

# **Ogden Township Interim Zoning Ordinance**

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## **ARTICLE I. TITLE, PURPOSES AND LEGAL CLAUSES**

**SECTION 1.01. TITLE.** This Ordinance shall be known and maybe cited as “The Zoning Ordinance of Ogden Township.”

### **SECTION 1.02. PURPOSES.**

1. Promoting and protecting the public health, safety and general welfare. 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.
3. Regulating the intensity of use of land and lot areas and determining the area of open spaces surrounding buildings and structures necessary to provide adequate light and air to protect the public health and convenience of access to property.
4. Lessening and avoiding congestion on the public highways and streets.
5. Providing for the needs of agriculture, recreation, residence, commerce and other land uses in future growth.
6. Fixing reasonable standards to which buildings and structures shall conform.
7. Prohibiting uses, buildings or structures which are incompatible with the character of development or the uses, buildings or structures permitted within specified zoning districts.
8. Preventing such additions to or alterations or remodeling of existing buildings or structures in such a way as to avoid the regulations and limitations imposed hereunder.
9. 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.
10. Preventing the overcrowding of land and undue concentration of buildings and structures so far as is possible and appropriate in each zoning district by regulating the use and bulk of buildings in relating to the land surrounding them.
11. Conserving the taxable value of land, buildings and structure throughout the township.
12. Providing for the completion, extension, substitution or elimination of non-conforming uses.
13. Creating a Board of Appeals and defining the powers and duties thereof.

14. Designating and defining the powers and duties of the official or officials in charge of the administration and enforcement of this ordinance.
15. Providing for the completion, extension, substitution or elimination of non-conforming uses.
16. Creating a Board of Appeals and defining the powers and duties thereof.
17. Designating and defining the powers and duties of the official or officials in charge of the administration and enforcement of this Ordinance.
18. Providing for the payment of fees for building and zoning permits.
19. 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.

**SECTION 1.04. CONFLICT WITH OTHER LAWS.**

1. Where any condition imposed by any provision of this Ordinance is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this Ordinance or by the provision of an ordinance adopted under any other law, the provision which is more restrictive or which imposes a higher standard or requirement shall govern.
2. This Ordinance is not intended to abrogate or annul any easement, covenant or other private agreement, provided that where any provision of this Ordinance is more restrictive, or imposes a higher standard or requirement than such easement, covenant or other private agreement, the provision of this Ordinance shall govern.

**SECTION 1.05. PERIOD OF EFFECTIVENESS.** This Ordinance shall remain in full force and effect henceforth unless repealed.

**SECTION 1.06. REPEAL AND SAVING CLAUSE.** Any ordinances in conflict with this Ordinance are hereby repealed, but only to the extent to give this Ordinance full force and effect. The Ogden Township Building Code shall remain in full force and effect.

**SECTION 1.07. EFFECTIVE DATE.** This Ordinance shall take effect 7 days following publication as provided by law.

## **ARTICLE II. CONSTRUCTION OF LANGUAGE AND DEFINITIONS**

**SECTION 2.01. RULES APPLYING TO TEXT.** The following rules of construction apply to the text of this Ordinance.

1. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
2. Words used in the present tense shall include the future; the words used in the singular number shall include the plural and the plural the singular unless the context clearly indicates the contrary.
3. The word “building” includes the word “structure”.
4. A “building” or “structure” includes any part thereof.
5. The word “person” includes an individual, firm, trust, limited liability company, partnership, corporation, association, including a condominium association, homeowners or lake association, or any other legal entity or combination thereof.
6. The word “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied.”
7. Any word or term not defined herein shall be used with a meaning of common of standard utilization.

## **ARTICLE III. ADMINISTRATION AND ENFORCEMENT**

**SECTION 3.01. PURPOSE.** It is the purpose of this Article to provide the procedures for the administration of the Ordinance, issuance of permits, inspection of properties, collection of fees, handling of violators and enforcement of the provisions of this Ordinance and amendments thereto.

**SECTION 3.02. ADMINISTRATION.** The provisions of this Ordinance shall be administered by the Township Board in accordance with the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended.

The Township Board shall employ a Zoning Administrator to act as its officer to affect the proper administration of this Ordinance. The individual selected, the terms of employment, and the rate of compensation shall be established by the Township Board.

In the absence of the Zoning Administrator, the Township Clerk or other Township Officer as designated by the Township Board, shall assume all the powers and duties of the Zoning Administrator.

**SECTION 3.03. DUTIES OF A ZONING ADMINISTRATOR.**

1. Review all applications for building and zoning permits and approve or disapprove such applications based on compliance with the provisions of this Ordinance and shall approve issuance of the permit if the use and the requirements of this Ordinance are met.
2. Receive all applications for conditional use permits; conduct field inspections, surveys and investigations, prepare maps, charts, and other pictorial materials when necessary or desirable, and otherwise process applications so as to formulate recommendations; and notify the applicant, in writing of any decision of the Township Board.
3. Receive all applications for appeals, variances, or other matters which the Zoning Board of Appeals 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 for determination and notify the applicant, in writing of any decision of the Zoning Board of Appeals.
4. Receive all applications for amendments to this Ordinance, conduct field inspections, survey and investigation, prepare maps, charts and other pictorial materials when necessary or desirable, and otherwise process applications so as to formulate recommendations to the Planning Commission; report to the Township Board all such applications together with recommendations by the Planning Commission.
5. The Zoning Administrator shall be responsible to update the Township Zoning map and keep it current.
6. The Zoning Administrator shall prepare and submit to the Township Board a written record of all permits issued during each month. The record shall state the owner's name, location of property, intended use and estimated cost of construction for each permit. The Zoning Administrator shall maintain and post monthly a list in the Township Hall of all building permits issued.
7. Maintain written records of all actions taken by the Zoning Administrator.
8. Be responsible for providing forms necessary for the various applications to the Zoning Administrator, Planning Commission, Township Board or Zoning Board of Appeals as required by this Ordinance and shall be responsible for what information is necessary on such forms for the effective administration of this Ordinance, subject to the general policies of the Township Board, Planning Commission and Zoning Board of Appeals.

**SECTION 3.04. VIOLATIONS.** Any buildings or structure, including tents and mobile homes, which are erected, constructed, reconstructed, altered, converted, maintained or used, or any use

of land or premise in violation of any provision of this Ordinance, are hereby declared to be a nuisance per se.

**SECTION 3.05. PENALTIES.** Any person who violates any provision of this Ordinance shall be guilty of civil infraction and, upon conviction shall be fined not more than five hundred (\$500.00) dollars and/or imprisonment in the county jail for not more than ninety (90) days for each offense. Each act of violation and each day of a violation shall be a separate offense.

In addition to the fines and imprisonment provided in this section, the Township Board may institute injunction, mandamus, abatement or any other appropriate action or proceedings to prevent, enjoin, abate, or remove any violation of this Ordinance or the building code. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

#### **ARTICLE IV. ZONING BOARD OF APPEALS**

**SECTION 4.01. 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 4.02. 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 shall be a member of the Township Board; and the third member 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 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 serving because of his or her membership on the Planning Commission or Township Board, whose term shall be limited to the time he or she is a member of that body. 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. The member of the Planning Commission serving on the Zoning Board of Appeals shall act as chairman of the Zoning Board of Appeals. The member of the Township Board serving on the Zoning Board of Appeals may not act as chairman.

**SECTION 4.03. RULES OF PROCEDURE, MAJORITY VOTE.** The Zoning Board of Appeals shall adopt its own rules of procedure as may be necessary to properly conduct its meetings. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the administrative

official or to decide in favor of the applicant in any matter upon which they are required to pass under this Ordinance.

**SECTION 4.04. MEETINGS.** Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such other times as the Zoning Board of Appeals in its rules of procedure may specify.

**SECTION 4.05. PUBLIC MEETINGS AND MINUTES.** All meetings of the Zoning Board of Appeals shall be open to the public. Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered, together with the vote and signature of each member and the final disposition of each case. The grounds of every determination shall be stated and such determination from which any appeal is taken. Such minutes shall accompany and be attached to the standard forms required of persons appealing as part of the Zoning Board of Appeals permanent records. Such minutes shall be filed in the office of the Township Clerk and shall be sent promptly to the applicant or appellant and to the Zoning Administrator. The Township Clerk may act as secretary to the Zoning Board of Appeals. The Township Attorney shall act as legal counsel for the Zoning Board of Appeals and shall be present at meetings upon the request of the Zoning Board of Appeals. Other knowledgeable persons or consultants may also be utilized in an advisory capacity.

**SECTION 4.06. 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 4.07. VARIANCE.** A variance from the terms of this Ordinance shall not be granted by the Zoning Board of Appeals unless and until:

1. A written application for a variance is submitted, demonstrating:
  - a. 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.
  - b. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
  - c. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.
  - d. That no non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts were considered grounds for the issuance of a variance.

2. The Zoning Board of Appeals shall make findings that the requirements of this Ordinance have been met by the applicant for a variance.
3. The Zoning Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
4. The Zoning Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
5. In granting any variance, the 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, and punishable under Section 3.06 of this Ordinance.

Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in said district.

#### **SECTION 4.08. VOIDING OF AND REAPPLICATION FOR VARIANCE.**

1. 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.
2. 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.
3. If construction has not commenced within stated one hundred eighty (180) days, the Zoning Board of Appeals may, upon petition of applicant, extend the variance for an additional one hundred eighty (180) days.

#### **SECTION 4.09. PROCEDURE FOR APPEALING TO THE ZONING BOARD OF APPEALS.**

1. **APPEALS:** The Zoning Board of Appeals shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by Zoning Administrator in the following manner:

- A. 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.
  - B. The Zoning Administrator shall promptly transmit to the Zoning Board of Appeals all of the papers constituting the record upon which the action appealed from was taken.
2. WHO MAY APPEAL: Appeals to the Zoning Board of Appeals may be taken by an aggrieved person, or by an officer, department, board, or bureau of this state or the Township, from any administrative order, requirement, decision, or determination made by Zoning Administrator.
3. 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.
4. EFFECT OF APPEAL; RESTRAINING ORDER: An appeal to the Zoning Board of Appeals stays all proceedings in furtherance of the action appealed. However, if the Zoning Administrator certifies to the Zoning Board of Appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the Zoning Administrator cause imminent peril to life or property, proceedings may be stayed only by a restraining order issued by the Zoning Board of Appeals or a circuit court.
5. HEARING BY THE ZONING BOARD OF APPEALS; NOTICE; HEARING: When an appeal has been filed in proper form with the Zoning Board of Appeals, the Secretary of the Zoning Board of Appeals, or the Township Clerk shall as soon as reasonably practical place the appeal upon the calendar for hearing and cause notice stating the time, place, and object of the hearing to be served personally or by first class mail at least fifteen (15) days prior to the hearing, upon the party or parties making the request for appeal.
6. REPRESENTATION AT HEARING: At the hearing, any party or parties may appear in person or by agent or by attorney.
7. DECISIONS OF THE ZONING BOARD OF APPEALS AND APPEALS TO THE CIRCUIT COURT: The Zoning Board of Appeals shall decide upon all appeals within a reasonable time and reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and shall make such order, requirement, decision or determinations in its opinion ought to be made and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken. The Zoning Board of Appeal shall make a record of its findings and decisions in each particular case and the signatures of the chair of the Zoning Board of Appeals shall be affixed thereon. The decision of the Zoning Board of Appeals shall be final. A party aggrieved by the decision may appeal to the Lenawee County Circuit Court within whichever of the following

deadlines comes first: (a) Thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the members of the Zoning Board of Appeals, or (b) Twenty-one (21) days after the zoning board of appeals approves the minutes of its decision.

## **ARTICLE V. AMENDMENT PROCEDURE**

**SECTION 5.01. AMENDMENTS.** The Township Board may amend or supplement the Zoning District boundaries or the provisions and regulations of this Ordinance. Amendments may be initiated by the Township Board, the Planning Commission, Zoning Administrator or by petition of one or more of the property owners of the property in question. All proposed amendments shall be referred to the Planning Commission for review and recommendation before transmittal to the Township Board. Amendment Procedure. The procedure for amending this Ordinance shall be in accordance with section 404 of Act 110 of the Public Acts of 2006, as amended.

## **ARTICLE VI. GENERAL PROVISION**

**SECTION 6.01. ESTABLISHMENT OF DISTRICTS.** The Township is hereby divided into the following zoning districts as represented on the Township's Zoning Map.

AA – Agricultural District  
RA – Residential District  
C – Commercial  
II – Industrial District  
RO – Renewable Energy Overlay District

**SECTION 6.02. 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 VII. SUPPLEMENTAL REGULATIONS**

**SECTION 7.01. ACCESSORY BUILDING.** Where accessory buildings are permitted, they shall conform to the following requirements:

1. 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.

2. 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.
3. 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.
4. No accessory building shall project into any front yard setback except in AA district.
5. No accessory building shall occupy more than thirty (30) percent of the area of any rear yard.
6. Where a corner lot adjoins a side boundary of a lot in the Residential District, 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 7.02. LOT-BUILDING RELATIONSHIP.** Hereafter, every building erected, altered, or moved shall be located on a lot of record as defined herein, and except in the case of an approved multiple dwelling development, there shall be no more than one (1) principal building and its permitted accessory structures located on each lot.

**SECTION 7.03. ACCESSORY BUILDING AS DWELLING.** No building on the same lot as the principal building shall be used for dwelling purposes except in the AA district.

**SECTION 7.04. BASEMENT AS DWELLING.** No basement structure shall be used for more than eighteen (18) months of living (without approval of Zoning Board) unless a completed story is situated immediately above the basement structure and that story is used as a dwelling.

**SECTION 7.05. REQUIRED WATER SUPPLY AND SANITARY SEWERAGE FACILITIES.** Site development and use requirement shall be established by the Lenawee County Health Department.

**SECTION 7.06. GREEN BELT BUFFER.** Prior to the commencement of construction of any structure or building in a Commercial District or Industrial District where such property abuts, adjoins, or is adjacent to a residential zone, a green belt shall be established. However, where permitted elsewhere in this Ordinance, an opaque wall or fence may be built in lieu of a green belt. The green belt shall be completed within six (6) months from the date of final inspection and shall there-after be maintained with permanent plant materials.

**SECTION 7.07. 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 the residential neighborhoods.

**SECTION 7.08. VISIBILITY AT INTERSECTIONS.** No fence, wall, hedge, screen, sign, or structure, shall be higher than three (3) feet above street grade shall be planted on any corner lot or parcel in any zoning district requiring front and side yards within the triangular area formed by the intersecting street right of way lines and a straight line joining the two street lines at points which are twenty-five (25) feet distant from the point of intersection, measured along the street right-of-way lines. Trees existing at the time of passing this Ordinance to be excluded.

**SECTION 7.09. STREET CLOSURES.** Whenever any street, alley or other public way is vacated by official action, the zoning district adjoining each side of such public way shall automatically be extended to the center of such vacation, and all area included therein shall henceforth be subject to all appropriate regulations of that district within which such area is located.

**SECTION 7.10. HEIGHT REGULATIONS.** Except as otherwise expressly stated, the height requirements established by this Ordinance shall apply uniformly in each zoning district to every building and structure except that the following structures and appurtenances shall be exempt from the height requirements of this Ordinance; spires, belfries, penthouses and domes not used for human occupancy; chimneys; ventilators; skylights; water tanks; windmills used for aeration, decorative or historical purpose; bulkheads, utility poles and power lines, not including Wind Energy Facilities and Systems defined by this Ordinance; radio and television broadcasting and receiving antennae; silos; parapets; and other necessary mechanical appurtenances; provided their location shall conform where applicable to the requirements of the Federal Communications Commission, the Civil Aeronautics Administration, and other governmental authorities or agencies having jurisdiction.

**SECTION 7.11. FENCES, WALLS AND SCREENS.** Within the limits of a side or front yard space of a lot within a residential district, no fence, wall, other than necessary retaining wall, or other screening structure shall be higher than five (5) feet. No such fence or wall located within a rear yard shall exceed eight (8) feet in height.

**SECTION 7.12. SHORELINE EXCAVATION AND DREDGING.** No persons shall alter, change, transform, or otherwise vary the edge, bank or shore of any lake, river or stream except in conformance with the following:

1. As provided in the Inland Lakes and Streams Act, Act 291 of the Public Acts of 1965, as amended and in accordance with the requirements of the Michigan Department of Natural Resources.
2. If any edge, bank or shore of any lake, river or stream, unless otherwise in accordance with state law, is proposed to be altered in any way by any person, such person shall submit to the Planning Commission all data, exhibits and information as required by the Department of Natural Resources.

**SECTION 7.13. ESSENTIAL SERVICES.** For purposes of this Ordinance the following provisions shall apply:

1. The surface of land used for pipeline 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.
2. Essential services shall be exempt from lot area requirements in the Agricultural and Industrial Districts.
3. In every zoning district, except Industrial, 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. Further, no building shall be used for human occupancy and an opaque fence or screening material may be required by the Township when deemed necessary.

**SECTION 7.14. SWIMMING POOLS.** All swimming pools shall conform to the requirements of the Michigan Residential Building Code and/or the Michigan Building Code.

