - FLOOD HAZARD AREAS

11.1 Intent

- (a) It is the purpose of this article to significantly reduce hazards to persons and damage to property as a result of flood conditions in Benona Township, and to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accord with the National Flood Insurance Act of 1968, and subsequent enactments and the rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency, as published in the Federal Register, Vol. 41, No. 207, Tuesday, October 26, 1976, and redesigned at 44 FR 31177, May 31, 1979.

- (b) Further, the objectives of this article include:
 - (1) The protection of human life, health, and property from the dangerous and damaging effects of flood conditions.

 - (2) The minimization of public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair of flood damaged public facilities and utilities, and the redevelopment of flood damaged homes, neighborhoods, commercial and industrial areas.

 - (3) The prevention of private and public economic loss and social disruption as a result of flood conditions.

 - (4) The maintenance of stable development patterns not subject to the blighting influence of flood damage.

 - (5) To insure the public has access to information indicating the location of land areas subject to periodic flooding.

 - (6) To preserve the ability of floodplains to carry and discharge a base flood.

11.2 Delineation of the Flood Hazard Area Overlay Zone

- (a) The Flood Hazard Area Zone shall overlay existing zoning districts delineated on the official Benona Township Zoning Map. The boundaries of the Flood Hazard Area Zone shall coincide

with the boundaries of the areas of special flood hazards (A zones) designated by the Federal Insurance Administration in the Flood Hazard Boundary Map (FHBM), no. H01-12, dated October 15, 1976, and amendments thereto, which are adopted by reference, appended and declared to be a part of this Ordinance. The term Flood Hazard Area as used in this Ordinance shall mean the Flood Hazard Area Zone. A DEQ permit review shall be required for all permits for structures within the flood plain. Contact the DEQ floodplain engineer for current floodplain elevations.

- (b) In addition to other requirements of this Ordinance applicable to development in the underlying zoning district, compliance with the requirements of this article shall be necessary for all development occurring within the Flood Hazard Area Zone. Conflicts between the requirements of this article and other requirements of this Ordinance or any other ordinance shall be resolved in favor of this article, except where the conflicting requirement is more stringent and would further the objectives of this article to a greater extent than the requirements of this article. In such cases, the more stringent requirement shall be applied.

11.3 **Development Permit**

- (a) Development, including the erection of structures and placement of mobile homes within a Flood Hazard Area, shall not occur except upon issuance of an approved zoning permit in accord with the requirements of the Michigan DEQ, a zoning permit, and the following standards:
 - (1) The requirements of the article shall be met.
 - (2) The requirements of the underlying zoning district and applicable general provisions of this Ordinance must be met.
 - (3) All necessary development permits shall have been issued by appropriate local, state and federal authorities. This may include a flood plain permit and/or approval, or letter of no authority from the Michigan Department of Natural Resources under authority of Act 245, Public Acts of 1929, as amended by Act 167, Public Acts of 1968. Where a development permit cannot be issued prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

11.4 General Standards for Flood Hazard Reduction

- (a) All new construction and substantial improvements within a Flood Hazard Area, including the placement of prefabricated buildings and mobile homes, shall:
 - (1) Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure;
 - (2) Be constructed with materials and utility equipment resistant to flood damage; and
 - (3) Be constructed by methods and practices that minimize flood damage.
- (b) All new and replacement water supply systems shall minimize or eliminate infiltration of floodwaters into the systems.
- (c) All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of floodwaters into the systems and discharges from systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding. And meet the current standards of the local Health Department.
- (d) All public utilities and facilities shall be designed, constructed, and located to minimize or eliminate flood damage.
- (e) Adequate drainage shall be provided to reduce exposure to flood hazards.
- (f) The Planning Commission shall review development proposals to determine compliance with the standards in this section and shall transmit that determination to the Zoning Administrator.
- (g) Land shall not be divided in a manner creating parcels or lots, which cannot be used in conformance with the requirements of this article.
- (h) The flood carrying capacity of any altered or relocated watercourse not subject to state or federal regulations designed to insure flood carrying capacity shall be maintained.
- (i) Available flood hazard data from federal, state or other sources shall be reasonably utilized in meeting the standards of this section. Data furnished by the Federal Insurance Administration shall take precedence over data from other sources.

11.5 Specific Base Flood Elevation Standards

- (a) On the basis of the most recent available base flood elevation data, the following standards shall apply in the Flood Hazard Area Zone; and comply with MDEQ requirements.
 - (1) All new construction and substantial improvements of non-residential structures shall have the lowest floor, including basement, elevated to or above the base flood level.
 - (2) All new construction and substantial improvements of non-residential structures shall have either;
 - A) The lowest floor, including basement, elevated to or above the base flood level; or
 - B) Be constructed so that anything below base flood level, together with attendant utility and sanitary facilities, are watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the flood proofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood in the location of the structure. Such certification shall be submitted as provided in this article and shall indicate the elevation to which the structure is flood proofed.
- (b) The most recent base flood elevation data received from the Federal Insurance Administration shall take precedence over data from other sources.

