

TOWNSHIP OF ELMER

ZONING ORDINANCE 1995

(revised 11/2022)

(revised 03/2013)

(revised 05/2025)

(revised 02/2026)

TOWNSHIP OF ELMER ZONING ORDINANCE

TABLE OF CONTENTS

	<u>Page</u>
Article I Title and Citation.....	7
Article II Activities Covered By Ordinance.....	7
Article III Administration.....	7
Section 3.01 Zoning Administrator.....	7
Section 3.02 Zoning Permits.....	7
Section 3.03 Principal Uses Permitted.....	8
Section 3.04 Uses Permitted After Special Approval.....	8
Article IV Zoning Districts.....	8
Section 4.01 Districts.....	8
Section 4.02 District Boundaries and Map.....	8
Zoning Map.....	9
Article V AR-1 Agricultural and Single-Family Residential District.....	10
Section 5.01 Principal Uses Permitted.....	10
Section 5.02 Uses Permitted After Special Approval.....	10
Article VI R-2 Higher Density Residential District.....	12
Section 6.01 Principal Uses Permitted.....	12
Section 6.02 Uses Permitted After Special Approval.....	13
Article VII C Commercial District.....	14
Section 7.01 Principal Uses Permitted.....	14
Section 7.02 Uses Permitted After Special Approval.....	14
Article VIII I Industrial District.....	15
Section 8.01 Principal Uses Permitted.....	15
Section 8.02 Uses Permitted After Special Approval.....	15
Article IX Area, Setback and Height.....	16
Section 9.01 Compliance.....	16
Section 9.02 Tables of Area, Setback and Height Requirements.....	16
Article X Parking and Loading Requirements.....	16
Section 10.01 General Parking Requirements.....	16
Section 10.02 Table of Parking Requirements.....	17
Section 10.03 Off-Street Loading Requirements.....	17
Article XI General Provisions.....	18

TABLE OF CONTENTS-continued

page

Section 11.01 Conflicting Regulations.....18
Section 11.02 Street Frontage.....18
Section 11.03 Property Divisions..... 18
Section 11.04 Moving Of Buildings.....18
Section 11.05 Structures that shall not be Occupied as Dwellings.....18
Section 11.06 Single-family Dwelling Requirements.....18
Section 11.07 Signs.....19
Section 11.08 Ponds.....21
Section 11.09 Greenbelts.....21
Section 11.10 Temporary Mobile Homes.....21
Section 11.11 Prohibited Structures.....22
Section 11.12 Public Services..... 22
Section 11.13 Livestock Housing and Maintenance.....22

Article XII Non-Conforming Lots, Uses, and Structures.....23
Section 12.01 Continued Non-Conforming Lots, Uses and Structures23
Section 12.02 Non-Conforming Lots of Records.....23
Section 12.03 Non-Conforming Structures.....23
Section 12.04 Non-Conforming Uses of Land or Structures..... 24

Article XIII Planning Commission..... 24
Section 13.01 Membership.....24
Section 13.02 Powers..... 25

Article XIV Site Plan Review Requirements..... 25
Section 14.01 Scope.....25
Section 14.02 Procedure.....25
Section 14.03 Content..... 25
Section 14.04 Standards.....26
Section 14.05 Bond.....26
Section 14.06 Time For Completion.....26

Article XV Procedures for Uses Permitted After Special Approval of the Planning
Commission.....26
Section 15.01 Application..... .26
Section 15.02 Hearing.....27
Section 15.03 Standards..... 27
Section 15.04 Decision.....27
Section 15.05 Expiration.....28

Article XVI Zoning Board of Appeals..... 28
Section 16.01 Establishment of Membership of Zoning Board of Appeals..... 28

TABLE OF CONTENTS-continued

	page
Section 16.02 Appeals.....	28
Section 16.03 Powers.....	29
Section 16.04 Decisions.....	29
Section 16.05 Expiration of Variance Approvals.....	30
Article XVII Amendments and Rezoning.....	30
Section 17.01 Application.....	30
Section 17.02 Notice Of Hearing.....	30
Section 17.03 Planning Commission Hearing and Recommendations.....	30
Section 17.04 Township Board.....	30
Article XVIII Violations.....	31
Section 18.01 Penalty.....	31
Section 18.02 Nuisance per Se.....	31
Article XIX Definitions.....	31
Section 19.01 Definitions.....	31-39
Article XX Severability and Repeal.....	40
Section 20.01 Severability.....	40
Section 20.02 Repeal.....	40
Article XXI Enactment.....	40
Section 21.01 Ordinance Enacted.....	40
Section 21.02 Effective Date.....	40
Section 21.03 Certification.....	40
ARTICLE XXII Cemetery Ordinance.....	41
Section 22.01 Title	41
Section 22.02 Purpose and Intent.....	41
Section 22.03 Sales of cemetery plots.....	41
Section 22.04 Purchase price of cemetery plots; indigent burials	42
Section 22.05 Grave opening charges.....	43
Section 22.06 Markers and memorials; no monuments	43
Section 22.07 Interment Regulations.....	44
Section 22.08 Disinterment's	44
Section 22.09 Winter Burials.....	45
Section 22.10 Cremains.....	45
Section 22.11 Ground Maintenance.....	45
Section 22.12 Disclaimer of Township Liability and Responsibility.....	46
Section 22.13 Forfeiture of Vacant Cemetery Plots or Burial Spaces.....	47
Section 22.14 Repurchase of Plots or Burial Spaces.....	47
Section 22.15 Records.....	47

TABLE OF CONTENTS-continued

Section 22.16 Vaults.....47
Section 22.17 Cemetery Hours.....48
Section 22.18 Prohibited Uses and Activities.....48
Section 22.19 Authority of the Township Sexton.....50
Section 22.20 Fees.....50
Section 22.21 Applicability of this Ordinance.....50
Section 22.22 Interpretation/Appeals to the Township Board.....50
Section 22.23 Authority of the Township to Remove Unauthorized or Unlawful Items from a Township Cemetery.....51
Section 22.24 Penalties..... 51
Section 22.25 Township Officials Who Can Enforce this Ordinance.....52
Section 22.26 Severability.....52
Section 22.27 Effective; Conflicts.....52

ARTICLE XXIII Blight/ Nuisance Ordinance.....53
Section 23.01 Land Use.....53
Section 23.02 Blight Prohibited.....53
Section 23.03 Nuisance Noise and Odors..... 54
Section 23.04 Junk or Salvage Special exceptions..... 54
Section 23.05 Penalties.....54
Section 23.06 Enforcement.....54
Section 23.07 Enforcement Responsibilities.....54

ARTICLE XXIV Medical Marijuana Ordinance.....55
Section 24.01 Findings. Intent and Purpose of Ordinance.....55
Section 24.02 Definitions.....55
Section 24.03 Prohibited Conduct.....56
Section 24.04 Medical Marijuana Facilities.....57
Section 24.05 Severability.....58
Section 24.06 Penalty and Enforcement..... 58
Section 24.07 One Caregiver Per Household.....58

ARTICLE XXV Civil Infraction Ordinance.....59
Section 25.01 General Penalties and Sanctions for Violations of Ordinances; and Injunctive Relief.59
Section 25.02 Action Commencement60
Section 25.03 Citations: Issuance and Service..... 60
Section 25.04 Contents.....61
Section 25.05 Severability.....62
Section 25.06 Effective Date..... 62

TABLE OF CONTENTS-continued

ARTICLE XXVI Solar Energy Systems.....62
Section 26.01 General Requirements.....62
Section 26.02 Ground Mounted Solar Energy Systems..... 63
Section 26.03 Solar Farms.....64

ARTICLE XXVII Utility Grid Wind Energy Systems.....65
Section 27.01 Utility-Grid Wind Energy Systems.....65
Section 27.02 Application for a Utility-Grid65
Section 27.03 Application for a Permit.....66
Section 27.04 Application for each WET..... 68
Section 27.05 Application Fee and a Fee Per Megawatt.....68
Section 27.06 Certificate of Insurance Requirements.....68
Section 27.07 Public Hearing.....68
Section 27.08 Planning Commission Decision.....68
Section 27.09 Applicant Changes to the Information in the Permit Application.....68
Section 27.10 Changes to the Pending Application..... 68
Section 27.11 Expiration of a Utility-Grid Wind Energy System.....68
Section 27.12 Design and Installation Standards.....69
Section 27.13 Construction Bond and Permit.....70
Section 27.14 Setbacks for Utility-Grid Wind Energy Systems.....70
Section 27.15 Noise and Vibration.....71
Section 27.16 Electro-magnetic Interference.....72
Section 27.17 Shadow Flicker.....73
Section 27.18 Decommissioning Requirements.....73
Section 27.19 Complaint Resolution.....75

ARTICLE XXVIII Energy Storage Facility for Solar and Wind.....76
Section 28.01 Energy Storage Facility.....76
Section 28.02 Issuance and Compliance with Permit.....77
Section 28.03 Host Community.....77

ARTICLE XXIX Small Structure Wind Energy Systems.....77
Section 29.01 Wind Energy Turbines..... 77
Section 29.02 Roof Mounted Solar EnergyFarms..... 83

**ZONING ORDINANCE
TOWNSHIP OF ELMER**

AN ORDINANCE to regulate the use of land within the Township of Elmer, Sanilac County, Michigan in accordance with the provisions of Act 184, of the Public Acts of 1943, as amended.

THE TOWNSHIP OF ELMER ORDAINS:

ARTICLE I

Citation

Section 1.01 This Ordinance shall be known and cited as the Elmer Township Zoning Ordinance.

ARTICLE II

Activities Covered By Ordinance

Section 2.01. No building or structure, or part thereof, shall be erected, constructed, placed, altered, or moved; and no new use or change in use shall be made of any building, structure, or land, or part thereof; except in conformity with the provisions of this Ordinance.

ARTICLE III

Administration

Section 3.01 Zoning Administrator. The provisions of this Ordinance shall be administered by a Zoning Administrator appointed by the Township Board. The Zoning Administrator shall serve under such terms and at rate of compensation as the Township Board may determine.

Section 3.02. Zoning Permits. A zoning permit shall be acquired from the Zoning Administrator before any construction is undertaken, any structure is moved, or any change in the use of any land or structure is undertaken within the Township.

A. APPLICATION. A zoning permit shall be applied for in writing on an application form provided by the Township.

B. PERMIT ISSUANCE. A zoning permit shall be issued by the Zoning Administrator whenever the proposed use complies with the provisions of this Ordinance and any necessary Planning Commission, Board of Appeals, or Township Board approvals have been obtained.

C. EXPIRATION. A zoning permit shall expire one year after the date of issuance unless the proposed use has been commenced within that year. Any amendment to the Zoning Ordinance shall have the effect of voiding any outstanding zoning permits for uses which have not been commenced and which would violate the amendment.

D. VOID PERMITS. Any zoning compliance permit issued in error or pursuant to an application containing any false statements shall be void.

E. PRIVATE RESTRICTIONS. The Zoning Administrator may not refuse to issue a zoning compliance permit due to violations of private covenants, agreements, or deed restrictions.

F. FEES. The amount of any fees charged for zoning permits applications, or inspections shall be established by the Township Board.

Section 3.03. Principal Uses Permitted. All uses of land or structures listed as “principal uses permitted” shall be permitted throughout the district under which they are listed. Any uses not expressly listed as a “principal use permitted” is prohibited in that district, unless approval has been obtained from the Planning Commission for the use as a “used permitted after special approval”.

Section 3.04. Uses Permitted After Special Approval. A use of land or structures listed as “uses permitted after special approval” shall be permitted within the district under which it is listed, provided that Planning Commission approval has been granted pursuant to this Ordinance.

ARTICLE IV Zoning Districts

Section 4.01. Districts. The Township is hereby divided into the following zoning districts:

- AR-1 Agricultural and Single-Family Residential
- R-2 Higher Density Residential
- C Commercial
- I Industrial

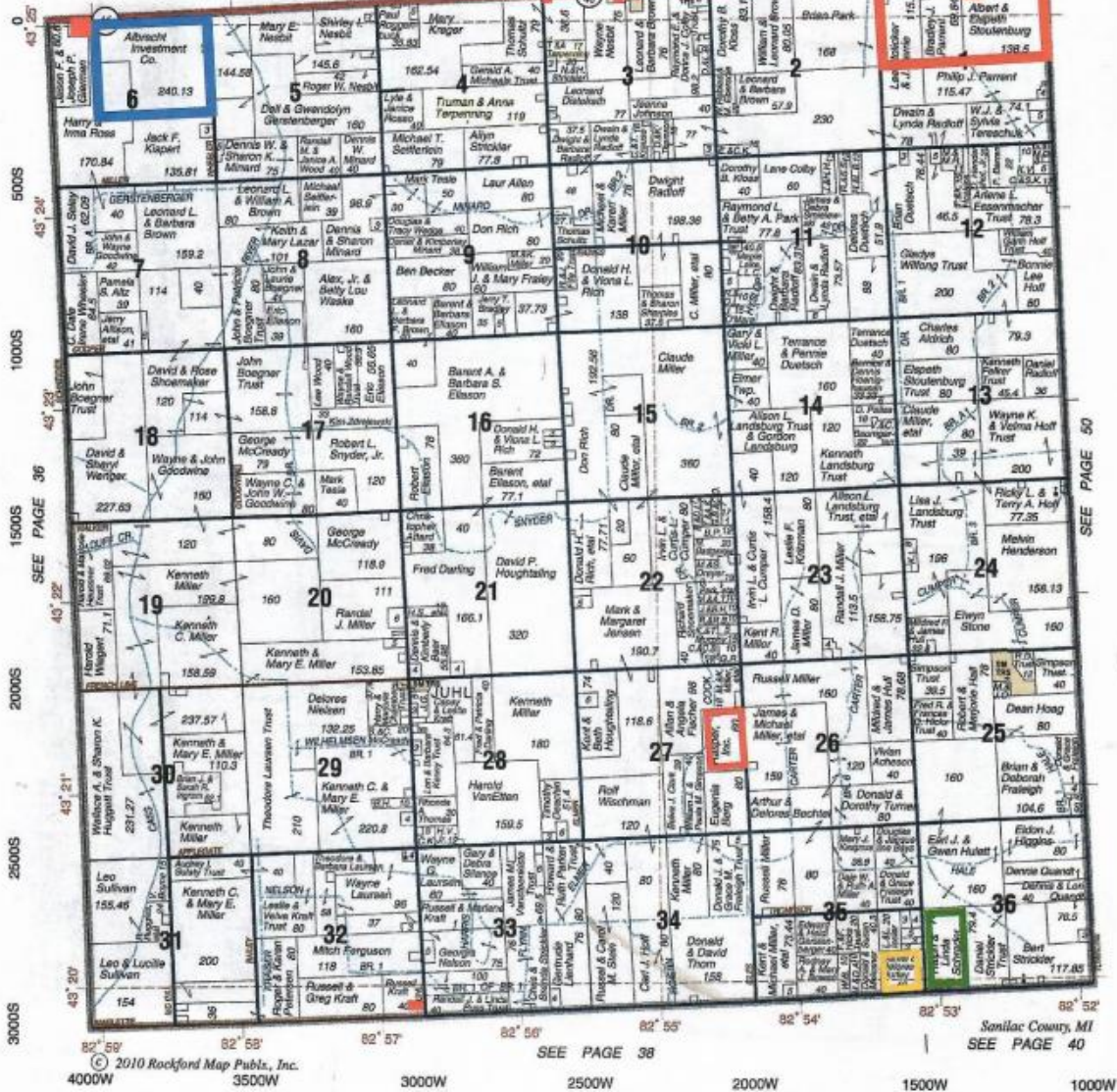
Section 4.02. District Boundaries and Map. The boundaries of the zoning districts are drawn upon the map attached to this Ordinance and made part hereof. The map shall be designated the Elmer Township Zoning Map.

