

OGDEN TOWNSHIP

ORDINANCE NO. 12-02

WIND ENERGY FACILITIES ORDINANCE

AN ORDINANCE TO PROTECT AND SECURE THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE BY REGULATING THE ACTIVITY OF CONSTRUCTING, OPERATING, AND DECOMMISSIONING UTILITY-SCALE WIND ENERGY FACILITIES, INCLUDING WIND TURBINES, WIND TOWERS, AND RELATED EQUIPMENT WITHIN OGDEN TOWNSHIP, LENAWEE COUNTY, MICHIGAN.

OGDEN TOWNSHIP ORDAINS:

Section 1. Title.

This Ordinance is to be known as the "Ogden Township Wind Energy Facilities Ordinance."

Section 2. Findings and Purpose.

The Township makes the following findings underlying this Ordinance:

A. The Township's Citizens Committee conducted an extensive investigation into the impacts that may be associated with industrial scale wind turbines and to recommend terms for the Township Board to consider in creating an ordinance to regulate wind turbines. The Citizens Committee's investigation and efforts totaled numerous hours, entailed many meetings open to the public, and extensive investigation and research. The Citizens Committee has compiled multiple binders worth of documents that contain its investigation results and recommendations, and supporting documents.

B. The Township Board has reviewed the Citizen Committee's investigation results and recommendations, and supporting documents

C. The installation and operation of Wind Energy Facilities is an activity that, if not regulated, has a high likelihood of creating a nuisance condition, detrimentally impacting property values in the Township, and detrimentally effecting the health, safety, and welfare of the Township's residents and those residents' property.

D. Reasonable regulations regarding installing and operating Wind Energy Facilities are necessary to protect persons residing near such Facilities and to protect property existing near such Facilities and in the Township.

E. The most common and prevalent land use within Ogden Township is agricultural. Farming has been and is expected to continue to be an ongoing and

economically viable means of employment for many throughout the State and more specifically in Ogden Township for future land owners. Wind regulations are now necessary to further the goal of agricultural preservation and minimize the potential adverse effects of this emerging activity on adjacent properties.

F. Adopting reasonable regulations regarding installation and operation of Wind Energy Facilities is appropriate and necessary to protect the public health, safety, and welfare of the Township's residents and to protect against the creation of nuisances and hazards to the public health, safety, and welfare.

G. The Township is authorized by 1945 Public Act 246, as amended (now MCL 41.181 *et seq.*), to adopt an ordinance regulating, among other things, the public health, safety, and welfare of persons and property in the Township, and fire protection. Regulating the activity of installing and operating Wind Energy Facilities is a valid exercise of its police powers. The Township adopts this Ordinance under 1945 Public Act 246.

The purpose of this Ordinance is to enact reasonable regulations on Wind Energy Facilities to advance and carry out the findings above, and therefore the purposes include among other things the following: to regulate the activity of installing and operating Wind Energy Facilities in the Township; to protect the public health, safety, and welfare of the residents of the Township and the residents' property in the Township; to protect against the creation of nuisances and hazards to the public health, safety, and welfare that would result if the activity of installing and operating Wind Energy Facilities occurred in the Township without regulation; to regulate the installation, operation, and de-commissioning of utility-scale Wind Energy Facilities and equipment and facilities related to those facilities; to create a process and procedure for the Township Board to review and issue permits for Wind Energy Facilities in the Township; to promote the safe, effective, and efficient use of Wind Energy Facilities; and to minimize adverse impacts from Wind Energy Facilities.

The following reasonable police power regulations in this Ordinance have been developed with the intention of obtaining an appropriate balance between the need for clean, renewable energy resources and the need to protect the public health, safety, and welfare of persons and property in the Township. The Township wishes to adopt this Ordinance to impose reasonable regulations to decrease hazards and negative impacts associated with wind turbines in general and unregulated wind turbines in particular, and to protect the health, safety and welfare of the residents of Ogden Township.

Section 3. Definitions.

As used in this Ordinance, the following terms have the following meanings:

- A. "ANSI" means the American National Standards Institute.
- B. "Applicant" is the person or entity filing an application under this Ordinance.