11.6 Mobile Home Standards

- (a) All mobile homes in the Flood Hazard Area shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties in accord with the following specifications, and comply with current Oceana Building and Inspection Department requirements.
 - (1) Over-the-top ties shall be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations, except that on mobile homes less than fifty (50) feet in length, one (1) tie per side shall be required.

- (2) Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points, except that on mobile homes less than fifty (50) feet in length, four (4) ties per side shall be required.
- (3) All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.
- (4) All additions to a mobile home shall be similarly anchored.

11.7 **Disclaimer of Liability**

- (a) The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land under this article shall not be considered a guarantee or warranty of safety from flood damage. All current requirements of State and County agencies shall be followed as recommended or by permit.

This Ordinance does not imply that areas outside the Flood Hazard Area will be free from damage. This Ordinance does not create liability on the part of Benona Township or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

ARTICLE XII - ADMINISTRATION AND ENFORCEMENT

12.1 **Administrative official and boards designated**

- (a) It shall be the duty of the Zoning Administrator to administer this Zoning Ordinance and to enforce the provisions contained herein. The Zoning Administrator shall be appointed by the Township Board to serve at its pleasure.
- (b) The Zoning Board of Appeals shall interpret this Ordinance, make decisions on matters coming within its jurisdiction and instruct the Administrator as to the steps necessary to enforce its decisions.
- (c) Upon notice of a violation of this Ordinance, the Township Attorney shall determine and carry out the legal steps necessary to secure prosecution or adherence to this Ordinance.

12.2 **Zoning Permits required**

It shall be unlawful for any person to commence excavation for, or construction of, any building or structure, or structural change in any existing building or structure without first obtaining approval in writing from the Administrator. No permit shall be issued for the construction, alteration, or remodeling of any building or structure, until an application has been submitted in accordance with the provisions of this Ordinance, showing that the construction proposed is in compliance with the provisions of this Ordinance, as well as applicable building codes and sanitary codes. No plumbing or electrical permits shall be issued until the Administrator has determined that the plans and designated use indicates that the structure and the premises, if constructed as planned and proposed, will conform to the provisions of this Ordinance.

12.3 **Permits**

Every application for a Zoning Permit shall be sworn to by the applicant and shall be made as now and hereafter required by the Building Code and shall designate the existing and intended use of the structure or premises or part thereof which it is proposed to alter, erect or extend, and the number of housekeeping units existing and/or intended shall be indicated. The application shall contain other information and shall be accompanied by such drawings and plans as required by the Administrator. Zoning Permits expire

one (1) year after issuance if no construction has started. An issued Zoning Permit may be extended with no charge upon application to and at the discretion of the Zoning Administrator. If it is determined by the Zoning Administrator, that the construction activity is in non-compliance with the provisions of this Ordinance, the Zoning Administrator will issue a Stop Work Notice. The permit applicant may request a hearing before the Zoning Board of Appeals.

All dimensions shown on the before mentioned drawings (plans) relating to the location and size of the lot or parcel involved in the permit, other than those lots which are part of a restricted subdivision, shall be based on the drawing submitted by the land owner.

All building permits, which cause application of yard requirements contained in this Ordinance, shall have said yard dimensions indicated on the permit.

In case of minor alterations, the Zoning Administrator may waive portions of the foregoing requirements, which fall under his/her administration.

12.4 **Fees**

Each application for a Zoning Permit shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application.

The Township Board shall establish a schedule of fees and a collection procedure for Zoning and Conditional Use Permits, appeals, variances and other matters pertaining to the Ordinance. The schedule of fees shall be posted at the Township Hall and may be altered or amended by the Township Board. The schedule of fees shall be deemed a minimum base fee, and in addition, the Township may charge its actual costs and expenses incurred in the review or granting of such permits, appeals, or other petitions submitted pursuant to this Ordinance. These costs may include, but shall not be limited to; publication fees, professional engineering or site plan review fees by such professionals as the Township may engage, and attorney fees incurred by the Township in reviewing and drafting documents necessary to review or granting of any such application. No permits, appeals or variances shall be issued until such costs, fees and expenses have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals or the Planning Commission until preliminary charges and fees have been paid in full. No part of any fee shall be refundable. The Zoning Administrator may collect the afore mentioned fees, costs, attorney fees and expenses, issue receipts and turn these over to the Township treasurer.

