

ARTICLE I. TITLE, PURPOSE, AND LEGAL CLAUSES

SECTION 1.01. TITLE. This Ordinance shall be known and may be cited as “The Zoning Ordinance of Stanton Township.”

SECTION 1.02. PURPOSES.

- A. Promoting and protecting the public health, safety and general welfare.
- C. Protecting the character and the stability of the agricultural, recreational, residential, commercial and other areas within the Township and promoting the orderly and beneficial development of such areas.
- D. Providing for the needs of agriculture, recreation, timbering, residency, commerce and other land uses in future growth.
- E. Fixing limited and reasonable standards to which buildings and structures shall conform.
- F. Protecting against fire, explosion, noxious fumes and odors, dust, smoke, glare, noise and other nuisances and hazards in the interest of the public health, safety and general welfare.
- G. Conserving the taxable value of land, buildings and structures throughout the township.
- H. Creating a Zoning Board of Appeals and defining the powers and duties thereof.
- I. Designating and defining the powers and duties of the official or officials in charge of the administration and enforcement of this ordinance.
- J. Providing for the completion, extension, substitution or elimination of non-conforming uses.
- K. Providing penalties for the violation of this Ordinance.

SECTION 1.03. VALIDITY AND SEVERALTY CLAUSE. If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provisions of this Ordinance not specifically included in said ruling.

If any court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular land, parcel, lot, district, use, building or structure, such ruling shall not affect the application of said provision to any other land, parcel, lot, district, use, building, or structure not specifically included in said ruling.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

SECTION 2.01. ADMINISTRATION. The provisions of this Ordinance shall be administered by the Township in accordance with the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended.

SECTION 2.02. ZONING ADMINISTRATOR. The Township Board shall designate a Zoning Administrator to act as its officer to effect the proper administration of this Ordinance. The Zoning

Administrator may be a member of the Township Board or another individual already serving as a Township Officer, or may be a new employee of the Township.

SECTION 2.03. DUTIES OF THE ZONING ADMINISTRATOR.

The Zoning Administrator shall:

- A. Review all applications for building permits and inform the building official whether such application conforms to the provisions of this Ordinance.
- B. Receive all applications for special use permits, appeals, variances, amendments to this Ordinance, or other matters which the Zoning Board of Appeals or Planning Commission is required to decide under this Ordinance; conduct field inspections, surveys and investigation, prepare maps, charts and other pictorial materials when necessary or desirable, and otherwise process applications so as to formulate recommendations to the Zoning Board of Appeals or Planning Commission for determination and notify the applicant, in writing, of any decision.
- C. Update the Township Zoning map to keep it current and keep records of all decisions and actions taken pertaining to the administration of the Zoning Ordinance.
- D. Provide forms necessary for the various applications to the Zoning Administrator, Planning Commission, Township Board or Zoning Board of Appeals as required by this Ordinance.
- E. Conduct inspections and investigations as needed to determine compliance with this Ordinance and issue citations or initiate other enforcement action for violations thereof.

SECTION 2.04. VIOLATIONS. Any buildings or structures, including tents and mobile homes, which are erected, constructed, reconstructed, altered, converted, maintained or used, or any uses of land or premises in violation of any provision of this Ordinance, are hereby declared to be a nuisance per se.

SECTION 2.05. PENALTIES. Any person who violates, disobeys, omits, neglects, refuses to comply with, or resists the enforcement of any term or section of this Ordinance shall be responsible for a municipal civil infraction and a fine of \$100.00 plus costs and other sanctions for each infraction. Each day during which any violation continues after due notice has been served shall be deemed a separate and distinct offense. Increased civil fines may be imposed for repeated violations of this Ordinance. A repeat violation means a second or subsequent municipal civil infraction violation committed by a person within any 12-month period and for which a person admits responsibility or is determined to be responsible. The increased civil fines for repeat violations shall be as follows:

- A. The fine for any offense which is a first repeat offense shall be \$250.00, plus costs and other sanctions.
- B. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be \$500.00, plus costs and other sanctions.

In addition to the fines provided in this section, the Township Board may institute legal action seeking an injunction, mandamus, abatement or any other appropriate remedy to prevent, enjoin, abate, or

remove any violation of this Ordinance. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

ARTICLE III. GENERAL PROVISIONS

SECTION 3.01. ESTABLISHMENT OF RMU-RURAL MIXED USE DISTRICT. All land in the Township is hereby designated to be within the RMU-Rural Mixed Use zoning district, as represented on the Township's Zoning Map.

SECTION 3.02. APPLICATION OF REGULATIONS. The regulations established by this Ordinance within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare and shall be uniform for each class of land or building, dwellings and structures throughout each district. Where there are practical difficulties in carrying out the strict letter of this Ordinance, the Zoning Board of Appeals shall have power in passing upon appeals to vary or modify any rules, regulations or provisions of this Ordinance so that the intent and purposes of this Ordinance shall be observed, public safety secured and substantial justice done. The Zoning Board of Appeals is not permitted to grant any use variances.

ARTICLE IV. RMU - RURAL MIXED USE DISTRICT

SECTION 4.01. PURPOSE. The purpose of this district is to protect and stabilize the essential characteristics of Rural Mixed Use areas within the Township, and to insure proper maintenance of conditions for healthful and economically productive farming, forestry, hunting, fishing, and outdoor recreation activities.

SECTION 4.02. PERMITTED USES. The following buildings and structures, and uses of parcels, lots, buildings, and structures are permitted in this district:

- A. Residential dwellings.
- B. Bars, taverns and restaurants with seating capacity less than 100.
- C. Retail stores under 5,000 SF.
- D. General and specialized farming and agricultural activities including the raising or growing of crops, livestock, poultry and other farm animals, products and foodstuffs.
- E. Raising or keeping of poultry, rabbits, and other similar fur-bearing animals whether for profit or pleasure.
- F. Riding academies or stables, or the raising or keeping of cattle, hogs, ponies, goats and similar livestock whether for profit or pleasure upon a lot having an area that is of sufficient size to comply with the Michigan Right to Farm Act and Generally Accepted Agricultural Management Practices.
- G. Growing of plants, trees, shrubs and nursery stock, including the storage of equipment and materials necessary for such growing.

- H. Agricultural products processing facilities such as but not limited to cold storage, sorting, packing and other processes necessary for agricultural production.
- I. Public and private conservation areas and structures for the development, protection and conservation of open space, watersheds, water, soil, forest, and wildlife resources.
- J. Private or public lodges, cabins and camps.
- K. Home Occupations: Customary home occupations such as hairdressing, millinery, dressmaking, bookkeeping and accounting services, real estate and insurance sales, professional offices for physicians, surgeons, dentists, attorneys, architects, engineers, or similar professional practitioners provided that such home occupation shall satisfy the following conditions:
 - 1. No home occupation shall be permitted which creates a hazardous or unhealthy condition.
 - 2. That such occupation is incidental to the residential use in the extent that not more than thirty (30) percent of usable floor area of the principal building, or fifty (50) percent of an accessory building, shall be occupied by such occupation.
 - 3. That no article or service be sold or offered for sale on the premises except as is produced by such occupations.
 - 4. That such occupation shall not require internal or external alterations or construction features or equipment or machinery not customarily located in residential areas.
 - 5. That there be no more than one (1) employee other than members of the resident family.
- L. Signs; provided that no sign shall be erected at any location, where by reason of the position, size, shape, color, movement or illumination, it may interfere with, obstruct the view of, be confused with any authorized traffic sign, signal, or device so as to interfere with, mislead, or confuse traffic.
- M. Contractor's establishments.
- N. Outdoor and indoor storage of recreational vehicles.
- O. Accessory uses, buildings or structures.
- P. Essential service structures except as provided in Section 4.03.
- Q. On-Site Use Wind Energy Systems no greater than 40 feet in total height.
- R. MET Towers no greater than 40 feet in total height.
- S. Churches, synagogues, cathedrals, mosques, temples or other building used for public worship, or cemeteries.