C. "dB(A)" means 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.

D. "Decibel" means the unit of measure used to express the magnitude of sound pressure and sound intensity.

E. "FAA" means the Federal Aviation Administration.

F. "Facility Owner" means the person or entity who has an equity interest in the WEFP, including their respective successors and assigns.

G. "FCC" means the Federal Communication Commission.

H. "Hub Height" means the vertical distance measured from ground level to the center of the turbine hub.

I. "Non-Participating Landowner" means land other than the land on which a WEFP is proposed to take place.

J. "Occupied Building" means a building used for public gathering, such as a residence, school, hospital, church, or public library, and which is occupied or in use when the permit application is submitted.

K. "Operator" means the entity responsible for the day-to-day operation and maintenance of the WEFP.

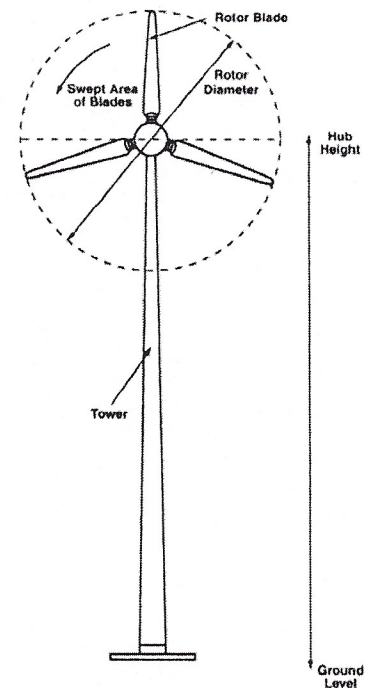
L. "Participating Landowner Property" means land on which some of a WEFP is proposed to take place.

M. "Shadow Flicker" means the alternating changes in light intensity caused by the moving blade of a WEFP that casts shadows on the ground and stationary objects.

N. "Sound Pressure" means the average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound is measured at the receiver.

O. "Sound pressure level" means the sound pressure mapped to a logarithmic scale and reported in decibels (dB).

P. "Township" means Ogden Township.



Q. "Turbine Height" means the distance from the surface of the tower foundation to the highest point of the turbine's rotor plane.

R. "Wind Energy Facility Project" or "WEFP" means an activity in which one proposes to install and operate one or more Wind Turbines and associated equipment and components to conduct electricity-generating activities under a project with common ownership or control and whose main purpose is to supply electricity to a publicly served electricity utility grid. The term WEFP includes all aspects involved in the electricity-generating project activity, including Wind Turbines (commonly referred to as a wind generating tower, windmill, or wind-powered generator); all equipment and facilities used in connection with that WEFP (such as including substations, SCADA towers, cables, wires); equipment (such as a shaft, gearing, belt, or coupling) used to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; the generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and the tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

S. "Wind Turbine" means a utility-scale wind turbine that converts wind energy into electricity (or which tests the amount of wind for potential conversion into electricity) through using a wind turbine generator that is part of a WEFP and which is designed and constructed to be part of a WEFP to provide electricity to the electric utility grid. Wind Turbine includes the rotor, pad transformer, turbine, blades, tower, and related electrical equipment. Wind Turbine does not include the wiring that connects the electrical grid to the Wind Turbine.

Section 4. Applicability And Scope.

This Ordinance applies to the installation or operation of all Wind Energy Facility Projects after the effective date of this Ordinance. This Ordinance does not apply to the installation or operation of other turbines, such as those built primarily for residential or farm use.

Section 5. Installation and Operation Permit Requirement.

It is unlawful for any person or entity to install or operate a WEFP, or add a Wind Turbine to an approved and existing WEFP, without first obtaining an installation and operation permit from the Township Board. The standards to obtain such a permit are set out in Sections 6 and 7 in this Ordinance.

Section 6. Permit Application and Review Process.