12.5 Flood Plain Management Administrative Duties

- (a) With regard to the National Flood Insurance Program and the regulation of development within the Flood Hazard Area Zone as prescribed in Article XI, the duties of the Zoning Administrator shall include, but are not limited to:
 - (1) Notification to adjacent communities and the Department of Natural Resources of the proposed alteration or relocation of any watercourse, and the submission of such notifications to the Federal Insurance Administration.
 - (2) Verification and recording of the actual elevation in relation to mean sea level of the lowest floor, including basement or all new or substantially improved structures of flood proofed structures, the elevation to which the structure was flood proofed. Data of elevation to be provided in DEQ permit as issued.
 - (3) Recording of all certificates of flood proofing, and written notification to all applicants to whom variances are granted in a Flood Hazard Area Zone indicating the terms of the variance, the increased danger to life and property, and that the cost of flood insurance will increase commensurate with the increased flood risk, and may reach amounts in excess of \$25.00 for \$100.00 of insurance coverage per year. A record of all variance notifications and variance actions shall be maintained together with the justification for each variance.
- (b) All records and maps pertaining to the National Flood Insurance Program shall be maintained in the office of the Zoning Administrator and shall be open for public inspection.
- (c) It shall be the responsibility of the Zoning Administrator to obtain and utilize the best available flood hazard data for purposes of administering this Ordinance in the absence of data from the Federal Insurance Administration.

12.6 Flood Hazard Area Application Information

- (a) In addition to the information required with an application for a zoning compliance permit, Conditional Use Permit or any other type of development permission required under this Ordinance, the following information shall be submitted as a part of an application for permission

to commence any type of development within a Flood Hazard Area Zone: A DEQ permit by the DEQ representative is required prior to the issuance of a Zoning permit.

- (1) The elevation in relation to mean sea level of the floor, including basement, of all structures.
- (2) Where flood proofing will be employed, the elevation in relation to mean sea level to which a structure will be flood proofed.
- (3) Where flood proofing will be employed, a certificate from a registered professional engineer or architect that the flood proofing criteria of this Ordinance will be met.
- (4) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (5) Proof of development permission from appropriate local, state and federal agencies as required by Section 12.3, including a flood plain permit, approval, or letter of no authority from the Department under authority of Act 245, Public Acts of 1929 as amended by Act 167, Public Acts of 1968. See DEQ article (a) above.
- (6) Base flood elevation data where the proposed development is subject to Public Act 288 of 1967, as amended, or greater than five (5) acres in size.
- (7) Additional information which may be reasonably necessary to determine compliance with the provisions of this Ordinance. See DEQ article (a) above.

12.7 Flood Hazard Area Variances

- (a) Variances from the provisions of Article XI Flood Hazard Areas shall only be granted by the Zoning Board of Appeals upon a determination of compliance with the general standards for variances contained in this Ordinance, Article 9.22, (a), (2), and each of the following specific standards: And only after primary review of the Michigan DEQ representative to insure that a variance approval would not conflict with DEQ statutes.

- (1) A variance shall be granted only upon:
 - A) A showing of good and sufficient cause; and relief by the DEQ Floodplain engineer for the proposed activity.
 - B) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - C) A determination that the granting of a variance will not result in a harmful increase in flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
 - (2) The variance granted shall be the minimum necessary considering the flood hazard, to afford relief to the applicant.
- (b) The Benona Township Zoning Board of Appeals may attach conditions to the granting of a variance to insure compliance with the standards contained in this Ordinance.
 - (c) Variances may be granted for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Michigan Historic Markers listing of historic sites, or any state register of historic places without regard to the requirements of this section governing variances in Flood Hazard Areas. Subject to final review and approval by the DEQ floodplain engineer.

ARTICLE XIII - CONDITIONAL USE PERMIT

- 13.1 Conditional uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but possess characteristics or location qualities which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this chapter is to establish equitable procedures and criteria, which shall be applied in the determination of requests to establish special uses. The criteria for decision and requirements provided for under the provisions of this chapter shall be in addition to those required elsewhere in this Ordinance, which are applicable to the Conditional Use under consideration.
- 13.2 Application procedures. An application for permission to establish a Conditional Use shall be submitted and acted upon in accordance with the following procedures:
- (a) **Application** - Applications for Conditional Use Permits shall be submitted through the Zoning Administrator to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application.
 - (b) **Required Information** - An application for a Conditional Use Permit shall be accompanied by the following documents and information:
 - (1) A Conditional use application form supplied by the Zoning Administrator, which has been completed in full by the applicant.
 - (2) A site plan, drawn to a readable scale, of the property involved and adjacent property which describes:
 - A) All property boundaries
 - B) The location of all existing and proposed structures
 - C) The location of all existing and proposed streets, parking lots and driveways
 - D) Current zoning classifications