- T. Roadside stands providing for the sale of homemade crafts, nursery stock, plants, vegetables, firewood or other outdoor recreation or agricultural products. Farm product sales must comply with Generally Accepted Agricultural Management Practices.
- U. Veterinarians, animal clinics and kennels.
- V. Dairy products production and processing operations.
- W. Logging and other forest industry establishments.
- X. Mechanical, vehicle, heavy equipment or farm repair shops and farm supply sales and service areas.
- Y. Commercial logging activities.
- Z. Governmental buildings.

SECTION 4.03. CONDITIONAL USES. The following buildings and structures, and uses of parcels, lots, buildings, and structures are permitted in this district subject to obtaining a conditional use permit as provided in Article VI.

- A. Community buildings.
- B. Fuel stations including bulk fuel sales including gasoline, diesel fuel, kerosene, ethanol, propane, liquid natural gas, electric vehicle charging facilities and similar facilities.
- C. Sanitary landfills conforming to all State of Michigan and County Health Department regulations.
- D. Commercial radio or television stations or transmitters occupying a site of no less than ten (10) acres.
- E. Animal sales yards.
- F. The following essential service buildings shall be required to have a conditional use permit prior to their construction; transformer sub-stations, pumping stations, communications relay station, gas and steam regulating valves and stations and buildings of similar function.
- G. On-Site Use Wind Energy Systems more than 40 feet in total height, subject to the provisions of Section 6.02.
- H. MET Towers more than 40 feet in total height, subject to the provisions of Section 6.02.
- I. Utility Scale Wind Energy Systems and Wind Energy Generation Facilities, subject to the provisions of Section 6.03.
- J. Large Solar Energy Facilities (Solar Farms).
- K. Other uses substantially similar to those listed above but not expressly listed.

SECTION 4.04. REGULATIONS. The following regulations shall apply in all “RMU” - Rural Mixed Use districts.

A. Height: The following height requirement shall apply in this district:

1. For On-Site Use Wind Energy Systems: No On-Site Use Wind Energy System shall exceed a total height of 100 feet.
2. For Utility Scale Wind Energy Systems or Wind Energy Generation Facility: No Utility Scale Wind Energy System or Wind Energy Generation Facility shall exceed a total height of 300 feet.
3. No MET Tower shall exceed a total height of 125 feet.

ARTICLE V. SUPPLEMENTAL REGULATIONS

SECTION 5.01. ACCESSORY BUILDING. Where accessory buildings are permitted, they shall conform to the following requirements.

- A. Where an accessory building is attached to the side or front of a principal building, such accessory building shall be considered part of the principal building for purposes of determining required yard dimensions, but if such accessory building is attached to the rear of the principal building in such a manner that it is completely to the rear of all portions of said building, it may be considered a detached accessory building for purposes of determining required rear yard dimensions.
- B. No detached accessory building shall be located nearer to a side lot line than the permitted distance for the principal building on the same lot, unless such accessory building shall be completely to the rear of all portions of the principal building, in which case it may be located no nearer than five (5) feet to any side lot line.
- C. No detached accessory building shall be located nearer than five (5) feet to any rear lot line, except that when such accessory building shall be a garage which is entered at right angles to any alley, it shall be located no nearer than twelve (12) feet to said rear lot line.
- D. No accessory building shall occupy more than thirty (30) per cent of the area of any rear yard.
- E. Where a corner lot adjoins a side boundary of a lot, no accessory building shall be located nearer to the side street lot line than the side yard setback of the principal building on said lot.

SECTION 5.02. ACCESS TO A STREET. Any lot of record created prior to the effective date of this Ordinance without any frontage on a public street or way shall not be occupied except where access to a public street or way is provided by a public or private easement or other right-of-way no less than twenty (20) feet in width. Public access to commercial, industrial or recreational uses shall not be designed so as to pass through residential neighborhoods.

SECTION 5.03. ESSENTIAL SERVICES. For purposes of this Ordinance the following provisions shall apply:

- A. The surface of land used for pipe line rights-of-way, electrical lines and other public utilities shall be restored and maintained as near as possible to its original condition prior to the construction of the public utility involved. All electric utility towers which support main feeder lines shall be two hundred (200) feet from nearest road.
- B. No building shall be used for human occupancy and an opaque fence or screening material may be required by the Township when deemed necessary.

ARTICLE VI. CONDITIONAL USES

SECTION 6.01. GENERALLY. The formulations and enactment of this Zoning Ordinance is based upon the division of the Township into one or more districts, each of which are permitted specified uses which are mutually compatible. In addition to such permitted compatible uses, however, it is recognized that there are certain other uses which may be necessary or desirable to allow in certain locations in certain districts but which on account of their actual or potential impact on neighboring uses or public facilities need to be carefully regulated with respect to their location for the protection of the Township.

- A. *Authority To Grant Permits.* The Township Board with recommendations from the Planning Commission shall have the authority to grant conditional use permits, subject to such conditions of design and operation, safeguards and time limitations as it may determine for all conditional uses specified in the provisions of this Ordinance.
- B. *Application and Fee.* Application for any conditional use permit permissible under the provisions of this Ordinance shall be made to the Township Board by filling in the official conditional use permit application form, submitting required data, exhibits and information; and depositing a fee as set by the Township Board. No fee shall be required of any governmental body or agency. No part of such fee shall be returnable to the applicant.
- C. *Data, Exhibits, and Information Required In Applications.* An application for a conditional use permit shall contain the applicant's name and address in full, a notarized statement that the applicant is the owner involved or is acting on the owner's behalf, the address of the property involved, a statement and supporting data, exhibits, information, and evidence regarding the required findings set forth in this Ordinance, and a site plan meeting the following requirements:
 1. The site plan shall be of a scale not greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals two hundred (200) feet, and of such accuracy that the Planning Commission can readily interpret the site plan, and shall include more than one drawing where required for clarity.
 2. The property shall be identified by lot lines and location, including dimensions, angles and size, and correlated with the legal description of said property. Such plan shall include date of preparation and the name and address of the property owner, developer, and designer and shall be certified by a state of Michigan professional engineer or architect.

3. The site plan shall show the scale; north point; boundary dimensions; topography (at least two foot contour intervals); and natural features, such as, wood lots, streams, rivers, lakes, drains, and similar features.
 4. The site plan shall show existing man-made features, such as buildings; structures; high tension towers; pipe lines; and existing utilities, such as, water and sewer lines, excavations, bridges, culverts, drains, setbacks, rights-of-way, and easements, and shall identify adjacent properties, their existing uses, and zoning.
 5. The site plan shall show the location, proposed finished floor and grade line elevations, size of proposed principal and accessory buildings, their relation one to another and to any existing structure on the site, the height of all buildings, and square footage of floor space.
 6. The site plan shall show the existing and proposed streets, driveways, walks, and other vehicular and pedestrian circulation features within and adjacent to the site; also, the location, size and number of parking spaces in the off-street parking area, and the identification of service lanes, service parking, and dumpster location. Site plan shall include elevations for all items noted.
 7. The site plan shall show the existing and proposed location, use, and size of open spaces; and the location of any landscaping, fences, or walls on the site. Any proposed alterations to the topography and other natural features shall be indicated. The site plan shall further show any proposed location of connections to existing utilities and proposed extensions thereof.
- A. *Public Hearings.* The Planning Commission may hold a public hearing, or hearings, upon any application for a conditional use permit, notice of which shall be given as required by law.
- B. *Required Standards and Findings for Making Determinations.* The Planning Commission shall review the particular circumstances and facts of each proposed use in terms of the following standards and required findings, and shall find and record adequate data, information and evidence showing that such a use on the proposed site, lot or parcel:
1. Will be harmonious with and in accordance with the general objectives, intent and purposes of this Ordinance.
 2. Will be designed, constructed, operated, maintained and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
 3. Will be served adequately by essential public facilities and services, such as: highways, streets, police and fire protection, drainage structures, refuse disposal or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
 4. Will not be hazardous or disturbing to existing or future neighboring uses.