ELMER TOWNSHIP-Zoning Map

ELMER T.11N.-R.13E.

1995

SEE PAGE 62



- Agriculture-Residential
- Commercial
- Industrial
- Multiple Family Residential
- Mobile Home Park

ARTICAL V

VAR-1 Agricultural and Single-Family Residential District

Section 5.01 PRINCIPAL USES PERMITTED.

- A. Farms, farm buildings, and farm uses.
- B. Single-Family dwellings (subject to Section 11.06).
- C. Roadside stands, provided the produce sold is grown on the property on which the stand is located.
- D. Family day care homes.
- E. State licensed residential facilities for six or fewer residents.
- F. Ground and roof mounted solar energy systems. (Subject to Section 11.12)
- G. Buildings, structures and uses which are accessory to any of the above-permitted uses.

Section 5.02. Uses Permitted After Special Approval.

- A. Private parks, recreation areas, campgrounds, and golf courses.
 - 1. Minimum site size shall be ten (10) acres.
 - 2. All development features shall be located so as to minimize the possibility of any adverse effect upon adjacent property. This shall include a minimum setback of one hundred (100) feet from property lines.
 - 3. Activities shall be adequately screened from abutting property.
 - 4. Related accessory commercial uses may be permitted in conjunction with the recreation use when it is clearly incidental to the main recreational character of the property.
- B. Dog kennels and the raising of fur bearing animals.
 - 1. All animals shall be housed, fenced and maintained in an adequate manner.
 - 2. All pens and runways in dog kennels shall be screened from view from any residences or roads by buildings or greenbelt plantings.
 - 3. Dog kennels shall be set back a minimum of fifty (50) feet from each property line and one hundred fifty (150) feet from the road.

C. Quarrying of soil, sand, clay, gravel or similar materials.

1. Each application for special approval shall contain the following:

- C.1.a) Names and addresses of property owners and proposed operators of the premises.
- C.1.b) Legal description of the premises.
- C.1.c) Detailed statement as to method of operation, type of machinery or equipment to be used and estimated period of time that the operation will continue.
- C.1.d) Detailed statement as to the type of deposit proposed for extraction.
- C.1.e) Reclamation plan and detailed statement as to the proposed use of the land after quarrying or fill operations are complete.

2. Operational Requirements.

- C.2.a) Pit Operations.
- C.2.b) In operations involving deep excavations, the operator shall provide adequate safeguards to protect the public safety. These safeguards may include fencing, locked gates, and warning signs.
- C.2.c) The Planning Commission may require that any gravel or dirt roads used for the purpose of ingress and egress to said excavation site be kept dust free by hard-topping or chemical treatment.
- C.2.d) The completed slopes of the banks of any excavation shall in no event exceed a minimum of three (3) feet to one (1) foot (three foot horizontal to one foot vertical).
- C.2.e) No cut or excavation shall be made closer than two hundred (200) feet from the center line of the nearest road right-of-way nor nearer than fifty (50) feet to the nearest property line. The Planning Commission may prescribe more strict requirements in order to give sub-lateral support to surrounding property where soil or geologic conditions warrant it.
- C.2.f) The Planning Commission shall, to insure strict compliance with Ordinance provisions and required conditions of a permit for quarrying,

require the permitted to furnish a bond in an amount determined by the Planning Commission.

D. Home Occupations.

1. The home occupation must be conducted entirely within an existing building.
2. The home occupation shall be clearly incidental and secondary to the use of the premises as a residence.
3. No noise, odor, fire hazard, or traffic congestion shall be created beyond that which is normal in a residential area.
4. No outdoor storage or display of merchandise or materials shall be allowed.

E. State licensed residential facilities for seven or more residents

F. Group day care homes.

G. Township and County governmental buildings, structures and facilities.

H. Schools, churches, and cemeteries.

I. Bed and Breakfast establishments.

J. Telecommunications towers, providing the parcel of land is sufficiently large to contain the full length of the tower in the event it comes down.

K. Solar Farms (subject to Section 26.04)

ARTICLE VI

R-2 Higher Density Residential District

Section 6.01. Principal Permitted Uses.

- A. Single-family dwellings (subject to Section 11.06).
- B. Duplex dwellings.
- C. Multiple-family buildings.
- D. Family day care homes.

- E. State licensed residential facilities for six or fewer residents.
- F. Single-family residential subdivisions.
- G. Class I Livestock will be allowed at a density of 1 animal per 1.5 acres for first animal 1.0 acre per additional animal up to maximum of 10 animals be allowed.
- H. Class II Livestock will be allowed at a density of 10 animals per 1.5 acres for first 10 animals and 3 animals for parcels under 1.0 acre. 4,356 sq ft (1/10) will be necessary for each additional animal to a maximum of 50 animals.
- I. Buildings, structures and uses which are accessory to any of the above-permitted uses

Section 6.02. Uses Permitted After Special Approval.

- A. Mobile home parks, but not including mobile home dealerships.
- B. Golf courses.
- C. Bed and Breakfast establishments.
- D. Home occupations (subject to the requirements of Section 5.02.D.).
- E. State licensed residential facilities for seven or more residents.
- F. Group day care homes.
- G. Governmental buildings, structures, facilities, and parks.
- H. Schools and churches.
- I. Hospitals and convalescent homes.
- J. Detention and penal facilities, including rehabilitation camps.
- K. Livestock density that exceeds the maximum of 10 Class I animals or 50 Class II animals provided proof of adequate fencing are shown in site plan: setbacks for housing of animals from property line are demonstrated: evidence of adequate refuse and waste removal: and appropriate storage of feed for the maintenance of livestock.
- L. Housing of exotic animals and captive wildlife.

ARTICLE VII
Commercial District

Section 7.01. Principal Uses Permitted.

- A. Any retail business which sells or rents merchandise within a completely enclosed building.
- B. Personal service establishments such as restaurants, taverns, laundromats, barber shops, beauty shops, and dry cleaning establishments.
- C. Repair shops for consumer items such as watches, shoes, furniture and appliances.
- D. Professional and business offices.
- E. Financial institutions.
- F. Funeral homes and mortuaries.
- G. Mini-storage facilities which provide storage space for personal use.
- H. Hotels, motels, lodge halls, private clubs, auditoriums, and indoor recreational establishments.
- I. Schools, churches, and publicly-owned buildings or facilities.
- J. Ground mounted and roof mounted solar energy systems (subject to Section 11.12)
- K. Buildings, structures and uses which are accessory to any of the above permitted uses.

Section 7.02. Uses Permitted After Special Approval.

- A. Open-air businesses such as drive-in theaters, fuel or propane sales, race tracks, used car sales, farm machinery sales, fruit markets, outdoor recreational facilities, or any retail business activities which are conducted entirely or partially outside of an enclosed building.
- B. Repair, service, or storage facilities for automobiles, trucks, construction equipment, farm machinery, and similar equipment.
- C. Billboards, pursuant to the regulations contained in Section 11.07 of this Ordinance.
- D. Residences.

- E. Telecommunications towers.

ARTICLE VIII
Industrial District

Section 8.01. Principal Uses Permitted.

- A. Factories engaged in manufacturing, assembling, machining, or other industrial production.
- B. Truck terminals, railroad yards and airports.
- C. Laboratories.
- D. Warehousing, storage, or wholesale facilities.
- E. Ground mounted and roof mounted solar energy systems (subject to Section 11.12)
- F. Buildings, structures, and uses which are accessory to any of the above permitted uses.

Section 8.02. Uses Permitted After Special Approval.

- A. Junk or salvage yards. Any such yard must be completely enclosed by a wall, berm, or fence at least eight (8) feet in height which completely obscures all material within the yard.
- B. Sewage treatment plants and similar facilities.
 - 1. Must comply with all regulations of the State of Michigan.
 - 2. Must be completely enclosed by an obscuring wall, fence, or greenbelt.
- C. Slaughter houses and meat processing facilities.
- D. Industries involving the processing, treatment, use or storage of explosives, toxic chemicals, or radioactive materials.
- E. Billboards, pursuant to the regulations contained in Section 11.07 of this Ordinance.
- F. Telecommunications towers.
- G. Solar Farms (subject to ARTICLE XXVI)

ARTICLE IX
Area, Setback and Height

Section 9.01. Compliance.

A. All structures shall comply with the area, setback, and height requirements of Section 9.02, unless different requirements are specified as condition for a use permitted after special approval.

Section 9.02. Area, Setback and Height Requirements

Section 9.02

AREA, SETBACK AND HEIGHT REQUIREMENTS

Zoning District	Minimum Land Area Per Dwelling or Commercial or Industrial Building	Minimum Lot Width In Feet (a)(b)	Minimum Front Yard Setback In Feet (c)	Minimum Side Yard Setback In Feet (d)	Minimum Rear Yard Setback In Feet (d)	Minimum Floor Area Per Dwelling In Sq. Feet.	Maximum Building Height In Feet (e)
AR-1	2 acres	200	100	25	25	920	35
R-2	1 acre (f)(g)	150(f)	100	25	25	920	35
C	2 acres	200	100	25	25	-	50
I	2 acres	200	100	25	25	-	50

- (a) Measured at the road center line.
- (b) In no case shall the length of any parcel exceed 5 times the width of the parcel.
- (c) Measured from the center of the road.
- (d) No building shall be constructed within 100 feet of the center line of any road.
- (e) Not applicable to farm structures such as barns, silos, or grain elevators.
- (f) Within platted subdivisions, the minimum lot area shall be 20,000 square feet and the minimum lot width shall be 100 feet.
- (g) In the case of duplex units there shall be no less than one-half acre per dwelling unit. In the case of apartments there shall be no less than 7,260 square feet of land area per dwelling unit.

ARTICLE X
Parking and Loading Requirements

Section 10.01. General Parking Requirements. In all zoning districts, off street parking facilities for the storage and parking of motor vehicles shall be provided as required below. The parking spaces shall be maintained and shall not be encroached upon so long as the main building or structure remains, unless an equivalent number of parking spaces are provided elsewhere.

A. 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.

- B. LOCATION OF PARKING SPACE. The parking facilities shall be located on the same lot or within five hundred (500) feet of the permitted uses requiring the parking.
- C. SEATING. As used in this Article for parking requirements, a seat shall mean either an individual chair or each twenty-four (24) inches of seating facilities.
- D. SIMILAR USES AND REQUIREMENTS. In the case of a use not specifically mentioned, the requirements of off-street parking for a use which is similar shall apply.
- E. EXISTING OFF-STREET PARKING. Off-street parking existing at the effective date of this Ordinance which serves an existing building or use shall not be reduced in size to less than that required under the terms of this Ordinance.
- F. DRAINAGE. All parking areas shall be drained so as to dispose of surface water which might accumulate within or upon such area.
- G. ILLUMINATION. All illumination for such parking areas shall be deflected away from adjacent residential areas.
- H. SURFACING. All parking areas shall be paved or graveled in a manner sufficient to provide a solid base at all times of the year.

Section 10.02. Table of Parking Requirements. The amount of required off street parking space for new uses of land, buildings, or additions shall be determined in accordance with the following table. The space required shall be stated in the application for a zoning permit and shall be irrevocably reserved for such use.

Section 10.03. Off-street Loading Requirements. On the same property with every building or structure used for manufacturing, storage, warehouse, goods display, department store, wholesale, market, hospital, mortuary, laundry, dry cleaning, or other uses involving the receipt or distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot adequate space for loading and unloading in order to avoid undue interference with public use of the streets, alleys or off-street parking areas.

Such loading and unloading space, unless adequately provided for with a building, shall be an area at least ten (10) feet by thirty (30) feet, with minimum fourteen (14) foot height clearance, and shall be provided according to the following schedule:

<u>Gross Floor Area (Square Feet)</u>	<u>Loading Spaces Required</u>
0 – 2,000	None

2,000 – 20,000	One space
20,000 – 100,000	One space for each 20,000 square feet.
Over 100,000 Square feet in excess of 100,000 square feet.	Five spaces plus one space for each 40,000

ARTICLE XI
General Provisions

Section 11.01. Conflicting Regulations. Whenever any provisions of this Ordinance impose more stringent requirements than are imposed by the provisions of any other law or ordinance, the provisions of this Ordinance shall govern.

Section 11.02. Road Frontage. Every dwelling or other building shall be located on a lot or parcel which shall front upon a public road.

Section 11.03. Property Divisions. No property shall be divided in such a manner that the length of any resulting parcel exceeds five (5) times the width of that parcel.

Section 11.04. Moving of Buildings. No structure shall be moved upon any premises in the Township until a zoning compliance permit shall have been secured. Any such structure shall fully conform to all the provisions of this Ordinance in the same manner as a new structure. No structure shall be moved to any site within the Township until the owner has posted cash deposit in an amount specified by the Township Board, guaranteeing full compliance with the Township ordinances. The site from which a building or structure has been moved shall be graded level and all debris shall be cleared away. Portable buildings are defined as: 199 square feet or less and do not require a Land Use permit. Any structure 200 Square feet or larger a Land Use permit is required.