E) Natural features

- (3) A statement with regard to compliance with the criteria required for approval in Section 13.3, and other criteria imposed by this Ordinance affecting the special use under consideration.
- (c) **Notice** - Upon receipt of an application for a Conditional Use Permit, the Zoning Administrator will publish one (1) notice of a public hearing for the review of the Conditional Use Permit. This notice will be published in a newspaper, which circulates in the Township. Notification of the public hearing will be sent by mail or personal delivery to: Owners of the property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question and to the occupants of all structures within three hundred (300) feet of the boundary of the property in question. The notice shall be given not less than ten (10) or more than fifteen (15) days before the date of the public hearing. The notice shall; describe the nature of the Conditional use request, indicate the property which is the subject of the conditional use request, state when and where the conditional use request will be considered, and indicate when and where written comments will be received concerning the request. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations. One (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
- (d) **Review and Approval** - The Planning Commission shall, at an open meeting, review the application for a Conditional Use Permit. Comments received at the public hearing, and other materials submitted in relation to the request shall be reviewed in the determination on the conditional use application in accordance with the criteria for approval stated in Section 13.3, and such standards contained in this Ordinance which relate to the Conditional use under consideration. Upon the approval or approval with conditions by the Planning Commission, the applicant may apply for a zoning permit.
- (e) The Planning Commission, as the designated body to review and approve conditional land uses (or special uses), may deny or approve with conditions, a request for Conditional land use approval. The decision on a special land use shall be incorporated in a statement containing the

conclusions relative to the special land use under consideration, which specifies the basis for the decision, and any conditions imposed.

13.3 **Basis of Determination.** Prior to approval of a Conditional use application, the Planning Commission shall insure that the standards specified in this section, as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the conditional use under consideration.

(a) **General Standards** - The Planning Commission shall review the particular circumstances of the conditional use request under consideration in terms of the following standards, and shall approve a conditional use only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance;

- (1) The conditional use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
- (2) The conditional use shall not change the essential character of the surrounding area.
- (3) The conditional use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes or glare.
- (4) The conditional use shall not place demands on public services and facilities in excess of current capability.

(b) **Conditions** - The Planning Commission may impose conditions with the approval of a conditional use, which are necessary to insure compliance with the standards for approval stated in this section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the Conditional Use Permit and shall be enforced by the Zoning Administrator.

(c) **Enforcement** - The Zoning Administrator has the authority to revoke a Conditional Use Permit if the same is violated or breached.

ARTICLE XIV - PLANNING COMMISSION

14.1 **Creation**

- (a) The creation, organization, powers and duties of the Benona Township Planning Commission are defined and regulated by the Michigan Township Planning Act 168 of 1959, as amended. The following rules of procedure have been adopted by the Planning Commission to facilitate the performance of its duties as outlined in Planning Act 168 of 1959, as amended. Current guidelines of the State of Michigan Zoning Enabling Act PA #110, July 14th, 2006 have been incorporated in this document.

14.2 **Officers**

- (a) At the regular meeting in January of each year, the Planning Commission shall select, from its membership, a chair, vice-chair, and secretary. All officers are eligible for re-election. An elected officer of the Township Board shall not serve as chairperson, or vice chair, of the Planning Commission.(per State statue) The first member of the Zoning Board of Appeals shall be a member of the Planning Commission. Two additional members from the Planning Commission may be appointed to serve as alternates on the Zoning Board of Appeals. These members' terms are to coincide with his/her Planning Commission terms.
- (b) The chair, vice-chair, and secretary shall take office immediately following their selection and shall hold office for a term of one (1) year or until their successors are selected and assume office.
- (c) The chair shall preside at all meetings, appoint committees, and perform such other duties as may be ordered by the Planning Commission. The vice-chair shall act in the capacity of chairperson in their absence; and in the event the office of the chair becomes vacant, the vice-chair shall succeed to this office for the unexpired term and the Planning Commission shall elect a successor to the office of vice-chair for the unexpired term. The secretary shall execute documents in the name of the Planning Commission, perform the duties hereinafter listed and shall perform such other duties as the Planning Commission may determine. The secretary shall be responsible for the minutes of each meeting and shall have them spread in suitable volumes. All communications, petitions, and reports shall be addressed to the Planning Commission and delivered or mailed to the secretary. The secretary shall publish all meeting notices and submit

all pay records to the Township clerk for payment at the end of each fiscal year (April 1 through March 31) or more frequently.

14.3 **Members terms**

The term of each member shall be for three (3) years, except that of the members first appointed, one third shall serve for one (1) year, one third for two (2) years and one third for three (3) years. A successor shall be appointed not more than one (1) month after the term of the preceding commission member has expired. All vacancies for unexpired terms shall be filled for the remainder of such term. All members of the Planning Commission shall be appointed by the Township Supervisor with the approval of the Township Board. Members may be removed after a hearing by the Township Supervisor, with the approval of the Township Board.