5. Will not create excessive additional requirements at public cost for public facilities and services.
 6. Will comply with the district requirements for minimum floor space, height of building, lot size, yard space, density and all other requirements as set forth in this Ordinance, unless otherwise provided.
- C. *Expiration of Conditional Use Approval.* The conditional use approval shall expire, and be of no effect, three hundred sixty-five (365) days after the date of issuance thereof, unless within such time as substantial work has been performed pursuant to a valid building permit.
- D. *Amendment, Revision of Site Plan.* A site plan approved in conjunction with a conditional use approval may be amended upon the request of the applicant. Such amendment shall be made upon application and in accordance with the same procedures provided above.

SECTION 6.02. ON-SITE WIND ENERGY SYSTEMS (WES) AND MET TOWERS (OVER 40 FEET).

Any On-Site WES or MET tower over 40 feet in height shall comply with the following:

- A. *Site Plan Applications* - In addition to the information required by Section 6.01, conditional use applications submitted for On-Site WES or MET Towers greater than 40 feet in Total Height shall also include the following information:
1. Name of property owner(s), parcel identification number and address.
 2. Zoning classification of the Participating Parcel.
 3. Proposed type, number and height of the On-Site WES or MET Towers to be constructed including the manufacturer and model, product specifications regarding noise output (measured in decibels; Db(A)), total rated generating capacity, dimensions, rotor diameter, and description of ancillary facilities (including but not limited to tower design, color, and wiring).
 4. Evidence that the Michigan Public Service Commission and the subject utility company have been informed of the applicant's intent to install an interconnected, customer-owned generator and that such connection has been approved.
 5. A map drawn to scale depicting the Participating Parcel's property lines, locations of existing roads and access drives, structures including above and below grade utility lines, public easements and existing mature vegetation.
 6. The required setbacks shall be displayed upon the Participating Parcel's site plan.
 7. The location(s) of the On-Site WES or MET Towers and its supporting electrical system's components including distances from existing structures, utility lines or any other possibly impacted items on-site.

8. An engineered set of plans illustrating the proposed On-Site WES or MET Towers prepared or reviewed by a registered engineer.
 9. Standard drawings of any proposed equipment for review of the structural components of the On-Site WES or MET Towers, including structures, towers, bases, and footings. A registered engineer's certification is required for all drawings and any necessary calculations that indicate that the system complies with all applicable local, state, and federal building, structural and electrical codes.
- B. *Aviation Interference* - On-Site WES and MET Towers must comply with all State, Federal and local laws and regulations, including but not limited to the applicable requirements of the Federal Aviation Administration ("FAA"), the Michigan Airport Zoning Act and the Michigan Tall Structures Act both prior to and after installation. No On-Site WES or MET Towers shall be located on any property in such a manner as to interfere with the safe takeoff, approach and landing of aircraft at any non-publicly owned airport as defined by the Michigan Airport Zoning Act, as amended.
- C. *Visual Appearance*
1. On-Site WES and MET Towers shall be required to be of a neutral, non-reflective, non-obtrusive color which must be maintained throughout the life of the product.
 2. On-Site WES and MET Towers shall not be artificially lighted except to comply with applicable FAA or other Federal, State or local requirements, or to the extent necessary for the reasonable safety and security thereof.
 3. No advertising is permitted upon an On-Site WES or MET Tower. Additional items such as banners, streamers, flags and klsimilar items are hereby prohibited from being attached to any On-Site WES or MET Towers or their support structure.
 4. Support structures (i.e. the tower and or base) for an On-Site WES or MET Tower may utilize guy wires. Said guy wires must be clearly visible from ground level to a vertical height of six (6') feet via altered coloring, striping methods or other administratively approved methods of delineating or highlighting this part of the structure.
 5. Any electrical system components related to the On-Site WES or MET Tower, except necessary wiring from the base of the support structure to the turbine, are required to be placed underground within the boundary of each Participating Parcel at a depth designed to accommodate the existing land use to the maximum extent practical.
 6. There is a minimal negative visual impact of On-Site WES or MET Towers on neighborhoods, community landmarks, historic sites and buildings, natural environmentally sensitive areas and public rights-of-way.

D. *Sound*

1. No On-Site WES may exceed 40 Db(A) at any adjacent property line of a Non-Participating Parcel.
2. Sound requirements may be exceeded if written consent is acquired from all adjacent property owners impacted by the On-Site WES. Such written consent must be submitted to the Township.

E. *Ground Clearance*

1. The horizontal axis of the On-Site WES must have a minimum distance of twenty (20') feet between the lowest extension of a rotational blade and the average grade at the base of the structure within a thirty-two (32') foot radius.
2. The vertical axis of the On-Site WES are exempt from a minimum height standard.

- F. *Number of On-Site WES and MET Towers* - A Participating Parcel shall not be occupied by a number of On Site WES exceeding a combined total potential power output greater than ten (10) Kw per hour nor shall the number of MET Towers on a Participating Parcel exceed two (2) MET Towers for each whole five (5) acres.

F. *Safety*

1. An On-Site WES shall have a governing, breaking, feathering or other fail-safe system designed by a certified engineer in order to mitigate and prevent uncontrolled rotation during adverse weather conditions.
2. On-Site WES or MET Towers greater than 40 feet must possess protection measures from lightning strikes.
3. A structural analysis must be provided demonstrating the structural integrity of the proposed On-Site WES or MET Tower support system in the event of adverse weather conditions.
4. Anchor points for an On-Site WES or MET Tower utilizing guy wires must not be located within the road right-of-way and must be anchored entirely upon the Participating Parcel.

G. *Setbacks*

1. All setbacks required for On-Site WES and MET Towers shall be measured from the outside edge of the base of the tower to the nearest adjacent property line of a Non-Participating Parcel.
2. An On-Site WES or MET Tower must meet the greater of either two (2) times the Total Height of the proposed structure away from a Non-Participating Parcel's property line or the minimum distance necessary for compliance with the maximum 40 Db(A) measurement at an adjacent Non-Participating Parcel's property line as required by this Ordinance.

3. The base location for any On-Site WES or MET Tower located on a Participating Parcel shall not be located within the setbacks required by this Ordinance from existing structures, property lines or other necessary setbacks related to the site, including but not limited to utility easements, well/septic separations, or drain easements.
4. A minimum separation distance equal to or greater than a one to one (1:1) ratio to Total Height is required between multiple On-Site WES or MET Towers.
5. If an On-Site WES or MET Tower is mounted to a structure, then the placement of the On-Site WES or MET Tower upon the structure shall be opposite to the structure's façade facing the road right-of-way. In the case of a corner lot or lake property, the Township's Zoning Administrator must determine which façade may be considered the Participating Parcel's principal frontage and shall place the On-Site WES or MET Tower accordingly. The placement of the On-Site WES or MET Tower shall maintain the greater of either the front-yard setback requirement for the Participating Parcel's (a) designated zoning classification, or (b) two (2) times the Total Height of the On-Site WES or MET Tower.
6. All On-Site WES or MET Towers must maintain a one-to-one (1:1) Total Height to setback ratio from existing utility easements, power lines or other public infrastructure related items which may exist upon the Participating Parcel.

H. *Collocation* - No collocation of any Wireless Communications Facilities shall be permitted on any On-Site WES or MET Tower.

SECTION 6.03. UTILITY SCALE WIND ENERGY SYSTEMS (WES) AND WIND ENERGY GENERATION FACILITY (WEGF).

Any Utility Scale WES or WEGF shall comply with the following:

- A. *Site Plan Applications*. In addition to the information required by Section 6.01, conditional use applications submitted for Utility Scale WES or WEGF shall also include the following information:
 1. A map drawn to scale depicting the Participating Parcel's property lines, locations of existing roads and access drives, structures including above and below grade utility lines, public easements and existing mature vegetation.
 2. The required setbacks for a Utility Scale WES or WEGF shall be displayed upon the site plan.
 3. The location(s) of the Utility Scale WES or WEGF and any supporting electrical system components, including distances from existing structures and utility transmission.
 4. Identification and location of the Participating Parcels on which the proposed Utility Scale WES or WEGF will be located, including distances from occupied structures on Participating Parcels. The applicant shall provide written documentation that has been recorded at the Register of Deeds from all property owners of Participating Parcels that provides evidence they agreed to be a Participating Parcel.