A. To apply for a permit under Section 5 of this Ordinance, the Applicant must present the following to the Township Clerk as a condition precedent to the Township Board considering the application:

1. Application. A completed WEFP application form (in a form made available by the Township).
2. Parcel Information. The parcel identification number for all parcels on which the proposed WEFP would occur.
3. Project Narrative. A summary narrative describing the proposed WEFP, including an overview of the project; the approximate generating capacity of the WEFP; the number and types (or range of heights) of Wind Turbines proposed to be constructed, including their Turbine Heights, Hub Heights, and dimensions and respective manufacturers); and a general description of ancillary facilities.
4. Underlying Property Owner Approval. If Applicant does not own all land that is subject of the proposed activity, an affidavit or similar evidence of agreement between the underlying property owner on which the WEFP is proposed to take place and the Applicant demonstrating that the Applicant has the permission of the property owner to apply for the necessary Township permit for construction and operation of the WEFP.
5. Plan Drawings. A plan or drawing, drawn to scale, identifying and depicting the following information:
 - a. all Participating Landowner Properties involved in the proposed WEFP;
 - b. all immediately adjacent Non-Participating Landowner Properties to the proposed WEFP;
 - c. the roads in the Township Applicant proposes to use to install and erect the proposed WEFP;
 - d. existing structures, utility lines, public easements, and mature vegetation on the Participating Landowner Properties in the proposed WEFP;
 - e. the number of Wind Turbines proposed to be installed on each respective Participating Landowner Property;
 - f. the number and type of related facilities and equipment (including above- and below-ground equipment and cables; proposed substations; electrical cabling from the WEFP to the substations; and ancillary equipment) proposed to be installed on each respective Participating Landowner Property (the drawing must assign a number to each of the towers, substations, turbines, in the proposal.)
 - g. the required setbacks called for in this Ordinance, and all structures located within the applicable setbacks specified in this Ordinance.
6. Decommissioning Plan Information. A decommissioning plan.
 - a. A Decommissioning Plan that identifies the following:
 - i. the steps Applicant proposes to take upon abandoning or terminating the WEFP or at the Project's end to

restore all Participating Landowner Properties to the condition those Properties were in before the WEFP was approved.

- ii. commitment that Applicant will remove all material and equipment installed as part of a WEFP, including removing all material and equipment Applicant installed up to 48" below grade on Participating Landowner Property. This requirement may be excused upon written assurance from the owner of Participating Landowner Property allowing certain material or equipment to remain below grade after the WEFP ceases to operate if Applicant records a document with the Lenawee County Register of Deeds documenting that agreement.
 - iii. the anticipated estimated costs to decommission the Participating Landowner Properties (i.e., return the Participating Landowner Properties to their condition before the WEFP was approved) without regard to salvage value of the WEFP equipment (Decommissioning Costs); and the estimated salvage value of the equipment installed as part of the WEFP (Equipment Salvage Value). The sum of Decommissioning Costs less Equipment Salvage Value is the Net Decommissioning Costs. These figures must be determined by a professional engineer licensed to work in Michigan.
 - iv. Evidence that Applicant can produce a surety bond to the Township in an amount at least equal to the Net Decommissioning Costs.
7. Permit Application Fee. The permit application fee in an amount set by the Township per its then-effective fee schedule to defray the cost of engineering services, investigation, and other miscellaneous administrative expenses the Township will incur in reviewing the WEFP application. The Township may adopt fee schedules to set fees this Ordinance allows to be charged and revise them from time to time as appropriate via resolution.
 8. Schedule. The proposed construction schedule and project phasing (as applicable).
 9. Noise Modeling. A copy of a noise modeling and analysis report demonstrating that the WEFP will not exceed the maximum permitted

sound pressure levels (audible and low frequency) set in this Ordinance.

10. Shadow Flicker Modeling. A copy of a shadow flicker modeling and analysis report for Occupied Buildings identifying the expected amount and location of shadow flicker associated from the proposed WEFP on Occupied Buildings over the course of the first year of operation, and demonstrating that the WEFP will not exceed the maximum permitted shadow flicker levels set in this Ordinance.
11. Ice Throw Modeling. A copy of an ice throw and blade throw modeling and analysis report demonstrating the expected ice throw and blade throw from the proposed WEFP.
12. Review and Input Letters. Applicant must provide review and input letters regarding the proposed WEFP from the following agencies: the United States Fish and Wildlife Service; FAA; FCC; Lenawee County Road Commission; Lenawee County Drain Commission; and emergency responders providing service in the Township (police, ambulance, fire).
13. Environmental Impact issues. Evidence that the proposed WEFP will comply with these parts of the Michigan Natural Resources and Environmental Protection Act (1994 PA 451, as amended, now MCL 324.101 *et seq.*):
 - a. Part 31 Water Resources Protection (MCL 324.3101 *et seq.*).
 - b. Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101 *et seq.*).
 - c. Part 301 Inland Lakes and Streams (MCL 324.30101 *et seq.*).
 - d. Part 303 Wetlands (MCL 324.30301 *et seq.*).
14. Hazardous Materials Disclosure. A statement identifying what hazardous materials, as defined in Michigan and applicable federal law, will be used and stored on the site.
15. Insurance. Proof of a current general liability insurance policy covering bodily injury and property damage caused by the WEFP with limits of at least \$3 million per occurrence and \$5 million in the aggregate.
16. Interference Report. A report, prepared by a qualified professional, regarding the impact the WEFP will have on existing reception of television, radio, telephone (both cellular and land line), broadband Internet, navigational devices, and alarms within 1 mile of the WEFP Participating Parcel boundaries.