14.4 **Duties and responsibilities**

- (a) Make, adopt, and maintain a Master Plan as a guide for the development of the Township geographic area. The plan is then submitted to the Township Board with a recommendation for adoption and is also referred to the County and/or Regional Planning Commission for review and recommendation.
- (b) Review and make recommendations to the Township Board on action of Federal, State and Local Public Agencies that affect the physical development of the Township. Examples of such activities are highways, airports, schools, public transit, urban renewal, housing, parks, public buildings and structures, commercial and industrial developments, utilities and all other public facilities or services.
- (c) Prepare a Zoning Ordinance to be submitted for adoption to the Township Board.
- (d) Review and make recommendations to the Township Board on all amendments or changes to be made in the zoning maps or the regulations of the Zoning Ordinance. Depending on the Zoning Ordinance, it may also be the responsibility of the Planning Commission to review and make recommendations on special types of development permitted under the Ordinance, such as site plan review, planned unit developments, condominiums, special housing projects, shopping centers, industrial parks, and other special land uses.

- (e) Prepare for the Township a Capital Improvements Program (CIP) based on the Master Plan that describes all public works projects, their estimated cost and the proposed method of financing. The CIP should be submitted to the Township Board for consideration and approval.
- (f) Prepare subdivision (plat) regulations for adoption by the Township Board. Review and recommend approval, modification or disapproval of all subdivision plats, street openings, and other developments that involve expansion of the Township's developed area.
- (g) Make special studies and reports on all other matters that may be referred to the Commission by the Township Board or by an operating department of the Township.

14.5 **Meetings**

- (a) **REGULAR MEETINGS.** Meetings of the Planning Commission will be held the third Thursday of each month at 7:30 p.m., at the Benona Town Hall. When the regular meeting day falls on a legal holiday, the Planning Commission shall select a suitable alternate date in the same month. Minimum of four (4) meetings per year.
- (b) **SPECIAL MEETING.** Special meetings shall be called at the request of the chair, or at the written request (to the secretary) of any two members of the Commission. Notice of special meetings shall be given by the secretary to the members of the Planning Commission at least eighteen (18) hours prior to such meeting and published at least fifteen (15) days in advance in the local paper or posted in four conspicuous areas within the community. Advance notice shall state the purpose and time of the meeting.
- (c) **PUBLIC.** All regular and special meetings, hearings, records and accounts shall be open to the public.
- (d) **QUORUM.** A majority of the total number of members shall constitute a quorum for the transaction of business and the taking of official action for all matters except the adoption of a Master Plan or any part of the Master Plan. All members have the right to vote. The affirmative vote of all members shall be necessary for the adoption of a Master Plan or any part of the Master Plan. Whenever a quorum is not present at a regular or special meeting, those present may adjourn the meeting to another day or hold the meeting for the purpose of considering such matters as are on the agenda. No action taken at such a meeting shall be final or official unless

and until ratified and confirmed at a subsequent meeting at which a quorum is present, by approval of the minutes of that meeting at which at a quorum was not present.

- (e) ORDER OF BUSINESS, AGENDA. The secretary shall prepare an agenda for each meeting and the order of business therein shall be as follows:
 - (1) Call to order
 - (2) Roll call
 - (3) Approval of minutes of last meeting
 - (4) Citizens seeking special use permits, information, or desiring to be on agenda for next meeting will be heard and request considered.
 - (5) Unfinished business
 - (6) Other communications
 - (7) Reports
 - (8) New business
 - (9) Public comment time
 - (10) Adjournment

- (f) SPECIAL MEETINGS. The chair may designate special meetings for the exclusive purpose of discussing long-range portions of the Master Plan.

- (g) VOTING. Voting shall be by voice and shall be recorded by yeas and nays. Roll call votes will be recorded only upon request by a member of the Commission.

- (h) COMMISSION ACTION. Action by the Planning Commission on any matter on which a hearing is held shall not be taken until the hearing has been concluded.

- (i) PARLIAMENTARY PROCEDURE. Parliamentary procedure in Commission meetings shall be governed by Robert's Rules of Order, except where state statute or local ordinances direct otherwise.

14.6 Hearings

- (a) MASTER PLAN and ZONING HEARINGS. Before the adoption of any part of the Master Plan, or any amendment to the Master Plan, or recommending approval of an amendment to the Zoning Ordinance to the Township Board, the Planning Commission shall hold a public hearing on the matter. Notice of the time and place of the hearing shall be given, not less than fifteen (15) days

prior to such hearing, by one publication in a newspaper of general circulation and by first class mail as required by law. Special notice will be given by mail to interested parties including owners of property within three hundred (300) feet of the boundaries of the premises under consideration for re-zoning.

- (b) NOTICE OF DECISION. A written notice containing the decision of the Planning Commission will be sent to petitioners and originators of the request for the Planning Commission to study a special problem.

14.7 **Conditional use permits**

See article XIII

14.8 **Matters to be considered**

The following matters shall be presented for consideration at a meeting of the Planning Commission:

- (a) Petitions for changes in the Zoning Ordinance or Zoning map.
- (b) All preliminary plans and reports for the physical development of the Township, including the general location, character, and extent of streets, viaducts, bridges, parks, and open spaces; the general location of public buildings and other public property, the general location and extent of public utilities and terminals.
- (c) The removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any public way, grounds, open spaces, buildings, or properties.
- (d) The general character, extent, and layout of the replanning and redevelopment of blighted districts and slum plats.
- (e) Land subdivision plats.
- (f) All planning reports and plans before publication.
- (g) Capital improvement program for the municipality.