5. Identification and location of occupied structures on Non-Participating Parcels and distances from property lines of Non-Participating Parcels within a three quarter (3/4) mile radius of each Participating Parcel.
6. An illustration of the proposed type of Utility Scale WES or WEGF.
7. Proof of the applicant's liability insurance for the subject property.
8. A written description of the decommissioning and reclamation plan, including initial contact information for the Owner, those performing maintenance upon the structures, and operators of the development, and Participating Parcel owners.
9. The Owner shall have a continuing obligation to provide the Township with up to date contact information.
10. A site grading, erosion control and storm water drainage plan must be submitted and approved by the Houghton County Drain Commission prior to commencement of construction of a Utility Scale WES or WEGF.
11. A description, or travel plan, of the routes to be used by construction and delivery vehicles and of any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries, and an agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of the development must be submitted to and approved by the Houghton County Road Commission prior to commencement of construction of a Utility Scale WES or WEGF.
12. The travel plan must include the load capacity of the affected road, an assessment of the roadway prior to and after the construction efforts have been completed and an intersection display or diagram indicating where and what type of improvements are necessary for transportation, delivery or maintenance purposes for any Utility Scale WES or WEGF related items. Any necessary post-construction road repairs or reconstruction shall be the responsibility of the owner/operator of the Utility Scale WES or WEGF and such necessary road repairs or reconstruction must be performed in compliance with all applicable requirements of the Houghton County Road Commission.
13. A statement indicating what hazardous materials will be used and stored on the site.
14. An anticipated construction schedule and project phasing plan shall be required prior to final site plan approval.
 - a. A statement certifying that every Utility Scale WES or WEGF shall be inspected on an annual basis to ensure that all equipment related to the development is in proper working condition. The owner shall maintain with the Township up to date name and contact information for the person or organization responsible for the general maintenance of the structures.

B. *Electromagnetic Interference and Signal Degradations*

1. The applicant shall cause a report to be produced by a third party, qualified professional acceptable to the Township to review any adverse impacts to existing telephone (including cellular and land line), microwave, navigational, or radio reception within the Township. The report required by this subsection shall, at a minimum, include the cumulative impact of all proposed, existing and permitted Utility Scale WES or WEGF in Houghton County to existing telephone (including cellular and land line), microwave, navigational, or radio reception within two and a half (2.5) miles of the Utility Scale WES or WEGF Participation Parcel boundaries.
 2. The applicant shall cause a report to be produced by a third party, qualified professional acceptable to the Township to review any adverse impacts and degradation to the signal of any existing FCC licensed television station(s) whose DTV Service Area includes the location of the proposed Utility Scale WES or WEGF. The report required by this subsection shall, at a minimum, include the cumulative impact of all proposed, existing and permitted Utility Scale WES or WEGF in Houghton County to each existing station included in the report. If the report shows that a geographical area within the DTV Service Area(s) of an affected station(s) will lose the ability to receive a signal level of at least 35dBuV/m using a receive antenna height of ten (10) feet as a result of the proposed turbines, an acceptable mitigation plan shall be submitted to restore coverage of that signal(s) to the residents in those areas.
- C. *Soil Conditions.* The applicant must produce a soils analysis to research the geologic characteristics of the site based upon on-site sampling and testing. This report must be certified by a registered professional engineer licensed within in the State of Michigan.
- D. *Flicker.* The applicant shall provide a detailed report including a visual site plan illustrating the locations of any Utility Scale WES or WEGF potential shadow areas produced by the Utility Scale WES or WEGF, including a summation of the impacts the proposed Utility Scale WES or WEGF may have upon neighboring/adjacent properties and homes, including the number of hours per year of impact and mechanisms or mitigation efforts that could be implemented to minimize any negative effects.
- A. *Sound.*
1. A report of the existing and expected audible and low frequency sound conditions related to the Utility Scale WES or WEGF Participating Parcels must be conducted to identify a baseline sound presence and expected compliance with the sound limits established by this Ordinance prior to any installation of any Utility Scale WES or WEGF. The report must be produced in accordance with standards established by ANSI by a qualified sound professional acceptable to the Township and must include:
 - a. A description and map of the sound producing features of the Utility Scale WES or WEGF, including the range of decibel levels expected (to be measured in Db(A) and Db(C)), and the basis for the expectation.
 - b. A description and map of the existing land uses and structures including any sound receptors (i.e. residences, hospitals, libraries, schools, places of worship, parks, areas

with outdoor workers) within one (1) mile of the proposed Utility Scale WES or WEGF Participating Parcel boundaries. Said description shall include the location of the structure/land use, distances from the proposed Utility Scale WES or WEGF and expected decibel readings for each receptor.

- c. The pre-existing ambient sound (including seasonal variation) and the affected sensitive receptors located within one (1) mile of the Proposed Participating parcel(s). Potential sensitive receptors at relatively less windy or quieter locations shall be emphasized and any problem areas identified.
 - d. A description of the project's proposed sound control features must be explained within the sound report, including specific measures to mitigate noise impacts for sensitive receptors to a level consistent with this Ordinance.
 - e. Sound emanating from the operation of a Utility Scale WES or WEGF shall not exceed 35 Db(A) measured at any adjacent property line of a Non-Participating Parcel.
 - f. In the event the noise levels resulting from the Utility Scale WES or WEGF exceed the criteria listed above, a waiver to said levels may be approved by the Township, provided that the following has been accomplished:
 - I. Written consent from the affected property owner(s) has been obtained stating that they are aware of the Utility Scale WES or WEGF and the sound limitations imposed by this Ordinance and that consent is granted to allow sound levels to exceed the maximum limits otherwise allowed; and
 - II. If the applicant wishes the waiver to apply to succeeding owners of the property, a permanent sound impact easement must be recorded in the Houghton County Register of Deeds office which describes the benefitted and burdened properties and which advises all subsequent owners of the burdened property that noise levels in excess of those otherwise permitted by this Ordinance may exist on or at the burdened property.
- B. *Wind Resource Availability.* The U.S. Department of Energy and National Renewable Energy Laboratory have adopted standards to measure and classify the wind based upon several factors including wind speed and density. Prior to any application being accepted for a Utility Scale WES or WEGF, a thorough wind assessment study must be submitted to the Township. The study must indicate the viability of a potential development by assessing the potential Participating Parcel's wind resource within the U.S. Department of Energy and National Renewable Energy Laboratory classification system.
- C. *Technical Documentation.* The following information is to be assembled and submitted during review of a Utility Scale WES or WEGF conditional use permit as a separate report from the final site plan to address the physical characteristics of the proposed Utility Scale WES or WEGF. Said information will be placed on file with the Township for review purposes.

1. General Information and Plans.
 - a. Wind energy facility technical specifications including manufacturer and model, rotor diameter, tower height/type, foundation type/dimensions.
 - b. Typical tower foundation blueprints or drawings signed by a Professional Engineer licensed to practice in the State of Michigan.
 - c. Typical tower blueprints or drawings signed by a Professional Engineer licensed to practice in the State of Michigan.
 - d. Electrical schematic illustrating the proposed support infrastructure, wires, location, and depth of the Utility Scale WES or WEGF to the point of inter-connection with any other electrical transmission lines.
2. Fire Prevention and Emergency Response Plan and Requirements.
 - a. Description of the potential fire and emergency scenarios that may require a response from fire, emergency medical services, police or other emergency responders.
 - b. Designation of the specific agencies that would respond to potential fire or other emergencies.
 - c. Description of all emergency response training and equipment needed to respond to a fire or other emergency including an assessment of the training and equipment available to the designated agencies.
3. Environmental Impact Issues: Documentation demonstrating the expected ability to comply with the applicable parts of the Michigan Natural Resources and Environmental Protection Act (1994 PA 451, MCL 324.101 et seq.), including but not limited to:
 - a. Part 31 Water Resources Protection (MCL 324.3101 et seq.),
 - b. Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101 et seq.) ,
 - c. Part 301 Inland Lakes and Streams (MCL. 324.30101 et seq.),
 - d. Part 303 Wetlands (MCL. 324.3030 1 et seq.). The site plan and other documents shall illustrate and describe mitigation measures to minimize potential impacts on the natural environment including, but not limited to wetlands, avian and wildlife (migratory bird patterns and bat population effects), other fragile ecosystems, historical/cultural sites and antiquities.