17. Review Standards Information. Information to establish that the applicant meets all Review Standards set out under Section 7(E) of this Ordinance.

Section 7. Review Standards.

A. The Township Board must put the permit application on the agenda of its next regularly scheduled monthly Board meeting as long as the application is submitted at least 21 days before the public meeting. At the meeting at which the application is on the agenda, the Township Board must determine whether the application is complete. If the Board decides that it is incomplete, it must direct the Township Clerk to advise the Applicant accordingly. If the Board decides that it is complete, the Township Board must then put the matter of reviewing the substantive aspects of the application request on the agenda of another public meeting of the Board. The Board must give notice of the application and the agenda item as required by law, and may give additional notice as it deems reasonable and proper. The Township Board must notify all gas companies operating in the Township that it will consider the application at least 14 days before the date of the public meeting at which it will consider the application.

B. At the public meeting where the Board considers the substantive aspects of the application request, the Township Board will afford the Applicant an opportunity to present comment and relevant information regarding the application, and also afford any interested party an opportunity to present comment and relevant information. Before making a decision on the application, the Township Board may request reasonable, additional information it deems relevant to its decision. Within 35 days after that public meeting, the Township Board will decide whether to grant or deny the application based on the standards in this Ordinance. The Township Board may extend the deadline for a Township Board decision on the application for up to 90 days for good cause, e.g., awaiting Applicant to provide supplemental information the Township Board asked for as critical to its determination, and to allow the Township adequate time to review that supplemental information.

C. If the Township Board grants the application, it must (1) approve a decommissioning plan for the WEPF and (2) identify the amount of the required surety bond that Applicant must post with the Township Clerk. The required surety bond amount must be determined based on the calculations spelled out below. Any grant of an application is conditional on Applicant posting the surety bond amount as specified by the Township Board and complying with the approved decommissioning plan. If the Township Board denies the application, it will not issue a permit.

1. The method the Township Board must use to determine the amount of the required surety bond is as follows:
 - a. In fixing the amount of the surety bond, the Township Board must take into account the Net Decommissioning Costs estimates applicant submitted with its Application; the size

and scope of the proposed WEFP; the Township's own information on the Net Decommissioning Costs; expenses to compel the Facility Owner to comply with any decommissioning court order; and such other facts and circumstances as relevant to determine a reasonable sum in light of all facts and circumstances surrounding the application.

- b. The surety bond must be posted in an amount equal to the Township Board's determination of the Net Decommissioning Costs.
- c. The surety bond must be posted and maintained with a bonding company or federal or Michigan-chartered lending institution chosen by the Applicant, provided that the bonding company or lending institution is authorized to conduct such business within Michigan.
- d. The Township must regularly monitor the surety bond amount to determine if the surety bond amount is still appropriate, and the Township, based on that monitoring and input from appropriate qualified persons, may make upward or downward adjustments to the required surety amount if the Net Decommissioning Costs per the Township's calculations are more than the surety bond or less than the surety bond. The Township must make a full release of all Decommissioning Funds when the Township Board finds that decommissioning has been satisfactorily completed per the approved decommissioning plan.

D. Throughout the permit review process, the Applicant must promptly notify the Township of any changes that have arisen that make the information in the application no longer completely accurate.