- (h) Planning department's budget requirements for the fiscal year and request for appropriation. Budget done each January to be submitted to the Township Board at their January meeting.
- (i) Selection of consultants.
- (j) Such other matters as the Township Supervisor shall find it advisable or essential to receive consideration by the Planning Commission.

ARTICLE XV - ZONING BOARD OF APPEALS

15.1 **Creation and membership**

- (a) A Zoning Board of Appeals consisting of five (5) members shall be appointed by the Township Board. The first member of the Zoning Board of Appeals shall be a member of the Township Planning Commission. The Township Board may also appoint two (2) alternates who can be called upon to sit on the Zoning Board of Appeals for absent members or for members with a conflict of interest (Public Acts 168). The remaining members of the Zoning Board of Appeals shall be selected from the electors of the Township residing outside of incorporated cities and villages. The members selected shall be representatives of the population distribution and of the various interests present in the Township. One member may be a member of the Township Board. An elected officer of the Township shall not serve as chairperson of the Zoning Board of Appeals. An employee or contractor of the Township Board may not serve as a member or an employee of the Township Board of Appeals. The total amount allowed the Zoning Board of Appeals in any one year as per diem or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum which sum shall be appropriated annually in advance by the Township Board. Members of the Zoning Board of Appeals shall be removable by the Township Board for nonperformance of duty or misconduct in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest shall constitute misconduct of the office.

- (b) Terms shall be for three (3) years, except for members serving because of their membership on the Planning Commission, or Township Board, whose term shall be limited to the time they are members of the Planning Commission, or Township Board, respectively, in the period stated in the Resolution appointing them. When members are first appointed, the appointments may be less than three (3) years to provide for staggered terms. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. All vacancies or unexpired terms shall be filled for the remainder of the term.

- (c) The Zoning Board of Appeals shall not conduct business unless a majority of the members of the board is present.

15.2 Meetings

Meetings of the Township Zoning Board of Appeals shall be held at the call of the chairman and such other times as the Board, in its Rules of Procedure, may specify. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board of Appeals shall be open to the public. The Board shall maintain a record of its proceedings, which shall be filed in the office of the Township Clerk and shall be a public record.

15.3 Jurisdiction and Appeals

- (a) The Township Zoning Board of Appeals shall act upon all questions as they may arise in the administration of the Zoning Ordinance, including the interpretation of the zoning maps and may fix rules and regulations to govern its procedures sitting as a Zoning Board of Appeals. It shall hear and decide appeals from and review any order, requirements, decisions, or determination made by an administration official, or body charged with enforcement of, any Ordinance adopted pursuant to the provisions of the Township Rural Zoning Act. It shall also hear and decide all matters referred to it or upon which it is required to pass under any Ordinance adopted pursuant to said Act. In regard to matters pertaining to the Dunes Overlay Zone where the MDEQ has reserved the right to review and to finalize all critical dune hardships as special exceptions, the Zoning Board of Appeals decision(s), shall require prior MDEQ approval to enable the Township to review variances requests to the ordinances of the Township. The concurring vote of the majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant any matter upon which they are required to pass under such Ordinance or to affect any variation in such Ordinance. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the Township, County or State. The Zoning Board of Appeals shall state the grounds of each determination.
- (b) Appeals shall be taken within such time as shall be prescribed by the Township Zoning Board of Appeals by general rule by the filing with the officer from whom the appeal is taken and with the Zoning Board of Appeals of a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting a record upon which the action appealed from was taken. Each application for appeal shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application.

- (c) An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Township Zoning Board of Appeals after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by the Circuit Court, or an application, on notice to the officer from whom the appeal is taken, and on due cause shown.

- (d) The Township Zoning Board of Appeals shall fix a reasonable time for a hearing of appeals, give due notice thereof to the parties, and decide the appeal within a reasonable time. At the hearing, a party may appear in person or by agent or by attorney. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the Zoning Ordinance, the Zoning Board of Appeals in passing upon appeals may vary or modify any of its rules or provisions so that the spirit of the Ordinance is observed, public safety secured, and substantial justice done. A variance shall only be granted, or recommended to the Department, on a particular piece of property when the Zoning Ordinance works a hardship on that particular piece of property. The Zoning Board of Appeals may impose conditions with an affirmative decision pursuant to law.

... (e) The ZBA shall review and evaluate applications submitted by the Zoning Administrator for ... Critical Dune variances for exemptions to the Benona Township Zoning requirements within the Coastal Zone overlay map as established by the Michigan DEQ. All variances approved shall be subject to prior review and acceptance by the Michigan DEQ Land and Water Management Department.