D. General Requirements

- a. The proposed installation of the WEGF or Utility Scale WES shall be consistent with the goals and objectives related to agricultural preservation including the public's general health, safety and welfare within Stanton Township.

- b. The proposed installation of the WEGF or Utility Scale WES shall minimize the adverse impacts of technological obsolescence of such equipment, including a requirement to remove obsolete and/or unnecessary Utility Scale WES or WEGF equipment in a timely manner.
- c. The proposed installation of the WEGF or Utility Scale WES shall minimize any negative externalities related but not limited to noise, shadow flicker, soil erosion and physical road conditions.
- d. Any proposed equipment 50 feet or greater in height shall be required to provide certified drawings of the structural components of the Utility Scale WES or WEGF including structure's components, towers, bases, and footings. A registered engineer's certification is required for all drawings and any necessary calculations that indicate the system complies with all applicable local, state, and federal building, structural and electrical codes.

E. *Visual Appearance.*

- a. Utility Scale WES or WEGF shall not exceed 300' in height when measured from the ground to the tip of the rotor when it is at its greatest height.
- b. Utility Scale WES or WEGF shall be required to be of a neutral, non-reflective, non-obtrusive color which must be maintained throughout the life of the product to mitigate visible oxidation or corrosion.
- c. Lighted safety beacons may be installed upon the top of the structure's nacelle to adhere to Federal and State requirements, including FAA requirements, or to the extent necessary for the reasonable safety and security thereof. Any lighting shall be implemented at the lowest intensity allowable under law, including but not limited to any FAA regulations, and must be reasonably shielded to reduce glare and visibility from the ground.
- d. No advertising is permitted upon a Utility Scale WES or WEGF. Additional items such as banners, streamers, flags and similar items are prohibited from being attached to any Utility Scale WES or WEGF and or its support structure.
- e. Support structures (i.e. the tower and or base) for a Utility Scale WES or WEGF shall not utilize guy wires.
- f. The proposed installation of the WEGF or Utility Scale WES shall minimize negative visual impacts upon neighborhoods, community landmarks, historic sites and buildings, natural environmentally sensitive areas and public rights-of-way.

F. *Setbacks.*

- 1. All setbacks required for Utility Scale WES or WEGF shall be measured from the outside edge of the base of the tower to the nearest adjacent property line of a Non-Participating Parcel, Participating Parcel's inhabited principal structure adjacent road right-of-way, or any other reference point designated in this ordinance.

2. As recommended in guidance from the United States Department of the Interior, Fish and Wildlife Service, the base of any Utility Scale WES or WEGF shall be set back at least three (3) miles from the ordinary high water mark of Lake Superior in light of the significant risks such facilities pose to avian wildlife when placed in close proximity to the Great Lakes.
3. The base of any Utility Scale WES or WEGF on Participating Parcels shall be set back a minimum of two and a half (2.5) times the Total Height of the Utility Scale WES or WEGF from any inhabited principal structure. Participating Parcel owners shall have the ability to waive such a setback only through written acceptance and approval by the Stanton Township Board of Trustees during the conditional use application process. However, no such waiver shall allow any Utility Scale WES or WEGF within a distance of two (2) times the Total Height of the Utility Scale WES or WEGF from any inhabited principal structure. Any waivers accepted and approved by the Township shall be recorded, at no expense to the Township, with the County's Register of Deeds as a deed restriction against the property.
4. The base of any Utility Scale WES or WEGF shall be set back a minimum of six (6) times the Total Height of the Utility Scale WES or WEGF from Non-Participating Parcels. Non-Participating Parcels shall have the ability to waive such a setback only through written acceptance and approval by the Stanton Township Board of Trustees during the conditional use application process. However, no such waiver shall allow any Utility Scale WES or WEGF within a distance of two and a half (2.5) times the Total Height of the Utility Scale WES or WEGF from a Non-Participating Parcel. Any waivers accepted and approved by the Township shall be recorded, at no expense to the Township, with the County's Register of Deeds as a deed restriction against the property.
5. Each Utility Scale WES or WEGF shall adhere to a minimum setback of two (2) times the Total Height from a public road right-of-way, communication tower, existing electrical lines or any other public utility, except for the interconnection between a Utility Scale WES or WEGF and the transmission facilities of a public utility.
6. All Utility Scale WES or WEGF shall have a minimum separation distance between structures of not less than two (2) times the WES rotor diameter, the minimum industry standards or the minimum manufacturer's recommendations. The applicant is required to provide documentation and rationale certified by a registered engineer supporting the separation distance.
7. To further encourage the placement of structures in low-impact areas, all interior property line setbacks between adjacent Participating Parcels located within a Utility Scale WES or WEGF may be waived through a written acceptance and approval by the Stanton Township Board of Trustees during the conditional use permit application process, provided the minimum setbacks from inhabited principal structures are met. Any waivers accepted and approved by the Township shall be recorded, at no expense to the Township, with the County's Register of Deeds as a deed restriction against the property.

G. *Low-Impact Design Layout.* The placement of WEGF or Utility Scale WES must minimize the impacts on existing agricultural endeavors and farmland activity including, but not limited to, tiling systems, harvest and planting patterns or pasture areas. Designs shall be in accordance with the following:

1. Appropriate locations for potential WEGF or Utility Scale WES within existing agricultural lands shall be encouraged along fence rows, tree lines, forest areas and other portions of land which are not typically utilized for agricultural production.
2. Land clearing, soil erosion, habitat impact and clearing of natural vegetation shall be limited only to that which is necessary for the construction, operation and maintenance of the WEGF or Utility Scale WES and is otherwise prescribed by applicable laws, regulations, and ordinances.
3. Any cooling system ventilation, generators or other potential sources of sound must be referenced by location and type per Utility Scale WES or WEGF upon a final site plan. Any sound generative device must be oriented upon the machine or site in a manner which will minimize any negative impacts to neighboring parcels.

H. *Safety.*

1. Utility Scale WES or WEGF shall not be designed to be climbable on the exterior of the structure.
2. All access doors and interior access points shall be lockable and accessible only to those either constructing or maintaining the Utility Scale WES or WEGF.
3. Appropriate warning signs shall be placed at the base of the Utility Scale WES Tower or WEGF upon any associated electrical equipment and at every Utility Scale WES Tower or WEGF entrance.
4. Any access drives or roads remaining on the site shall be gated and locked at night or when not in use. Gates shall be located no closer than fifty (50') feet from the road right-of-way.
5. The blade tip on any Utility Scale WES or WEGF shall not be less than seventy-five feet (75') from the ground when measured from the lowest rotational position.
6. Each Utility Scale WES or WEGF shall be equipped with both a manual and automatic braking device capable of stopping the operation in high winds and adverse weather conditions.
7. All Utility Scale WES or WEGF must have lightning protection.
8. The Township or any emergency service provider who services the Township has the authority to order any Utility Scale WES or WEGF to cease its operations if they determine in good faith that there is an emergency situation involving the Utility Scale WES or WEGF that may result in danger to life or property. The Owner and/or operator

shall provide the Township and emergency services providers with contact information for personnel with access to the braking device who shall be available at all times in person or by phone with remote access. The Owner and/or operator may be required to be available and present in such an emergency situation.