Section 11.05. Structures that shall not be Occupied as Dwellings.

Garages, barns, accessory buildings, basements, motor homes, travel trailers and tiny homes shall not be occupied either temporarily or permanently as dwellings. Tiny Homes are defined as: 919 square feet or less.

Section 11.06. Single-Family Dwelling Requirements. Any single-family dwelling shall comply with the following minimum standards:

- A. **MINIMUM SIZE.** Each dwelling shall contain the minimum number of square feet specified in Section 9.02, prior to any alterations or additions.
- B. **MINIMUM WIDTH.** Each dwelling shall be no less than twenty-four (24) feet in width in all directions.

- C. FOUNDATION. Each dwelling shall be provided with foundation support in the form of perimeter masonry or treated wood foundation or cement pillars pursuant to the specifications of the building inspector. Skirting consisting of brick, concrete blocks, wood, vinyl or aluminum shall be constructed completely around the lower edge of any dwelling utilizing pillars for a foundation. Each dwelling shall be securely anchored to the foundation.
- D. STORAGE FACILITIES. Each dwelling shall have a basement, garage or storage building containing at least 100 square feet of storage area. The storage facility shall be constructed at the same time as the dwelling.
- E. ROOF. Each dwelling shall have a shingled roof with at least a 3-12 pitch.
- F. CONSTRUCTION CODE. Each dwelling and dwelling addition shall comply with building code requirements in effect at the time the dwelling is constructed or moved within the Township.

Section 11.07. Signs. All signs shall comply with the requirements of this Section.

- A. The following signs may be erected in the Township without prior Planning Commission approval, provided the other requirements of this Section are complied with:
 - 1. Signs advertising real estate for sale or rent. Such signs may not exceed nine (9) square feet in sign area.
 - 2. Signs advertising agricultural produce grown on the premises. Such signs may not exceed nine (9) square feet in sign area.
 - 3. Signs advertising personal property owned by a resident of the premises; provided such personal property was not purchased for the purpose of resale. Such signs may not exceed nine (9) square feet in the sign area.
 - 4. Signs advertising home occupations which have received approval pursuant to the Zoning Ordinance. Such signs may not exceed nine (9) square feet in the sign area.
 - 5. Signs promoting political candidates or election issues. Such signs may not exceed thirty-two (32) square feet in sign area. Such signs shall not be erected more than sixty (60) days prior to an election and shall be removed within ten (10) days after the election.
 - 6. Signs stating the name and/or address of a property owner. Homeowner signs may not exceed four (4) square feet in sign square feet in sign area. Farm owner signs may not exceed twenty-four (24) square feet in sign area.

B. A sign site plan shall be approved by the Township Planning Commission before any sign is erected, constructed, or altered, except for signs permitted by sub-section an above.

C. The Planning Commission shall review each site plan as to location, height, aesthetics, compatibility with the surrounding buildings and facilities, and compliance with Township ordinances. The Planning Commission may require revisions to the sign site plan.

D. No sign shall include any flashing, oscillating, or intermittent illumination.

E. All illuminated signs shall be so placed as to prevent the rays and illumination there from being directly cast upon any residences or roadways.

F. No sign shall rotate nor contain any moving parts.

G. All signs shall be set back from all property lines no less than the minimum distance required by the Zoning Ordinance for buildings and structures and from all road right of way lines at least ten (10) feet.

H. All signs shall be maintained so that they comply continuously with all requirements of this Ordinance and kept in a good state of repair.

I. ON-SITE SIGNS (BILLBOARDS)

1. One principal sign shall be permitted on the site of each commercial, industrial, or institutional facility.
2. Principal on-site signs shall not exceed sixty-four (64) square feet in sign area.
3. No more than two secondary signs shall be permitted on the site of each commercial, industrial, or institutional facility.
4. Secondary on-site signs shall not exceed sixteen (16) square feet in sign area.

J. OFF-SITE SIGNS (BILLBOARDS).

1. Off-site signs may only be located on parcels of land which are zoned for commercial or industrial use.
2. Off-site signs shall not exceed sixty-four (64) square feet in sign area.
3. No off-site sign shall be erected within three hundred (300) feet of any other off-site or on-site sign.

Section 11.08. Ponds. No pond shall be dug within any front, side or rear setback line required by this Ordinance. In no case shall any pond be created on any parcel of land containing less than ten (10) acres.

Section 11.09. Greenbelts.

- A. In all zoning districts, no area within the required front yard setbacks shall be used for any permanent or temporary structures other than signs permitted by Township ordinances. Said front yard set back areas shall be planted and continuously maintained with grass, shrubs, and landscaping materials, except for the portion developed for use as parking area or driveway.
- B. Whenever any property is developed for any use other than agricultural or residential, and the property borders any property zoned for residential use, a greenbelt at least then (10) feet in width along said borders shall be planted and maintained.
- C. Detailed landscaping plans for all greenbelts shall be provided on the site plan relating to the development and shall be considered as a material part of the site plan. No construction project shall be deemed to be completed until all landscaping features required on the site plan have been planted or installed.
- D. The Planning Commission shall review and approve the type of plantings required to provide a satisfactory greenbelt in any specific situation.

Section 11.10. Temporary Mobile Homes.

- A. The Zoning Administrator may issue a permit for a temporary mobile home to be occupied for one year during the time that a permanent dwelling is being constructed. A temporary mobile home permit may be issued if the following requirements are complied with:
 - 1. A building permit for the permanent dwelling must be acquired before the temporary mobile home is placed on the premises.
 - 2. The permanent dwelling must be completed and the temporary mobile home removed from the property before the expiration of the temporary mobile home permit.
 - 3. The applicant must execute an affidavit guaranteeing that the temporary mobile home will be removed from the premises at the expiration of the permit period.
 - 4. A temporary mobile home permit may be renewed one time to grant up to one additional year for completion, providing reasonable progress has been made on construction of the permanent dwelling during the first one year permit period.

- B. Variances to permit the occupancy of mobile homes within the Township may also be granted by the Board of Zoning Appeals pursuant to the procedures contained in Article XVII. Such variances for mobile home occupancy may only be granted for the purpose of housing farm labor or for the purpose of the housing of family members who are unable to reside elsewhere due to age, poor health, or indigence. Any mobile home approved under this Section may not be over 15 years old at the time it is placed on the site. Any mobile home approved pursuant to this Section shall be placed on a reinforced concrete pad or concrete piers and provided with adequate tie downs and skirting. In the event that the temporary mobile home ceases to be used for the purpose it was granted for, the mobile home shall be removed from the property within thirty (30) days of the date it ceases to be used for the purpose for which it was granted.

Section 11.11. Prohibited Structures. No bus or motor vehicle body or similar item shall be placed on any property for use as a storage structure or other building purpose.

Section 11.12. Public Utilities. Certain facilities provided by public utility companies regulated by the Michigan Public Service Commission or by the Township government shall be permitted in all zoning districts. Public utility facilities permitted by this Section shall include transmission lines, sewers, mains, pumping stations, sub-stations, poles, and related equipment. Any office, warehouse, manufacturing, or sales buildings or towers of a public utility must be located in a zoning district permitting that use and shall be subject to site plan review requirements.

Section 11.13 Livestock Housing and Maintenance

- A. Adequate fencing and housing for said livestock must meet Michigan Department of Agricultural standards for fencing and housing and shall be entirely constructed prior to the placement of any livestock on said parcel of land.
- B. Animal and their related housing must be clean and well maintained and must comply with general accepted Agricultural Practices and Management Practices. The concentrated Animal Farm Operations laws and regulations must likewise be followed and applied regardless of size.
- C. No livestock must come into contact with any streams, rivers, ponds, lakes, septic systems and/or wells on the property.
- D. Keeping of Class II Livestock

1. The animals shall be provided with a covered, predator proof pen that is thoroughly ventilated, of sufficient size to admit free movement of the animals, designed to be easily accessed, cleaned and maintained by the owners and be at least two (2) square feet per animal in size. All enclosures shall be so constructed or repaired as to prevent

rats, mice, or other rodents from being harbored underneath, within, or within the walls of the structure.

2. No animal pen will be located no closer than forty (40) feet to any residential structure occupied by someone other than the owner of the animals.
3. The animals shall be shut into their pen at night from sunset to sunrise.
4. The area containing the animals shall adequately fenced to protect and contain the animals and to prevent access to the animals by dogs and other predators.
5. Stored feed must be kept in rodent and predator proof container.
6. It is lawful for the owner, custodian, or keeper of any Class I and II animal to be a nuisance to any neighbors, including but not limited to: noxious odors from the animals or their enclosure; and noise loud and persistent and habitual nature. The zoning Administrator will determine or not a nuisance exists on a case by case basis.

ARTICLE XII

Non-conforming Lots, Uses, and Structures

Section 12.01 Continued Non-conforming Uses Permitted. Within the districts established by this Ordinance there exist lots, structures, and uses of land and structures, which were lawful prior to the adoption of this Ordinance. These nonconformity's may continue until they are removed. The non-conformity's shall not be enlarged upon, expanded or extended in any manner which increases their non-conformity.

Section 12.02 Non-conforming Lots of Record. A single-family dwelling and customary accessory buildings may be erected on any lot of record at the effective date of adoption of this Ordinance provided the width, depth, and area is not less than one-half (50%) percent of that required by this Ordinance. Permission to build on smaller recorded lots which lack adequate width, depth, or area, may be granted by the Board of Zoning Appeals as long as reasonable living standards can be provided.

Section 12.03 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, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such non-conforming structure may be enlarged or altered in any way which increases its non-conformity.

- B. Should such non-conforming structure be destroyed by any means to an extent of more than seventy-five (75%) percent of its value, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
- C. Should such structure be moved for any reason whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 12.04 Non-conforming Uses of Land or Structures. Where at the time of passage of this Ordinance lawful use of land or structures exists which would not be permitted by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful, provided:

- A. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land or additional structures than that occupied at the effective date of adoption or amendment of this Ordinance.
- B. If any such non-conforming use ceases for any reason for a period of more than twelve (12) months any subsequent use shall conform to the regulations specified by this Ordinance.
- C. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such non-conforming use of land.
- D. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be 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.

ARTICLE XIII Planning Commission

Section 13.01. Membership. There is hereby established a Township Planning Commission as authorized by Section 4 of the Township Planning Act, as amended. The Planning Commission shall consist of between five and seven members appointed by the Township Supervisor with the approval of the Township Board. The members shall be representative of major interests as they exist in the Township. One member of the Planning Commission shall also be a member of the Township Board. Each member shall be appointed for a term of three years, except that the term of the member who also serves on the Township Board shall terminate if the membership on the Township Board terminates before the end of the three-year Planning Commission term. The Planning Commission shall elect a Chairman, Vice-Chairman, and Secretary from its members. The terms of these offices shall be one year.

Section 13.02. Powers. The Planning Commission shall have the power to review and approve site plans pursuant to Article XIV of this Ordinance, to hear and decide requests for uses permitted after special approval pursuant to Article XV of this Ordinance, and to hear and make recommendations on zoning amendment requests pursuant to Article XVII of this Ordinance. The Planning Commission shall also have the power to prepare and adopt a plan as a guide for the development of the Township as provided for in the Township Planning Act.

ARTICLE XIV Site Plan Review Requirements

Section 14.01. Scope. A site plan shall be prepared and submitted for every construction project and every proposed change in land use, except that no site plan shall be required for single-family residences, farm buildings, or buildings which are accessory to single-family residences.

Section 14.02. Procedure. All site plans shall be submitted first to the Zoning Administrator, who shall review the plans for compliance with the requirements of the Zoning Ordinance. The Zoning Administrator shall then refer the site plan to the Planning Commission for review and decision. Once a site plan is approved by the Planning Commission, it shall not be altered without the consent of the Planning Commission.

Section 14.03. Content. Each site plan shall include the following:

- A. Area of the site.
- B. Date, north point, and scale.
- C. Dimensions of all property lines.
- D. Location and dimensions of all existing and proposed structures on the property or on adjacent properties within 100 feet of the property lines.
- E. Location and dimensions of all existing and proposed roads (including rights-of-way), driveways, sidewalks, and parking areas (see Article X).
- F. Location of all existing and proposed utility lines, wells, septic systems, and storm drainage.
- G. Location, dimensions and details of proposed plantings, greenbelts and landscaped areas (see Section 11.09)

- H. Exterior drawings of proposed new buildings or existing buildings to which major additions are proposed.
- I. Location, dimensions, and drawings of existing and proposed signs (see Section 11.07).
- J. Name, address, and telephone number of the person who prepared the site plan.

Section 14.04. Standards. In determining whether to approve, modify, or deny a site plan, the Planning Commission shall consider the following:

- A. Adequacy of traffic ingress, egress, circulations, and parking.
- B. Adequacy of landscaping to protect adjoining properties and enhance the environment of the community.
- C. Location and design of proposed structures so as to ensure that detrimental effects on adjacent properties will be minimized.
- D. Adequacy of storm drainage.
- E. Location and design of signs so as to prevent highway visibility obstructions, driver distractions, encroachments, and adverse impacts on the community environment.

Section 14.05. Bond. A cash deposit shall be posted with the Township as a guarantee that the project will be completed in accordance with the approved site plan. Upon the completion of the project in accordance with the approved site plan, the bond shall be released. The amount of the bond shall be five (5%) percent of the project cost, but in no case shall the bond amount be less than One Thousand (\$1,000.00) Dollars.

Section 14.06. Time for Completion. Each site plan shall be fully complied with and all construction completed within one (1) year of the date the building permit is issued. Site plan approval shall expire two (2) years from the date the Planning Commission granted initial approval, unless the site plan has been fully completed or unless an extension has been granted by the Planning Commission.

ARTICLE XV

Procedures for Uses Permitted After Special Approval Of The Planning Commission

Section 15.01. Application. For all uses permitted after special approval, a written application shall be submitted to the Planning Commission. Such application shall contain a description of the proposed use, a legal description and street location of the property on which

the proposed use would be located, the signature of the property owner, the signature of the petitioner (if different from the property owner), and a scale drawing of the site. The scale drawing shall show existing and proposed buildings, driveways, points of ingress and egress, parking areas, fencing, landscaping, signs and road right-of-ways.