E. After reviewing all information the Applicant submits and other information as may be in the hands of the Township Board, the Township Board must determine whether it should issue the requested permit at a regular or special meeting within the timelines in this Ordinance. The Township Board must base its decision on information presented to it regarding an application. To obtain a permit requested under Section 5 of this Ordinance, the Applicant must submit a complete application and establish that the proposed WEFP will comply with all requirements of this Ordinance. An Applicant who establishes that its proposed WEFP meets all requirements of this Ordinance must have its application granted. These are the standards to obtain an installation and operation permit:

1. Design Safety Certification.

The design of all proposed WEPF equipment conforms to applicable industry standards, including those of the ANSI.

2. Tower Height.

There must be a minimum of 75 feet from the lowest point of a rotator blade and the average grade at the base of the Wind Turbine structure.

3. Lighting Protection.

WEPF equipment that is greater than 50 feet must possess reasonable measures to protect from lightning strikes.

4. Controls and Brakes.

All aspects of the WEPF must be equipped with a redundant braking system so as to prevent uncontrolled rotation during adverse weather conditions. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes must be operated in a fail-safe mode.

5. Electrical Components.

All electrical components of the WEPF must conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.

6. Visual Appearance.

- a. Wind Turbines must be white, off-white, or gray.
- b. WEPF equipment must not be artificially lighted, except to the extent required by the FAA or other applicable authority that regulates air safety.

7. Warnings.

- a. A clearly visible warning sign identifying voltage associated with the WEPF must be placed at the base of all pad-mounted transformers and substations.
- b. Visible, reflective, colored objects (such as flags, reflectors, or tape) must be placed on any above-ground wires associated with a WEPF up to a height of ten feet from the ground.

8. Climb Prevention/Locks.

- a. Wind Turbines must not be climbable beyond 15 feet above the ground surface.
- b. All access doors to Wind Turbines and electrical equipment must prevent entry by non-authorized persons, such as through a lockable fence and gate.

9. Setbacks.

a. Occupied Buildings

i. Non-Participating Landowner Property. Wind Turbines must be set back from the nearest property line of Non-Participating Landowner Property a distance of at least 4 times the Turbine Height. These setback distances must be measured from the center of the Wind Turbine base to the nearest property line of a Non-Participating Landowner Property.

ii. Participating Landowner Parcels. Wind Turbines must be set back from the nearest property line of a Participating Landowner's property a distance of at least 3.5 times the Turbine Height. These setback distances must be measured from the center of the Wind Turbine base to the nearest property line of a Participating Landowner Property.

b. Public Roads: All Wind Turbines must be set back from the nearest public road a distance of at least 3.5 times the Turbine Height, as measured from the right-of-way line of the nearest public road to the center of the Wind Turbine base.

10. Noise.

a. Sound from a WEFP must not exceed these levels:

i. 45 dB(A) average during the hours of 7:00 am and 9:00 pm.

ii. 40 dB(A) maximum during the hours of 9:01 pm and 6:59 am.

iii. 55 dB(C) average during the hours of 7:00 am and 9:00 pm.

iv. 50 dB(C) maximum during the hours of 9:01 pm and 6:59 am.

b. Compliance with the levels above is to be evaluated from the nearest property line of a Non-Participating Landowner Property.

c. The ANSI standards then in effect regarding the procedures to measure environmental sound (currently, e.g., S 12.9 and S 12.18), as may be amended, are to be used to measure the sound levels and acoustic emissions from Wind Turbines and the WEFP.

11. Shadow Flicker.

Unless a waiver is granted under this Ordinance, a WEFP may generate zero annual hours of shadow flicker on Non-Participating Landowner Parcels.

12. Signal Interference. As to any FCC-licensed television station whose service area includes the location of the proposed WEFP activity, there will be no households eliminated from the service availability area of the affected station.

G. The Township's decision on a permit application – grant or deny – must be accompanied by a statement of the reasons supporting its decision. The Township must send a copy of its decision in writing to the Applicant within 10 days of the meeting at which it renders its decision. Any person aggrieved by a Township Board decision on an application may pursue relief in an appropriate court having jurisdiction.

H. After approval of a permit, the Applicant's actual construction of the project must not materially deviate from the plan drawings that it submitted with its application. Applicant may make changes that do not materially deviate from the plan drawings that it submitted with its application without Township Board approval if it gives 30 days' advance notice of the proposed changes.