9. All Utility Scale WES or WEGF must comply with all State, Federal and local laws and regulations, including but not limited to the applicable requirements of the Federal Aviation Administration (“FAA”), the Michigan Airport Zoning Act and the Michigan Tall Structures Act both prior to and after installation. No WES or WEGF shall be located on any property in such a manner as to interfere with the safe takeoff, approach and landing of aircraft at any non-publicly owned airport as defined by the Michigan Airport Zoning Act, as amended.
- I. *Shadow Flicker.* A Utility Scale WES or WEGF shall not be allowed to cast a shadow upon an adjacent or nearby Non-Participating Parcel. Equipment and software such as “Shadow Impact Module SIM by NorthTec GMBH” or equivalent with all necessary cabling and receptors may be necessary and shall be installed and maintained by the Owner and/or operator to abate any shadow flicker.
 - J. *Maximum Vibrations and Low Frequency Sound.*
 1. A Utility Scale WES or WEGF shall not produce vibrations humanly perceptible upon a Non-Participating Parcel.
 2. Sound emanating from the operation of a Utility Scale WES or WEGF shall not exceed 50 Db(C) between the hours of 10:00 pm and 6:00 am measured at any adjacent property line of a Non-Participating Parcel.
 3. During the hours of 6:00 am to 10:00 pm no Utility Scale WES or WEGF shall exceed 55 Db(C) measured at any adjacent property line of a Non-Participating Parcel. The sound pressure levels may be exceeded during short-term events such as severe wind storms. If, during short term events, the ambient sound pressure level exceeds the levels permitted by this subsection, the sound pressure level permitted shall be the ambient Db(C) plus five (5) Db(C) and shall be measured at any adjacent property line of a Non-Participating Parcel.
 4. In the event the noise levels resulting from the Utility Scale WES or WEGF exceed the criteria listed above, a waiver to said levels may be approved by the Township, provided that the following has been accomplished:
 - a. Written consent from the affected property owner(s) has been obtained stating that they are aware of the Utility Scale WES or WEGF and the sound limitations imposed by this Ordinance and that consent is granted to allow sound levels to exceed the maximum limits otherwise allowed; and
 - b. If the applicant wishes the waiver to apply to succeeding owners of the property, a permanent sound impact easement must be recorded in the Houghton County Register of Deeds office which describes the benefitted and burdened properties and which

advises all subsequent owners of the burdened property that noise levels in excess of those otherwise permitted by this Ordinance may exist on or at the burdened property.

- K. *State/Federal Requirements.* A Utility Scale WES or WEGF shall meet or exceed any applicable standards and regulations of the FAA, Michigan Public Service Commission, National Electric Safety Code, U.S. Fish and Wildlife Service and any other agency of the state or federal government with the authority to regulate wind turbine generators or other tall structures.
- L. *Maintenance Log.* An ongoing log of maintenance activities performed on the Utility Scale WES or WEGF shall be submitted to the Township on an annual basis.
- M. *Environmental Impact Issues.* The Utility Scale WES, Conditional Use MET Tower and WEGF shall comply with the applicable parts of the Michigan Natural Resources and Environmental Protection Act (1994 PA 451, MCL 324.101 et seq.), including but not limited to:
1. Part 31 Water Resources Protection (MCL 324.3101 et seq.),
 2. Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101 et seq.),
 3. Part 301 Inland Lakes and Streams (MCL 324.30101 et seq.),
 4. Part 303 Wetlands (MCL 324.3030 1 et seq.).
- N. *Security Bond Requirements.*
1. Prior to final approval of a conditional use permit, the applicant shall engage a certified professional engineer acceptable to the Township to estimate the total cost of decommissioning the Utility Scale WES or WEGF and reclamation efforts needed to return affected land back to its original physical condition. The Applicant shall pay for the costs of obtaining such estimate. Said estimates shall be submitted to the Stanton Township Board of Trustees for review.
 2. The owner(s) and/or operator of the Utility Scale WES or WEGF shall post a security bond, in a form acceptable to the Township, equal to one hundred ten percent (110%) of the total estimated decommissioning and reclamation costs.
 3. Said bond shall be posted and maintained with a bonding company licensed in the State of Michigan or Federal or State chartered lending institution chosen by the owner(s) or operators and acceptable to the Township.
 4. Any lending institution shall be required to notify the Township ninety (90) days prior to expiration of the applicable security bond and the owner(s) and/or operator shall renew the security bond with that lending institution or another lending institution of their choosing and acceptable to the Township. Until each Utility Scale WES or WEGF is decommissioned and the property reclaimed, the owner(s) and/or operator is required to maintain a security bond in accordance with this Section. In the event a security is bond

is not maintained, the Township may (i) take any action permitted by law, (ii) revoke the conditional use permit, (iii) order a cessation of operations, and (iv) order that the Utility Scale WES or WEGF be removed and the land reclaimed.

5. When decommissioning and site reclamation has been completed, written correspondence to the Stanton Township Board of Trustees is required before the Board of Trustees may authorize a release of security bonds associated with a Utility Scale WES, or WEGF.

O. Decommissioning and Removal Procedures.

1. As part of the conditional use permit process, the applicant shall submit a decommissioning plan to describe the anticipated life of the project, estimated decommissioning costs net of salvage value in current dollars, methods of ensuring that funds will be available for decommissioning, including a method of reclamation for restoration of the land.
2. Any Utility Scale WES or WEGF that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner(s) of such structure shall be required to either provide to the Township a written explanation regarding why the tower is inoperable and a timeline of no longer than sixty (60) days to bring the tower back into operation or compliance or apply for the necessary demolition permits for removal within ninety (90) days of receipt of written notice from the Township.
3. If the owner(s) fail to provide explanation within sixty (60) days as described above or fails to apply for the necessary demolition permits within ninety (90) days for removal of an abandoned Utility Scale WES or WEGF, the Township shall provide the owner(s) with written notice of the violation. If the owner(s) fail to cure the violation within sixty (60) days of the date of notice, the Township may begin the process of removing the Utility Scale WES or WEGF and all associated equipment or appurtenances at the owner's expense. The Township shall sell any salvageable material and deduct any monies generated from said sales from the balance of the required security bond. The remedies provided to the Township pursuant to this subsection shall be in addition to and not in place of any other remedy available to the Township at law or in equity to enforce the provisions of this Ordinance.
4. When a Utility Scale WES or WEGF is decommissioned, all items must be removed from the subject property, including buildings, electrical components, any roads, structure foundation, or other associated components to a depth not less than six (6') feet below grade. Reclamation of the site includes the planting of grasses or cover crops, which may have been present prior to construction or can be utilized to effectively maintain soil erosion.
5. Any material left six (6') feet below grade must be documented and recorded upon a certified survey and recorded within the Houghton County Register of Deeds.
6. The property owner may be exempt from removing certain items including but not limited to the entrance or roadway on the property, if the Township grants written permission.

- P. *Post Construction Activities.* To ensure compliance with the requirements of this Ordinance, the following actions must be taken pending completion of any Utility Scale WES or WEGF:
1. A final inspection with the Houghton County Drain Commissioner shall take place to ensure that soil erosion matters have been finalized at each site hosting a Utility Scale WES or WEGF.
 2. Within ninety (90) days of project completion, any roadway utilized for moving or construction purposes shall be inspected by the Zoning Administrator and representatives from the Houghton County Road Commission to ensure compliance with the travel plan.
 3. A sound pressure level analysis is required to be completed by the applicant from a sample of locations throughout the interior and perimeter of the Participating Parcels to demonstrate compliance with the requirements of this Ordinance. Proof of compliance with audible sound standards shall be submitted to the Township for review within one hundred-eighty (180) days of the date the Utility Scale WES or WEGF project become operational. Sound shall be measured by a third-party, qualified sound professional.
 4. Following the completion of construction, the applicant shall provide the Township written certification that all construction was completed pursuant to the conditional use permit and approved site plan.
- Q. *Collocation.* No Collocation of any Wireless Communications Facilities shall be permitted on any Utility Scale WES or WEGF without the express approval of the Township.
- R. *Public Inquiries & Complaints.* Should an aggrieved property owner allege that a Utility Scale WES or WEGF is not in compliance with the requirements of this Ordinance, the procedure shall be as follows:
1. Complaints must be submitted to the Township Clerk in writing from the affected property owner including their name, address and contact information.
 2. Upon receiving a complaint from an affected property owner the Township Clerk shall present the complaint to the Township Board for review at its next regular meeting or a special meeting called for that purpose. If the Township Board deems a complaint sufficient to warrant an investigation, the Township Board shall advise the owner(s) and/or operator of the Utility Scale WES or WEGF of the complaint. Within ten (10) days of the date of notice, the owner(s) and/or operator of the Utility Scale WES or WEGF shall deposit funds in an amount determined by the Township Board sufficient to pay for an independent investigation of the complaint, including but not limited to an investigation related to decibel level testing and shadow flicker analysis. All such independent investigations and analyses shall be conducted by qualified professionals acceptable to the Township to determine compliance with the requirements of this Ordinance.
 3. If the Utility Scale WES or WEGF is in violation of this Ordinance, the owner(s) and/or operator shall reimburse the Township from the deposit required in subsection 2 above for the investigation or analysis and shall take immediate action to bring the Utility Scale

WES or WEGF into compliance. In the event the owner(s) and/or operator fails or refuses to bring the Utility Scale WES or WEGF into compliance the Township may seek any relief at law or equity to abate the nuisance and may also issue a municipal civil infraction citation as provided by Chapter 87 of the Revised Judicature Act of 1961, being MCL 600.8701 et seq., as amended. Each violation for which the owner(s) and/or operators are deemed responsible shall be fined \$500.00. Each day of non-compliance shall be a separate offense.