**SECTION 7.15. JUNK YARDS AND INOPERATIVE VEHICLES.** In addition to and as an integral part of development, the following provisions shall apply:

1. Junk yards shall be established and maintained in accordance with all applicable federal, state or local laws.
  2. It is recognized by this Ordinance that the location and outdoor storage of such materials included in this Ordinance's definition of "Junk Yard" will cause the reduction of the value of adjoining property. When a "Junk Yard" abuts any residential district and, to the end that the character of the district shall be maintained and property values conserved, an opaque fence or wall at least seven (7) feet in height, and not less in height than the materials located on the lot on which a junk yard shall be operated, shall be located on said lot no closer to the lot lines than the yard requirements for buildings permitted in this district. When abutting any residential district, all gates, doors, and access ways through said fence or wall shall be of solid, unpierced material. In no event shall any materials included in this Ordinance's definition of "Junk Yard" be located on the lot on which a junk yard shall be operated in the area between the lines of said lot and the opaque fence or wall located on said lot. When a "Junk Yard" abuts any Agricultural or Commercial district, the facility must be surrounded by a secure fence of any sound construction to restrict ingress and egress. Such fence shall be 6' high and maintained in good repair.
- A. In addition to the foregoing requirements, the Planning Commission may require a green-belt in accordance with the provisions of the Section 7.06.

3. All traffic ingress or egress shall be on major streets and there shall be no more than two (2) entrance ways to the lot on which a junk yard shall be operated from each public road on which said lot abuts.
4. On the lot on which a junk yard shall be operated, when abutting a residential district only, all roads, drive-ways, parking lots, and loading and unloading areas within any yard shall be paved, or chemically treated so as to limit on adjoining lots and public roads the nuisance caused by windborne dust.

**SECTION 7.16. TEMPORARY USE.** Circuses, carnivals, or other transient enterprises may be permitted in any district pending receipt of all necessary state and county licenses, permits and/or approvals, copies of which shall be provided to the Township.

**SECTION 7.17. GASOLINE SERVICE STATIONS.** Any gasoline service station or filling station shall conform to the following minimum regulations. Where the intensity regulations for any district in which a gasoline service station is located are more restrictive than the regulations contained hereinafter, all gasoline service stations or filling stations shall conform to the more restrictive dimensional requirements.

1. **Frontage and Area:** Every gasoline service station shall have a minimum frontage of one hundred and twenty (120) feet and a minimum area of twelve thousand (12,000) square feet.
2. **Setbacks:** Every structure erected for use as a gasoline service station shall have a minimum setback from the street right-of-way of thirty-five (35) feet and a minimum setback from all property lines of twenty-five (25) feet.
3. **Construction Standards:** All vehicle service areas shall be constructed to conform to the following standards:
  - A. Suitable separation shall be made between the pedestrian side-walk and vehicular parking or moving area with the use of appropriate bumper, wheel guards or traffic islands. Where the portion of the property used from the street line by a curb of at least six (6) inches high.
  - B. The entire area used for vehicle service shall be paved, except for such unpaved area as is landscaped and protected from vehicle use by a low barrier.
  - C. Hydraulic hoists, lubricating, greasing, washing, and repair equipment shall be entirely within a building. Tire and battery service and minor automobile repair, excluding automobile body repair and painting may be carried out within the premises.
  - D. The maximum widths of all driveways at the sidewalk shall be no more than thirty (30) feet.
  - E. Minimum angle of driveway intersection with the street from the curb line to lot line shall be not less than sixty (60) degrees.

- F. The minimum distance of any driveway from any property line shall be at least twenty (20) feet.
- G. The minimum distance between curb cuts shall be no less than forty (40) feet.
- 4. Lighting: All lighting shall be accomplished in a manner such that no illumination source causes a nuisance to adjacent properties.

**SECTION 7.18. DEVELOPMENT OF NATURAL RESOURCES.** Extraction of sand, gravel, fill dirt, topsoil, gas and oil shall comply with the following provisions:

- 1. Commercial pits and quarries, where deemed necessary, shall be completely enclosed by a fence four (4) or more feet in height for the safety of the general public and shall be placed no closer than ten (10) feet to the outside perimeter of the pit or quarry. Said fence shall conform with the minimum setback requirements of the district in which it is located.
- 2. No slope shall exceed an angle with the horizontal of more than thirty (30) degrees for the first twelve (12) feet along the horizontal, after which the slope shall not exceed an angle with the horizontal of more than forty-five (45) degrees.
- 3. All areas so used shall be rehabilitated progressively as they are worked out or abandoned to a condition entirely free from hazards and blending with the surrounding natural ground. All slopes and banks shall be reasonably graded to prevent excessive erosion.
- 4. The Planning Commission may establish routes of ingress and egress for truck movement in order to minimize the wear on public roads and to prevent hazards to traffic.
- 5. The Planning Commission when deemed necessary, shall require the applicant to post a bond for compliance with the township clerk; the amount of said bond to be determined by the Township Planning Commission to ensure that all provisions of this Ordinance are complied with.

**SECTION 7.19. CAMPS AND LODGES.** Private and semi-private camps, and lodges for active and passive recreation uses shall comply with the following provisions:

- 1. No commercial activity shall be conducted on the premises, except as an accessory use.
- 2. Such use shall be located on a site of not less than one (1) acre in size.
- 3. Building shall not exceed thirty (30) feet in height and shall be located no nearer to any property line than forty (40) feet. Yards may be utilized for parking provided that such parking shall not be closer than ten (10) feet to any side or rear property line, nor twenty (20) feet to any street or highway right-of-way line

4. Parking areas located adjacent to any residential or institutional use shall be screened from such use by an approved fence, or masonry wall of not less than four (4) feet nor greater than eight (8) feet in height, in lieu of a separate fence or masonry wall, an evergreen hedge that effectively screens the parking area from adjacent properties may be planted and maintained at a height of not less than four (4) feet.

**SECTION 7.20. SIGN REGULATIONS.** No sign shall be erected at any location, whereby 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. Consideration of traffic visibility and injurious effects on adjacent properties is essential. All signs shall be designed, constructed, and maintained so as not to change the essential character of such area.

1. Permitted signs in AA – Agricultural District. In the AA – Agricultural District. The following signs are permitted:
  - A. Not more than three non-illuminated signs not exceeding twelve (12) square feet in area.
2. Permitted Signs in Residential Districts. In any residential district only one sign of each of the following types shall be permitted on each lot or parcel unless otherwise specified herein. The following signs are permitted:
  - A. A non-illuminated sign advertising the sale or rental of the building or property not exceeding six (6) square feet in area and placed no nearer to the street line than one-half of the required front yard depth.
  - B. A non-illuminated sign announcing a home occupation or service that is offered on the premises provided that such sign shall not exceed two (2) square feet in area and shall be attached flat against a building wall.
  - C. One (1) sign advertising a recorded subdivision or development not to exceed eighteen (18) square feet in area and placed no closer to any street right-of-way than one-third (1/3) the minimum authorized front yard depth, such sign shall be removed within one (1) year after the sale of ninety (90) percent of lots or units within said subdivision or development.
  - D. One sign identifying a multiple-family building, sub-divisions or development not having commercial connotations, not to exceed eighteen (18) square feet in area and placed no closer to any street right-of-way line than one third (1/3) the minimum authorized front yard depth.
  - E. A sign or bulletin board identifying a church, school, or other authorized use not to exceed twelve (12) square feet in area and placed no nearer than fifteen (15) feet to any property line. Such sign may illuminated by a non-flashing reflected light and the source of illumination shall not be visible.

3. Permitted Signs in the Commercial and Industrial Districts. A sign in any Commercial or Industrial District is permitted only where it advertises a business occupying the same lot of land upon which the sign is erected. Signs shall conform to the building set-back and height requirements, except for and in addition to, the requirements provided below:
  - A. In any Industrial District a sign may be affixed flat against the wall of the building, or may project therefrom not more than forty-eight (48) inches, provided that such signs do not project over a sidewalk or public right-of-way. Projecting signs shall be at least twelve (12) feet above finished grade. The total sign area shall not exceed one (1) square foot for each foot in length or height of the wall, whichever is greater, to which it is affixed.
  - B. One (1) free-standing identification sign may be erected for a shopping center or other integrated group of stores or commercial buildings. The area for said sign shall be based on one (1) square foot for each foot of building frontage, however, it shall not exceed two hundred (200) square feet in area, nor be closer to the front, side, or rear property line than one-third (1/3) the distance of the required building setback.
  - C. One (1) free standing identification sign may be erected for each separate enterprise situated on an individual lot not located within a shopping center. In the "C" Commercial District, such sign shall not exceed thirty-six (36) square feet in area, nor be closer to the front, side or rear property line, than one-third (1/3) the distance of the required building setback.
  - D. All signs may be illuminated internally or by reflected light provided the source of light is not directly visible and is so arranged to reflect away from the adjoining premises and provided that such illumination shall not be placed as to cause confusion or hazard to traffic or conflict with traffic control signs or lights. No illumination involving movement by reason of the lighting arrangement or other devices shall be permitted.
4. Outdoor Advertising Signs. Outdoor advertising signs (billboards) shall be permitted under the following conditions:
  - A. Outdoor advertising signs (billboards are permitted only in the Industrial Districts).
  - B. Outdoor advertising signs are required to have the same setback as other principal structures or buildings in the zone in which they are situated.
  - C. Where two (2) or more outdoor advertising signs are along the frontage of a single street or highway they shall not be less than one thousand (1000) feet apart. A double-faced, (back-to-back) or a V-type structure shall be considered a single sign.

- D. The total surface area, facing in the same direction of any outdoor advertising sign shall not exceed two hundred (200) square feet.
  - E. No outdoor advertising sign shall be erected on the roof of any building, nor have one sign above another sign.
  - F. Outdoor advertising signs may be illuminated by reflected light only, provided the source of light is not directly visible and is so arranged to reflect away from the adjoining premises and provided that such illumination shall not be so placed as to cause confusion or a hazard to traffic or conflict with traffic control signs or lights. No illumination involving movement by reason of the lighting arrangement or other devices shall be permitted.
  - G. Outdoor advertising signs shall 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 and that a use will not change the essential character of the same area.
  - H. Outdoor name or identification signs are exempt from the provisions of this section provided that all such signs, shall be flush with the building wall or roof.
5. Signs For Gasoline Service Station. Notwithstanding other provisions of this Ordinance, one (1) permanently installed sign shall be permitted on each street frontage, installed so that a clear view of street traffic by motorists or pedestrians may not be obstructed in any way to a height of sixteen (16) feet other than necessary supports, and not exceeding thirty-two(32) square feet in area. A sign or legend may also be placed flat on the main building or fuel pump canopies.
6. Elimination of Nonconforming Signs. All signs and billboards erected after the effective date of this Ordinance shall conform to the regulations as set forth in this Ordinance and its amendments.

**SECTION 7.21. CONDITIONAL USES.** The formulations and enactment of this Zoning Ordinance is based upon the division of the Township into 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. Such uses, on account of their peculiar locational need or the nature of the service offered, may have to be established in a district in which they cannot be reasonable allowed as a permitted use.

- 1. 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 various district provisions of this Ordinance.

2. **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.
3. **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 in acting on the owner's behalf, the address of the property involved, an accurate survey drawing of said property, showing the existing and proposed location of all buildings and structures thereon, and types thereof, and their uses and a statement and supporting data, exhibits, information, and evidence regarding the required findings set forth in this Ordinance.
4. **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 pursuant to the Michigan Zoning Enabling Act.
5. **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 complies with all of the following:
  - A. Will be harmonious with and in accordance with the general objectives, intent and purposes of this Ordinance.
  - B. 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.
  - C. 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.
  - D. Will not be hazardous or disturbing to existing or future neighboring uses.
  - E. Will not create excessive additional requirements at public cost for public facilities and services.

**SECTION 7.22. MOBILE HOME SPECIAL PROVISIONS.** Mobile Homes shall be permitted in any zone within the Township where single family dwellings are allowed, provided that they meet the following requirements:

1. There shall be only one dwelling or one mobile home per lot, not one of each or more than one of each except for farm labor camps.
2. The mobile home shall comply with all minimum square footage requirements of this Ordinance for the zone in which it is located. Furthermore, the mobile home shall comply in all respects with the Michigan Residential Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan Residential Building Code, then such federal or state standard or regulation shall apply.
3. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.
4. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the local health department.
5. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
6. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the ordinance of the Township pertaining to such parks.
7. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable township building code provisions and requirements.
8. Mobile homes which do not conform to the standards set out herein shall not be used for dwelling purposes within the Township unless located within a mobile home park or a mobile home plat zoned for such uses, or unless used for temporary residence purposes as hereinafter provided.
9. Mobile homes shall comply with any and all applicable requirements and standards as set forth by the Michigan Manufactured Housing Commission, including appropriate permitting and licensing.

**SECTION 7.23. SITE PLAN REVIEW AND APPROVAL.** It is recognized by this Ordinance that there is a value to the public in establishing safe and convenient traffic movement to higher

density sites, both within the site and in relation to access streets, that there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses, and further that there are benefits to the public in conserving natural resources. Toward this end, this Ordinance requires site plan review by the Planning Commission for certain buildings and structures that can be expected to have a significant impact on natural resources, traffic patterns, and on adjacent land usage.

1. Buildings, Structures, and Uses Requiring Site Plan. The Zoning Administrator shall not issue a zoning compliance permit, conditional use permit, or building permit for any platted subdivision, site condominium, three-family or higher residential development, mobile home park, office, commercial or industrial development, and all uses requiring a conditional use permit unless a site plan has been reviewed and approved by the Planning Commission.
2. Application and Fee for Site Plan Review. Any person may file a request for a site plan review by the Planning Commission by filing with the Clerk the completed application upon the forms furnished by the Clerk and payment of a fee established by the Ogden Township Board. Fees applicable to site plan reviews for conditional uses are waived in lieu of fees established by resolution of Ogden Township for these purposes. As an integral part of said application, the applicant shall file at least seven (7) copies of the site plan. Application shall be made at least 28 days prior to the following Planning Commission meeting.
3. Required Data for Site Plan. Every site plan submitted to the Planning Commission shall be in accordance with the following requirements:
  - A. Every site plan submitted, except site plans required for uses as prescribed in subsection 7.23 (3)(b) of this Ordinance, shall be drawn to a readable scale and shall include the following:

The name of the applicant, scale used, a north arrow, the date prepared, and the name and address of the preparer if other than the applicant;

All property boundaries and dimensions thereof; the location and use of all existing and proposed structures;

The location of all existing and proposed streets, parking lots driveways, utilities and other improvements to be constructed or used as a part of the project;

The current zoning classifications on the subject property and all adjacent property.

- B. Site plans submitted for the following uses shall be subject to the requirements of subsection 7.23 (3)(c).

The following conditional uses:

- a. The removal of soil, sand, and other materials.

- b. Public and private camping grounds, golf courses, golf driving ranges, clubs and lodges.
- c. High density animal feeding operations.
- d. Food processing establishments.
- e. Sanitary landfills.
- f. Public and private schools, colleges and universities.
- g. Churches, synagogues, cathedrals, mosques, temples or other buildings used for public worship, or a cemetery.
- h. Veterinarian, animal clinics and kennels.
- i. Commercial radio or television stations.
- j. Public buildings.
- k. Drive-in, retail and service establishments.
- l. Gasoline service stations.
- m. Restaurants.
- n. Bus, truck, taxi and rail terminals.
- o. Junk yards.
- p. Open air display areas for the sale of manufactured products.
- q. Banks.
- r. Rendering plants.
- s. Meteorological Towers (“MET Towers”) greater than 40 feet in Total Height.
- t. On-Site Use Wind Energy Systems (“On-Site WES”) greater than 40 feet in Total Height.
- u. All Utility Scale Wind Energy Systems (“Utility Scale WES”).
- v. Ponds equal to or greater than 100 square feet pursuant to Section 7.25.
- w. Large Solar Energy Facilities (Solar Farms) subject to the regulations contained in section 7.26.

- x. Utility-Scale Battery Energy Storage Facilities subject to the regulations contained in section 7.27.
- y. Cryptocurrency Data Mining Facilities And Data Centers subject to the regulations in section 7.30.

Site condominium developments, subdivisions, 3-family or higher residential developments, mobile home parks, and all office, commercial and industrial developments.

- C. Site plans submitted for the uses prescribed in subsection 7.23 (3)(b) shall be submitted in accordance with the following requirements.

The site plan shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals two hundred (200) feet, and of such accuracy that the Planning Commission can readily interpret the site plan, and shall include more than one drawing where required for clarity.

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.

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.

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, right-of-ways, and easements, and shall identify adjacent properties, their existing uses, and zoning.

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. Site plans for residential development shall include a density schedule showing the number of dwelling units per net acre, including a dwelling schedule showing the unit type and number of each unit types.

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.

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.

- D. Site plans submitted for High Density Animal Feeding operations shall, in addition to the above described terms, include the following:

The site plan shall show the location of all floodplains and wetlands.

The site plan shall show the location and size of all lagoons and other waste retention/disposal facilities.

The site plan shall show the location of all land areas on site and off site which are proposed for animal waste application and shall include an indication of the concentration and frequency of waste application, and a soils report indicating the suitability of the site for animal waste application.

The vicinity map shall also show the location of all residences, churches, businesses, schools, public buildings and recreational areas within a one (1) mile radius; the location of any area for which a recorded residential plat exists within a one (1) mile radius; the location of all private water supply wells within a one (1) mile radius and the location of all water bodies, rivers, wetlands and 100 year floodplains within a one thousand (1,000) foot radius.