Section 15.02. Planning Commission Hearing.

Requests for Uses Permitted after Special Approval (special land uses) may be heard and decided at any regular or special meeting of the Planning Commission; provided the petitioner has presented all required information and the public hearing has been held. Notice of public hearing shall be sent by mail or personal delivery to the owners of property for which approval is within one thousand five hundred (\$1,500) feet of the property regardless of whether the property or occupant is located in the Township. A notice shall also be published once in a newspaper of general circulation. All notices, whether mailed, personally delivered, or published, shall be done not less than fifteen (15) days prior to the hearing.

Section 15.03. Standards. Requests for uses permitted after special approval shall be granted or denied based on the following standards:

A. The location, size and character of the proposed use shall be in harmony with, and appropriate to the surrounding neighborhood.

B. The proposed use shall not result in the creation of a hazardous traffic condition.

C. The site layout, intensity of use, and time periods of use shall not be such as to create a nuisance due to dust, noise, smell, vibration, smoke, or lighting.

D. All specific requirements of the zoning district where the proposed use would be located shall be complied with.

Section 15.04 Planning Commission Decisions.

The Planning Commission may deny, approve, or approve with conditions any request for a Use Permitted after Special Approval. A Use Permitted after Special Approval shall be approved if the request is in compliance with the standards stated in the Zoning Ordinance. The decision of the Planning Commission shall be incorporated in a statement containing the findings and conclusions on which the decision is based and any conditions imposed. Any conditions imposed shall meet all of the following requirements.

A. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under construction, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

- B. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

Section 15.05. Expiration. Planning Commission permission for a use permitted after special approval shall expire one year from the date of the meeting at which permission is granted unless the premises has actually been occupied by the use permitted or unless construction has been undertaken to prepare the premises for the use permitted within the one-year period.

ARTICLE XVI

Zoning Board Of Appeals

Section 16.01. Establishment and Membership of Zoning Board of Appeals.

There is hereby established a Zoning Board of Appeals. The Zoning Board of Appeals shall consist of three (3) members appointed by the Township Board. One (1) member shall be a member of the Township Board. One (1) member shall be a member of the Planning Commission. The remaining member and any alternate members shall be electors who are not employee or contractors of the Township. One or two alternate members may be appointed. An alternate member may be called to serve on the Zoning Board of Appeals if a regular member is absent or if a regular member has abstained for reasons of conflict of interest. An alternate member who participates in a public hearing shall continue to serve for that case until a final decision is made. Each member and alternate member shall be appointed for staggered terms of three (3) years, except that the term of office of the members who are also members of the Township Board or Planning Commission shall terminate if their membership on the Township Board or Planning Commission terminates. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of term. The Zoning Board of Appeals shall elect a chairman, vice-chairman, and secretary. The Township Board member may not serve as chairman. No business shall be conducted unless a majority of the regular members of the Zoning Board of Appeals are present.

Section 16.02. Zoning Board of Appeals Applications and Notices of Hearings. All applications for variances or appeals shall be applied for in writing on forms provided by the Township. The Zoning Board of Appeals may require the appellant to provide such additional information as is necessary to make a decision. The Zoning Board of Appeals shall give notice of the hearing by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within one thousand five hundred (1,500) feet of the property and to the occupants of all structures within one thousand five hundred (1,500) feet of the property regardless of whether the property or occupant is located in the Township. Notice shall also be published in a newspaper of general circulation.

All notices, whether mailed, personally delivered, or published shall be done at least fifteen (15) days prior to the hearing.

Section 16.03. Powers of the Zoning Board of Appeals.

- A. Administrative Appeals. The Zoning Board of Appeals shall hear and decide questions that arise in the administration of the Zoning Ordinance, including the interpretation of the zoning maps. It shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of the Zoning Ordinance. This shall include appeals from Planning Commission decisions as to Uses Permitted after Special Approval and Planned Unit Developments.

- B. Non-Use Variances. The Zoning Board of Appeals shall have the power to vary non-use or dimensional ordinance provisions whenever there are practical difficulties imposed on a property owner if the strict letter of the ordinance is carried out.

- C. Use Variances. The Zoning Board of Appeals shall also have the power to grant use variances whenever there are unnecessary hardships imposed on a property owner if the strict letter of the ordinance is carried out. In order to grant a use variance, each of the following requirements shall be met:
 - 1. The situation cannot be self-created.
 - 2. The circumstances must be unique to the property.
 - 3. The character of the neighborhood cannot be altered by the granting of the variance.
 - 4. The land cannot be reasonable built upon in conformity with the Zoning Ordinance.

Section 16.04. Decisions of the Zoning Board of Appeals.

- A. The Zoning Board of Appeals shall decide appeals and variance requests in such a manner that the spirit of the ordinance is observed, public safety secured, and substantial justice done.

- B. No decision can be made unless a majority of the regular members are present. The Zoning Board of Appeals shall state the grounds of each decision.

- C. In making a decision, the Zoning Board of Appeals may impose such conditions as it may deem necessary to comply with the spirit and purpose of the Zoning Ordinance. Any conditions imposed by the Zoning Board of Appeals shall meet the following requirements:
 - 1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

Section 16.05. Expiration of Variance Approvals. Any variance shall expire one year from the date it is granted unless use of the property has begun or construction has been undertaken pursuant to the variance.

ARTICLE XVII

Amendments and Rezoning

Section 17.01. Application for Rezoning and Amendments.

The Township Board may, after a public hearing by the Township Planning Commission, amend the regulations or the district boundaries of this Ordinance. Proposed amendments to the regulations or district boundaries of the Ordinance may be initiated by the Township Planning Commission, the Township Board, or an individual petitioner. Whenever an individual petitioner requests a zoning amendment, the petitioner shall be the fee owner of the premises concerned or else have the fee owner also subscribe to the petition. A petition for rezoning shall be submitted to the Township Clerk along with a rezoning fee, as established by the Township Board.

Section 17.02. Notice of Hearing for Rezoning and Amendments.

Notice of public hearing shall be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within one thousand five hundred (1,500) feet of the property and to the occupants of all structures within one thousand five hundred (1,500) feet of the property regardless of whether the property or occupant is located in the Township. A notice shall also be published once in a newspaper of general circulation. All notices, whether mailed, personally delivered, or published, shall be done not less than fifteen (15) days prior to the hearing.

Section 17.03. Planning Commission Hearing and Recommendations.

After conducting the required public hearing, the Township Planning Commission shall adopt recommendations as to the approval or denial of the proposed rezoning of property or amendment to the Ordinance regulations. Upon completion of action by the Township Planning Commission, the proposed rezoning or amendment shall be submitted to the Sanilac County Planning Commission for review and recommendation.

Section 17.04 Township Board. Upon receipt of the recommendations of the Township Planning Commission and the County Planning Commission, the Township Board shall undertake

consideration of the proposed rezoning or amendment. If no recommendation is received from the County Planning Commission within 30 days after it is received the proposed rezoning or amendment, the Township Board shall conclusively presume that the County has waived its right for review and recommendation. Any decision by the Township Board which results in the rezoning of property or the amendment of the Ordinance shall be incorporated in an Ordinance duly adopted and published by the Township Board.

ARTICLE XVIII

Violations

Section 18.01. Penalty for Violations. Any person, firm or corporation who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction, subject to payment of a civil fine of not less than Fifty (\$50.00) Dollars nor more than Five Hundred (\$500.00) Dollars, plus costs and other sanctions, for each infraction. Repeat offenses under this Ordinance shall be subject to increased fines as provided for in the Elmer Township Civil Infraction Ordinance. Each day such violation continues shall be deemed a separate offense. The imposition of any penalty shall not exempt the offender from compliance with the requirements of this Ordinance.

Section 18.02. Nuisance Per Se. Any building or structure which is used, erected, altered, raised, or converted or any use of any premises which is begun or changed and in violation of any provision of this Ordinance, is hereby declared to be a nuisance per Se.

ARTICLE XIX

Definitions

Section 19.01. Definitions. For the purpose of this Ordinance, certain terms are herewith defined. Terms not herein defined shall have the meanings customarily assigned to them.

ACCESSORY BUILDING. A building related to and secondary to the main use of the premises.

ACCESSORY USE. A use naturally and normally incidental and subordinate to the main use of the premises.

ACT. Act number 236 of the public

ALTERATIONS. Any change, addition or modification in construction of the structural members of a building, such as walls, partitions, columns, beams, or girders.

Definitions-continued

AMBIENT SOUND LEVEL. The amount of background noise at a given location prior to the installation of a wind energy system which may include, but not be limited to, traffic, machinery, lawn mowers, human activity, and the interaction of wind with the landscape. The ambient sound level is measured on the dB (A) weighted scale as defined by the American National Standards Institute.

ANEMOMETER. A temporary wind speed indicator constructed for the purpose of analyzing the potential for installing a WET at a given location.

ANSI. American National Standards Institute.

AUTHORIZED OFFICIAL. Any public officer, agent or personnel authorized by ordinance to issue multiple civil infractions in a police officer having jurisdiction within a township.

BOARD OF APPEALS. The duly appointed Board of Zoning Appeals for the Township of Elmer.

BUILDING. A structure, either temporary or permanent, having a roof, supported by columns or walls for the shelter, support of enclosure of persons, animals, or personal property. This shall include vehicles, trailers, or mobile homes situated on private property and used for purposes of a building.

CEMETERY PLOT. Shall consist of an area in a Township cemetery sufficient to accommodate one burial space for one deceased person. It shall consist of a land area at least thirty-eight (38) inches wide and ninety-six (96) inches in length. Exceptions may be made with Township permission to accommodate infant burial or the burial of cremains.

CLASS I ANIMALS. Class I livestock are defined as the following: Beef Cattle, Dairy Cows, Pigs, Sheep, Goats, Alpaca, Llama, and Horses/Equine.

CLASS II ANIMALS. Class II livestock are defined as the following: Geese, Ducks, Turkeys and chickens (broiler hens, layers, and rabbits).

COMMERCIAL OR INDUSTRIAL FACILITY. Any business or industry located on a parcel of land which has been zoned for commercial or industrial use or which is recognized by the Township as a legal non-conforming use which existed prior to the adoption of the Zoning Ordinance.

COMMISSION. The Elmer Township Zoning and Planning Commission.

dB(A). The equivalent sound pressure level (Leq) in decibels. Refers to the "A" weighted scale defined by ANSI; a method for weighting the frequency spectrum to mimic the human ear.

Definitions-continued

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

DECOMMISSIONING. The process of terminating operation of a WET by completely removing the entire WET and all related buildings, structures, foundations, supports, equipment and access roads.

DWELLING, DUPLEX. A building used or designed as a residence for two (2) families.

DWELLING, MULTIPLE-FAMILY. A building used or designed as a residence for three (3) or more families.

DWELLING, SINGLE-FAMILY. A building used or designed exclusively as a residence for one (1) family.

DWELLING UNIT. Any house, building, mobile home, or portion thereof which is designed for or occupied as a residence or sleeping quarters for a person, persons, or family as a single unit.

ERECTED. The word “erected” includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required to construct a building. Excavations, fill, or drainage relating to the construction or placement of a structure shall be considered a part of erecting.

EXCAVATING. The removal of sand, stone, gravel or dirt from its natural location.

FARM. All of the associated land, operated as a single unit on which bonafide farming is carried on, including livestock and poultry raising, feedlots, dairying, crop production, forestry, tree and shrub nurseries, greenhouses, sod farms, truck gardens and similar enterprises involving agricultural production. This shall include portable sawmills used for the purpose of processing the wood grown on the farm on which the sawmill is located.

FARM BUILDING. Any building or structure, other than a dwelling, which is customarily used on farms for the pursuit of their agricultural activities.

FILLING. The depositing or dumping of any matter onto or into the ground.

the basement floor area when more than one-half (1/2) of the basement height is above the finished lot grade.

HABITABLE OR INHABITED STRUCTURE. Any permanent structure usable for human living or business purposes, which includes but is not limited to working, sleeping, eating, cooking,

Definitions-continued

recreation, office, office storage, or any combination thereof. An area used only for storage incidental to a residential use, or any barn, farm outbuilding, hunting blind, ice fishing shanty or other similar structure, is not included in this definition.

HUB HEIGHT When referring to a Wind Energy System, the distance measured from ground level to the center of a wind turbine hub.

IEC. International Electro technical Commission. The IEC is the leading global organization that prepares and publishes international standards for all electrical. Electronic and related technologies.

INSTITUTIONAL FACILITY. Any church, school, governmental building or facility, lodge hall, veterans organization building, or similar non-profit facility serving the community.

ISO. International Organization for Standardization. ISO is a network of the national standards institutes of 156 countries

JUNK. Any motor vehicles, machinery, appliances, product, merchandise, scrap metals or other scrap materials that are deteriorated, or are in a condition which cannot be used for the purpose that the product was manufactured.

JUNK YARD. Any property used for the storage, keeping, dismantling, or abandonment of junk outside of an enclosed building.

KENNEL. Any lot or premises on which four (4) or more dogs, six (6) months old or older, are kept either permanently or temporarily.

LIVESTOCK. Horses, cattle, sheep, goats, mules, donkeys, hogs, and other hoofed animals.

LOT OF RECORD. Any parcel of land which is separately described in a deed, land contract, or similar legal document evidencing a conveyance of ownership and recorded with the Sanilac County Register of Deeds.

MET Tower. Is a meteorological tower used for the measurement of wind speed and other data.

** Expression is faulty **

MOBILE HOME. (includes house trailer, trailer coach, and double-wide mobile home). A dwelling unit designed for long term occupancy and designed to be transported after fabrication on its own wheels or as one or more units. This includes all units which could be licensed under the provision of Act 300 of the Public Acts of 1949, as amended.

MOBILE HOME PARK. Any parcel of land which has been designed, improved or used for the placement of three or more mobile homes for dwelling purposes.

Definitions-continued

MUNICIPAL CIVIL INFRACTION. An act or omission that is prohibited by any ordinance, but which is not a crime, and for which civil sanctions, including without limitation, fine, damages, expenses, and costs, may be ordered as authorized by Chapter 87 of Act 236 of the Public Acts of 1961, as amended. A Municipal civil infraction is not a lesser included offense of a violation of this Ordinance that is a criminal offense.