ARTICLE VII. ZONING BOARD OF APPEALS

SECTION 7.01. ZONING BOARD OF APPEALS ESTABLISHED. There is hereby established a Zoning Board of Appeals, which shall perform its duties and exercise its powers as provided by Act 110 of the Public Acts of 2006, as amended, in such a way that the objectives of this Ordinance shall be enforced, the public health and safety secured and substantial justice done.

SECTION 7.02. MEMBERSHIP, TERMS OF OFFICE. The Zoning Board of Appeals shall consist of three (3) regular members and two (2) alternate members appointed by the Township Board. The first member of the Zoning Board of Appeals shall be a member of the Planning Commission; the second member may (but is not required to) be a member of the Township Board; and all other regular members and any alternate members shall be selected from the electors of the Township and shall be representative of the population distribution and of the various interests present in the Township. No contractor or employee of the Township Board may serve as a regular or alternate member of the Zoning Board of Appeals. The terms of office for an appointed member of the Zoning Board of Appeals shall be three (3) years, except for a member who is also a member of the Planning Commission or Township Board, whose terms shall run concurrent with their terms of office on the Planning Commission or Township Board. Alternate members shall be appointed for the same term as regular members. An alternate member may be called to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which a member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made by the Zoning Board of Appeals. An alternate member serving on the Zoning Board of Appeals has the same voting rights as a regular member.

SECTION 7.03. POWERS AND DUTIES. The Zoning Board of Appeals shall have all of the powers and duties enumerated or fairly implied by Act 110 of the Public Acts of 2006, as amended, including but not limited to hearing appeals, interpreting provisions of this Ordinance, and granting variances from the provisions of this Ordinance.

SECTION 7.04. VARIANCE. A variance from the terms of this Ordinance shall not be granted by the Zoning Board of Appeals unless and until:

A. A written application for a variance is submitted, demonstrating:

1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.

2. That the variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties or classes of uses in the same zone. The possibility of increased financial return shall not of itself be deemed sufficient to warrant the granting of a variance.
 3. That the variance, if granted, will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Ordinance or the public interest.
 4. That the condition or situation of the property or its intended use is not of so general or recurrent a nature as to make reasonably practicable a general regulation for such condition or situation.
 5. That any exceptional or extraordinary circumstances applying to the property in question are not self-created.
- B. The Zoning Board of Appeals shall make findings as to whether the requirements of this Ordinance have been met by the applicant for a variance, and if so shall grant a variance only in the minimum amount necessary to make possible the reasonable use of the land, building or structure.
- C. In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.
- D. Under no circumstances shall the Zoning Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in said district.

SECTION 7.05. VOIDING OF AND REAPPLICATION FOR VARIANCE.

- A. Each variance granted under the provisions of this Ordinance shall become null and void unless the construction authorized by such variance or permit has been commenced within one hundred eighty (180) days after the granting of such variance and the construction is pursued diligently to completion.
- B. No application for a variance which has been denied in whole or in part by the Zoning Board of Appeals shall be resubmitted for a period of three hundred and sixty-five (365) days from such denial, except on grounds of new evidence or proof of changed conditions found by the Zoning Board of Appeals.
- C. If construction has not commenced within stated one hundred eighty (180) days, the Zoning Board of Appeals may, upon petition of the applicant for good cause shown, extend the variance for an additional one hundred eighty (180) days.

SECTION 7.06. PROCEDURE FOR APPEALING TO THE ZONING BOARD OF APPEALS.

- A. **APPEALS:** The Zoning Board of Appeals shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by the Zoning Administrator in the following manner:
2. An appeal may be taken within thirty (30) days of a decision by the Zoning Administrator by filing with the Zoning Administrator and with the Zoning Board of Appeals a notice of appeal specifying the grounds for the appeal.
 3. The Zoning Administrator shall immediately transmit to the Zoning Board of Appeals all of the papers constituting the record upon which the action appealed from was taken.
- B. **FEE FOR APPEAL:** A fee prescribed by the Township Board shall be submitted to the Zoning Administrator at the time of filing the appeal. The fee shall immediately be deposited in the Township General Fund.

**ARTICLE VIII. NON-CONFORMING LOTS, NON-CONFORMING USES OF LANDS,
NON-CONFORMING STRUCTURES, AND NON-CONFORMING USES OF
STRUCTURE AND PREMISES**

SECTION 8.01. NON-CONFORMING USES OF LAND. Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. No such non-conforming use shall be enlarged or increased to occupy a larger area, nor moved in whole or in part to any other portion of the lot or parcel occupied on the effective date of adoption or amendment of this Ordinance.
- B. Any non-conforming use of land abandoned shall subsequently conform to the requirements of this Ordinance. For purposes of this subsection, abandonment shall mean non-use for a period of at least one hundred eighty (180) days, together with the intention to abandon the non-conforming use and an act or omission that clearly manifests a voluntary decision to abandon the non-conforming use.

SECTION 8.02. NON-CONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, unless otherwise specified by the Zoning Board of Appeals.
- B. Should a non-conforming structure or a portion of a non-conforming structure be destroyed by any means, it may be reconstructed. However, such reconstruction shall not increase the non-conformity to an extent greater than which existed prior to destruction.

- C. Should such structure be moved for any reason whatever, it shall hereafter conform to the regulations for the district in which it is located after it is moved.

SECTION 8.03. NON-CONFORMING USES OF STRUCTURES. If lawful use involving individual structures or of a structure and premises exists at the effective date of adoption of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. Any structure existing at the effective date of this Ordinance, devoted to a use not permitted by this Ordinance in the district in which it is located shall not be altered, enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. When a non-conforming use of a building is vacated or abandoned for six (6) consecutive months, the building shall not be used thereafter except in conformance with the regulations of the district in which it is located.

SECTION 8.04. REPAIRS AND MAINTENANCE. On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done on ordinary repairs, provided that the cubic content existing when it became non-conforming shall not be increased.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to a lack of repairs and maintenance, and is declared by the Building Inspector to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulation of the district in which it is located.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by the Building Inspector.

SECTION 8.05. NON-CONFORMING USE – BUILDING DAMAGED BY FIRE, ETC. Any non-conforming use or non-conforming building which has been destroyed or damaged by fire, explosion, Act of God, or by public enemy may be restored to the same non-conforming use or non-conforming building as existed before such damage, provided that such restoration shall be commenced within one (1) year of the date of such destruction and shall be diligently carried on to completion.

ARTICLE IV. DEFINITIONS

SECTION 9.01. DEFINITIONS. For the purpose of this Ordinance the following terms and words are defined as follows:

ACCESSORY BUILDING: A subordinate Building, the use of which is clearly incidental to that of the principle building or to the use of the land and which is attached securely to a permanent masonry foundation or similar permanent footings.

ACCESSORY USE: A use subordinate to the principle use on a lot and used for purposes clearly incidental to those of the main use.

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

BUILDING: Any structure either temporary or permanent, having a roof, and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind. This shall include tents and awnings.