**SECTION 7.24. TEMPORARY ACCESSIBLE RAMPS.** A temporary accessible ramp shall not be defined as a part of the building for the purposes of measuring setbacks. The following provisions shall apply:

1. A building permit is required.
2. The ramp shall be for residential use.
3. If the ramp is in violation of any other Ordinance, the ramp shall be removed within 60 days after the residence is no longer occupied by occupant needing accessibility.

**SECTION 7.25. PONDS**

1. Standards. Ponds excavated, created or expanded, except as otherwise provided in this Ordinance, shall be permitted in any zoning district, provided the Planning Commission first reviews and approves a site plan pursuant to Section 7.23 of this Ordinance and the proposed pond meets the following minimum standards:
  - A. The pond shall be located on a parcel which is at least one (1) acre in area.
  - B. For the protection of the general public, appropriate safety measures such as warning signs, rescue equipment, fencing and/or safety ramps may be required to be installed as deemed necessary by the Planning Commission.
  - C. No pond shall be maintained or operated in any manner which causes it to become a public nuisance. All applications for the installation of a pond regulated by this Ordinance shall be accompanied with a detailed narrative describing how the pond will be maintained, including but not limited to the manner in which the

pond will be filled and mechanisms for dealing with over flow. A spillway or drainage pipe may be required by the Planning Commission to address over flow potential.

- D. The creation or alteration of a pond which encompasses part of more than one parcel shall be approved only if the owners of all properties involved are joint applicants for the land use permit and a written maintenance agreement signed by all property owners establishing financial responsibility is provided as part of site plan approval. Applicable dwelling setback requirements established above must also be met.
2. Exceptions. Ponds of less than one hundred (100) square feet in area and no greater than two (2) feet in depth shall not be subject to the requirements of this Section.

## **SECTION 7.26. SOLAR ENERGY FACILITIES.**

Sunlight is utilized to generate energy through a facility consisting of one (1) or more solar devices under common ownership or operational control. Such a facility may include, but not be limited to, substations, cables/wires and other buildings and accessory structures whose main purpose is to supply energy on-site or to off-site customer(s):

1. **LARGE SOLAR ENERGY FACILITY (SOLAR FARM).** The purpose of this Subsection is to establish minimum requirements and regulations for the placement, construction and modification of large solar energy facilities (Solar Farms), as defined in Article XVI, while promoting the safe, effective, and efficient use of such energy facilities as a conditional use in specified zoning districts.
  - a. **Location.** All large solar energy facilities (Solar Farms) are limited to the Renewable Energy Overlay district. Large solar energy facilities are not permitted on any properties enrolled in the PA 116 Farmland and Open Space Preservation Program.
  - b. **REGULATIONS AND DESIGN STANDARDS.** All large solar energy facilities (Solar Farms) shall comply with the following minimum regulations and design standards.
    1. **DESIGN STANDARDS.**
      - a. **MINIMUM LOT SIZE.** No large solar energy facility (Solar Farm) shall be erected on any Lot less than twenty (20) acres in size.  
**MAXIMUM LOT COVERAGE:** The maximum lot coverage ratio for a large solar energy facility, including PV solar panels shall be 10%.
      - b. **MAXIMUM HEIGHT.** The maximum height for a solar panel shall be fourteen (14) feet. The maximum height of a Power Switchyard shall not exceed the minimum height needed to tie into electric transmission lines. The height of all other buildings and accessory structures shall comply

with the maximum building height requirements of the applicable zoning district in which the Solar Farm is located. The height of required lightning rods attached to the Power Switchyard or Solar Farm related equipment shall not be subject to the foregoing height limitations. The height of lightning rods shall be limited to that height necessary to protect the Power Switchyard and Solar Farm equipment from lightning.

- c. **SETBACKS.** Large solar energy facility (Solar Farm) solar panels and other structures shall be set back five hundred feet (500) from all lot lines and public road rights-of-way, or the district setbacks stated in the underlying zoning district, whichever is greater. In addition, large solar energy facility (Solar Farm) solar panels and other structures must be located at least five hundred (500) feet from all existing RA Residential or C Commercial district land and existing residences at the time the Solar Farm is granted conditional use approval, unless the lot is comprised of a portion of the lot containing the residence. In addition, large solar energy facility (Solar Farm) solar panels and other structures shall not be located within a fifty foot (50') drain easement. When a large solar energy facility (Solar Farm) comprises of lots of more than one owner, the internal setback shall not apply.

d. **SAFETY/ACCESS.**

1. Security fencing shall be installed around all electrical equipment related to the Solar Farm including, but not limited to, transformers and transfer stations.
2. Appropriate warning signage shall be placed at safe intervals at the entrance and perimeter of the large solar energy facility (Solar Farm).
3. A safety plan shall be in place and updated regularly with the fire department having jurisdiction over the Solar Farm.

- e. **NOISE.** No operating large solar energy facility (Solar Farm) shall produce noise that exceeds any of the following limitations.

1. Forty (40) Dba Lmax, as measured at the property line of any adjacent RA Residential or C Commercial zoned land in existence at the time the Solar Farm is granted conditional use approval.
2. Forty (40) Dba Lmax, as measured at any neighboring residence in existence at the time the

Solar Farm is granted conditional use approval, between the hours of nine (9) p.m. and seven (7) a.m.

3. Forty (40) Dbal<sub>max</sub>, as measured at the lot lines of the project boundary.
4. In addition to the above limitations, a sound barrier of a solid decorative masonry wall or evergreen tree berm, with trees spaced not less than 10 feet apart shall be constructed to reduce noise levels surrounding all inverters, no more than ten (10) feet from all inverters, no less than the height of all inverters and no more than three (3) feet above the height of all inverters.

f. VISUAL APPEARANCE & MAINTENANCE

1. Large solar energy facility (Solar Farm) buildings and accessory structures shall utilize materials, textures, and neutral colors customary with Solar Farms and that to the extent which is prudent and feasible will blend the facility into the existing environment.
2. Prior to construction of solar farm, all existing drainage tile must be inspected by means of robotic camera and the imagery submitted to the Township to establish baseline condition of tile. Any damaged or inoperable tile shall be repaired prior to construction and such repairs shall be documented and a report submitted to the landowner and township indicating the location, nature and satisfactory completion of such repairs. While the solar farm is in operation, all drain tile shall be inspected every three (3) years in the fashion noted above and all video footage and a report of any damage or failure shall be submitted to the Township. Any tile failure shall be corrected within 60 days of discovery and such repairs shall be documented and a report submitted to the landowner and township indicating the location, nature and satisfactory completion of such repairs. The Township reserves the right to have the Building Inspector or other agent present at the time of repair.
3. Supports shall be constructed to preserve any drainage field tile and/or drainage system. Any broken/missing field tiles shall be repaired and made in operable condition as soon as possible after damage and/or failure.

4. An appropriate maintenance plan, including property maintenance of the grounds, shall be presented to the Planning Commission for review and approval.
5. Lighting of the large solar energy facility (Solar Farm) shall be limited to the minimum necessary, supplied with down lighting, and in no case shall any illumination from such lighting extend beyond the perimeter of the Solar Farm. The Township may require use of a photometric study to make this determination.
6. No large solar energy facility (Solar Farm) shall produce glare that would constitute a nuisance to occupants of neighboring properties or to persons traveling neighboring roads. Upon written notice from the Township Building Inspector, or such other person designated by the Township Board, to the owners of the Solar Farm that glare from the Solar Farm is causing a nuisance to occupants of neighboring property or to persons traveling neighboring roads, the owner of the Solar Farm shall have a reasonable time (not to exceed twelve (12) months) from the date of such notice to remediate such glare.
7. Large solar energy facilities (Solar Farms) shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of shrubbery, trees, or other non-invasive plant species which provides a visual screen. At least fifty percent (50%) of plants must be evergreen trees, which shall not be less than six (6) feet tall at the time of planting. In lieu of a planting screen, a decorative fence that is at least fifty percent (50%) opaque may be used.

g. **MEDIUM VOLTAGE CABLE.** All medium voltage cable within the project boundary shall be installed underground at a depth in accordance with current National Electrical Code standards and except for Power Switchyards or the area within a substation. All electrical interconnections and distribution components must comply with all applicable codes and public utility requirements.

2. **LOCAL, STATE AND FEDERAL PERMITS.** A large solar energy facility (Solar Farm) shall be required to obtain all necessary permits from the Michigan Department of Environmental Quality and any applicable municipal/county or Federal permits.

3. AGREEMENTS/EASEMENTS. If the Lot on which the project is proposed is to be leased, rather than owned, by the owner of the Solar Farm, all property within the project boundary must be included in a recorded easement(s), lease(s), or consent agreement(s) specifying the applicable uses for the duration of the project. All necessary leases, easements, or other agreements between the owner of the Solar Farm and property owners must be in place prior to commencing construction, unless specified otherwise by the conditional use permit.

c. PERMIT APPLICATIONS. An application for a conditional use permit to establish a large solar energy facility (Solar Farm) shall include a complete description of the project and documentation to sufficiently demonstrate that the requirements set forth in this Ordinance will be met. Supporting documentation for addressing the review criteria (required standards and findings for making a conditional use determination) is also to be provided. The Planning Commission and/or Township Board may require any information reasonably necessary to determine compliance with this ordinance.

It is preferred that any related conditional use permit applications for substations or new transmission lines be considered in conjunction with the conditional use permit application for the large solar energy facility (Solar Farm); however, if the details of those improvements are not available at the time of application for the large solar energy facility (Solar Farm), they may be considered later, through subsequent conditional use permit review. At a minimum, the intended route for connecting to the power grid and the alternative locations of any substation shall be disclosed with the application for the large solar energy facility (Solar Farm).

The owner(s) and/or operator of the Solar Farm shall post a security bond or escrow or irrevocable letter of credit in a form acceptable to the Township equal to one-hundred twenty five (125) percent of the total estimated decommissioning, code enforcement and reclamation costs. The cost of decommissioning shall be reviewed between the operator and the Township Board every two (2) years to ensure adequate funds are allocated for decommissioning; the security bond or escrow or irrevocable letter of credit, defined herein, shall be appropriately adjusted to reflect the current decommissioning estimate. This security bond or escrow or irrevocable letter of credit shall be issued by a 3<sup>rd</sup> party and paid by the operator.

The security bond or escrow or irrevocable letter of credit shall be posted and maintained with a company licensed to do business in the State of Michigan or a Federal- or State-chartered lending institution acceptable to the Township.

Any bonding company or lending institution shall provide the Township with 90 days' notice of the expiration of the security bond or escrow or

irrevocable letter of credit. Lapse of a valid security bond or escrow or letter of irrevocable credit is grounds for the actions defined below.

In the event of sale or transfer of ownership and/or operation of the Solar Farm, the security bond or escrow or irrevocable letter of credit shall be maintained throughout the entirety of the process and the new owner shall be required to provide a new security bond or escrow or irrevocable letter of credit.

If at any time during the operation of the Solar Farm or prior to, during, or after the sale or transfer of ownership and/or operation of the Solar Farm the security bond or escrow or irrevocable letter of credit is not maintained, the Township may take any action permitted by law, revoke the special land use, order a cessation of operations, and order removal of the structure and reclamation of the site.

- d. **PROVISIONS FOR CONDITIONAL USE PERMIT REVIEW.** In addition to the standards set forth for conditional use approval in Section 7.21, the Solar Farm shall comply with the following standards:
1. **SOLAR FARM DESCRIPTION.** The application for the Solar Farm shall identify the Solar Farm buildings and accessory structures, the time period to construct the Solar Farm, the phasing of construction, if any, and the anticipated useful life of the Solar Farm.
  2. **ENVIRONMENTAL SITING CONSIDERATIONS.** The applicant shall provide evidence of compliance with applicable State of Michigan statutes including, but not limited to: Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. Seq.; Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. Seq.) and any corresponding County ordinances; Part 301, Inland Lakes and Streams, (MCL 324.30101 et. Seq.); Part 303, Wetlands (MCL 324.30301 et. Seq.); Part 365, Endangered Species Protection (MCL324.36501 et. Seq.); and such other applicable laws and rules in force at the time the application is considered by the Township Board.
  3. **SITE PLANS.** Site plans shall conform with Section 7.23 and shall identify (1) all lots in the Solar Farm, and as to each lot, existing and proposed (a) buildings, (b) accessory structures, (c) utilities, (d) transmission lines, (e) solar panels, (f) drainage ways, (g) grades, (h) topographical conditions, (i) vegetation, (j) regulated wetlands, (k) regulated floodplains, (l) regulated and endangered species, and (m) regulated lakes, streams or ponds; (2) required setbacks; (3) access routes to lots that are a part of the Solar Farm; (4) proposed road and driveway improvements; (5) any lots within three hundred (300) feet of a large solar energy facility (Solar Farm); (6) proposed

transmission lines to and from Power Switchyards and/or between lots; (7) proposed signage; and (8) methods for dust and erosion control. All maps and visual representations need to be drawn at an appropriate scale and in accordance with Section 7.23 (Site Plan Review and Approval).

4. ENVIRONMENTAL INFORMATION. The Applicant shall provide evidence of compliance with the Environmental Siting Considerations as required in this Section.
5. HAZARDOUS WASTE. As applicable, the application must include plans for the spill prevention, clean-up, and disposal of fuels, oils, and hazardous wastes.
6. TRANSPORTATION PLAN FOR CONSTRUCTION AND OPERATION PHASES. Proof of an agreement with the County Road Commission, and the Michigan Department of Transportation (if applicable) regarding any construction phase of the project, is required.
7. DECOMMISSIONING PLAN. Describe the decommissioning and final land reclamation plan to be followed after the anticipated useful life, or abandonment, or termination of the large solar energy facility (Solar Farm), including evidence of proposed commitments with property owners to ensure proper final reclamation of the Solar Farm with seasonal grasses or to an agricultural ready condition, repairs to roads for damage caused by the Solar Farm, if any, and within twelve (12) months from the notice of abandonment issued by the Township to complete decommissioning and land reclamation. All roads, above grade and subsurface improvements must be removed at the end of project.
8. COMPLAINT RESOLUTION. The Industrial Solar Energy Facility applicant shall submit a detailed, written complaint resolution process developed by the Industrial Solar Energy Facility applicant to resolve complaints from the Township board or the property owners or residents concerning the construction or operation of the Industrial Solar Energy Facility. The complaint resolution process must be approved by the Planning Commission as a condition of approval of the special land use permit application.

The Township board shall appoint a 3 member complaint resolution committee to oversee and participate in all complaint resolution discussions or meetings between the Township property owner or resident and the Industrial Solar Energy Facility owner.

The complaint resolution committee shall consist of (1) Township board member, (1) Planning Commission member, and (1)

qualified elector chosen by the Township Board from the community.

The Township board shall be kept appraised of all complaints and shall receive a report outlining the issues, the progress, and the resolution of each such complaint.

2. **SMALL SOLAR ENERGY FACILITY.** Notwithstanding other provisions of this Section of the Ordinance, Small Roof-Mounted or Ground-Mounted Solar Energy Facilities shall be considered a permitted use in all zoning districts as an accessory to a principal use. A Small Solar Energy Facility shall be required to have appropriate building permits.
  - a. All Small Solar Energy Facilities are subject to the following minimum requirements:
    1. A small solar energy facility shall provide power for the principal use and/or accessory use of the property on which the small solar energy facility is located and shall not be used for the generation of power for the sale of energy to other users, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time to the local utility company.
    2. A small solar energy facility connected to the utility grid shall provide written authorization from the local utility company to the Township acknowledging and approving such connection.
    3. A roof-mounted facility may be mounted on a principal building or accessory building. A roof-mounted facility, whether mounted on the principal building or accessory building, may not exceed the maximum principal building height or accessory building height specified for the building type in the underlying zoning district. In no instance shall any part of the small solar energy facility extend beyond the edge of the roof.
    4. A ground-mounted facility shall not exceed a height of fourteen (14) feet.
    5. The surface area of a ground-mounted facility, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.
    6. A ground-mounted facility or facility attached to an accessory building shall not be located within the required front yard setback.
    7. The minimum ground-mounted small solar energy facility setback distance from the property lines shall be equivalent to the principal building setback of the underlying zoning district.
    8. All mechanical equipment associated with and necessary for the operation of the small solar energy facility shall comply with the following:

- a. Mechanical equipment shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of shrubbery, trees, or other non-invasive plant species which provides a visual screen. At least fifty percent (50%) of plants must be evergreen. In lieu of a planting screen, a decorative fence that is at least fifty percent (50%) opaque may be used.
  - b. Mechanical equipment shall not be located within the minimum front yard setback of the underlying zoning district.
  - c. Mechanical equipment for ground-mounted facilities shall comply with the setbacks specified for principal structures in the underlying zoning district.
9. Solar panels shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways.
10. All power transmission lines from a ground-mounted small solar energy facility to any building or other structure shall be located underground.
11. A small solar energy facility shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials. The manufacturers and equipment information, warning, or indication of ownership shall be allowed on any equipment of the solar energy facility provided they comply with the prevailing sign regulations.
12. The design of the small solar energy facility shall conform to applicable industry standards. A building/zoning permit shall be obtained prior to construction. In the case of a roof-mounted facility, the existing roof structure and the weight of the facility shall be taken into consideration when applying for a small solar energy facility permit.