MUNICIPAL CIVIL INFRACTION ACTION. A civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

MUNICIPAL CIVIL INFRACTION CITATION. A written complaint or notice prepared by an authorized official, directing a person to appear in court regarding the occurrence of existence of a municipal civil infraction violation by the person cited.

NACELLE. The encasement that houses the interior electricity generating components, gearbox, drive tram, brakes and related equipment of a WET.

NET METERING. A special metering and billing agreement between utility companies and their customers, which facilitates the connection of sustainable energy generating systems to the power grid.

NOISE MITIGATION. (Alternatively know as noise abatement) is a set of strategies to reduce unwanted environmental sound.

NON-PARTICIPATING PROPERTY OR NON-LEASED PROPERTY. Any parcel of property that is not included in a proposed Utility-Grid Wind Energy System, or has no wind energy system or related facilities on it, or is not under easement or lease to the applicant or owner.

OCCUPIED BUILDING. A residential structure, school, hospital, church, library, commercial or industrial structure or public building that contains residents, customers, workers or visitors.

OFF-SITE SIGN (BILLBOARD). A sign advertising something other than the facility which is located on the same parcel of land as the sign.

OPERATOR. The entity responsible for the day-to-day operations and maintenance of a WET.

OWNER/APPLICANT. The person, firm, corporation, company, limited liability corporation or other entity which applies for Township approval under this Ordinance, as well as the applicant's successor(s), assign(s) and/or transferee(s) as to any approved WET or anemometer. An owner/applicant must have the legal authority to represent and bind the landowner or lessee who

will construct, own, and operate the WET or anemometer. The duties and obligations regarding a zoning approval for any approved WET or Anemometer shall be with the owner/applicant of

Definitions-continued

the WET or Anemometer, and jointly and serarally with the owner and operator or lessee of the WET or Anemometer if different than the owner/applicant.

PARKING SPACE. An area of not less than nine and one-half (9-1/2) feet wide by twenty (20) feet long, designed for the parking of a motor vehicle, such space being exclusive of necessary drives, aisles, entrances, or exits and being fully accessible for the storage or parking of permitted vehicles.

PARTICIPATING LANDOWNER. Any landowner (s) having enter into an agreement for lease of real property or the granting of easements for access.

PARTICIPATING LANDOWNER AGREEMENT. A decommissioning plan regarding equipment removal and property restoration submitted to the Township of Elmer by the Participating Landowners, which will be carried out at the end of the M-WETs or L-WET's useful life or upon termination of the lease.

PARITICIPATING PROPERTY OR LEASED PROPERTY. Any parcel of property that has a signed lease or easement with the owner of the proposed Utility-Grid Wind Energy System, or has a wind energy system or related facilities on it, or is under easement or lease to the applicant

PLANNING COMMISSION. The duly appointed Planning Commission of Elmer Township, as authorized by Michigan Public Act 168 of 1959.

PRINCIPAL ON-SITE SIGN. A sign advertising the name of a facility located on the same parcel of land as the sign.

QUARRYING. The removal of sand, clay, gravel, soil or similar material from its natural location for sale or use on a parcel of land other than the parcel on which the material was originally located.

ROTOR. A blade of a WET that is connected to the rotor hub and nacelle and acts as an airfoil assembly that exacts kinetic energy directly from the wind.

ROTOR DIAMETER. The cross-sectional dimension of the circle swept by the rotating blades of a WET.

SCADA TOWER. A freestanding tower containing instrumentation such a anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCAD) system.

SECONDARY ON-SITE SIGN. A sign advertising a service or product available at a facility located on the same parcel of land as the sign.

Definitions-continued

SETBACK. The distance between the base of a building and a road right-of-way line or a property line.

SHADOW FLICKER. Is the moving shadow created by the sun shining through the rotating blades of a wind energy system. The amount of shadow flicker created by a wind energy system is calculated by a computer model that takes into consideration turbine location, elevation, tree cover, location of all structures, wind activity, and sunlight.

SIGN. Any outdoor sign, display, device, figure, painting, writing, drawing, message, placard, poster, billboard, or other thing designed, intended, or used to advertise or inform persons who are on the public roads.

SIGN AREA. The total surface area of a sign. In the case of signs having two sides back-to-back, the sign area shall be the total surface area of one side of the sign.

SOLAR ENERGY SYSTEM. Any method of converting sunlight into electrical energy.

SOLAR ENERGY SYSTEM CATEGORIES. A Solar Energy System is categorized by the amount of Kilowatts that it produces:

- Category I: 0-20 Kilowatts
- Category II: 21-100 Kilowatts
- Category III: 101 Kilowatts or larger

SOLAR FARM. Any solar energy system constructed for the purpose of generating electricity for sale or distribution beyond the property to which the solar energy system is located.

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 (Leq) sound pressure mapped to a logarithmic scale and reported in decibels (db).

SSM-WET(SMALL STRUCTURE MOUNTED WIND ENERGY TURBINE). A structure mounted wind energy system that converts wind energy into electricity through the use of equipment (e.g., base, blade, rotor, foundation, generator, nacelle, tower, transformer, vane, wire, inverter, batteries, etc.) SSM-WETs are attached to a structure's roof, walls or another elevated surface. SSM-WETs have nameplate capacities that do not exceed fifteen (15) feet as

measured from the highest point of the adjacent roof or structure, excluding chimneys, antennae or other similar features.

STM-WET(SMALL TOWER MOUNTED WIND ENERGY TURBINE). A tower-mounted wind energy system standing up to one hundred (100) feet tall that converts wind energy into electricity through the use of equipment (e.g., base, blade, rotor, foundation, generator, nacelle, tower, transformer, vane, wire, inverter, batteries, etc.), STM-WET shave nameplate capacities that do not exceed thirty (30) kilowatts.

STRUCTURE. Anything constructed, erected, or placed on a parcel of land which is permanently located in the ground or attached to something having a permanent location. This shall include buildings, mobile homes, per-manufactured units, modular units, and similar items. Any structure located on the same premises for more than six months shall be deemed to be permanently located within the meaning of this definition.

SURVIVAL WIND SPEED. The maximum wind speed, as designated by the WET manufacturer, at which a WET in an unattended state is designed to survive without damage to any structural equipment or the loss of the ability to function normally.

SWIMMING POOL. The term “swimming pool” shall mean any structure or container intended for swimming, located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches. Ponds shall not be deemed to be swimming pools.

TOTAL HEIGHT. When referring to a wind turbine, the distance measured from ground level to the blade extended at its highest point. When referring to a MET Tower or SCADA Tower the distance measured from ground level to the highest point of the tower's structure.

TOWNSHIP. Means Elmer Township.

TOWNSHIP BOARD. The duly elected or appointed Township Board of the Township of Elmer.

TOWNSHIP CEMETERY OR CEMETERY. Means any cemetery owned, operated and/or controlled by the Township.

TOWER. A freestanding monopole that supports a Wind Energy Turbine (WET).

TRAVEL TRAILERS. (including recreational vehicles, camping trailers, truck campers, and motor homes). Vehicular-type portable structures, primarily designed as temporary living accommodations for recreational camping or travel use. These vehicles can either be towed, hauled, or affixed to another vehicle and driven from one site to another without requiring a special transportation permit for travel.

TRAVEL TRAILER PARK. Any parcel of land designed, improved, or used for the placement of three (3) or more travel trailers or tents (used for recreation, camping or travel use) for overnight accommodations.

Definitions-continued

USE. The purpose for which a parcel of land or a building is designed, arranged, or intended or the purpose for which it is occupied, maintained, or leased.

USE TERMINATION. The point in time at which a Utility-Grid Wind energy System owner provides notice to the Elmer Township Commission that the Utility-Grid Wind energy system or individual wind turbines are no longer used to produce electricity unless due to repairs. Such notice of use termination shall occur no less than 30 days prior to actual use termination.

UTILITY-GRID WIND ENERGY SYSTEM. A wind energy system that is designed and built to provide electricity to the electric utility-grid, inclusive of wind turbines, underground electrical lines, and sub-stations, lay down and storage yards, and operation and maintenance buildings.

WAIVER AGREEMENT. A signed statement between the owner and Non-Participating Property Owner or Participating Property Owner releasing rights of this ordinance relating to, but not limited to, Noise Restrictions, Setbacks and Shadow Flicker restrictions.

WIND ENERGY SYSTEM (WES). An energy conversion system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid.

WIND ENERGY TURBINE (WET). A structure-mounted or tower-mounted small, medium or large wind energy conversion system that converts wind energy into electricity through the use of specialized equipment and structures.

WIND SITE ASSESSMENT. An assessment to determine the wind speeds at a specific site and the feasibility of suing that site for construction of a wind energy system.

WIND TURBINE. A wind energy conversion system, which converts wind energy into electricity through the use of a wind turbine generator, and includes the turbine, blade, tower, base and pad transformer.

VARIANCE, NON-USE. A variance granted by the Zoning Board of Appeals which allows for a variation of a dimensional requirement of the Zoning Ordinance or which allows for a variation of a requirement of the Zoning Ordinance not involving the uses permitted within the particular zoning district.

VARIANCE, USE. A variance granted by the Zoning Board of Appeals which allows a land use within a zoning district which is not otherwise permitted by the terms of the Zoning Ordinance.

YARD. An open space of prescribed width or depth on the same land with a building or group of buildings, which open space lies between the building or group of buildings, and the nearest lot line and is unoccupied and unobstructed from the ground upward.

ARTICLE XX
Severability and Repeal

Section 20.01. Severability. This Ordinance and the various articles, sections, paragraphs, sentences, and clauses thereof, are hereby declared to be severable. If any article, section, paragraph, sentence, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby.

Section 20.02. Repeal. The former Elmer Township Zoning Ordinance, adopted on the 7th day of April, 1964, and all amendments thereto, are hereby repealed in their entirety.

ARTICLE XXI
Enactment

Section 21.01. Ordinance Enacted. The provisions of this Ordinance are hereby enacted and declared to be immediately necessary for the preservation of the public health, safety, and welfare of the people of the Township of Elmer.

Section 21.02. Effective Date. This Ordinance is ordered to be given effect as of the date of publication specified in Section 21.03, pursuant to Michigan Public Act 184 of 1943, as amended.

Section 21.03 Certification. This undersigned Clerk of the Township of Elmer hereby certifies that this Ordinance is a true copy of the Ordinance which was duly adopted by the Elmer Township Board, at a meeting held on the _____ day of _____, 1995. I further certify that a notice of adoption of this Ordinance was duly published in the _____ on the _____ day of _____, 1995, pursuant to Section 11a of Michigan Public Act 184 of 1943, as amended.

Leonard Brown
Elmer Township Clerk

Drafted by:
Gary W. Howell

**ARTICLE XXII
CEMETERY ORDINANCE**

Ordinance No. 7-2007

An ordinance to protect the public health, safety and general welfare by establishing regulations relating to the operation, control, maintenance and management of cemeteries owned, controlled or operated by the Township of Elmer, in Sanilac County, Michigan; to provide penalties for the violation of said ordinance, and to repeal all ordinances or parts of ordinances in conflict therewith.

Section 22.01 Title. This Ordinance shall be known and cited as the “Elmer Township Cemetery Ordinance.”

Section 22.02 Purpose and Intent. The Elmer Township Board recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemetery or cemeteries owned or controlled by the Township is an important function of the government of the Township. It is also important that burials, disinterment’s and other matters associated with a municipal cemetery are handled in a respectful and proper way in order to promote the safety, public health and general welfare of the community. The Township Board finds that the adoption and enforcement of this Ordinance is in the best interest of the property owners and residents of the Township.

Section 22.03 Sale of Cemetery Plots; Nontransferable.

- (a) After the effective date of this Ordinance, cemetery plots shall be sold by the Township for the purpose of burial for the purchaser of a cemetery plot, or his or her immediate family. No sale shall be made to funeral directors or others, except for those acting as an agent for an eligible purchaser.
- (b) All sales and transfers of cemetery plots shall be made on a form approved by the Township Board and signed by the designated Township official, which grants a right of burial only and does not convey any other title or right to the cemetery plot or burial space sold. Such forms shall be signed by the Township Clerk or Deputy Township Clerk, and shall constitute a permit when approved.
- (c) Cemetery plots may be sold by the Township to any resident or taxpayer of the Township. The Township Clerk is hereby granted the authority to vary the aforesaid restriction on sales where the purchaser discloses sufficient personal reason for burial within the Township through previous residence in the Township or relationship to persons interred in the Township cemetery involved. Any such decision by the Township Clerk (either granting or denying such variance) may be overturned by the Township Board pursuant to Section 23 hereof.

- (d) At the time of purchase from the Township, each cemetery plot shall be assigned the name of the specific person who shall be interred in that cemetery plot upon death. Each such person must either be a resident or taxpayer of the Township, or be a member of the immediate family of a qualified purchaser. If the owner of a cemetery plot desires to effectuate a name change regarding the assigned cemetery plot, that person may transfer to another eligible person with properly filed paperwork submitted with the Township Board since cemetery plots are otherwise nontransferable.
- (e) Cemetery plots are nontransferable, but may be sold back for the original purchase price to the Township (for resale by the Township). [Alternate wording: Cemetery plots are nontransferable without prior written approval by the Township.]
- (f) The Township Board shall have the authority to place a limit on the number of cemetery plots sold to a particular person, as well as such person's family and relatives. Furthermore, the Township shall have the absolute right and discretion to determine whether a particular cemetery plot or plots will be sold to a specific person and where such cemetery plot or plots will be located and within which Township cemetery. Such decision shall be based upon reasonable factors, including, but not limited to, the number of vacant cemetery plots available and whether family or relatives of the persons seeking to purchase a cemetery plot or plots are buried adjacent or nearby the cemetery plot or plots requested.
- (g) The Township shall have the right to correct any errors that may be made concerning interment, disinterment's, or in the description, transfer or conveyance of any cemetery plot, either by canceling the permit for a particular vacant cemetery plot or plots and substituting and conveying in lieu thereof another vacant cemetery plot or plots in a similar location within the cemetery at issue or by refunding the money paid for the cemetery plot to the purchaser or the successor of the purchaser. In the event that an error involves the interment of the remains of any person, the Township shall have the right to remove and transfer the remains so interred to another cemetery plot in a similar location in the same Township cemetery in accordance with law.
- (h) The owner of every cemetery plot shall be responsible for notifying the Township whenever that person's mailing address changes.