Section 8. Post-Permit Requirements.

A. After receipt of a permit, the WEFP Owner and Operator must

1. comply with all conditions of the permit.
2. comply with all standards set out in this Ordinance (including §§ 7(E)(1)-12)).
3. make prompt, reasonable efforts to address complaints regarding the Applicant's compliance with this Ordinance in accordance with the complaint resolution process set out in Section 11 of this Ordinance.
4. maintain liability insurance throughout the project's duration consistent with this Ordinance.
5. maintain a valid decommissioning surety bond throughout the project's duration consistent with this Ordinance.
6. provide the Township with updated, current, and accurate emergency contact information (e-mail address and cellular phone number) for those personnel or employees who are responsible for complaints and inquiries regarding the WEFP.
7. ensure the Township has accurate, current information on the Owner of the WEFP, to include name, principle place of business, and telephone number, and contact name.

B. A permit that the Township Board issues expires on March 31 of the year that is 365 days after the permit is granted. Such permits may be renewed by paying an annual administrative fee in an amount per the Township's then-effective fee schedule. Permits may be renewed by paying that annual administrative fee for as long as the

permittee complies with this Ordinance or other conditions of the permit. The Township Board may deny a renewal request if the WEFP does not comply with this Ordinance or condition of the permit.

C. The WEFP Owner must notify the Township Board whenever there is a change in ownership (or ownership percentage) of any part of the WEFP. The Township Board may require an additional or replacement surety bond to be posted by the person or entity which acquired an ownership interest in the WEFP. If the Township Board does so, it must make corresponding pro rata adjustments to the existing surety bond, and the Township Board may not require surety bonds that, in the aggregate, exceed the Township Board's determined Net Decommissioning Costs.

Section 9. Waiver of Setback, Noise, and Shadow Flicker Requirements.

A. At the request of the applicant, the Township may grant a partial waiver of the setback requirements under this Ordinance to allow a lesser setback if the applicant submits a signed notarized document from the property owner that they are in agreement with the applicant's request for a waiver of the setback requirements under this Ordinance and proposed new setback.

B. At the request of the applicant, the Township may grant a partial waiver of the noise requirements under this Ordinance to change the measuring point for noise levels from the Non-Participating Landowner Property line to the outside wall of a specified occupied structure or the Non-Participating Landowner Property. Such a request will be granted if applicant submits a signed notarized document from the property owner that they are in agreement with the applicant's request for a partial waiver of the noise requirements under this Ordinance.

C. At the request of the applicant, the Township may grant a partial waiver of the shadow flicker requirements under this Ordinance to allow up to 30 hours per year of shadow flicker on a Non-Participating Landowner's Property. Such a request will be granted if applicant submits a signed notarized document from the relevant owners of the property that they are in agreement with the applicant's request for a waiver of the shadow flicker requirements under this Ordinance.

D. The Township Board will consider any waiver request at a public meeting, and issue a written decision to the applicant within 45 days after that public meeting based on the standards in this Ordinance. If the Township Board grants a waiver, the applicant must record the signed notarized document from the property owner in the Lenawee County Register of Deeds and a copy of the Township Board's decision.

Section 10. Decommissioning.

A. The Facility Owner must, at its expense, complete decommissioning of the WEFP, including all individual Wind Turbines, consistent with the decommissioning plan the Township Board approves upon issuing a permit.