15.4 Mapping Disputes

- (a) Where disputes arise as to the location of the Flood Hazard Area boundary, the Zoning Board of Appeals shall resolve the dispute and established the boundary locations. In all cases, the decision of the Zoning Board of Appeals shall be based upon the most current flood plain studies issued by the Federal Insurance Administration. Where Federal Insurance Administration information is not available, the best available flood plain information shall be utilized. Recommendations by the DEQ floodplain engineer shall be use in the final decision.

- (b) Where a dispute involves an allegation that the boundary is incorrect as mapped and Federal Insurance Administration flood plain studies are being questioned, the Zoning Board of Appeals shall modify the boundary of the Flood Hazard Area only upon receipt of an official letter of map amendment issued by the Federal Insurance Administration and or the floodplain engineer of the DEQ.

- (c) All parties to a map dispute may submit technical evidence to the Zoning Board of Appeals.

ARTICLE XVI - DISTRICT CHANGES AND ORDINANCE AMENDMENTS

The Planning Commission may amend or change by ordinance the number, shape or area of a district established on the Zoning Map or the regulations set forth in this Ordinance, as provided by State law.

Any person or persons desiring an amendment or change in the map or in any other provision of this Ordinance shall present to the Township Clerk, a petition for such amendment or change, together with a fee in accordance with the schedule of fees adopted by the Township Board.

ARTICLE XVII - SEPARABILITY

If any clause, sentence, subdivision, paragraph, section or part of this Ordinance be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgement shall have been rendered.

ARTICLE XVIII - VIOLATIONS

18.1 Penalties

Any person who occupies, owns or is in charge of any structure or land and who violates, neglects or refuses to comply with any provisions of this Ordinance or any amendment thereto, other than provisions of the Dune Overlay Zone, or who fails to comply with any of the regulatory measures or conditions of the Planning Commission or the Zoning Board of Appeals adopted pursuant hereto, shall be fined, upon conviction, not more than one hundred dollars (\$100), together with the actual costs of prosecution, or shall be punished by imprisonment for not more than ninety (90) days in the county jail or both. Each and every week during which the violation continues shall be deemed as separate offenses. In addition to criminal sanctions, the Township or any owner of real estate within the district in which such structure of land is situated may institute any appropriate action or proceeding to prevent or abate said violation. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law. In addition to other sanctions provided in this Ordinance, persons determined to be in violation of this

Ordinance shall be required to reimburse the Township for actual costs of prosecution, including actual reasonable attorney fees. Any person who violates the provisions of the Dunes Overlay Zone provisions of this Ordinance or conditions of the Planning Commission and the Zoning Board of Appeals and/or the Department adopted pursuant thereto shall be subject to the provisions of paragraph 9.23.

- 18.2 Any violation of this Ordinance may be prosecuted in any court for injunctive relief. Upon violation of this Ordinance, and in addition to all other remedies provided herein, the Township Board may correct the violation and assess the premises for the cost thereof, which said assessment shall become a lien upon the premises and shall be collected in the same manner as township property taxes.

Use Appendix by District: XXXXX denotes a permitted use.

USE TYPE	AGRICULTURAL	COMMERCIAL	INDUSTRIAL	RESIDENTIAL
AGRICULTURAL	XXXXX			
AIR FIELDS PVT	XXXXX COND USE			
B&B/BOARD HS	XXXXX COND USE			XXXXX COND USE
BANKS		XXXXX		
BEAUTY/ BARBER	XXXXX COND USE	XXXXX		
BOWLING ALLEY		XXXXX		
BUS STATION		XXXXX		
CAMPGROUNDS	XXXXX COND USE			XXXXX COND USE
CAR WASH		XXXXX		
CEMETERY	XXXXX COND USE	XXXXX COND USE		XXXXX COND USE
CHURCHES	XXXXX	XXXXX COND USE		XXXXX COND USE
CIDER MILLS	XXXXX	XXXXX		
CLUB/LOUNGE LIQ	XXXXX COND USE	XXXXX		
COMMUNITY BLDG	XXXXX COND USE			
CONC/ASPH PLANT	XXXXX COND USE			
GOLF COURSE/CC	XXXXX COND USE			XXXXX COND USE
DRIVE IN MOVIE		XXXXX COND USE		
ADULT CARE FAC	XXXXX COND USE	XXXXX COND USE		XXXXX COND USE
DUPLEX DWELLING	XXXXX COND USE			XXXXX COND USE
DWELL MULTIPLE				XXXXX
DWELL SING FAM	XXXXX	XXXXX		XXXXX
ESSENTIAL SERV	XXXXX COND USE	XXXXX	XXXXX	XXXXX COND USE
ESS SERV BLDG	XXXXX	XXXXX	XXXXX	XXXXX
FUNERAL HOME		XXXXX		
AUTO GARAGE	XXXXX COND USE	XXXXX	XXXXX	
GAS STATION		XXXXX		
GAS STORAGE	XXXXX COND USE	XXXXX COND USE		
GREEN HS/NURERY	XXXXX	XXXXX		
GUN CLUBS	XXXXX			
HOSPITAL	XXXXX COND USE			XXXXX COND USE
HOTEL/MOTEL	XXXXX COND USE	XXXXX		XXXXX COND USE