All wiring shall comply with the applicable version of Michigan's construction codes. The local utility provider shall be contacted to determine grid interconnection and net metering policies. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturer from a certifying organization.
13. The small solar energy facility shall comply with all applicable Township ordinances and codes so as to ensure the structural integrity of such facility.
14. Before any construction can commence on any small solar energy facility, the property owner must acknowledge in writing that he/she is the responsible party for owning/leasing and maintaining the solar energy facility.

- b. If a ground-mounted small solar energy facility is removed, any earth disturbance as a result of the removal of the ground-mounted facility shall be graded and reseeded.
  - c. If a small solar energy facility has been abandoned (meaning not having been in operation for a period of six (6) months) or is defective or is deemed to be unsafe by the Building Inspector or Zoning Administrator, the facility shall be required to be repaired by the owner to meet federal, state and local safety standards, or be removed by the property owner within the time period allowed by the Building Inspector or Zoning Administrator. If the owner fails to remove or repair the defective or abandoned small solar energy facility, the Township may pursue legal action to have the facility removed at the owner's expense.
3. **SOLAR ACCESS.** The Township makes no assurance of solar access other than the provisions contained within this Section. The Applicant may provide evidence of covenants, easements, or similar documentation for abutting property owners providing access to solar energy for the operation of a solar energy facility.
4. **Large Solar Energy Systems under PA 233.**

On or after November 29, 2024, once PA 233 of 2023 is in effect, the following provisions apply to Large Solar Energy Systems with a nameplate capacity of 50 megawatts or more. To the extent these provisions conflict with the provisions in subsections 1-3 above (regulating Solar Energy Facilities), the provisions below control as to such Large Solar Energy Systems. All provisions in subsections 1-3 above that do not conflict with this subsection remain in full force and effect. This subsection does not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect, and does not apply to Large Solar Energy Systems with a nameplate capacity of less than 50 megawatts.

a. *Setbacks.* Large Solar Energy Systems must comply with the following minimum setback requirements, with setback distances measured from the nearest edge of the perimeter fencing of the facility:

<b>Setback Description</b>	<b>Setback Distance</b>
Occupied community buildings and dwellings on nonparticipating properties	300 feet from the nearest point on the outer wall
Public road right-of-way	50 feet measured from the nearest edge of a public road right-of-way
Nonparticipating parties	50 feet measured from the nearest shared property line

b. *Fencing.* Fencing for the Large Solar Energy System must comply with the latest version of the National Electric Code as November 29, 2024, or as subsequently amended.

c. *Height.* Solar panel components must not exceed a maximum height of 25 feet above ground when the arrays are at full tilt.

d. *Noise.* The Large Solar Energy System must not generate a maximum sound in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.

e. *Lighting.* The Large Solar Energy System must implement dark sky-friendly lighting solutions.

f. *Environmental Regulations.* The Large Solar Energy System must comply with applicable state or federal environmental regulations.

g. *Host community agreement.* The applicant shall enter into a host community agreement with the Township. The host community agreement shall require that, upon commencement of any operation, the Large Solar Energy System owner must pay the Township \$2,000.00 per megawatt of nameplate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or for other projects as agreed to by the local unit and the applicant.

## **SECTION 7.27. UTILITY-SCALE BATTERY ENERGY STORAGE FACILITIES.**

### **1. Definitions**

a. *Battery management system:* An electronic regulator that manages a Utility-Scale Battery Energy Storage System by monitoring individual battery module voltages and temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access and capable of shutting down the system before operating outside safe parameters.

b. *Utility-scale battery energy storage facilities:* One or more devices, assembled together, capable of storing energy in order to supply electrical energy, including battery cells used for absorbing, storing, and discharging electrical energy in a Utility-Scale Battery Energy Storage System ("BESS") with a battery management system ("BMS").

- c. *Utility-scale battery energy storage system*: A physical container providing secondary containment to battery cells that is equipped with cooling, ventilation, fire suppression, and a battery management system.

## **2. General Provisions.**

All Utility-Scale Battery Energy Storage Systems are subject to the following requirements:

- a. All Utility-Scale Battery Energy Storage Systems must conform to the provisions of this Ordinance and all county, state, and federal regulations and safety requirements, including applicable building codes, applicable industry standards, and NFPA 855 “Standard for the Installation of Stationary Energy Storage Systems.”

- b. The Township may enforce any remedy or enforcement, including but not limited to the removal of any Utility-Scale Battery Energy Storage System pursuant to the Zoning Ordinance or as otherwise authorized by law if the Utility-Scale Battery Energy Storage System does not comply with this Ordinance.

- c. Utility-Scale Battery Energy Storage Systems are permitted in the Township as a special use in the Renewable Energy Overlay District.

## **3. Application Requirements.**

The applicant for a Utility-Scale Battery Energy Storage System must provide the Township with all of the following:

- a. Application fee in an amount set by resolution of the Township Board.
- b. A list of all parcel numbers that will be used by the Utility-Scale Battery Energy Storage System; documentation establishing ownership of each parcel; and any lease agreements, easements, or purchase agreements for the subject parcels.
- c. An operations agreement setting forth the operations parameters, the name and contact information of the operator, the applicant’s inspection protocol, emergency procedures, and general safety documentation.
- d. Current photographs of the subject property.
- e. A site plan that includes all proposed structures and the location of all equipment, as well as all setbacks, the location of property lines, signage, fences, greenbelts and screening, drain tiles, easements, floodplains, bodies of water, proposed access routes, and road right of ways. The site plan must be drawn to scale and must indicate how the Utility-Scale Battery Energy Storage System will be connected to the power grid.
- f. A copy of the applicant’s power purchase agreement or other written agreement with an electric utility showing approval of an interconnection with the proposed Utility-Scale Battery Energy Storage System.

g. A written plan for maintaining the subject property, including a plan for maintaining and inspecting drain tiles and addressing stormwater management, which is subject to the Township's review and approval.

h. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Utility-Scale Battery Energy Storage System, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the Utility-Scale Battery Energy Storage System and restore the subject parcels, which is subject to the Township's review and approval.

i. Financial security that meets the requirements of this Section, which is subject to the Township's review and approval.

j. A plan for resolving complaints from the public or other property owners concerning the construction and operation of the Utility-Scale Battery Energy Storage System, which is subject to the Township's review and approval.

k. A plan for managing any hazardous waste, which is subject to the Township's review and approval.

l. A fire protection plan, which identifies the fire risks associated with the Utility-Scale Battery Energy Storage System; describes the fire suppression system that will be implemented; describes what measures will be used to reduce the risk of fires re-igniting (i.e., implementing a "fire watch"); identifies the water sources that will be available for the local fire department to protect adjacent properties; identifies a system for continuous monitoring, early detection sensors, and appropriate venting; and explains all other measures that will be implemented to prevent, detect, control, and suppress fires and explosions.

m. A transportation plan for construction and operation phases, including any applicable agreements with the Sanilac County Road Commission and Michigan Department of Transportation, which is subject to the Township's review and approval.

n. An attestation that the applicant will indemnify and hold the Township harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Utility-Scale Battery Energy Storage System, which is subject to the Township's review and approval.

o. Proof of environmental compliance, including compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.; Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances; Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); Part 365, Endangered Species Protection (MCL 324.36501 et. seq.); and any other applicable laws and rules in force at the time the application is considered by the Township.

p. Any additional information or documentation requested by the Planning Commission, Township Board, or other Township representative.

#### 4. System and Location Requirements.

The site development requirements shall meet or exceed all of the requirements in the Industrial district and all of the following:

a. *Lighting.* Lighting of the Utility-Scale Battery Energy Storage System is limited to the minimum light necessary for safe operation. Illumination from any lighting must not extend beyond the perimeter of the lot(s) used for the Utility-Scale Battery Energy Storage System. The Utility-Scale Battery Energy Storage System must not produce any glare that is visible to neighboring lots or to persons traveling on public or private roads.

b. *Security Fencing.* Security fencing must be installed around all electrical equipment related to the Utility-Scale Battery Energy Storage System. Appropriate warning signs must be posted at safe intervals at the entrance and around the perimeter of the Utility-Scale Battery Energy Storage System.

c. *Noise.* The noise generated by a Commercial Utility-Scale Battery Energy Storage System must not exceed 45 dBA L<sub>max</sub>, as measured at the property line of any adjacent parcel.

d. *Underground Transmission.* All power transmission or other lines, wires, or conduits from a Utility-Scale Battery Energy Storage System to any building or other structure must be located underground at a depth that complies with current National Electrical Code standards, except for power switchyards or the area within a substation.

e. *Drain Tile Inspections.* The Utility-Scale Battery Energy Storage System must be maintained in working condition at all times while in operation. The applicant or operator must inspect all drain tile at least once every three years by means of robotic camera, with the first inspection occurring before the Utility-Scale Battery Energy Storage System is in operation. The applicant or operator must submit proof of the inspection to the Township. The owner or operator must repair any damage or failure of the drain tile within sixty (60) days after discovery and submit proof of the repair to the Township. The Township is entitled, but not required, to have a representative present at each inspection or to conduct an independent inspection.

f. *Fire Protection.*

i. Before any construction of the Utility-Scale Battery Energy Storage System begins, the Township's fire department (or fire department with which the Township contracts for fire service) will review the fire protection plan submitted with the application. The fire chief will determine whether the fire protection plan adequately protects the Township's residents and property and whether there is sufficient water supply to comply with the fire protection plan and to respond to fire or explosion incidents. If the fire chief determines that the plan is

adequate, then the fire chief will notify the Township Supervisor of that determination. If the fire chief determines that the plan is inadequate, then the fire chief may propose modifications to the plan, which the applicant or operator of the Utility-Scale Battery Energy Storage System must implement. The fire chief's decision may be appealed to the Township Board, and the Township Board will hear the appeal at an open meeting. The Township Board may affirm, reverse, or modify the fire chief's determination. The Township Board's decision is final, subject to any appellate rights available under applicable law.

- ii. The applicant or operator may amend the fire protection plan from time-to-time in light of changing technology or other factors. Any proposed amendment must be submitted to the fire department for review and approval under subsection (a).
- iii. The Utility-Scale Battery Energy Storage System must comply with the fire protection plan as approved by the fire chief (or as approved by the Township Board in the event of an appeal).

g. *Insurance.* The applicant or operator will maintain property/casualty insurance and general commercial liability insurance in an amount of at least \$5 million per occurrence.

h. *Permits.* All required county, state, and federal permits must be obtained before the Utility-Scale Battery Energy Storage System begins operating. A building permit is required for construction of a Utility-Scale Battery Energy Storage System, regardless of whether the applicant or operator is otherwise exempt under state law.

i. *Decommissioning.* If a Utility-Scale Battery Energy Storage System is abandoned or otherwise nonoperational for a period of one year, the property owner or the operator must notify the Township and must remove the system within six (6) months after the date of abandonment. Removal requires receipt of a demolition permit from the Building Official and full restoration of the site to the satisfaction of the Zoning Administrator. The site must be filled and covered with top soil and restored to a state compatible with the surrounding vegetation. The requirements of this subsection also apply to a Utility-Scale Battery Energy Storage System that is never fully completed or operational if construction has been halted for a period of one (1) year.

j. *Financial Security.* To ensure proper decommissioning of a Commercial Utility-Scale Battery Energy Storage System upon abandonment, the applicant must post financial security in the form of a security bond, escrow payment, or irrevocable letter of credit in an amount equal to 125% of the total estimated cost of decommissioning, code enforcement, and reclamation, which cost estimate must be approved by the Township. The operator and the Township will review the amount of the financial security every two (2) years to ensure that the amount remains adequate. This financial security must be posted within fifteen (15) business days after approval of the special use application.

k. *Extraordinary Events.* If the Utility-Scale Battery Energy Storage System experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the applicant or operator must notify the Township within 24 hours.

l. *Annual Report.* The applicant or operator must submit a report on or before January 1 of each year that includes all of the following:

- i. Current proof of insurance;
- ii. Verification of financial security; and
- iii. A summary of all complaints, complaint resolutions, and extraordinary events.

m. *Inspections.* The Township may inspect a Utility-Scale Battery Energy Storage System at any time by providing 24 hours advance notice to the applicant or operator.

n. *Transferability.* A special use permit for a Utility-Scale Battery Energy Storage System is transferable to a new owner. The new owner must register its name and business address with the Township and must comply with this Ordinance and all approvals and conditions issued by the Township.

o. *Remedies.* If an applicant or operator fails to comply with this Ordinance, the Township, may pursue any remedy or enforcement, including but not limited to the removal of any Utility-Scale Battery Energy Storage System pursuant to the Zoning Ordinance or as otherwise authorized by law. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township's actual attorney fees and costs.

**5. Utility-Scale Battery Energy Storage Systems under PA 233**

On or after November 29, 2024, once PA 233 of 2023 is in effect, the following provisions apply to Utility-Scale Battery Energy Storage Systems with a nameplate capacity of 50 megawatts or more and an energy discharge capability of 200 megawatt hours or more. To the extent these provisions conflict with the provisions in subsections 1-4 above, these provisions control as to such Utility-Scale Battery Energy Storage Systems. This subsection does not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect, and does not apply to Battery Energy Storage Systems with a nameplate capacity of less than 50 megawatts. All provisions in subsections 1-4 above that do not conflict with this subsection remain in full force and effect.

a. *Setbacks.* Utility-Scale Battery Energy Storage Systems must comply with the following minimum setback requirements, with setback distances measured from the nearest edge of the perimeter fencing of the facility:

Setback Description	Setback Distance
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Occupied community buildings and dwellings on nonparticipating properties	300 feet from the nearest point on the outer wall
Public road right-of-way	50 feet measured from the nearest edge of a public road right-of-way
Nonparticipating parties	50 feet measured from the nearest shared property line

b. *Installation.* The Utility-Scale Battery Energy Storage System must comply with the version of NFPA 855 “Standard for the Installation of Stationary Energy Storage Systems” in effect on the effective date of the amendatory act that added this section or any applicable successor standard.

c. *Noise.* The Utility-Scale Battery Energy Storage System must not generate a maximum sound in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.

d. *Lighting.* The Utility-Scale Battery Energy Storage System must implement dark sky-friendly lighting solutions.

e. *Environmental Regulations.* The Utility-Scale Battery Energy Storage System must comply with applicable state or federal environmental regulations.

f. *Host community agreement.* The applicant shall enter into a host community agreement with the Township. The host community agreement shall require that, upon commencement of any operation, the Utility-Scale Battery Energy Storage System owner must pay the Township \$2,000.00 per megawatt of nameplate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or for other projects as agreed to by the local unit and the applicant.

## **SECTION 7.28. WIND ENERGY SYSTEMS**

- A. In addition to the information required by Section 7.23.3.c, site plans submitted for On-Site WES or MET Towers greater than 40 feet in Total Height shall also include the following information:

An application for a Conditional Use Permit and Site Plan Review for On-Site WES or MET Towers Greater than 40 Feet in Total Height.

Prior to any installation efforts taking place upon a Participating Parcel, an application for a conditional use permit under Section 7.21 and site plan review and approval under Section 7.23

and this subsection must be filed and approved respectively by the Ogden Township Board of Trustees and the Ogden Township Planning Commission. Information required for said reviews must, in addition to any other information required by Sections 7.21 and 7.23, include the following:

- a. Name of property owner(s), parcel identification number and address.
- b. Zoning classification of the Participating Parcel.
- c. 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).
- d. 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.
- e. 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.
- f. The required setbacks shall be displayed upon the Participating Parcel's site plan.
- g. 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.
- h. An engineered set of plans illustrating the proposed On-Site WES or MET Towers must be prepared or reviewed by a registered engineer.
- i. 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.

2. General Requirements. In addition to the required standards and findings under Section 7.21.5 and 7.23.4, On-Site WES or MET Towers greater than 40 feet in total height may be permitted as a conditional use in the AA – Agricultural District and a site plan approved if they comply with the following requirements:
  - A. Installation of the proposed On-Site WES or MET Towers shall be consistent with the public health, safety and welfare of Ogden Township.
  - B. 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. The On-Site WES and MET Towers must minimize the adverse impacts of technological obsolescence of such equipment.
  - D. Visual Appearance
    - a. 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.
    - b. 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.
    - c. No advertising is permitted upon an On-Site WES or MET Tower. Additional items such as banners, streamers, flags and similar items are hereby prohibited from being attached to any On-Site WES or MET Towers or their support structure.
    - d. 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.
    - e. 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.

- f. 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.

#### E. Ground Clearance

- a. 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.
- b. The vertical axis of the On-Site WES is exempt from a minimum height standard.

#### F. Sound

No On-Site WES may exceed 40 Db(A) at any adjacent property line of a Non-Participating Parcel.

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.

- G. 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.

#### H. Safety

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.

On-Site WES or MET Towers greater than 40 feet must possess protection measures from lightning strikes.

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.

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.

#### I. Setbacks

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.

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 Section 7.23.3.e.2.f.

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.

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.

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.

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.

#### J. Collocation.

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

- K. In addition to the information required by Section 7.23.3.c, site plans submitted for any Wind Energy Generation Facility or Utility Scale WES may be permitted within the Renewable Energy Overlay District as a Conditional Use pursuant to Section 7.21 and this subsection and shall include the following information:

An application for a Conditional Use Permit and Site Plan Review for Wind Energy Generation Facility or Utility Scale WES.