Section 22.04 Purchase Price for Cemetery Plots; Indigent Burials.

- (a) Each cemetery plot shall cost the sum of \$250.00 for resident and \$500.00 for non-resident. Burial spaces for infants or cremains shall cost the sum of \$150.00. The lawful owner of any cemetery plot within the Township shall promptly provide the Township Clerk with any change in that owner's mailing address. A cemetery lot consists of 4 plots.
- (b) All charges shall be paid to the Township Treasurer.

- (c) The Township Board may waive some of all fees for the burial of indigent persons. Furthermore, the Township Board may set aside a portion of a Township cemetery or cemeteries for the burial of indigent persons.
- (d) The Township Board may by resolution periodically alter the foregoing fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.

Section 22.05 Grave Opening Charges.

- (a) The Township may charge reasonable fees for the opening and closing of any cemetery plot, prior to and following a burial therein, and including the interment of ashes. Such fees shall be set from time to time by resolution of the Township Board, payable to the Township.
- (b) No cemetery plot shall be opened or closed except under the direction and control of the Township Sexton or such other individual as is designated by the Township Board. This subsection B shall not apply to any grave opening, disinterment, or similar matter which is done pursuant to a valid court order or under the supervision and direction of local or state health department authorities; however, even in such cases, the Township Sexton shall be given at least twenty-four (24) hours prior notice of when such grave opening or closing will occur.

Section 22.06 Markers or Memorials; No Monuments.

- (a) All markers and memorials must be comprised of stone or other equally durable composition and shall face the same direction as the markers and memorials around them.
- (b) Except for monuments that existed in a Township cemetery before the effective date of this Ordinance, no monument will be allowed or erected in a cemetery. For purposes of this Ordinance, “monument” shall be defined as any marker, memorial, statue or similar item which exceeds thirty (30) inches in height above normal ground level or which has a ground surface area exceeding thirty (30) inches in width (or forty-eight (48) inches in width or a double marker), with an overall height of no more than thirty (30) inches above ground level, including the foundation. Only one (1) marker or memorial shall be permitted per cemetery plot, or one marker or memorial in total where two adjoining plots share that one marker or memorial. Markers shall be no more than thirty (30) inches in width (or forty-eight (48) inches in width for a double marker), with an overall height of no more than thirty (30) inches above ground level, including the foundation. Individual markers for remains shall be flush with the ground and shall be no more than twelve (12) inches by twenty-four (24) inches in size.

- (c) The footing or foundation upon which any marker or memorial must be placed shall be constructed by the Township, or such person(s) as may be designated by the Township Board. Fees for such work shall be set from time to time by resolution of the Township Board, payable to the Township.
- (d) Should any monument or memorial (including any monument or memorial that was in place before this Ordinance became effective) become unsightly, broken, moved off its proper site, dilapidated or a safety hazard, the Township Board shall have the right, at the expense of the owner of the cemetery plot, to correct the condition or remove the same. The Township shall make reasonable attempts to contact the owner of the cemetery plot prior to any such work beginning.
- (e) The maintenance, repair and upkeep of a cemetery memorial, marker, urn or similar item is the responsibility of the heirs or family of the person buried at that location. The Township has no responsibility or liability regarding the repair, maintenance or upkeep regarding any such marker, memorial, urn or similar item.

Section 22.07 Interment Regulations.

- (a) Only one (1) person shall be buried in a cemetery plot, except for a parent and infant child or two (2) children buried at the same time when approved by the Township.
- (b) The Township shall be given not less than thirty-six (36) hours prior notice in advance of any funeral to allow for the opening of the cemetery plot. The opening and closing of cemetery plots shall be done only by the Township or such person or persons as are designated by the Township.
- (c) The appropriate permit or form issued by the Township for the cemetery plot involved, together with appropriate identification of the person to be buried therein and the burial-transit permit from the health department, shall be presented to either the Township Sexton or the Township Clerk (or designated Township official) prior to interment. Where such permit or form has been lost or destroyed, the Township Clerk must be satisfied, from his or her records, that the deceased person to be buried in the cemetery plot is an authorized and appropriate person for that space before any interment is commenced or completed.
- (d) The surface of all graves shall be kept in an orderly and neat-appearing manner within the confines of the cemetery plot involved.

Section 22.08 Disinterment's.

- (a) [Optional] No disinterment or the digging up of an occupied grave shall occur without Township disinterment permit.

- (b) No disinterment or digging up of an occupied grave shall occur until and unless any and all permits, licenses and written authorizations required by law for such disinterment or digging up of an occupied grave have been obtained from any applicable state or county agency, governmental unit or official, and a copy of the same has been filed with the Township.
- (c) The Township Board shall have the authority to refuse to allow disinterment or the digging up of an occupied grave (and to refuse to issue a Township disinterment permit for the same) if the disinterment or digging up of an occupied grave is not done pursuant to a court order (issued by a court of competent jurisdiction) or does not have a reasonable basis.
- (d) [Optional] No disinterment permit shall be issued by the Township until the Township disinterment application form (as authorized by the Township Board) has been fully completed (and signed by a properly authorized person) and filed with the Township.

Section 22.09 Winter Burials.

- (a) The Township may charge additional fees for winter burials.
- (b) If a winter burial cannot occur due to inclement weather, frozen ground or similar condition, the deceased person may be kept in winter storage until a spring burial can occur. Written permission by the next of kin or authorized agent must be obtained prior to winter storage. All such winter storage costs shall be paid by the estate of the deceased person or the person's next of kin.
- (c) No winter burials shall occur without the prior consent of the Township Sexton

Section 22.10 Cremains.

- (a) Cremains may be buried in a container approved by the Township in a cemetery plot or in a columbarium that has been installed by the Township within a Township cemetery.
- (b) No cremains shall be scattered or dispersed within a Township cemetery.
- (c) Preferred Amount of Cremains per grave site is two. A maximum of 4 with approval of the township board.
- (d) A Burial Permit is required for all cremains.
- (e) Placement to be 2 ½ feet.
- (f) Fee for cremains burial is \$150.

Section 22.11 Grounds Maintenance.

- (a) Flower pots, urns and grave blankets may be placed and maintained at the head stones of graves no earlier than May 1st and must be removed no later than October 1st of each year. Decorations will be permitted for holidays falling outside of these dates, but only for one (1) week prior and one (1) week following the holiday. Veteran flags and flag holders shall be governed by the Veteran's Administration rules and guidelines.
- (b) No grading, leveling or excavating within a cemetery shall be allowed without the prior permission of the Township Sexton or the Township Clerk. Furthermore, no tree, shrub, landscaping or similar plantings shall occur without the prior permission of the Township Sexton or the Township Clerk.
- (c) No flowers, shrubs, trees or vegetation of any type shall be planted outside of an urn. Any of the foregoing items planted without Township approval will be removed by the Township or the Township Sexton.
- (d) The Township Board reserves the right to remove or trim any existing trees, plants or shrubs located within a cemetery in the interest of maintaining proper appearance and the use of the cemetery.
- (e) Mounds, bricks, blocks and any borders that hinder the free use of a lawn mower or other gardening apparatus are prohibited.
- (f) The Township Sexton shall have the right and authority to remove and dispose of any and all growth, emblems, displays, containers and other items that through decay, deterioration, damage or otherwise become or are unsightly, a source of litter or a maintenance problem.
- (g) Surfaces other than earth or sod are prohibited.
- (h) All refuse of any kind or nature including, but not limited to, dried flowers, wreaths, papers and plastic flower containers must be removed from the cemetery within ten (10) days after burial.
- (i) No glass containers or items are allowed.
- (j) Except for markers, memorials, flowers, and urns expressly allowed by this Ordinance, and veteran flags as authorized by law, no other item (including, but no limited to, ornaments, signs, trellises, statues, benches, landscaping, bricks, stones, grave border materials or other structures) shall be installed or maintained with a Township cemetery, nor shall any grading, digging, mounding or similar alteration of the ground or earth occur except as authorized by this Ordinance or by the Township.

Section 22.12 Disclaimer of Township Liability and Responsibility Every person who enters, remains in and travels within a Township cemetery does so at their own risk. The Township is not

responsible for any injury, accident or other calamity that might occur to any person present in a Township cemetery. Furthermore, the Township is not responsible for any damage or vandalism to, theft of or deterioration of any burial monument, headstone, flower urn or other item placed at or near a cemetery plot, burial site or anywhere in a Township cemetery. The purchaser or transferee of any cemetery plot or the equivalent (and all subsequent transferees, assigns, heirs, or beneficiaries) hereby releases, waives, indemnifies and holds harmless the Township for, from and against any injury, damages, causes of action, claims, costs and expenses associated with, relating to and/or involving the cemetery plot or similar right, any headstone, monument or similar items, and any matter related to the cemetery involved. Such waiver, release and hold harmless provision shall apply not only to the Township, but also as to the Township Sexton, and any Township employee, officer, official or agent.

Section 22.13 Forfeiture of Vacant Cemetery Plots or Burial Spaces. Cemetery plots or burial spaces sold after the effective date of this Ordinance and remaining vacant for forty (40) years or more from the date of their sale shall automatically revert to the Township upon the occurrence of the following events:

- (a) Notice shall be sent by the Township clerk by first-class mail to the last known address of the last owner of record informing him/her of the expiration of the forty (40) year period and that all rights with respect to said plots or spaces will be forfeited if he/she does not affirmatively indicate in writing to the Township Clerk within sixty (60) days from the date of mailing of such notice of his/her desire to retain such burial rights; and
- (b) No written response to said notice indicating a desire to retain the cemetery plots or burial spaces in question is received by the Township Clerk from the last owner of record of said plots or spaces, or his/her heirs or legal representative, within sixty (60) days from the date of mailing of said notice.

Section 22.14 Repurchase of Plots or Burial Spaces. The Township may repurchase any cemetery plot from the owner for a price set by the Township Board, upon the written request of said owner or his or her legal heirs or representatives.

Section 22.15 Records. The Township Clerk shall maintain records concerning all burials, cemetery plots, issuance of burial permits and any other records of the Township related to Township cemeteries, and the same shall be open to public inspection at all reasonable business hours.

Section 22.16 Vaults.

(a) All burials shall be within a standard concrete vault (which meets all applicable laws) installed or constructed in each cemetery plot before interment. Vaults of other suitable materials may be allowed at the discretion of the Township.

(b) Remains shall be in a container approved by the Township.

Section 22.17 Cemetery Hours. Unless otherwise specified by the Township Board by resolution, all Township cemeteries shall be closed during the hours from 9 pm. until 7 am. the next morning. During those hours, no person shall be present in a Township cemetery. Such prohibition on being present in a Township cemetery during the time when a Township cemetery is closed shall not apply to the Township Sexton, any Township official, a person accompanied by the Township Sexton or other Township official, or any law enforcement or firefighting official when engaged in the lawful duties of any such office or position.

Section 22.18 Prohibited Uses and Activities The following prohibitions shall apply within any Township cemetery:

- (a) No person shall destroy, deface, apply graffiti to or otherwise injure any monument, sign, tree or other lawful item located within a Township cemetery.
- (b) No person shall disturb the peace or unreasonably annoy, harass or disturb any other person who is lawfully present on the grounds of any Township cemetery.
- (c) No vehicles shall be permitted to drive on lawns or cemetery plots in a cemetery.
- (d) There shall be no entry or presence in the cemetery by any person when the cemetery is closed or outside of authorized times.
- (e) There shall be no destruction of cemetery property.
- (f) There shall be no destruction, defacing, cutting, etc., of any tree or plant within a cemetery.
- (g) There shall be no headstones, ornaments, vases, plastic flowers, fences, benches, trellises, statues, signs or any other item placed, kept, installed or maintained in a cemetery except those expressly allowed by this Ordinance.
- (h) There shall be no disturbing of the peace or engaging in any loud or boisterous conduct.
- (i) There shall be no digging, grading or mounding unless expressly authorized by this Ordinance.

- (j) There shall be no driving of an automobile, truck or any vehicle on any portion of a cemetery except the designated roads or drives.
- (k) There shall be no motorcycles, snowmobiles, 4-wheelers, go-carts, or similar vehicles.
- (l) There shall be no gathering of persons in excess of seventy-five (75) people without prior Township approval (except during or incidental to a funeral occurring concurrent with burial)
- (m) There shall be no disinterment or grave openings unless approved by the Township.
- (n) There shall be no possession or consumption of any alcoholic beverage.
- (o) There shall be no picnicking or consumption of food without prior Township approval.
- (p) There shall be no music, playing of any radio, or the use of any amplification device or similar item, except pursuant to military ceremony or a funeral.
- (q) There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.
- (r) There shall be no littering or dumping.
- (s) There shall be no unlawful interference with or disruption of lawful funeral or funeral procession.
- (t) There shall be no private signs, lighting, moving displays or changeable copy on a sign.
- (u) There shall be no fires, candles or open flames.
- (v) No children under twelve (12) years of age shall be allowed in any Township cemetery unless accompanied by an adult and are properly supervised by an adult.
- (w) There shall be no exceeding of posted speed limits.
- (x) There shall be no domestic animals of any kind or pets allowed within the cemetery grounds. However, this prohibition shall not apply to dogs assisting handicapped persons.
- (y) No firearms or archery arrows shall be discharged or shot except that military or other veterans organizations may carry arms for the purpose of firing over the grave at the burial of a member.
- (z) No person shall engage in a fight, quarrel or disturbance.

- (aa) Cremains or ashes of a deceased person shall not be scattered or dispersed.
- (bb) There shall be no dumping, vandalizing or tipping over of any lawful garbage container or receptacle.
- (cc) No person shall possess or consume any alcoholic beverage.

Section 22.19 Authority of the Township Sexton.

- (a) The Township Board shall appoint a Township Sexton, who shall serve at the discretion of the Township Board. The Township Sexton may be a Township employee or independent contractor for the Township at the discretion of the Township Board.
- (b) The Township Sexton shall assist other Township officials with the enforcement and administration of this Ordinance.
- (c) The Township Sexton shall have such duties and obligations with regard to Township cemeteries as may be specified from time to time by the Township Board.

Section 22.20 Fees.

The Township Board shall have the authority to set fees pursuant to this Ordinance from time to time by resolution. Such fees can include, but are not limited to, a fee or fees for a burial permit, disinterment permit, grave opening, setting of foundations, grave closing, winter or holiday burial, the price for a new cemetery plot, transfer fees for cemetery plots, and other matters.