BUILDING HEIGHT: The vertical distance measured from the established sidewalk grade to the highest point of the roof surface for flat roofs to the deck line of mansard roofs, and to the average height between eaves and ridge for gable hip and gambrel roofs. Where a building is set back from the street line the height of the building may be measured from the average elevation of the finished grade along the front of the building by more than one (1) inch for each front foot that the building sets back from the front line.

CONDITIONAL USE: A use which is subject to conditional approval by the Planning Commission. A conditional use may be granted when specified by this Ordinance and for those uses not specifically mentioned. A permitted conditional use is not considered to be a non-conforming use.

FRONTAGE: All the property fronting one (1) side of the street between intersecting or intersecting streets, or between a street intersecting or intercepting streets, or between a street and a right-of-way, water-way, end of dead-end street or political subdivision boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage of the side of the street which it intercepts.

GASOLINE SERVICE STATION: Any building, or premises used for the dispensation, sale or offering for sale at retail of any motor fuels, oils, or lubricants. When the dispensing, sale or offering for sale is incidental to the conduct of a public garage, the premises are classified as a public garage.

GRADE: The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

LOT: A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance including one (1) principal building together with its accessory buildings, and providing the open spaces, parking spaces and loading spaces required by this Ordinance. Said parcel of land may consist of one or more lots of record according to any recorded plat, but for the purpose of this Ordinance shall be deemed one parcel.

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

LOT, CORNER: A lot where the interior angle of two adjacent sides at the intersection of the two streets is less than one-hundred thirty-five (135) degrees. A lot abutting upon a curved street, or streets, shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than one hundred fifty (150) feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended from an interior angle of less than one hundred thirty-five (135) degrees.

LOT LINES: The lines bounding lots as defined herein.

FRONT LOT LINE: In the case of an interior lot, the line separating said lots from the street, in the case of a corner lot or double frontage lot, the line separating said lot from that street which is designated as the front street in the plat and the request for zoning compliance permit. In the case of lots bordering on a lake, river, or canal, the established water or shore line may be designated as the front of such lots.

REAR LOT LINE: The lot line opposite the front lot line. In the case of a lot irregularly shaped at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than (10) feet long lying farthest from the front lot line and wholly within the lot.

SIDE LOT LINE: any lot lines other than the front lot lines or rear lot lines.

LOT COVERAGE: That part or percent of the lot occupied by buildings or structures including accessory buildings or structures.

NON-CONFORMING BUILDING: A building or portion thereof, existing at the effective date of this Ordinance, or amendments thereto and which does not conform to the provisions of this Ordinance (e.g. setbacks, height, lot coverage, parking) in the zoning district in which it is located.

NON-CONFORMING USE: A use which lawfully occupied a building or land at the time this Ordinance or amendments thereto became effective, and which does not conform to the use regulations of the district in which it is located.

PARKING SPACE: A land area of not less than ten (10) by twenty (20) feet, exclusive of driveways and aisles, and so prepared as to be usable for the parking of a motor vehicle, and so located as to be readily accessible to a public street or alley.

PRINCIPAL USE: The main use to which the premises are devoted and the main purpose for which the premises exist.

PUBLIC UTILITY: Any person, firm, or corporation, municipal department, board or commission duly authorized to furnish and furnishing under state or municipal regulations to the public, gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water.

RETAIL AND RETAIL STORE: Any building or structure in which goods, wares or merchandise are sold to the ultimate consumer for direct consumption and not for resale.

RIGHT-OF-WAY: A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

SETBACK: The minimum horizontal distance between the street rear, or side lines of the lot and the front, rear or side lines of the building. When two or more lots under one ownership are used, the exterior property lines so grouped shall be used in determining offsets.

STORY: That part of a building, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above.

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

STREET, MINOR: A public way, the principal use of which is to give access to abutting properties.

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

STRUCTURAL ALTERATIONS: The erection, strengthening, removal, or other change of the supporting elements of a building, such as footings, bearing walls, beams, columns, and the like.

USE: The purpose for which land or premises of a building thereon is designed, arranged, or intended of for which it is occupied or maintained, let or leased.

VARIANCE: A modification of the literal provisions of this Ordinance which the Zoning Board of Appeals is permitted to grant when strict enforcement of said provisions would cause undue hardship owing to circumstances unique to the individual property on which the variance is sought.

YARD: An open space on the same lot with the main building, unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance.

FRONT YARD: A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the main building.

REAR YARD: A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of the main building.

SIDE YARD: A yard between the main building and the side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line, to the nearest point of the main building.

WIND ENERGY FACILITIES AND SYSTEMS: As used in this Ordinance the following definitions shall apply to wind energy facilities and systems:

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

ANSI. American National Standards Institute.

DB(A). The sound pressure level in decibels. Refers to the “a” weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.

DB(C). The sound pressure level in decibels of frequencies below 1k Hz. Refers to the “c” weighted scale defined by ANSI S1.43-1997.

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

HORIZONTAL AXIS WIND ENERGY SYSTEM. A wind turbine design in which the shaft is parallel to the ground and the blades are perpendicular to the ground.

HUB HEIGHT. The vertical distance measured from ground level to the center of the turbine hub.

MET (METEOROLOGICAL) TOWER. The structure and equipment used to determine the placement or potential placement of a WES, containing instrumentation such as anemometers designed to provide wind data.

(WES) NON-PARTICIPATING PARCEL. A parcel of record not subsidized in any way by the implementation of an On-Site WES, Utility Scale WES, MET Tower (of any size), or Wind Energy Generation Facility. Non-Participating Parcel shall include a parcel that has granted a waiver for setbacks, sound or shadow flicker pursuant to this Ordinance even if value is exchanged for such waiver.

ON-SITE USE WIND ENERGY SYSTEM (“ON-SITE WES”). A WES with the purpose of providing energy to only the property where the structure is located, or to adjacent properties under the same ownership or control as the property where the structure is located, or to adjacent properties with the consent of the owners of the property where the structure is located and the owners of the adjacent properties.

(WES) PARTICIPATING PARCEL. A parcel of record where the placement of a Utility Scale WES, MET Tower, a transmission line or any other WEGF related devices or easements which accompany the implementation of a WES has rendered a monetary gain to be rendered by the property owner. A Participating Parcel does not include a parcel that has granted a waiver for setbacks, sound or shadow flicker pursuant to this Ordinance even if value is exchanged for such a waiver. For On-Site WES, the Participating Parcel is the parcel where the structure is located.

PRE-EXISTING SOUND PRESSURE LEVEL. The amount of background sound at a given location prior to the installation of a WES which may include, but shall not be limited to traffic, machinery, lawnmowers, human activity, and the interaction of wind with the landscape. The sound levels are to be measured on a Db(A) weighted scale as defined by the American National Standards Institute.

SHADOW FLICKER. Alternating changes in light intensity caused by the moving blade of a WES casting shadows on the ground and stationary objects.

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

SOUND PRESSURE LEVEL. The sound pressure mapped to a logarithmic scale and reported in decibels (Db).

TOTAL HEIGHT. Vertical distance measured from the ground level at the base of the tower to the uppermost vertical extension of any blade, or the maximum height reached by any part of the Wind Energy System (WES) whichever is greater.

UTILITY SCALE WIND ENERGY SYSTEM. A WES designed and constructed to provide electricity to the electric utility grid and occupied by a number of turbines that exceed a combined total potential power output greater than a maximum of ten (10) Kw.

VERTICAL AXIS WIND ENERGY SYSTEM. A wind generator design where the rotating shaft is perpendicular to the ground and the cups or blades rotate parallel to the ground.

WES ROTOR DIAMETER. The distance measured across the central potential swept area of a WES blade's pattern.

WIND ENERGY SYSTEM (WES). Equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system. Also refers to the term "wind turbine" or "wind generator".

WIND ENERGY GENERATION FACILITY (WEGF). Electricity generating facility consisting of one or more Utility Scale wind turbines under common ownership or operational control, and includes substations, MET Towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customers.

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APPENDIX A – ZONING MAP

RMU Rural Mixed Use District