Prior to any installation efforts taking place upon a Participating Parcel, an application for a conditional use permit under Section 7.21 and site plan review and approval under Section 7.23 and this subsection must be filed and approved respectively by the Ogden Township Board of Trustees and the Ogden Township Planning Commission. At the sole cost and expense of the applicant, information for said reviews must, in addition to any other information required by Sections 7.21 and 7.23, include the following:

a. Electromagnetic Interference and Signal Degradation.

1. A report shall 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 Lenawee 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. A report shall 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 Lenawee 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.

b. 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.

c. Shadow 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.

- d. Sound. 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:
  1. 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.
  2. 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.
  3. 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.
  4. 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. 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.

f. 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. Wind energy facility technical specifications including manufacturer and model, rotor diameter, tower height/type, foundation type/dimensions.
2. Typical tower foundation blueprints or drawings signed by a Professional Engineer licensed to practice in the State of Michigan.
3. Typical tower blueprints or drawings signed by a Professional Engineer licensed to practice in the State of Michigan.
4. 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.

g. Fire Prevention and Emergency Response Plan and Requirements.

1. Description of the potential fire and emergency scenarios that may require a response from fire, emergency medical services, police or other emergency responders.
2. Designation of the specific agencies that would respond to potential fire or other emergencies.
3. 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.

h. 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:

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.). 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.

i. Site Plan Requirements and Additional Data. Any site plan for a Utility Scale WES or WEGF must 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.
1. The required setbacks for a Utility Scale WES or WEGF shall be displayed upon the site plan.
2. The location(s) of the Utility Scale WES or WEGF and any supporting electrical system components, including distances from existing structures and utility transmission.
3. 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.

4. 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.
5. An illustration of the proposed type of Utility Scale WES or WEGF.
6. Proof of the applicant's liability insurance for the subject property(s).
7. 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.
8. The Owner shall have a continuing obligation to provide the Township with up to date contact information.
9. A site grading, erosion control and storm water drainage plan must be submitted and approved by the Lenawee County Drain Commission prior to commencement of construction of a Utility Scale WES or WEGF.
10. 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 Lenawee County Road Commission prior to commencement of construction of a Utility Scale WES or WEGF.

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 Lenawee County Road Commission.

11. A statement indicating what hazardous materials will be used and stored on the site.
12. An anticipated construction schedule and project phasing plan shall be required prior to final site plan approval.
13. 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.

### 3. 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 Ogden 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.

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.

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.

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.

Support structures (i.e. the tower and or base) for a Utility Scale WES or WEGF shall not utilize guy wires.

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. Audible Sound.

Sound emanating from the operation of a Utility Scale WES or WEGF shall not exceed 40 Db(A) between the hours of 10:00 pm and 6:00 am measured at any adjacent property line of a Non-Participating Parcel.

During the hours of 6:00 am to 10:00 pm no Utility Scale WES or WEGF shall exceed 45 Db(A) measured at any adjacent property line of a Non-Participating Parcel. The sound pressure levels may be exceeded during short-term events, (events lasting less than 2 hours and not to be conflated with normal straight line winds) 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(A) plus five (5) Db(A) and shall be measured at any adjacent property line of a Non-Participating Parcel.

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 Lenawee 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.

#### G. Setbacks.

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 or adjacent road right-of-way.

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 Ogden 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.

The base of any Utility Scale WES or WEGF shall be set back a minimum of four (4) 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 Ogden 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.

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.

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.

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 Ogden 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.

#### H. 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.

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.

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.

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.

#### I. Safety.

Utility Scale WES or WEGF shall not be designed to be climbable on the exterior of the structure.

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.

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.

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.

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.

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.

All Utility Scale WES or WEGF must have lightning protection.

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.

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.

#### J. Shadow Flicker.

A Utility Scale WES or WEGF shall not be allowed to cast a shadow upon an adjacent or nearby Non-Participating Parcel’s principal structure in excess of thirty (30) hours measured on a continuous 365 day basis. 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 in excess of the thirty (30) hours permitted by this subsection. Non-Participating Parcel owners may waive the shadow flicker requirement to permit shadow flicker in excess of the thirty (30) hours permitted by this subsection through a written acceptance and approval by the Ogden Township Board of Trustees during the conditional use permit application process. 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.

#### K. Maximum Vibrations and Low Frequency Sound.

A Utility Scale WES or WEGF shall not produce vibrations humanly perceptible upon a Non-Participating Parcel.

Sound emanating from the operation of a Utility Scale WES or WEGF shall not exceed 50 Dbc between the hours of 10:00 pm and 6:00 am measured at any adjacent property line of a Non-Participating Parcel.

During the hours of 6:00 am to 10:00 pm no Utility Scale WES or WEGF shall exceed 55 Dbc 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 Dbc plus five (5) Db(c) and shall be measured at any adjacent property line of a Non-Participating Parcel.

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 Lenawee 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.

L. 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.

M. An ongoing log of maintenance activities performed on the Utility Scale WES or WEGF shall be submitted to the Township on an annual basis.

N. 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:

Part 31 Water Resources Protection (MCL 324.3101 et seq.),

Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101 et seq.),

Part 301 Inland Lakes and Streams (MCL 324.30101 et seq.),

Part 303 Wetlands (MCL 324.3030 1 et seq.),

O. Security Bond Requirements.

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 Ogden Township Board of Trustees for review.

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 fifty percent (150%) of the total estimated decommissioning and reclamation costs.

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.

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.

When decommissioning and site reclamation has been completed, written correspondence to the Ogden 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.

#### P. Decommissioning and Removal Procedures.

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.

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.

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/owners' 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.

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.

Any material left six (6') feet below grade must be documented and recorded upon a certified survey and recorded within the Lenawee County Register of Deeds.

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.

#### Q. 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.

A final inspection with the Lenawee 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.

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 Lenawee County Road Commission to ensure compliance with the travel plan.

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 becoming operational. Sound shall be measured by a third-party, qualified sound professional.

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.

#### R. 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.

#### S. 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:

Complaints must be submitted to the Township Clerk in writing from the affected property owner including their name, address and contact information.

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.

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.

Standards for Site Plan Review. In order that building, open space and landscaping will be in harmony with other structures and improvements in the area, and to assure that no undesirable health, safety, noise and traffic conditions will result from the development, the Planning Commission shall determine whether the site plan meets the following criteria, unless the Planning Commission determines that one or more of such criteria are inapplicable:

- a. The vehicular transportation system shall provide for circulation throughout the site and for efficient ingress and egress to all parts of the site by fire and safety equipment.
- b. Pedestrian walkways shall be provided as deemed necessary by the Planning Commission for separating pedestrian and vehicular traffic.
- c. Recreation and open space areas shall be provided in all multiple family residential developments.
- d. The site plan shall 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.
- e. The requirements for fencing, walks, and other protective barriers shall be complied with as provided in this Ordinance and as deemed appropriate by the Planning Commission.
- f. The site plan shall provide for adequate storage space for the use therein.

- g. Security measures shall be provided as deemed necessary in conformance with all applicable laws of the State of Michigan for the protection of residents and/or occupants of the structures.
- h. Fire protection measures shall be provided as deemed necessary in conformance with all applicable laws of the State of Michigan for the protection of residents and/or occupants of the structures.
- i. The site plan shall comply with all requirements of the applicable zoning district, unless otherwise provided.

Planning Commission Approval. Following approval of the site plan by the Planning Commission, the Chairman of the Planning Commission shall within ten (10) days transmit to the Zoning Administrator one (1) copy with the Chairman’s signature affixed thereto, certifying that said approved site plan conforms to the provisions of this Ordinance as determined and approved by the Planning Commission. If the site plan is disapproved by the Planning Commission, notification of such disapproval shall be given to the applicant within ten (10) days after such action. The Zoning Administrator shall not issue a zoning compliance, conditional use permit, or building permit, until he has received a certified approved site plan.

Expiration of site plan approval. The site plan approval shall expire, and be of no effect, three hundred sixty-five (365) days after the date of issuance thereof, unless within such time the Zoning Administrator has issued a zoning compliance permit or conditional use permit for any proposed work authorized under a said site plan approval.

Amendment, Revision of Site Plan. A site plan and site plan approval, issued thereon, may be amended upon the request of the applicant. Such amendment shall be made upon application and in accordance with the procedure provided in Section 7.23 of this Ordinance. Any fees paid in connection with such application may be waived or refunded at the discretion of the Township Board.

4. Wind Energy Systems under PA 233.

On or after November 29, 2024, once PA 233 of 2023 is in effect, then the following provisions apply to Wind Energy Systems with a nameplate capacity of 100 megawatts or more. To the extent these provisions conflict with the provisions in subsections 7.23(k)(1)-(2) above, these provisions control as to such Wind Energy Systems. This subsection does not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect, and does not apply to Wind Energy Systems with a nameplate capacity of less than 100 megawatts. All provisions in subsections 7.23(k)(1)-(2) above that do not conflict with this subsection remain in full force and effect.

- a. *Setbacks.* Wind Energy Systems must comply with the following minimum setback requirements, with setback distances measured from the center of the base of the wind tower:

Setback Description	Setback Distance
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Occupied community buildings and dwellings on nonparticipating properties	2.1 times the maximum blade tip height to the nearest point on the outside wall of the structure
Residences and other structures on participating properties	1.1 times the maximum blade tip height to the nearest point on the outside wall of the structure
Nonparticipating property lines	1.1 times the maximum blade tip height
Public road right-of-way	1.1 times the maximum blade tip height to the center line of the public road right-of-way
Overhead communication and electric transmission, not including utility service lines to individual houses or outbuildings	1.1 times the maximum blade tip height to the center line of the easement containing the overhead line

b. *Shadow Flicker.* Each wind tower must be sited such that any occupied community building or nonparticipating residence will not experience more than 30 hours per year of shadow flicker under planned operating conditions as indicated by industry standard computer modeling.

c. *Height.* Each wind tower blade tip must not exceed the height allowed under the Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR part 77.

d. *Noise.* The Wind Energy Conversion System must not generate a maximum sound in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.

e. *Lighting.* The Wind Energy Conversion System must be equipped with a functioning light-mitigating technology. To allow proper conspicuity of a wind turbine at night during construction, a turbine may be lighted with temporary lighting until the permanent lighting configuration, including the light-mitigating technology, is implemented. The Township may grant a temporary exemption from the requirements of this subparagraph if installation of appropriate light-mitigating technology is not feasible. A request for a temporary exemption must be in writing and state all of the following:

a. The purpose of the exemption.

- b. The proposed length of the exemption.
- c. A description of the light-mitigating technologies submitted to the Federal Aviation Administration.
- d. The technical or economic reason a light-mitigating technology is not feasible.
- e. Any other relevant information requested by the Township.
- f. *Radar Interference.* The Wind Energy Conversion System must meet any standards concerning radar interference, lighting (subject to subparagraph (v)), or other relevant issues as determined by the Township.
- g. *Environmental Regulations.* The Wind Energy Conversion System must comply with applicable state or federal environmental regulations.
- h. *Host community agreement.* The applicant shall enter into a host community agreement with the Township. The host community agreement shall require that, upon commencement of any operation, the Wind Energy Conversion System owner must pay the Township \$2,000.00 per megawatt of nameplate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or for other projects as agreed to by the local unit and the applicant.

## **SECTION 7.29. COMMERCIAL COMMUNICATION TOWERS**

The purpose of this Section is to provide guidance for Commercial Telecommunication towers, which are defined as towers over 50 feet in height, primarily designed to support one or more telephone, radio, television, or similar commercial communication transmitting or receiving antennas, which will be subject to compliance under this ordinance.

The following standards and conditions shall apply to all commercial communication towers:

1. Towers shall not be artificially lighted, unless requires by the Federal Aviation Administration.
2. A signed & notarized statement by the applicant certifying compliance with all applicable federal, state, & local laws & codes shall be filed with the application for permission to place tower within Township.
3. No advertising or identification signs visible from the site shall be allowed or permitted on the tower.

4. An application for permitting must include a site plan drawing detailing the proposed tower's location, type, height, surrounding land use, setbacks from adjacent property lines, elevation drawings of the tower, and plans for any other proposed structures or proposed collocation use of multiple towers. Setbacks should be a minimum of 1.5 times the height of the proposed tower.
5. Any & all information of an engineering nature that an applicant submits (civil, mechanical, electrical, etc.) must be certificated by a licensed professional engineer.
6. The application for permitting must include a legal description of the lot and copies of all contracts between the lessee and lessor concerning the land proposed for the communication tower.
7. All towers must be equipped with a fence that is at least 10 feet high, topped with barbed wire and include anti-climbing devices.
8. The tower must not cause interference with existing communication transmissions for nearby residents, including, but not limited to radio, television, and cell phone or other communication signals.
9. A minimum distance of two miles must be maintained between any type of communication towers.
10. Vegetation on the site must be regularly maintained and groomed to prevent overgrowth. The area within the fence must be covered with stone, and measures must be regularly taken to control weeds & overgrowth.
11. No day-to-day, onsite personnel shall be permitted on the tower's premises.
12. After 12 consecutive months of non-use, any commercial communication tower must be removed at the expense of either the property owner or the tower owner. A copy of the decommissioning plans and a description of how the surety bond shall be applied to the decommissioning process must be provided during the application process.
  - A. The application shall include a description of security to be posted at the time of receiving a building permit to ensure removal of the facility when it has been abandoned or is no longer needed. In this regard, the security shall be posted and maintained in the form of: (1) cash; (2) surety bond; (3) irrevocable letter of credit; or (4) other security arrangement accepted by the Township Board. If required removal of the tower has not been lawfully completed within sixty (60) days after the deadline set forth above, and after at least thirty (30) days written notice, the Township may remove or secure the removal of the tower or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected from the security posted at the time the application was made for establishing the tower.

13. Complaint Resolution: A detailed description of the complaint resolution process.
14. Manufacturers' Material Safety Data Sheet(s): Documentation must include the type and quantity of all materials used in the operation of all equipment.
15. A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the application. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.
16. Map:
  - A. A Survey of the property(ies) showing existing features such as contours, large trees, buildings, structures, roads (rights-of-way), utility easements, land use, zoning district, ownership of property, and vehicular access;
  - B. Water bodies, waterways, wetlands, and drainage channels;
  - C. Lighting plan & electrical connection systems (if applicable)
  - D. Plan(s) showing the location of proposed Commercial Communication Tower, any underground and overhead wiring (including the depth of underground wiring), new and existing drainage facilities (if any), access drives (including width), any substations and accessory structures;
  - E. A description of the routes to be used by construction and delivery vehicles and of any road improvements that will be necessary in the Township 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;
  - F. Anticipated construction schedule for tower fabrication.
17. There shall be unobstructed access to the tower for police, fire, and emergency vehicles and, for operation, maintenance, repair and inspection purposes.

### **SECTION 7.30. CRYPTOCURRENCY DATA MINING FACILITIES AND DATA CENTERS**

1. General Provisions
  - A. Cryptocurrency Data Mining Facilities and Data Centers are permitted in the Township only as a special land use with special approval in the Renewable Energy Overlay Zoning District.
  - B. The Township may enforce any remedy or enforcement, including but not limited to, the removal of any Cryptocurrency Data Mining Facilities and Data Centers pursuant to the Zoning Ordinance or as otherwise authorized by law if the

Cryptocurrency Data Mining Facility or Data Center does not comply with this Section.

2. Special Approval Application Requirements. In addition to the requirements of 7.21, an applicant for special approval of a Cryptocurrency Data Mining Facility or Data Center must provide the Township with all of the following:
  - A. An application fee in an amount set by resolution of the Township Board.
  - B. A list of all parcel numbers that the Cryptocurrency Data Mining Facility or Data Center will use; documentation establishing ownership of each parcel; and any lease agreements, easements, or purchase agreements for the subject parcels.
  - C. An operations agreement setting forth the parameters of the operation, the name and contact information of the operator, the applicant's inspection protocol, emergency procedures, and general safety documentation.
  - D. Current photographs of the subject property.
  - E. A site plan that includes all proposed structures and the location of all equipment, as well as all setbacks, the location of property lines, signage, fences, greenbelts and screening, drain tiles, easements, floodplains, bodies of water, proposed access routes, and road right of ways. The site plan must be drawn to scale and must indicate how the Cryptocurrency Data Mining Facility or Data Center will be connected to the power grid.
  - F. A written plan for maintaining the subject property, including a plan for maintaining and inspecting drain tiles and addressing stormwater management, which is subject to the Township's review and approval.
  - G. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Cryptocurrency Data Mining Facility or Data Center, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the Cryptocurrency Data Mining Facility or Data Center and restore the subject parcels, which is subject to the Township's review and approval.
  - H. Financial security that meets the requirements of this Section, which is subject to the Township's review and approval.
  - I. A plan for resolving complaints from the public or other property owners concerning the construction and operation of the Cryptocurrency Data Mining Facility or Data Center, which is subject to the Township's review and approval.
  - J. A plan for managing any hazardous waste, which is subject to the Township's review and approval.