Section 22.21 Applicability of this Ordinance.

- (a) This Ordinance shall apply only to cemeteries owned, controlled or operated by the Township.
- (b) The provisions of this Ordinance shall not apply to Township officials or their agents or designers involved with the upgrading, maintenance, administration or care of a Township cemetery.
- (c) The provisions of this Ordinance shall not apply to police officers or firefighting officials or officers involved in carrying out their official duties.

Section 22.22 Interpretation/Appeals to the Township Board.

- (a) The Township Board shall have the authority to render binding interpretations regarding any of the clauses, provisions or regulations contained in this Ordinance and any rule or regulation adopted pursuant to this Ordinance, as well as their applicability. The Township Board (or its designer) is also authorized to waive application of the strict letter of any provision of this Ordinance or any rules or regulations promulgated under this Ordinance where practical difficulties in carrying out the strict letter of this Ordinance or any rules or regulations related thereto would result in hardship to a particular person or persons or the

public. Any such waiver, however, must be of such a character as it will not impair the purposes and intent of this Ordinance.

- (b) Any party aggrieved by any interpretation or decision made by the Township Sexton or any Township official, agent or contractor pursuant to this Ordinance, as well as any matter relating to a Township cemetery, rights to a cemetery plot, or other matter arising pursuant to this Ordinance, shall have the right to appeal that determination/decision or matter to the Township Board. Any such appeal shall be in writing and shall be filed with the township within thirty (30) days of the date of the decision, determination or other matter being appealed from. The Township shall give the aggrieved party who filed the written appeal with the Township at least ten (10) days prior written notice of the meeting at which the Township Board will address the matter unless an emergency is involved, in which case the Township shall utilize reasonable efforts to notify the aggrieved party who filed the appeal of a special or emergency meeting of the township Board at which the matter will be addressed. Pursuant to any such appeal, the decision of the township board shall be final.
- (c) The Township Board may set a fee or fees for any such appeal from time to time by resolution.

Section 22.23 Authority of the Township to Remove Unauthorized or Unlawful Items from a Township Cemetery.

Any monument, marker, planting, trellis, personal item, urn, flowers or foliage (whether real or artificial), structure, flag (except for lawful veterans flags), or other item that has been placed, installed, left or maintained in any Township cemetery in violation of this Ordinance, any Township rule or regulation regarding Township cemeteries, or any county, state or federal law, statute or regulation may be removed by the Township from the Township cemetery at any time and destroyed or dispose of by the Township without any prior notice to permission from ,or liability or obligation to the person or persons who left, installed, maintained or kept such item in the Township cemetery. No such item (including, but not limited to, a monument, marker planting, trellis, personal item, urn, flowers or foliage, structure, flag, or similar item) can be installed, placed, maintained or kept in a Township cemetery unless expressly authorized by this Ordinance or a written rule of policy of the Township. Even if such an item is authorized to be installed, kept, maintained or left in a Township cemetery, the Township shall still have the discretion to remove any such item at any time and dispose of the same without prior notice to, consent from or liability to the person or persons who installed, maintained or left such item in a Township cemetery.

Section 22.24 Penalties. A violation of this Ordinance (or any rule or regulation adopted pursuant to this Ordinance) constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any permit or approval issued here under, or any amendment thereof, or any person who knowingly intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil

infraction shall be not less than one hundred dollars (\$100) for the first offense and not less than two hundred dollars (\$200) for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense. A violation of any permit or permit condition issued pursuant to this Ordinance shall also constitute a violation of this Ordinance.

Section 22.25 Township Officials Who Can Enforce this Ordinance. Unless other specified by the Township Board by resolution, the following officials or officers shall have the authority to enforce this Ordinance and to issue municipal civil infraction citations/tickets pursuant to this Ordinance:

- Township Supervisor
- Township Clerk
- Township Sexton
- Township Zoning Administrator
- Township Ordinance Enforcement Officer
- Any deputy of the county sheriff’s department
- Any State Police officer

Section 22.26 Severability. The provisions of this Ordinance are hereby declared to be severable and should any provision, section or part thereof be declared to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall only affect the particular provision, section or part thereof involved in such decision and shall not affect or invalidate the remainder of this Ordinance, which shall continue in full force and effect.

Section 22.27 Effective Date; Conflicts. This Ordinance shall become effective thirty (30) days after a copy of this Ordinance (or summary thereof) appears in the newspaper. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**ARTICLE XXIII
BLIGHT/ NUISANCE ORDINANCE**

**Ordinance No. 5-19-11
Blight Defined and Prohibited**

An ordinance to protect the public health, safety and general welfare by eliminating blight within Elmer Township; to define and prohibit blight; to assess costs for blight removal; and to provide penalties for violations.

Section 23.01. Land Use . It is hereby determined that the uses of land described in this Article constitute blight which, if allowed to exist, will result in unsafe, unsanitary and undesirable conditions.

Section 23.02. Blight Prohibited. No person shall maintain or permit to be maintained any of the following types of blight upon any premises owned, rented, or occupied by such person:

- (a) The outdoor storage of any junk motor vehicle. The term “junk motor vehicle” shall include any motor vehicle which is not currently licensed, and which has been inoperable for any reason for a period in excess of thirty (30) days.
- (b) The storage or accumulation of garbage of any kind, except domestic refuse originating on the premises and stored in a sanitary manner for a period not to exceed fourteen (14) days. The term “garbage” shall include food waste matter and discarded food containers, as well as any other household refuse.
- (c) The outdoor storage or accumulation of junk. The term “junk” shall include machinery parts, tires, containers, motor vehicle parts, mobile home components, tin cans, unused appliances, metal remnants, cast-off materials, inoperable equipment, discarded building materials, and any inoperable or discarded machinery or materials. This section shall not apply to farm machinery which is located on a bonafide operating farm with a Farm Service Agency number, providing that the farm machinery is being kept for use in the farm operation.
- (d) The outdoor storage of mobile homes (other than those which are legally used and occupied for dwelling purposes), truck bodies, bus bodies, or semi-trailers, either as vacant units or storage units. The outdoor storage prohibition on semi-trailers shall not apply to valid MDOT certificate. Bonafide, operating farms with a Farm Service Agency number may utilize one (1) unlicensed semi-trailer for farm storage. In addition, commercial or industrial enterprises located on C-Commercial or I-Industrial zoned property may utilize one (1) semi-trailer for storage purposes.
- (e) The dumping or land-filling of any junk or garbage. The term “dumping or land-filling” shall include burying or otherwise disposing of items on property not

licensed as a landfill pursuant to the Michigan Solid Waste Management Act, or in violation of State, County and Township regulations.

- (f) The existence of buildings or structures which have been damaged by fire, wind, flood or other deterioration to the extent that they are no longer usable.
- (g) The consistent existence of grass, weeds, brush or undergrowth over twelve (12") inches in height within 200 feet of any public road right-of-way and 40 feet around any structures within the 200 foot road right-of-way.

Section 23.03 Nuisance Noise and Odors

- (a) Loud and Excessive Noise: Any sound which is unreasonably and/or unnecessarily loud, excessive, injurious and or detrimental to the health, peace, quiet, comfort, repose, safety, and/or general welfare of the residents of Elmer Township. Examples: excessive dogs barking, constant discharge of firearms and explosives or amplified loudspeakers.
- (b) Creation or Maintenance of Noxious Odors are in violation of the Public Act 102 of 2012.

Section 23.04 Junk or Salvage Special Exceptions. Sections 23.02(a), (c) and (d) of this Ordinance shall not apply to junk or salvage yards with approved zoning variances or which are zoned I-Industrial and have been granted special approval under the Elmer Township Zoning Ordinance.

Section 23.05 Penalties. Any person, firm or corporation who violates any of the provisions of this ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine plus costs and other sanctions, for each infraction pursuant to the Elmer Township Civil Infraction Ordinance. Repeat offenses under this ordinance shall be subject to increased fines as provided for in the Elmer Township Civil Infraction Ordinance.

Section 23.06 Enforcement. As an alternative to proceedings under Section 2.1, the Township may seek injunctive relief through Circuit Court to abate any violations. Any violation of this Ordinance shall constitute a nuisance per Se.

Section 23.07 Enforcement Responsibility. Any person found responsible in a court of law for blight shall eliminate such blight and shall be liable for the cost of elimination of the blight, including attorney fees incurred by the Township. If such blight is not eliminated by the responsible party, the Township may cause such blight to be eliminated and bill the cost to the responsible party. The cost of such blight elimination, if it is not voluntarily paid for by the responsible party, shall be assessed against the property on the next tax roll.

**ARTICLE XXIV
MEDICAL MARIJUANA ORDINANCE**

ORDINANCE NO. 9152011

An Ordinance to regulate the use and possession of medical marijuana and the operation of medical marijuana facilities within the Township.

Section 24.01 Findings, Intent and Purpose of Ordinance. The Township of Elmer adopts this Ordinance based on the following findings:

- A. In 2008, the voters of the State of Michigan adopted by initiative election a statute authorizing the limited use, growing, and distribution of marijuana for certain medical conditions.
- B. The state intent of the statute approved by the voters was to enable certain specified persons who comply with the registration provisions of the law to legally obtain, possess, grow, use and distribute marijuana and to assist specifically registered individuals identified in the statute without fear or criminal prosecution under limited, specific circumstances.
- C. Despite the provisions of the medical marijuana legislation, marijuana is a controlled substance under Michigan and federal law.
- D. Pursuant to the rules adopted (R333.125) under the Michigan Medical Marijuana Act, additional felony penalties apply to any patient or caregiver who is convicted of selling marijuana to someone not allowed to use marijuana for medical purposes.
- E. It is the intention of the Township that nothing in this Ordinance be construed to allow persons to engage in conduct that endangers others or causes a public nuisance, or to allow the use, possession, growing, distribution or consumption of marijuana for non-medical purposes that is otherwise illegal.
- F. It is the purpose of this Ordinance to impose specific requirements for those individual registering with the State of Michigan as “qualifying patients” or “primary caregivers” as those terms are defined by the State of Michigan Medical Marijuana Act so as to protect the public health, safety and welfare.

Section 24.02 Definitions. The definition of words and terms used in this Ordinance shall be the definitions contained in the Michigan Medical Marijuana Act, MCL 333.26421 et seq.

In addition, for purposes of this Ordinance, a “medical marijuana facility” is defined as a location from which medical marijuana is grown or provided to legally qualified patients.

Section 24.03 Prohibited Conduct.

A. Medical Marijuana Compensation Restrictions:

Except as otherwise required by law, not more than one (1) registered primary caregiver, who shall also be a full-time resident of the residential dwelling, shall be permitted to operate at any single property parcel.

No person shall receive or share in compensation for the costs associated with assisting a qualifying patient with the medical use of marijuana to a qualifying patient except for a registered caregiver who is distributing marijuana to a qualified patient that the registered caregiver is connected to through the Michigan Department of Community Health’s registration process and the transaction is otherwise in compliance with the Michigan Medical Marijuana Act. No qualifying patient shall receive compensation for costs associated with assisting other qualifying patients with the medical use of marijuana unless the qualifying patient providing the assistance is a registered primary caregiver connected to the qualifying patient receiving the marijuana through the Michigan Department of Community Health’s registration process and transaction is otherwise in accordance with the Michigan Medical Marijuana Act.

B. Medical Marijuana Possession Limits.

No primary caregiver or qualifying patient shall possess marijuana or marijuana plants in excess of the amount he or she is allowed to possess under MCL 333.26424(b). No more than 5 patients shall be connected to or serve by a single caregiver.

(1) The possession limits for a registered caregiver under the Michigan Medical Marijuana Act are as follows:

- (a) 2.5 ounces of usable marijuana for each qualifying patient that is connected to the caregiver.
- (b) 12 marijuana plants kept in an enclosed, locked facility for each registered qualifying patient who has specified that the qualified caregiver will be allowed to cultivate marijuana for the qualifying patient.
- (c) Any incidental amount of seeds, stalks, and unusable roots shall also be allowed under state law and shall not be included in this amount.

C. Entity Restrictions.

The following entities are expressly prohibited from receiving compensation for costs associated with assisting a registered qualifying patient in the medical use of marijuana: corporations, limited liability companies, partnerships, or any other entity other than an individual registered care giver.

D. Common Facilities Prohibited.

It shall be a violation of this Ordinance for any person to Participate as a registered primary caregiver in a facility where primary caregivers share building space which is used in common in violation of the separation requirements of the Michigan Medical Marijuana Act.

E. Restrictions Against Delegation of Caregiver Functions.

It shall be a violation of this Ordinance for a primary caregiver to delegate to an employee, a patient, or any other person not independently authorized by the Michigan Medical Marijuana Act to provide assistance with the medical use of marijuana to a qualifying patient.

F. Continued Illegality of Non-Medical Marijuana.

The sale, distribution, cultivation, possession and use of marijuana or marijuana plants is prohibited to the extent it is in violation of the Michigan Medical Marijuana Act or other state or federal statutes.

G. No medical marijuana caregiver or patient shall:

- (1) Undertake any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice.
- (2) Possess or engage in the use of medical marijuana:
 - (G.2.a) In a school bus.
 - (G.2.b) On the grounds of any preschool or primary or secondary school.
- (3) Smoke marijuana in any public place.
- (4) Operate or be in actual physical control of any motor vehicle, while under the influence of marijuana.

Section 24.04 Medical Marijuana Facilities: It shall be unlawful for any “primary caregiver,” as defined by the Michigan Medical Marijuana Act, to dispense or grow medical marijuana within any retail store, storefront, office building, manufacturing building, processing facility, any other

type of commercial or industrial building, apartment building or residential apartment. A medical marijuana caregiver shall only operate out of a single-family dwelling where the caregiver resides. In no event shall a medical marijuana facility be located within one thousand (1,000) feet of any school property line or within five hundred (500) feet from the property line of any church, library, or licensed child daycare facility.

Section 24.05 Severability. Section of this Ordinance shall be severable. Should any provision of this Ordinance be declared invalid, it shall not affect the validity of the Ordinance as a whole or any part other than the part declared to be invalid.