HUNT PRESERVES	XXXXX			
JUNK YARD			XXXXX	
KENNELS	XXXXX COND USE			
LAUNDRY CENTER		XXXXX		
LUMBER/SAW MILL	XXXXX COND USE		XXXXX COND USE	
USE TYPE	AGRICULTURAL	COMMERCIAL	INDUSTRIAL	RESIDENTIAL
METAL PLATING			XXXXX COND USE	
MOBILE HOMES	XXXXX	XXXXX		XXXXX
MOTOR FRT SHIP			XXXXX	
MUN BLDG LIBRARY	XXXXX COND USE			XXXXX COND USE
NAT RES SAND MIN	XXXXX COND USE			
NURSING HOME	XXXXX COND USE	XXXXX		
HOME OCCUPATION	XXXXX COND USE	XXXXX		XXXXX COND USE
OFFICE BUSINESS		XXXXX		
FARM MKT	XXXXX	XXXXX COND USE		
AUTOPARTS ST		XXXXX		
PUD'S	XXXXX COND USE			XXXXX COND USE
REC SITES	XXXXX COND USE	XXXXX		
RETAIL STORE		XXXXX		
RESTAURANTS	XXXXX COND USE	XXXXX SITE REVIEW		
PVT SCHOOLS	XXXXX			
SELF STORAGE	XXXXX COND USE	XXXXX COND USE		
SHOE REPAIR	HM OCC COND USE	XXXXX		HM OCC COND USE
ADULT SOB'S		XXXXX COND USE		
STABLES	XXXXX COND USE			
MOVIE THEATERS		XXXXX		
VEHICLE REPAIR		XXXXX	XXXXX	
VET CLINICS		XXXXX	XXXXX	
WARE HS COM			XXXXX	
WILD LIFE RES	XXXXX COND USE			
AG PRD STOR SH/REC XXXXX	XXXXX COND USE			

CONDUSE				
BAIT STORE		XXXXX COND USE		
MFG INDUSTRIAL		XXXXX	XXXXX	



The above uses are amendments to the Benona Township Zoning Ordinance adopted in 2002. These above uses are in addition to all uses noted in the individual districts of the Zoning Ordinance as adopted in 1980.

“B” Appendix for changes to Zoning Ordinance as recommended by Planning Commission and approved by the Benona Township Board .

No major changes where made to the Zoning Ordinance. The ordinance was reviewed for typographical errors and ambiguous passages. Changes that were made are noted below as to what area of the ordinance section they are located.

Per the State of Michigan Zoning Enabling Act #110, July 14, 2006 changes to the wording regarding the Zoning Commission being used within the Zoning Ordinance mandated its removal. The Planning Commission succeeded the Zoning Commission upon approval of the Zoning Ordinance in 1980. Any Zoning Commission still in existence was to be absorbed into a Planning Commission after the adoption of a Zoning Ordinance. Benona Township was in compliance with the State guidelines.

The Township scheduling for notification of meetings were in compliance.

Changes that have been proposed for the Zoning Ordinance by the Planning Commission are as follows:

4.10 Guest RV use added to allow for guest visitors with sixteen (16) days for a courtesy stay. This requirement will be in place between Memorial Day and Labor Day. There after a permit fee will be required for a stay of up to thirty (30) days maximum.

4.11 Age of mobile/manufactured homes to be placed on a sliding scale, no unit older than ten (10) years from current date will be permitted to be moved into or transferred to another parcel within the Township. January 1st of the current year shall be the reference date.

4.24. Banners to be treated as signs added to Commercial District and any Conditional UsePermitted activity with maximum number of four. Max Size of each banner limited to32SF. Additional banners will be allowed with a proper sign permit application per the sign ordinance.

4.26 Cell Tower amendments including.
a. General provisions for surface treatment of driveway entrances and maintenance.
b. B.1 Sketch requirements
c. B.5 Setback requirements increased for setbacks to property lines.

6.2
(X) Addition of "firewood sales guidelines" for Agricultural District. Firewood sales are permitted at no fee within the Township. Wood and any signage must be off the road right of way, adequate parking off the road right of way must also be provided.

14.2 Officers of Planning Com.: Clarification of who may serve as Chair and Vice Chair.

18.1 Fines: Fine structure levy changed from daily to weekly.

NOTICE June 18th Review for changes recommended to the Benona Township board to approve at their monthly June meeting June 22, 2009.