- K. A fire protection plan, which identifies the fire risks associated with the Cryptocurrency Data Mining Facility or Data Center; describes the fire suppression system that will be implemented; describes what measures will be used to reduce the risk of fires re-igniting (i.e., implementing a “fire watch”); identifies the water sources that will be available for the local fire department to protect adjacent properties; identifies a system for continuous monitoring, early detection sensors, and appropriate venting; and explains all other measures that will be implemented to prevent, detect, control, and suppress fires and explosions.
  - L. A transportation plan for construction and operation phases, including any applicable agreements with the County Road Commission and Michigan Department of Transportation, which is subject to the Township’s review and approval.
  - M. An attestation that the applicant will indemnify and hold the Township harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Cryptocurrency Data Mining Facility or Data Center, which is subject to the Township’s review and approval.
  - N. Proof of environmental compliance, including compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.; Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances; Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); Part 365, Endangered Species Protection (MCL324.36501 et. seq.); and any other applicable laws and rules in force at the time the Township considers the application.
  - O. Any additional information or documentation requested by the Planning Commission, Township Board, or other Township representative.
3. System and Location Requirements. In addition to the requirements of 7.23 for a site plan, the site plan must include all of the following:
- A. Equipment. All equipment used in any Cryptocurrency Data Mining Facility or Data Center must be housed in a metered, electrically grounded, and pre-engineered or prefabricated metal-encased structure with a fire rating designed to resist an internal electrical fire for at least 30 minutes.
  - B. Structures. All principal and accessory structures used for cryptocurrency mining operations and/or data centers, shall be arranged, designed, and constructed to be harmonious and compatible with the site and with the surrounding properties. If prefabricated, pre-engineered, or modular structures are installed, the following standards are required:
    - a. All structures shall have concrete foundations.

- b. All exterior facades shall have muted earth tone colors that will blend the facility into the natural setting and existing environment, and shall not be defective, decayed or corroded.
  - c. If intermodal shipping containers are utilized such installation shall comply with current National Electrical Code standards.
- C. Lighting. The lighting of the Cryptocurrency Data Mining Facility or Data Center is limited to the minimum light necessary for safe operation. Illumination from any lighting must not extend beyond the perimeter of the lot(s) used for the Cryptocurrency Data Mining Facility or Data Center. The Cryptocurrency Data Mining Facility or Data Center must not produce any glare that is visible to neighboring lots or persons traveling on public or private roads.
- D. Security Fencing. Security fencing must be installed around all electrical equipment related to the Cryptocurrency Data Mining Facility or Data Center. Such fencing must be a minimum seven (7) feet tall and must use materials, colors, textures, screening and landscaping, that will blend the facility into the natural setting and existing environment.
- E. Noise. The noise generated by the Cryptocurrency Data Mining Facility or Data Center must not exceed 45 dBA Lmax, as measured at the property line of any adjacent parcel.
- F. Signage. The Cryptocurrency Data Mining Facility or Data Center shall provide a 24-hour emergency contact signage visible at the access entrance. Signs shall include company name if applicable, owner/representative name, telephone number, and corresponding local power company and telephone number.
- G. Underground Transmission. All power transmission or other lines, wires, or conduits from a Cryptocurrency Data Mining Facility or Data Center to any building or other structure must be located underground at a depth that complies with current National Electrical Code standards, except for power switchyards or the area within a substation.
- H. Drain Tile Inspections. The Cryptocurrency Data Mining Facility or Data Center must be maintained in working condition at all times while in operation. The applicant or operator must inspect all drain tiles at least once every three years using a robotic camera, with the first inspection occurring before the Cryptocurrency Data Mining Facility or Data Center is in operation. The applicant or operator must submit proof of the inspection to the Township. The owner or operator must repair any damage or failure of the drain tile within sixty (60) days after discovery and submit proof of the repair to the Township. The Township is entitled, but not required, to have a representative present at each inspection or to conduct an independent inspection.
- I. Fire Protection.

- a. Before any construction of the Cryptocurrency Data Mining Facility or Data Center begins, the Township's fire department (or the fire department with which the Township contracts for fire service) will review the fire protection plan submitted with the application. The fire chief will determine whether the fire protection plan adequately protects the Township's residents and property and whether there is sufficient water supply to comply with the fire protection plan and to respond to fire or explosion incidents. If the fire chief determines that the plan is adequate, then the fire chief will notify the Township or his or her designee of that determination. If the fire chief determines that the plan is inadequate, then the fire chief may propose modifications to the plan, which the applicant or operator of the Cryptocurrency Data Mining Facility or Data Center must implement. The fire chief's decision may be appealed to the Township Board, and the Township Board will hear the appeal at an open meeting. The Township Board may affirm, reverse, or modify the fire chief's determination. The Township Board's decision is final, subject to any appellate rights available under applicable law.
  - b. The applicant or operator may amend the fire protection plan from time-to-time in light of changing technology or other factors. Any proposed amendment must be submitted to the fire department for review and approval under subsection (a).
  - c. The Cryptocurrency Data Mining Facility or Data Center must comply with the fire protection plan as approved by the fire chief (or as approved by the Township Board in the event of an appeal).
  - d. The Cryptocurrency Data Mining Facility or Data Center must contain an internal fire suppression system that shall be reviewed and tested once every twelve (12) months by a third-party contractor approved by the fire chief.
- J. Applicant must provide all Township Fire Department contractors with the appropriate equipment and training to address fires in the Cryptocurrency Data Mining Facility or Data Center.
  - K. Insurance. The applicant or operator will maintain property/casualty insurance and general commercial liability insurance in an amount of at least \$5 million per occurrence. The Township shall be listed as an additional insured on the policy at all times.
  - L. Permits. All required county, state, and federal permits must be obtained before the Cryptocurrency Data Mining Facility or Data Center begins operating. A building permit is required for construction of a Cryptocurrency Data Mining Facility or Data Center regardless of whether the applicant or operator is otherwise exempt under state law.

- M. Decommissioning. If a Cryptocurrency Data Mining Facility or Data Center is abandoned or otherwise nonoperational for a period of one year, the property owner or the operator must notify the Township and must remove the system within six (6) months after the date of abandonment. Removal requires receipt of a demolition permit from the Building Official and full restoration of the site to the satisfaction of the Zoning Administrator. The site must be filled and covered with top soil and restored to a state compatible with the surrounding vegetation. The requirements of this subsection also apply to a Cryptocurrency Data Mining Facility or Data Center that is never fully completed or operational if construction has been halted for a period of one (1) year.
- N. Financial Security. To ensure proper decommissioning of a Cryptocurrency Data Mining Facility or Data Center upon abandonment, the applicant must post financial security in the form of a security bond or escrow payment in an amount equal to 125% of the total estimated cost of decommissioning, code enforcement, and reclamation, which cost estimate must be approved by the Township. The operator and the Township will review the amount of the financial security every two (2) years to ensure that the amount remains adequate. This financial security must be posted within fifteen (15) business days after approval of the special use application.
- O. Extraordinary Events. If the Cryptocurrency Data Mining Facility or Data Center experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the applicant or operator must notify the Township within 24 hours.
- P. Annual Report. The applicant or operator must submit a report on or before January 1 of each year that includes all of the following:
- a. Current proof of insurance;
  - b. Verification of financial security; and
  - c. A summary of all complaints, complaint resolutions, and extraordinary events.
- Q. Inspections. The Township may inspect a Cryptocurrency Data Mining Facility or Data Center at any time by providing 24-hour advance notice to the applicant or operator.
- R. Transferability. A conditional land use permit for a Cryptocurrency Data Mining Facility or Data Center is transferable to a new owner. The new owner must register their name and business address with the Township and must comply with this Ordinance and all approvals and conditions issued by the Township.
- S. Remedies. If an applicant or operator fails to comply with this Ordinance, the Township may pursue any remedy or enforcement, including but not limited to the removal of any Cryptocurrency Data Mining Facility or Data Center pursuant

to the Zoning Ordinance or as otherwise authorized by law. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township's actual attorney fees and costs.

**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 LOTS OF RECORD (SUBSTANDARD LOTS).** In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard required variances may be obtained through approval of the Board of Appeals.

No division of any lot or parcel shall be made unless the resulting lots are in conformance with the lot area and width requirements within the district in which the lots or parcels are located.

**SECTION 8.02. 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:

1. 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.
2. 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 8.03. 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:

1. 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.

2. 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.
3. 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 8.04. 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:

1. 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.
2. 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 8.05. 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 and/or Zoning Administrator 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 and/or Zoning Administrator.

**SECTION 8.06. 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.

**SECTION 8.07. CONTINUED CONFORMANCE WITH REGULATIONS.** The maintenance of yards, open spaces, lot areas, height and bulk limitations, fences, walls, clear vision areas, parking and loading spaces, and all other requirements for a building or use specified within

this Ordinance shall be a continuing obligation of the owner of such building or property on which such building or use is located.

**SECTION 8.08. CHANGE OF TENANCY OR OWNERSHIP.** There may be a change in tenancy, ownership or management of an existing non-conforming use, provided there is no change in the nature or character of such non-conforming use.

## **ARTICLE IX. OFF-STREET PARKING AND LOADING REQUIREMENTS**

**SECTION 9.01. PARKING REQUIREMENTS.** In all zoning districts, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of the buildings hereafter erected, altered or extended after the effective date of this Ordinance, shall be provided as herein prescribed. Such space shall be maintained and shall not be encroached upon so long as said main building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this Ordinance.

1. **Area for Parking Space.** For the purpose of this Section, three hundred (300) square feet of lot area shall be deemed a parking space for one (1) vehicle, including access aisles, except that one hundred and eighty (180) square feet of lot area which has a direct means of ingress and egress from an alley or street may also be deemed a parking space.
2. **Fractional Requirements.** When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction up to, and including one-half shall be disregarded and fractions over one-half shall require one (1) parking space.
3. **Location of Parking Space for One and Two Family Dwellings.** The off-street parking facilities required for one and two family dwellings shall be located on the same lot, or parcel of land as the building they are intended to serve, and shall consist of a parking strip, parking apron, and/or garage.
4. **Location of Parking Space for Other Land Use.** The off-street parking facilities required for all other uses shall be located on the lot or within five hundred (500) feet of the permitted uses requiring such off-street parking, such distance to be measured along lines of public access to the property between the nearest point of the parking facility to the building to be served. In the Industrial District the front setback area shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives.
5. **Seating Capacity of Seats.** Seats shall mean that each twenty four (24) inches of seating facilities shall be counted as one (1) seat, except where specifications and plans filed with the Building Inspector specify a certain seating capacity for particular building, such specified seating capacity shall be used as the basis for required parking space.

6. **Similar uses and Requirements.** In the case of a use not specifically mentioned, the requirements of off-street parking facilities for a use which is so mentioned, and which said use is similar, shall apply.
7. **Protective Screening.** Whenever off-street parking facilities abut a residential district, a masonry obscuring wall of not less than four (4) feet in height no more than six (6) feet in height shall be erected and maintained along the interior lot line if requested by adjacent property owners and deemed to be in the interest of public welfare by the Zoning Board of Appeals.
8. **Existing Off-street Parking at Effective Date of Ordinance.** Off-street parking existing at the effective date of the Ordinance which serves an existing building or use, shall not be reduced in size less than that required under the terms of this Ordinance.
9. **Collective Provisions.** Nothing in this Section shall be construed to prevent collective provisions of off-street parking facilities for two or more buildings uses, provided such facilities collectively shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the table under Section 9.02.
10. **General Use Conditions.** Except when land is used as storage space in connection with the business of a repair or service garage or in long-term parking facilities it shall be unlawful to permit the storage or parking on such open land of more than two (2) wrecked or junked cars, or for creating a junk yard or a nuisance in such areas.
11. **Restriction On Parking On Private Property.** It shall be unlawful for any person, firm or corporation to park any motor vehicle on any private property, or use of said private property for vehicle storage, or use any portion of any private property as parking space, without the expressed or implied consent, authorization, of ratification of the owner, holder, occupant, lessee, agent or trustee of such property.
12. **Joint Use.** Parking spaces already provided to meet off-street parking requirements for theater, stadiums, auditoriums, and other places of public assembly, stores, office buildings and industrial establishments, lying within five hundred (500) feet of a church as measured along lines of public access, and that are not normally used between the hours of 6:00 a.m. and 6:00 p.m. on Sundays and that are made available for other parking, may be used to meet not more than fifty (50) per cent of the off-street parking requirements of a church.

**SECTION 9.02. TABLE OF OFF-STREET PARKING REQUIREMENTS.** The amount of required off-street parking space for new uses or buildings, additions thereto, and additions to existing buildings as specified above shall be determined in accordance with the following table, and the space so required shall be stated in the application for a building permit and shall be irrevocably reserved for such use and/or shall comply with the initial part of this section.

	<u>Use</u>	<u>Number of Minimum Parking Spaces Per Unit of Measure</u>
<b>A. Residential</b>	1. Residential, Single Family and Two Family	Two (2) for each dwelling unit
	2. Trailer Park and Mobile Home	Two (2) for each trailer or Mobile Home Courts home site and one (1) for each employee of the trailer or mobile court. Plus one (1) for every four (4) sites adjacent to a recreational area.
<b>B. Institutional</b>	1. Churches, Temples or Synagogues	One (1) for each three (3) seats in the main unit of worship.
	2. Elementary and Junior High Schools	One (1) for each one (1) teacher and administrator in addition to the requirements of the auditorium.
	3. Senior High School	One (1) for each one (1) teacher, administrator and one (1) for each ten (10) students, in addition to the requirements of the auditorium.
	4. Private Golf Clubs, Swimming Pool Clubs, Tennis Clubs, or other similar uses.	One (1) for each two (2) member families or individuals.
	5. Golf Courses Open to the General Public, except Miniature or "Par-3" Courses	Six (6) for each (1) golf hole. One (1) for each one (1) employee.
<b>C. Business and Commercial</b>	6. Auto Wash	One (1) for each one (1) employee. In addition, adequate waiting space for autos shall be provided on the premises to

	accommodate twenty-five (25) percent of the hourly rate of capacity.
7. Beauty Parlor or Barber Shop	Three (3) spaces for each of the first two (2) beauty or barber chairs, and one and one-half (1 ½) spaces for each additional chair.
8. Drive-In Establishments	One (1) for each forty (40) feet of gross floor area, with a minimum of twenty-five (25) parking spaces.
9. Establishments for the Sale and Consumption on the premises of Beverages or Food.	One (1) for each seventy-five (75) square feet of gross floor area.
10. Carry-Out Restaurants	One (1) for each one hundred and fifty (150) square feet of gross floor area.
11. Furniture and Appliance, Household Equipment, Repair Shops, Showroom of a Plumber, Decorator, Electrician or Similar Trade, Shoe Repair and other similar uses.	One (1) for each one thousand (1,000) square feet of gross floor area. (For that floor area used in processing, one (1) additional space shall be provided for each two (2) persons employed therein).
12. Automobile Service Stations	Two (2) for each lubrication stall, rack or pit; and one (1) for each gasoline pump.
13. Coin Operated Laundromats and Dry Cleaners	One (1) for each two (2) washing machines.
14. Mortuary Establishments	One (1) for each one hundred (100) square feet of gross floor area.
15. Open Air Businesses	One (1) for each seven hundred (700) square feet of lot area.

	16. Retail Stores, except as otherwise specified herein	One (1) for each two hundred (200) square feet of gross floor area.
	17. Riding Stables or Academies	Three (3) for each employee.
<b>D. Offices</b>	18. Banks	One (1) for each two hundred (200) square feet of gross floor area.
	19. Drive-In Banks	Waiting space equivalent to six (6) spaces for each drive-in window.
	20. Business Offices or Professional Offices, except as indicated in number 4	One (1) for each four hundred (400) square feet of gross floor area.
	21. Medical or Dental Clinics, Professional Offices of Doctors, Dentists or similar professions	One (1) for each two hundred (200) square feet of gross floor area.
<b>E. Industrial</b>	22. Industrial or Research Establishments	Five (5) plus one (1) for every one and one-half (1 ½) employees in the largest working shift. Space on site shall be provided for all construction workers during periods of plant construction.
	23. Wholesale Establishments	Five (5) plus one (1) for every one (1) employee in the largest working shift, or one (1) for every two thousand (2,000) square feet of gross floor area, whichever is greater.

**SECTION 9.03. OFF-STREET LOADING REQUIREMENTS.** On the same premises with every building structure, or part thereof, erected and occupied for manufacturing, storage, warehouse, goods display, department store, wholesale, market, hotel, restaurant, hospital,

convalescent home, mortuary, laundry, dry cleaning, or other uses similarly involving the receipt of distribution of vehicles, material or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets, alleys, or any required access for off-street parking areas.

Such loading and unloading space, unless adequately provided for within a building, shall be an area ten (10) feet by fifty (50) feet, with fourteen (14) foot height clearance, and shall be provided according to the following schedule:

Gross Floor Area in Square Feet	Loading and Unloading Spaces Required in Terms of Square Feet of Gross Floor Area
0 – 2,000	None
2,000 – 20,000	One (1) space
20,000 – 100,000	One (1) space plus one (1) space for each 20,000 square feet in excess of 100,000 square feet. Fifteen (15) spaces plus one (1) space for each 80,000 square feet in excess of 500,000 square feet.