B. The Facility Owner must also comply with the following terms regarding decommissioning:

1. If any WEPF is not operated for 6 continuous months, the Township will send the WEPF owner a letter advising that it believes the WEPF may be abandoned such that its decommissioning obligations are triggered. The WEPF owner must respond within 30 days of the date of that Township letter by either (a) explaining why the WEPF is temporarily inoperable and provide a timeline of no more than 90 days when it will bring the Facility into operation, (b) apply to the Township for an extension from the decommissioning requirement, (c) stating that it has applied to the appropriate public body for the necessary demolition permit to remove the WEPF.
2. If the Facility Owner fails to respond as Section 10(B)(1) requires, the Township must provide the owner with written notice that if the Owner fails to start decommissioning within 60 days of the date of that notice, the Township may begin the process of carrying out the approved decommissioning plan, use the surety bond funds to pay for costs it incurs in doing so, and assess any other costs it incurs in carrying out the decommissioning plan that exceed the amount of the surety bond against the WEPF Owner. In carrying out the approved decommissioning plan, the Township may sell any salvageable material from the WEPF and use the proceeds of the sale to defray the Township's costs in decommissioning the project. The remedies provided to the Township under this sub-section are in addition to other remedies the Township has under this Ordinance and under law. After the 60-day period called for in this sub-section, the Township may pursue all remedies available to it under this Ordinance and under law.
3. Unless the Participating Landowner requests otherwise in writing, decommissioning must include removal of all aspects of the WEPF, including Wind Turbines, electrical components, sub-stations, to the existing grade level and up to 48" below grade; planting of grasses or cover crops, which may have been present before construction or which can be used to effectively avoid soil erosion; and grading and re-seeding disturbed earth.

Section 11. Public Inquiries And Complaints.

A. The Facility Owner and Operator must maintain a phone number and identify a person responsible for addressing complaints throughout the life of the project. They must make reasonable efforts to respond to the public's inquiries and complaints.

B. Inquiries & Complaints. Should an aggrieved property owner allege that a WEFP is not in compliance with the requirements of this Ordinance, the complaint resolution procedure must be as follows:

1. Complaints must be submitted to the Township Clerk in writing from the affected property owner including their name, address and contact information.
2. Upon receiving a complaint from an affected property owner the Township Clerk must 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 must advise the owner and operator of the WEFP of the complaint. Within 10 days of the date of notice, the owner or operator of the WEFP must deposit an additional surety bond or its equivalent in an amount determined by the Township Board sufficient to pay for an independent investigation of the complaint. All such independent investigations and analyses must be conducted by qualified professionals acceptable to the Township to determine compliance with the requirements of this Ordinance.
3. If the Township Board determines, based on its investigation, that the WEFP is in violation of this Ordinance, the Facility Owner must reimburse the Township from the deposit required in subsection 2 above for the investigation or analysis and must take immediate action to bring the WEFP into compliance. If the Owner or Operator fails or refuses to bring the WEFP into compliance, the Township may seek any relief at law or equity to abate the nuisance. Each violation for which the Owner or Operator are deemed responsible is subject to a \$500 fine. Each day of non-compliance must be a separate offense.

Section 12. Penalties.

A. It is unlawful for any person or entity to violate any term of this Ordinance. In addition to the rights and remedies provided to the Township in this Ordinance, any person violating this Ordinance is guilty of a misdemeanor and upon conviction thereof must be fined in an amount not more than \$500 or be imprisoned in the county jail for a period of not more than 90 days, or both. Each day a violation is committed is a separate offense and punishable as such.

B. In addition to any remedy described above, the Township may sue any person or entity who has violated this Ordinance in any court of competent jurisdiction for civil

relief, including damages or injunctive relief. If successful, the Township may recover any relief ordered by the Court and found proper, as well as the Township's attorneys' fees, costs, and expenses incurred in such a case from any person found to have violated this Ordinance.

Section 13. Fee Schedule.

The Township Board may establish by resolution a fee schedule setting out the required escrow deposits and other applicable costs to carry out this Ordinance, including costs to defray the costs of inspection, review, enforcement, and administration of this Ordinance.

Section 14. Severability.

Should any portion of this Ordinance be found invalid for any reason, such finding does not impact the validity of the remaining parts of this Ordinance.

Section 15. Repealer Clause.

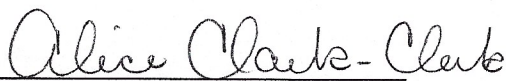
Any ordinances, resolutions (or parts of ordinances or resolutions), in conflict with this Ordinance are repealed only to the extent necessary to give this Ordinance full effect.

Section 16. Effective Date.

This Ordinance must be effective 30 days after publication.

CLERK'S CERTIFICATION

I, Alice Clark, the duly elected, qualified, and acting Clerk of the Township of Ogden, Lenawee County, certify that the above Wind Energy Facility Ordinance was adopted at a Special meeting of the Ogden Township Board held at the Ogden Township Hall, at Ogden, Michigan, on the 1 day of March, 2012, by a majority of the members of the board presenting and voting.



Alice Clark, Clerk

Dated: March 1, 2012