**SECTION 9.04. OFF-STREET PARKING CONSTRUCTION AND OPERATION.** Wherever the off-street parking requirements above require the building of an off-street parking lot it shall be laid out, constructed and maintained in accordance with the following standards and regulations:

1. No parking lot shall be constructed unless and until a permit therefore is issued by the Building Inspector. Applications for a permit shall be submitted to the Building Inspector and shall be accompanied with two (2) sets of plans for the development and construction of the parking lot showing that the provisions of this section will be fully complied with.
2. Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements:

Parking Pattern	Maneuvering Lane Width	Parking Space Width	Parking Space Length	Total Width of one Tier of Space Plus Maneuvering Lane	Total Width Two Tiers of Spaces Plus Maneuvering Lane
0° parallel parking	12 feet	8 feet	23 feet	20 feet	28 feet
30° to 53°	12 feet	9 feet	20 feet	32 feet	52 feet

54° to 74°	15 feet	9 feet	20 feet	36 feet	58 feet
75° to 90°	24 feet	9 feet	20 feet	44 feet	64 feet

3. All such parking lots shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area. No surface water from such parking area shall be permitted to drain onto adjoining private property.
4. All illumination for or on such parking lots shall be deflected away from adjacent residential areas and shall be installed in such a manner as to allow the reduction of the amount of light in other than normal parking hours each day. The source of illumination in all parking lots abutting a residential area shall not be more than thirteen (13) feet above the parking lot surface.
5. Side yards shall be maintained for a space of not less than six (6) feet between the side lot lines of adjoining residential lots and the parking area.
6. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for vehicles.
7. Wheel chocks shall be provided, so located as to prevent any vehicle from projecting over the lot line.

## **ARTICLE X. AA, AGRICULTURAL DISTRICT**

**SECTION 10.01. PURPOSE.** The purpose of this district is to protect and stabilize the essential characteristics of agricultural areas within the Township, and to ensure proper maintenance of conditions for healthful and economically productive agricultural activities by preserving those areas which are predominately agricultural in nature, and which are most appropriate for present and future agricultural uses.

The requirements of this district are designed so as not to impede necessary urban expansion, but to prevent unwarranted premature urban development from encroaching upon agricultural areas and uses that disrupt or eliminate agricultural resources, environment and economy, including the tax base. It is essential that development in areas which are predominately agricultural be based on sound principles which realize the importance of such agricultural uses and activities and their effect on the economy and welfare of the Township. Nothing in this Article shall be construed as interfering with or affecting protected uses or activities under the Michigan Right to Farm Act, provided such uses or activity comply with Generally Accepted Agricultural Management Practices.

**SECTION 10.02. PERMITTED USES.** The following buildings and structures, and uses of parcels, lots, buildings, and structures are permitted in this district:

1. One or two family dwellings.

2. A parcel may be used for general and specialized farming and agricultural activities including the raising or growing of crops, livestock, poultry and other farm animals, products and foodstuffs, and any building or structure may be located thereon and used for the day-to-day operation of such activities for the quartering, storage or preservation of said crops, livestock, poultry, animals, products and foodstuffs raised or grown on said building or structures, provided that any parcel that is kept as idle cropland shall be treated as to prevent soil erosion by wind or water.
3. A parcel may be used, and a building or structure located thereon for the raising or keeping of poultry, rabbits, and other similar fur-bearing animals whether for profit or pleasure.
4. A parcel may be used, and a building or structure located thereon for a riding academy or stable, 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.
5. A parcel may be used for the raising or growing of plants, trees, shrubs and nursery stock, and any building or structure may be located thereon and used for such raising or growing and for the storage of equipment and materials necessary for such raising and growing.
6. A parcel may be used for agricultural products processing facilities such as but not limited to cold storage, sorting, packing and other processes necessary for agricultural production.
7. Public and private conservation area and structure for the development, protection and conservation of open space, watersheds, water, soil, forest, and wildlife resources.
8. A parcel may be used for the growing, stripping and removal therefrom of sod provided that said lot or portion thereof shall be seeded after stripping by fall of the year in which it was stripped so as to reduce the actual or potential erosion by water or wind.
9. Home Occupations: Customary home occupations such as hairdressing, millinery, dressmaking, bookkeeping and accounting services, real estate and insurance sales, retail gun sales subject to condition (d.) below, professional offices for not more than one (1) physician, surgeon, dentist, attorney, architect, engineer, or similar professional practitioner provided that such home occupation shall satisfy the following conditions:
  - A. The non-residential use shall be only incidental to the primary residential use of the property.

- B. No home occupation shall be permitted which is injurious to the general character of the agricultural district and which creates a hazardous or unhealthy condition.
  - C. For the purpose of this provision, principal and accessory farm operations shall not be considered home occupations.
  - D. Retail guns sales and transfers shall be permitted as a Home Occupation in the AA district provided that such sales/transfers do not include weapons and/or accessories regulated under the National Firearm Act, 26 U.S.C. Chapter 53 (fully automatic weapons, suppressors, silencers, etc.), does not involve more than 15 onsite patrons per day and that the Home Owner has received and is maintaining a Type 01 Federal Firearms License (FFL) pursuant to the Gun Control Act of 1968. Prior to commencing retail sales and transfers as a home occupation, the Homeowner shall furnish a copy of their FFL to the Ogden Township Clerk and shall immediately inform the Township Clerk of any change in license status.
10. A sign, only in accordance with the regulations specified in Section 7.20.
  11. Contractor's establishment.
  12. Outdoor storage of no more than 6 recreational vehicles. Indoor storage is unrestricted.
  13. An accessory use, building or structure.
  14. Essential service structures except as provided in Section 7.13.
  15. On-Site Use Wind Energy Systems no greater than 40 feet in Total Height.
  16. MET Towers no greater than 40 feet in Total Height.
  17. A church, synagogue, cathedral, mosque, temple or other building used for public worship, or a cemetery.
  18. Roadside stands providing for the sale of nursery stock or other agricultural products. Use must comply with Generally Accepted Agricultural Management Practices.
  19. Veterinarian, animal clinic and kennels.
  20. Dairy products production and processing operations.
  21. Mechanical, vehicle or farm repair shops and farm supply sales and service areas.
  22. Migratory labor camps for use as temporary housing when limited to occupancy to the season the occupants are employed in planting, harvesting or processing crops or in other essential agriculturally related activity.

**SECTION 10.03. 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 Section 7.21.

1. The removal of soil, sand, gravel and other minerals, in accordance with Section 7.18.
2. Public and private park camping ground, golf course, golf driving range, clubs, hunting lodge, in accordance with Section 7.19.
3. Community and governmental buildings.
4. Sanitary landfills conforming to all State of Michigan and County Health Department regulations.
5. Public and private primary and secondary schools, and college and university
6. Commercial radio or television stations or transmitters occupying a site of no less than ten (10) acres.
7. Public and private recreation area such as: forest preserve, game refuge, recreation park and reservation, and similar public and private use of low-intensity use.
8. Animal sales yards.
9. Dwellings or modular homes existing at the enactment of this Ordinance may by special use permit be severed and sold off of an existing parcel provided a lot sufficient to meet Lenawee County onsite septic and water well requirements are met.
10. The Land Application of Municipal Sewage Sludge may be permitted as a special land use (conditional use) when in consideration of the provisions of Section 7.21 of this Ordinance and the following:
  - A. An application shall be filed as outlined in Section 7.21 and must contain the following information:

Location of all natural features on a map to a scale of not more than one inch equals 200' including wood lots, wetlands, lakes, rivers, streams and drains.

Depth of water table on or about April 15, July 15 and October 25 for the subject property.

Location of water table depth test.

Size of parcel in acres.

Area of actual sludge application – acres and location(s).

Copy of Municipal Program for Effective Residuals Management (PERM) where the sewage sludge will be created and treated.

Copies of all sewage sludge sampling reports prepared in the preceding twelve (12) months.

Proposed method of sewage sludge application.

List of roadways within the township used to gain access to the proposed site.

Proposed site entrance for sludge hauling vehicles and related vehicles.

Location of domestic or agricultural water wells within six hundred (600) feet of the subject property.

Location of residential dwellings within six hundred (600) feet of the subject property.

Proposed crop(s) to be grown on the subject property.

Other information as deemed important or pertinent by the Planning Commission and/or the Township Board.

- B. The information required above is intended to make the Township aware of all necessary and pertinent information relative to the proposed land application of municipal sewage sludge. This data will assist Township Officials and concerned citizens to determine if State and/or Federal requirements are being met. Such requirements and the following are criteria to be used for the review and approval or denial of the Special Use Application.

The standards outlined in Section 7.21 (5).

The proposed rate of application of sewage sludge is at an approved and reasonable agronomic rate in relation to the proposed crop.

The haul route shall be planned as to minimize adverse impacts on residents and gravel roads.

11. On-Site Use Wind Energy Systems more than 40 feet in Total Height, subject to the provisions of Section 7.23.
12. MET Towers more than 40 feet in Total Height, subject to the provisions of Section 7.23.

**SECTION 10.04. REGULATIONS.** The following regulations shall apply in all "AA"-Agricultural Districts.

1. Lot Area: Minimum lot size shall be determined by Lenawee County Health department regulations for onsite water well and septic systems.
2. Height: The following height requirement shall apply in this district:

- A. For dwelling and non-farm buildings and structures: No dwelling or non-farm building or structure shall exceed a height of four (4) stories or fifty (50) feet.
- B. For On-Site Use Wind Energy Systems: No On-Site Use Wind Energy System shall exceed a Total Height of 200 feet.
- C. 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 350 feet.
- D. No MET Tower shall exceed a Total Height of 199 feet.

## **ARTICLE XI. RA, RESIDENTIAL DISTRICT**

**Note: No properties are currently zoned RA but may be pursuant to this ordinance and the standards set forth in the Master Plan.**

**SECTION 11.01. PURPOSE.** The purpose of this district is to provide areas for outlying residential development on lots of sufficient size to accommodate the safe and healthful on-site water supply and liquid waste water disposal, since the areas will likely remain unserved by public water-sewer services for an extended period of time. It is also the purpose of this district to protect and stabilize the essential characteristics of these areas in order to promote and encourage suitable environments for low density family life until such time as it may be in the public interest to promote development of greater intensity requiring higher levels of public services and utilities.

**SECTION 11.02. PERMITTED USES.** The following buildings and structures, and uses of parcels, lots, buildings and structures are permitted in this district:

- 1. One or two family dwellings.
- 2. General and specialized farming and agricultural activities including the raising or growing of crops and other farm products and foodstuffs including the raising of any livestock, poultry or other farm animals, provided that the following conditions are satisfied:
  - A. The lot or parcel of land upon which these activities are conducted is of sufficient size to comply with the Michigan Right to Farm Act and Generally Accepted Agricultural Management Practices.
  - B. No storage of manure or other odor or duty producing materials or activities shall be permitted.
  - C. All farm buildings other than dwellings shall be located a minimum of ninety (90) feet from an adjacent property line.
- 3. A lot may be used for the raising or growing of plants, trees, shrubs, and nursery stock.

4. A sign, only in accordance with the regulations specified in Section 7.20.
5. Essential Services Structures.

**SECTION 11.03. 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 Section 7.21.

1. Golf courses, which may include a golf driving range; country club, public swimming pool, swimming and recreation club, public and private park and playground.
2. Churches and public buildings.
3. Public and private nursery; primary and secondary schools.
4. Home occupations; as prescribed by Section 10.02.8.
5. Temporary buildings or trailer offices.
6. Roadside stands for the display and sale of products raised on the lot parcel, provided that: off-street parking and access to such parking shall be provided in accordance with the provisions of Article IX and no hazardous traffic conditions shall result from such activity; such buildings and structures shall be located in conformance with all minimum yard requirements; and no more than one (1) such roadside stand shall be permitted on each lot or parcel.

**SECTION 11.04. REGULATIONS.** The following regulations shall apply in all “RA” Residential Districts.

1. No building or structure shall be established in this district on any lot unable to comply with space requirements for onsite water well and septic systems as regulated by the Lenawee County Health Department except where a lot is served with a public water system and a public sanitary sewerage system in which case the minimum lot size shall be 10,000 square feet.
2. The maximum lot coverage shall not exceed thirty-five (35) per cent.
3. Yard Requirements:
  - A. Front Yards: Not less than fifteen (15) feet.
  - B. Side Yards: Not less than five (5) feet.
  - C. Rear Yard: Not less than fifty (50) feet.
  - D. The above requirements shall apply to every lot, building or structure.
4. Height:

- A. For buildings and structures: no building and no structure, except as permitted by this Ordinance, shall exceed a height of three (3) stories or fifty (50) feet.
- B. For detached accessory buildings: no detached accessory building shall exceed a height of thirty (30) feet.

## **ARTICLE XII. C COMMERCIAL**

**Note: No properties are currently zoned C but may be pursuant to this ordinance and the standards set forth in the Master Plan**

**SECTION 12.01. PURPOSE.** It is the purpose of the district to provide for retail, business, food service and all similar commercial ventures that would cater to the needs of the regional residents. It is the basic intent of this district to encourage future commercial/business growth along major transportation routes.

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

1. Clothing and Apparel services, including laundry pickup, automatic laundry, dressmaking, millinery, tailor shop and shoe repair shop.
2. Food services including grocery, meat market, bakery, restaurant, delicatessen and fruit market, ice-o-mats and similar self-serve units but not including any business of a drive-in-nature.
3. Personal services, including barber shop and beauty salon, medical and dental clinics, music studios, banks and saving and loan associations.
4. Retail services, including drug store, hardware, gift shop, and dry goods and notions store.
5. A sign, only in accordance with the regulations specified in Section 7.20.
6. An accessory use, building or structure.
7. Essential service structures except as provided in Section 7.13.
8. Any use permitted in the "RA" Residential District shall be permitted in the "C" Commercial District, subject to the regulations in Section 12.04.
9. Business and professional offices.
10. Business and visual and performing art schools.
11. Indoor amusement and recreation services.
12. Indoor eating establishments.

13. Clubs and lodges.
14. Funeral homes.
15. Hotels and motels.
16. Religious meeting establishments.
17. Animal hospital or clinic.
18. Drive-in, retail and service establishments excluding drive-in amusement establishments.
19. Temporary buildings or trailer office.
20. Automobile service and repair stations.
21. Establishments that rent or sell used motor vehicles, trailers, and boats.
22. Daycare centers.
23. Indoor drinking establishments.
24. Contractor's establishment.
25. Junk yard.

**SECTION 12.02. CONDITIONAL USES.** The following buildings and structures, and uses of parcels, lots, buildings, and structures are permitted subject to obtaining a conditional use permit as provided in Section 7.21.

1. Gasoline service stations in accordance with Section 7.17.
2. Car wash.

**SECTION 12.03. REGULATIONS.** The following regulations shall apply in all "C" Commercial Districts:

1. Lot Area: No building or structure shall be established on any lot less than one (1) acre in area, except where a lot is served with a public water system and a public sanitary sewerage system, in which case there shall be provided a minimum lot area of ten thousand (10,000) square feet except where included in a neighborhood planned shopping center of three (3) or more stores.
2. Lot Width: The minimum lot width for lots served with a central water supply system and a central sanitary sewerage system shall be eighty (80) feet. Where a lot is not so served, the minimum lot width shall be one hundred and fifty (150) feet.

3. Lot Coverage: The maximum lot coverage shall not exceed twenty-five (25) percent.
4. Yard and Setback Requirements:
  - A. Front Yards: Not less than thirty-five (35) feet.
  - B. Side Yards: Not less than ten (10) feet, except in the case of a corner lot or parcel where the side yard on the road or street side shall not be less than thirty-five (35) feet.
  - C. Rear Yard: Not less than twelve (12) feet.
  - D. The above yard requirements shall apply to every lot, building or structure.
5. Height: No building or structure shall exceed a height of fifty (50) feet.
6. Transition strips:
  - A. On every lot in this district which abuts a lot in a residential district there shall be provided a transition strip. Such transition strip shall be not less than ten (10) feet in width, shall be provided along every lot line except at front lot lines, which abuts a lot in a residential district, shall not be included as part of the yard required around a building or structure, and shall be improved, when said lot in this district is improved, with an opaque fence, wall or hedge not less than five (5) feet in height, maintained in good condition.

### **ARTICLE XIII. II, INDUSTRIAL DISTRICT**

**Note: No properties are currently zoned I but may be pursuant to this ordinance and the standards set forth in the Master Plan**

**SECTION 13.01. PURPOSE.** This district is designed to provide the location and space for all manner of industrial uses, wholesale, commercial and industrial storage facilities. It is the purpose of these regulations to permit the development of certain functions, to protect the abutting residential and commercial properties from incompatible industrial activities, to restrict the intrusion of non-related uses such as residential, retail business and commercial, and to encourage the discontinuance of uses presently existing in the district, which are non-conforming by virtue of the type of use. To these ends, certain uses are excluded which would function more effectively in other districts and which would interfere with the operation of the uses permitted in this district.

**SECTION 13.02. PERMITTED USES.** The following buildings and structures, and uses of parcels, lots, buildings and structures are permitted in this district:

1. Research oriented and light industrial park uses.

2. The manufacturing, compounding, process, or treatment of such products as bakery goods, candy, cosmetics, dairy products, food products, drugs, perfumes, pharmaceutical toiletries, and frozen food lockers.
3. Assembly of merchandise such as electrical appliances, electronic or precision instruments and articles of similar nature.
4. Packaging of previously prepared materials, but not including the bailing of discards, old iron or other metal, wood, lumber, glass, paper, rags, cloth or similar materials.
5. Printing, lithographic, blueprinting and similar uses.
6. Wholesale warehousing and material distribution centers, provided all products and materials are enclosed within a building.
7. Light manufacturing industrial use which by nature of the materials, equipment and process utilized are to a considerable extent clean, quiet and free from any objectionable or dangerous nuisance or hazard including any of the following goods or materials: drugs, jewelry, musical instruments, sporting goods, glass products, small household appliances, electronic products, printed matter, baked and dairy products, advertising displays, tents and awnings, brushes, and brooms, cameras and photographic equipment and supplies, wearing apparel, leather products and luggage but not including tanning products from such finished materials as plastic, bone, cork, feathers, felt, fiber, paper, glass, hair, horn, rubber, shell or yarn.
8. Manufacturing.
9. Trucking and cartage facilities, truck and industrial equipment storage yards, repairing and washing equipment and yards.
10. Manufacturing product warehousing, exchange and storage centers and yards.
11. Open industrial uses or industrial product or materials storage, provided that any activity in which products or materials being processed or stored are located, transported, or treated outside of a building and are not within enclosed apparatus vessels, or conduits, such use shall be provided with an opaque permanently maintained wall or fence, no lower than the subject use or storage, and constructed to provide firm anchoring of fence posts to concrete set below the frost line, if a wall is provided, its foundations likewise shall extend below the frost line.
12. Wholesale businesses, including warehouse and storage, commercial laundries, dry cleaning establishments, ice and cold storage plants, lumber, fuel and fee yards, automobile repair garages, construction and farm equipment sales and contractor's equipment yards.
13. Auctions for livestock.

14. Tool, die, gauge and machine shops.
15. Motor freight terminal including garaging and maintenance of equipment; freight, forwarding, packing and crating services; truck repairs and/or truck sales; automobile, truck and tractor servicing facilities such as tire stores, muffler shops, undercoating shops, shock absorber shops and battery shops.
16. The manufacture, compounding, processing, packaging, warehousing, or treatment of products such as: cosmetics, pharmaceuticals, pottery and other ceramic products, monuments, glass products, musical instruments, toys, furniture, electrical appliances and electronic instruments, signs and light sheet metal products.
17. Research and development facilities including production activities; laboratories including experimental, film or testing.
18. Lumber and wood products including millwork, prefabricated structural wood products and containers, not including logging camps; lumberyards and building material sales areas.
19. An accessory use, building or structure.
20. A sign, only in accordance with the regulations specified in Section 7.20 of this Ordinance.

**SECTION 13.03. CONDITIONAL USES.** The following buildings and structures, and uses of parcels, lots, buildings and structures are permitted subject to obtaining a conditional use permit as provided in Section 7.21.

1. Restaurants and cafeteria facilities for employees.
2. Bus, truck, taxi and rail terminals.
3. Open air display areas for the sale of manufactured products, such as or similar to garden furniture, earthenware, hardware items and nursery stock, or the rental of manufactured products or equipment, small tools, pneumatic tired two and four-wheeled utility trailers, such as household equipment, pneumatic-transit cement mixers, wheel-barrows, rollers, and similar products or equipment.
4. Junk yards in accordance with Section 7.15.
5. Gasoline service stations in accordance with Section 7.17.
6. Banks.
7. Temporary building or trailer office.

8. Sanitary landfills; conforming to all State of Michigan and County Health Department Regulations.
9. Quarries and sand and gravel pits in accordance with Section 7.18.
10. Rendering plants.
11. Slaughter houses.
12. Tanneries.
13. Wireless communication towers and radio and television broadcast towers.
14. Retail sales accessory to a permitted use.
15. Contractor services, including architectural and engineering and design services, related to the building trades such as electrical, mechanical, plumbing, general excavating and landscaping.

**SECTION 13.04. REGULATIONS.** The following regulations shall apply in all “II” Industrial Districts.

1. Lot Area: No building or structure shall be established on any lot less than five (5) acres in area.
2. Lot Width: The minimum lot width shall be two hundred (200) feet.
3. Lot Coverage: The maximum lot coverage shall not exceed twenty-five (25) percent.
4. Yard Requirements:
  - A. Front Yard: Not less than eighty-five (85) feet.
  - B. Side Yards: Not less than fifty (50) feet, except in the case of a corner lot, where the side yard or the road or street shall not be less than sixty (60) feet.
  - C. Rear Yard: Not less than fifty (50) feet.
5. Height: No building or structure shall exceed a height of fifty (50) feet.

#### **ARTICLE XIV. DEFINITIONS**

**SECTION 14.01. 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.

**AGRICULTURAL:** Included purposes related to agriculture, farming, dairies, pasturage, horticulture, floriculture, viticulture and animal and poultry husbandry. Power generation facilities such as large scale wind and solar facilities shall not be construed as agriculture.

**ALLEY:** A public or legally established private thoroughfare, other than a street, which affords a secondary means of access to abutting property, and not more than twenty (20) feet wide.

**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”.

**ANIMATED SIGNS:** Any sign have a conspicuous and intermittent variation in the illumination of the physical position of any part of the sign.

**APARTMENT:** (See Dwelling, Multiple Family.)

**AREA, NET SITE:** The total area within the property lines of a project excluding external streets.

**AUTOMOBILE OR TRAILER SALES AREA:** Any space used for display, sale, or rental of motor vehicles or trailers, in new or used and operable condition.

**AUTOMOBILE REPAIR:** General repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame, or fender straightening and repair, overall painting and undercoating of automobiles when carried on in a completely enclosed room or building.

**BASEMENT:** That portion of a building which is below the first story, the ceiling of which is less than five (5) feet above the surrounding ground elevation at all points.

**BILLBOARD:** Any construction or portion thereof upon which a sign or advertisement used as an outdoor display for the purpose of making anything known to the general public is affixed. This definition does not include any bulletin boards used to display official court or public office notices.

**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 COVERAGE:** That percentage of the plot or lot area covered by the building area.

**BUILDING INSPECTOR:** The agency or individual who is appointed by Ogden Township to issue building permits and to administer the provisions of Construction Code Act No. 230 of the Public Acts of 1972, as amended, being §125.1501 et seq.

**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.

**BUILDING PERMIT:** A permit for commencing construction issued in accordance with a plan for construction that complies with all the provisions of this Zoning Ordinance.

**CHURCH:** A building wherein people regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such principal purpose.

**CLUB OR LODGE, PRIVATE:** A non-profit association of persons who are bonafide members paying annual dues, which owns, hires or leases a building or portion thereof, the use of such premises being restricted to members and their guests. The affairs and management of such “private club or lodge” are conducted by a board of directors, executive committee or similar body chosen by the members at a meeting. It shall be permissible to serve food and meals on such premises providing adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed provided it is secondary and incidental to the promotion of some other common objective by the organization, and further provided that such sale of the alcoholic beverages is in compliance with the applicable Federal, State and Municipal laws.

**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.

**COURT:** An unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

**COURT, OUTER:** A court enclosed on not more than three sides by exterior walls of a building, or by exterior walls and lot lines on which walls are allowable, with one side or end open to a street, driveway, alley or yard.

**CRYPTOCURRENCY DATA MINING FACILITY:** A facility dedicated to operating data processing equipment for commercial cryptocurrency mining and the process by which cryptocurrency transactions are verified and added to digital ledgers.

**DATA CENTER:** A structure that houses information technology infrastructure and equipment for building, running, and delivering applications, and the storage of digital data. This includes Artificial Intelligence (“AI”) Data Centers.

**FLOOD PLAIN:** That portion of land adjacent to a body of water or water course which is subject to periodic inundation.

**FLOOR AREA:** The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings. The “floor area” of a building shall include the area of any floor when more than one-half (1/2) of the room height is above the established curb level, or above the finished lot grade level where curb levels have not been established. “Floor area” shall include elevator shafts, and stairwells at each floor, floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof), penthouses, attic space having headroom of seven (7) feet, six (6) inches or more, interior balconies and mezzanines. Any space devoted to off-street parking or loading shall not be included in “floor area”.

**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.

**GARAGE, COMMERCIAL:** Any garage other than a private garage available to the public operated for gain and used for storage, repair, rental, greasing, washing, sales, servicing, adjusting, or equipping of automobiles or other motor vehicles.

**GARAGE, PRIVATE:** An accessory building not over one (1) story or fifteen (15) feet in height used for parking or storage of vehicles as may be required in connection with the permitted use of the principal building.

**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.

**GREENBELT:** A strip of land not less than twenty (20) feet in width which is planted with trees or shrubs.

**GROUP HOUSING:** Two or more multiple dwellings on a parcel of land under single ownership.

**HIGHWAY:** (See “Street Major”)

**HOME OCCUPATION:** An occupation that is traditionally or customarily carried on in the home, provided:

1. 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.

2. That no article or service be sold or offered for sale on the premises except as is produced by such occupations.
3. That such occupation shall not require internal or external alterations or construction features or equipment or machinery not customarily located in residential areas.
4. That there be no more than one (1) employee other than members of the resident family.

**HOSPITAL:** An institution providing health services, primarily for inpatients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities, central service facilities, and staff offices.

**HOTEL, MOTEL:** A building containing primarily rooming units with the number of dwelling units being not greater than ten percent (10%) of the total number of rooming units, and with the exception of the unit occupied by the management staff, used only for the accommodation of transients.

**INDUSTRIAL PARK:** A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors.

**JUNK YARD:** Any land or buildings where waste, used or second hand materials are bought and sold, exchanged, stored, baled, parked, disassembled, or handled including, but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. A “junk yard” includes automobile wrecking yards, and includes any area of more than fifty (50) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

**LIVING SPACE:** That area within a structure intended, designed, erected or used for human occupancy; that is the sum of the gross horizontal area of the floor in question of the building used for such occupancy, measured from the exterior faces of the exterior walls, from the center line of walls separating two buildings, from the center lines of interior walls, and excluding porches, garages, breezeways not usable the year around.

**LOADING SPACE:** An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

**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, INTERIOR:** Any lot other than a corner lot.

**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.

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

**LOT WIDTH:** The horizontal distance between the side lot lines, measured at the two points where the building line, or setback intersects the side lot lines.

**MASTER PLAN:** The statement of policy by the Township Planning Commission relative to the agreed-upon desirable physical pattern of future community development. Consists of a series of maps, charts, and written material representing in summary form the soundest conception to the community as to how it should grow in order to bring about the very best community living conditions.

**MOBILE HOME:** A vehicular, portable structure built on a chassis and designed to be used without a permanent foundation as a dwelling when connected to required utilities and which is, or is intended to be, attached to the ground, to another structure, or to a utility system on the same premises for more than thirty (30) consecutive days.

**MOBILE HOME PARK:** Any subdivision, however designated, that is occupied or designated for occupancy by more than one (1) mobile home and which conforms to the provisions of ACT 243 of 1959.

**MODULAR HOUSING UNIT:** A unit constructed solely within the factory in various sized modules which are then transported by flatbed, or other means to the site where they are assembled on permanent foundations, to form single family dwellings which are either attached (in rows or clusters) stacked, or detached, but not as a mobile home as defined in this section.

**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.

**NURSING OR CONVALESCENT HOME:** A structure with sleeping rooms where persons are housed or lodged and furnished meals and nursing care for hire.

**OFF-STREET PARKING LOT:** A facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of more than two automobiles.

**OPEN SPACE:** Any space suitable for recreation, gardens, or household service activities such as clothes drying. Such space must be at least seventy-five (75%) percent open to the sky, free of automotive traffic, parking an undue hazard, and readily accessible by all those for whom it is required.

**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 PARK:** Any park, playground, beach, outdoor swimming pool, or parkway with the jurisdiction and control of a governmental agency authorized by state statutes to own and maintain parks.

**PUBLIC SEWER SYSTEM:** A public sewer system shall be defined as a central or community sanitary sewage and collection system of pipes and structures including pipes, conduits, manholes, pumping stations, sewage and waste water treatment works, diversion and regulatory devices, and outfall structures, collectively or singularly, actually used or intended for use by the general public or a segment thereof, for the purpose of collecting, conveying, transporting, treating or otherwise handling sanitary sewage or industrial liquid wastes of such a nature as to be capable of adversely affecting the public health, operated and maintained by the general public.

**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.

**RECREATION AREA, PRIVATE:** All lands and structures which are owned and operated by private individuals, a business or corporation which are predominately intended to accommodate recreational vehicles and provide for outdoor recreational activities.

**RECREATION VEHICLES:** All those small mobile units principally designed for recreation pastime such as motor homes, camper trailers, pick-up campers, pop-up campers, pop-up tent trailers and similar camping type vehicles or trailers.

**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.

**ROADSIDE STAND:** A permanent structure which is used seasonally for the sale of produce. The use of roadside stand shall not constitute a commercial district.

**ROOMING HOUSE:** A building, or part thereof, other than a hotel, where sleeping accommodations are provided for hire and where meals may be regularly furnished.

**ROOMING UNIT:** Any room or group of rooms, forming a single habitable unit used for living and sleeping, which does not contain cooking or eating facilities.

**ROWHOUSE (TOWN HOUSE):** An attached house in a row or group, each house containing not more than two dwelling units and each house separated from adjoining houses in the same row or group by common fire walls or fire separations.

**SANITARY LANDFILL:** A method of disposing of refuse on land without creating nuisances or hazards to public health or safety, by utilizing principles of engineering to confine the refuse to the smallest practical area and to cover it with a layer of suitable cover at the conclusion of each days operation or at more frequent intervals as necessary, and maintained in accordance with the provisions of ACT 187 of Public Acts of 1965 as amended.

**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.

**SCHOOL:** A building used for the purpose of elementary or secondary education, which meets all requirements of compulsory education laws of the State of Michigan, and not providing residential accommodations.

**SHOPPING CENTER:** A group of commercial establishments, planned, developed, owned, and managed as a unit, with off-street parking provided on the property, and related in its location, size and type of shops to the trade area which the unit serves.

**SIGNS:** Any words, numbers, figures, devices, designs, or trademarks by which anything is made known, other than billboards, such as are used to show an individual, firm, professional business, and are visible from the exterior of the structure.

**SOLAR ENERGY FACILITY:** An energy generating facility consisting of one or more solar panels and associated equipment including, but not limited to:

- a. **LARGE SOLAR ENERGY FACILITY (SOLAR FARM).** A utility-scale commercial facility that converts sunlight into electricity, whether by photovoltaics (PV) or various experimental solar technologies, for the primary purpose of wholesale or retail sales of generated electricity.
- b. **SMALL SOLAR ENERGY FACILITY.** Any photovoltaic or solar hot water devices greater than eight (8) square feet that are accessory to, and incorporated into the development of an authorized use of the property, and which are designed for the purpose of reducing or meeting on-site energy needs.
- c. **PHOTOVOLTAICS (PV).** A technology that converts light directly into electricity.
- d. **POWER SWITCHYARD.** The structure needed to tie the solar energy facility to electric transmission lines.
- e. **MEDIUM VOLTAGE CABLE.** Lines which provide electricity to homes.

**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, MAJOR:** A public way, the principal use of which is to provide an arterial route for through traffic and has as its secondary use the provisions of access to abutting properties.

**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.

**TRAILER COACH:** Same as Mobile Home.

**TRAILER COACH PARK:** Same as Mobile Home Park.

**UNDERDEVELOPED LAND:** Land which has soil types or a high water table condition which present severe limitations on septic tank and tile fields.

**USABLE FLOOR AREA:** The area for the purpose of computing parking and off-street loading and unloading space, is that area used for or intended to be used for the sale of merchandise or services or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise or utilities shall be excluded from this computation of "usable floor area". Measurement of floor area shall be the sum of the gross horizontal areas of the several floors of the building measured from the interior faces of the exterior walls.

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.

ZONING BOARD: This term refers to the Zoning Board of Ogden Township.

ZONING DISTRICT: (See District).

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## **ARTICLE XV. RO, RENEWABLE ENERGY OVERLAY DISTRICT**

### **SECTION 15.01. PURPOSE.**

The purpose of the Renewable Energy Overlay District is to set aside land within the Township dedicated to renewable energy projects in a manner that maximizes efficient energy production and the transmission of energy while also limiting the consumption of natural resources and protecting the health, safety, and welfare of the public.

### **SECTION 15.02. PERMITTED USES.**

All land uses that are permitted by right in the underlying zoning district are permitted by right in the REO District.

### **SECTION 15.03. CONDITIONAL USES.**

All land uses that are permitted with special use permit in the underlying zoning district are permitted with special use permit in the REO District. The following special uses of land, buildings, and structures are also permitted by special use permit, subject to the provisions of Section 7.21 Conditional Uses.

1. Wind Energy Systems/Wind Energy Systems with a nameplate capacity of 100 megawatts or more, as defined by Public Act 233 of 2023, subject to Section 7.28.
2. Solar Energy Systems/Solar Energy Systems with a nameplate capacity of 50 megawatts or more, as defined by Public Act 233 of 2023, subject to Section 7.26.
3. Utility-Scale Battery Energy Systems, subject to Section 7.27.
4. Cryptocurrency Data Mining Facilities And Data Centers, subject to Section 7.30.

### **SECTION 15.04. DELINEATION OF RO DISTRICT**

The Renewable Energy Overlay district shall cover Section OGO-201 of the Township.

## **APPENDIX A – ZONING MAP**

The entire Township shall be zoned AA - Agricultural. As provided in Section 15.04, Section OGO-201 of the Township shall constitute the RO - Renewable Energy Overlay District.