Section 24.06 Penalty and Enforcement. Any person, firm, or corporation who shall violate any provision of this Ordinance shall be deemed responsible for violating a municipal civil infraction and shall, upon finding thereof, be subject to a fine of not more than Five Hundred (\$500) Dollars, plus court costs and costs of prosecution at the discretion of the Court. Each day that a violation occurs shall be considered a separate offense. The Township may also see injunctive relief in which case the violator shall be responsible for all attorney fees, expert fees, and all other costs incurred by the Township in enforcing this Ordinance.

Section 24.07 One Caregiver Per Household. Except otherwise required by law, not more than one (1) State of Michigan licensed caregiver, who shall also be a full-time resident of the residential dwelling, shall be permitted to operate at any property parcel.

**TOWNSHIP OF ELMER
ARTICLE XXV
CIVIL INFRACTION ORDINANCE**

ORDINANCE NO. 3312011-1

An Ordinance establishing municipal civil infractions, enforcement procedures, and providing penalties and sanctions for violations of ordinances.

Section 25.01 General Penalties and Sanctions for Violations of Ordinances; and Injunctive Relief.

- (A) Unless a violation of a ordinance is specifically designated in the ordinance as a Municipal Civil Infraction, the violation shall be deemed to be a misdemeanor.
- (B) The sanction for a violation which is a Municipal Civil infraction shall be a civil fine in the amount as provided by this Ordinance, plus and cost, damages, expenses, and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws.
 - (1) Unless otherwise specifically provided for, the civil fine for a particular Municipal Civil Infraction violation shall not be less than Fifty (\$50.00) Dollars, plus cost of other sanctions, for each infraction.
 - (2) Increased civil fines may be imposed for repeated violations by a person of any ordinance provision. As used in this Section, “repeat offense” means a second (or any subsequent) Municipal Civil Infraction violation of the same requirement or provision (i) committed by a person within any six month period, unless some other period is specifically provided by ordinance and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by ordinance for a particular Municipal Civil Infraction violation, the increased fine for a repeat offense shall be as follows:
 - (a) The fine for any offense which is a first repeat offense shall be no less than One Hundred Dollars (\$100.00), plus costs.
 - (b) The fine for any offense which is a second repeat offense shall be no less that One Hundred Fifty Dollars (\$150.00), plus costs.
 - (c) A “violation” includes any act which is prohibited by any ordinance or any omission or failure to act where the act is required by any ordinance.
 - (d) Each day on which any violation of any ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
 - (e) In addition to any remedies available at law, the Township may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of the Ordinance.

Section 25.02 Action Commencement. A municipal civil infraction action may be commenced upon the issuance by an authorized official of a municipal civil infraction directing the alleged violator to appear in court.

Section 25.03 Citations: Issuance and Service. A municipal civil infraction citations shall be issued and served by authorized officials as follows:

- (a) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
- (b) The place for appearance specified in a citation shall be the District Court.
- (c) Each citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator. The original citation shall be filed with the District Court. Copies of the citation shall be retained by the authorized official and issued to the alleged violator as provided by Section 8705 of the Act.
- (d) A citation for a municipal civil infraction signed by an authorized official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official” “I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief”.
- (e) An authorized official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and completely as possible, an original and required copies of a citation.
- (f) An authorized official may issue a citation to a person if:
 - (1) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction: or
 - (2) Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the municipal attorney approves in writing the issuance of the citation.
- (g) Municipal civil infraction citations shall be served by authorized official as follows:
 - (1) Except as provided by Section 4 (g) (2) below, an authorized official shall personally serve a copy of the citation upon the alleged violator.
 - (2) If the municipal civil infraction involves the use of occupancy of lane, a building, or other structure, a copy of the citation does not need to be personally served upon owner or occupant of the land, building, or structure by posting the copy of the citation or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building, or structure at the owners last known address.

Section 25.04 Contents.

A) A municipal ordinance citation shall contain the name and addresses of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.

B) Further, the citation shall inform the alleged violator that he or she may do one of the following:

- (1) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
- (2) Admit responsibility for the municipal civil infraction “with explanation” by mail by the time specified for appearance or, in person, or by representation.
- (3) Deny responsibility for the municipal civil infraction by doing either of the following:

(B.3.a) Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the authorized official or municipal attorney.

(B.3.b) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

C) The citation shall also inform the alleged violator of the following:

(1.a.1) That if the alleged violator desires to admit responsibility “with explanation” in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.

(1.a.2) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.

(1.a.3) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the authorized official acting on behalf of the Township.

(1.a.4) That at an informal hearing a alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.

(1.a.5) That at a formal hearing the alleged violator must appear in person before a judge and shall have the opportunity of being represented by an attorney.

- D) The citation shall contain notice in bold face type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a Default Judgment against the alleged violator on the municipal civil infraction

Section 25.05 Severability. The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 25.06 Effective Date. This Ordinance shall become effective thirty (30) days after the publication specified below.

The undersigned Clerk of the Township of Elmer hereby certifies that this Ordinance was duly adopted by the Elmer Township Board at the meeting held on the 29th day of March, 2011 and was published in the Sanilac County News on the 4th day of March, 2011.

Lisa Schmidt, Clerk
Leonard Brown, Supervisor

ARTICLE XXVI SOLAR ENERGY SYSTEMS

Section 26.01. General Requirements. All solar energy systems, whether ground or roof mounted, are subject to the following general requirements:

1. Solar energy systems must conform to all County, State, and Federal regulations and safety requirements.
2. The design of the solar energy system shall conform to applicable industry standards.
3. A solar energy system shall not have a negative impact of public health safety or value on humans, animals or neighboring properties.
4. No signage will be allowed except for public and employee safety.
5. Any on-site electrical storage (battery storage system) must conform to industry standards and applicable regulations.
6. Solar panels shall be placed such that concentrated solar radiation, or glare shall not be directed onto nearby properties or roadways.

7. In the event that the operation of the solar energy system interferes with the supply of electric service to other residents of the township, the Township may restrain said operation for the health, safety and welfare of the other residents.

Section 26.02 Ground Mounted Solar Energy Systems. Ground mounted solar energy systems (other than those which involve the sale of distribution of electricity beyond the property to which the solar energy system is located) shall be considered an accessory use in all zoning districts. All ground mounted solar energy systems shall be subject to the following requirements.

1. Ground mounted solar energy system installation, whether for power generation for profit or for household or business consumption must be approved by the Zoning Administrator
2. Prior to the installation of a ground mounted solar energy system, the property owner shall submit a descriptive site drawing to the Zoning Administrator. This drawing shall include setbacks, panel size, and it shall also include the location of property lines, building, fences, fences, greenbelts, and road right of ways. This site drawing must be drawn to scale.
3. A ground mounted solar energy system shall not exceed the maximum building height for adjacent accessory buildings, but in any case the top of the system shall not be more than twenty-five (25) feet above the ground. This applies in all zoning districts.
4. A ground mounted or free-standing solar energy system shall not be installed in the front yard.
5. All power transmission lines from a ground mounted solar energy to any building or other structure shall be located underground.
6. There shall be a greenbelt screening any ground mounted solar energy systems and equipment associated with the system from any adjacent property. The greenbelt shall consist of shrubbery, trees, or other non-invasive plant species that provide a visual screen. In lieu of a planting greenbelt, a decorative fence may be used.
7. A category II or larger ground mounted solar energy system must be fenced in with at least a six (6) foot chain link fence, and have the following minimum setback requirements, with setback distances measured from the nearest edge of the perimeter fencing of the facility:
 - a. Occupied community buildings and dwellings on nonparticipating properties 400 feet setback from the nearest point on the outer wall.
 - b. Public road right-of-way; 100 feet setback from the nearest edge of a public road right-of-way.

- c. Nonparticipating parties; 100 feet of setback from the nearest share property line and 400 feet setback on property ten (10) acre or less.
8. In the event that a ground mounted solar energy system has been abandoned (meaning not having been in operation for a period of one (1) year), the system shall be removed by the applicant within six (6) months from the date of abandonment.
9. If the applicant fails to remove or repair the defective or abandoned system, the Township may pursue legal action to have the system removed and assess its cost to the tax roll. The applicant shall be responsible for the payment of any costs and attorney's fees incurred by the Township in securing removal of the structure.

Section 26.03 Solar Farms. Solar farms shall only be allowed in the AR-1 Agricultural and Single-Family Residential or the Industrial districts as special uses approved by the Planning Commission. Solar farms shall be subject to the following requirements.

1. The owner of a solar farm shall provide the Planning Commission within the operations agreement, which shall set forth the operations parameters, the name and contact information of the certified operator, inspection protocol, emergency procedures and general safety documentation.
2. Prior to the installation, the applicant shall submit a descriptive site plan to the Planning Commission which includes where and how the solar farm will connect to the power grid. This requirement is in addition to the requirements set forth in Article XIV, Section 14.03.
3. No solar farm shall be installed until evidence has been given to the Planning Commission that the electric utility company has agreed to allow the property owner to install an interconnected customer-owned generator to the grid.
4. To ensure proper removal of the ground mounted solar energy system when it is abandoned, any application for approval of a new structure shall include a description of the financial security guaranteeing removal of the structure which must be posted at the time of receiving a building permit for the facility. The security shall be: 1) a cash bond; 2) an irrevocable bank letter of credit; or 3) a performance bond in a form approved by the Township. The amount of such a guarantee shall be no less than the estimated cost of removal and shall include a provision for inflationary cost adjustments. The estimate shall be prepared by the engineer for the developer and shall be subject to approval by the Township. If said financial instrument fails on funding the existing landowner is responsible for said expenses.

**ARTICLE XXVII
UTILITY-GRID WIND ENERGY SYSTEMS**

Section 27.01 Utility-Grid Wind Energy Systems.

The following regulations shall apply to all Utility-Grid Wind Energy System facilities and accessory uses hereinafter constructed or developed within Elmer Township. As used in this section, the term "operator" refers to the person or entity that operates a Utility-Grid Wind Energy System and the term "owner" refers to the person or entity who owns a Utility-Grid Wind Energy System.

Section 27.02 Application for a Utility-Grid

Application for a Utility-Grid Wind Energy System shall be submitted to the Township Zoning Administrator with the following information.

- A. The name, address, legal corporate status and telephone number of the applicant responsible for the accuracy of the application and site plan.
- B. The name, address, legal corporate status and telephone number of the owner of the proposed Utility-Grid Wind Energy System.
- C. A signed statement indicating that the applicant has legal authority to construct, operate, and develop the Utility-Grid Wind Energy System(s) under state, federal and local laws and regulations, including Federal Aviation Administration (FAA), the Michigan Tall Structures Act (Act 259 of 1959), the Airport Zoning Act (Act 23 of 1950), and state and local building codes, if applicable. The FAA will issue a signed statement when the precise location has been determined. Building permits, if applicable, will not be issued prior to receiving all signed statements, but a use permit may be granted.
- D. A description of the number and kind of Utility-Grid Wind Energy Systems to be installed.
- E. A description of the Utility-Grid Wind Energy System(s) height and design, including a cross section, elevation, and diagram of how the wind energy system will be anchored to the ground.
- F. A site plan, drawn to scale of up to 1 inch to 100 feet, showing the parcel boundaries and a legal description, 2 foot contours for the subject site and 100 feet beyond the subject site, support facilities, access, proposed landscaping or fencing.
- G. Photo exhibits visualizing the proposed Utility-Grid Wind Energy System.
- H. A statement from the applicant that all Utility-Grid Wind Energy System(s) will be installed in compliance with manufacturer's specifications, and a copy of those manufacturer's specifications.

I. A copy of the lease, easement, or recorded document, with the landowner if the applicant does not own the land for the proposed Utility-Grid Wind Energy System.

J. Certifications that show the applicant has complied or will comply with all applicable state and federal laws and regulations; copies of all such permits and approvals that have been obtained or applied for at the time of the application. Note: Land enrolled in Michigan Farmland Preservation Program through Part 361 of the Natural Resources and Environmental Protection Act, 1994 Act 451 as amended, more commonly known as PA116, must receive approval from the Michigan Department of Agriculture to locate a WES on the property prior to construction.

K. A copy of any applicable Waiver Agreements shall be recorded at the County Registrar of Deeds.

L. A copy of Shadow Flicker Analysis.

M. A copy of Avian Impact.

N. A copy of Noise Study.

O. A statement indicating what hazardous materials will be used and stored on the site and how that material will be stored.

P. Construction Codes, Towers, and Interconnection Standards: Utility-Grid Wind Energy Systems including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. Utility Grid Wind energy systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL259.481 et seq.), and local jurisdiction airport overlay zone regulations. The minimum FAA lighting standards shall not be exceeded. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA. Utility-Grid Wind Energy Systems shall comply with applicable utility, Michigan Public Service Commission, and Federal Energy Regulatory Commission interconnection standards.

Q. An applicant shall remit an application fee in the amount specified in the fee schedule adopted by the Elmer Township Board. This schedule shall be based on the cost of the application review and may be adjusted from time to time. If professional review of plans is required those costs shall be borne by the applicant and paid in full prior to the approval of any applications or permits being granted or approved.

Section 27.03 Application for a Permit

Application for a permit for MET tower(s) and/or SCADA tower(s) shall be submitted to the Township Zoning Administrator with the following information.

A. The name, address, legal corporate status and telephone number of the applicant responsible for the accuracy of the application and site plan.

B. The name, address, legal corporate status and telephone number of the owner of the proposed MET tower(s) and/or SCADA tower(s).

C. A signed statement indicating that the applicant has legal authority to construct and operate the MET tower(s) and/or SCADA tower(s) under state, federal and local laws and regulations, including Federal Aviation Administration (FAA), the Michigan Tall Structures Act (Act 259 of 1959), the Airport Zoning Act (Act 23 of 1950), and state and local building codes. The FAA will issue a signed statement when the precise location has been determined.

D. A description of the number and kind of MET tower(s) and/or SCADA tower(s) that will be installed.

E. A description of the MET tower's and/or SCADA tower's height and design, including a cross section, elevation, and diagram of how the MET tower(s) and/or SCADA tower(s) will be anchored to the ground.

F. A site plan, drawn to a scale of up to 1 inch to 100 feet, showing the parcel boundaries and a legal description, 2 foot contours for the subject site and 100 feet beyond the subject site, support facilities, and access.

G. A statement from the applicant that all MET tower(s) and/or SCADA tower(s) will be installed in compliance with manufacturer's specifications, and a copy of those manufacturer's specifications.

H. A copy of the lease, or recorded document, with the landowner if the applicant does not own the land for the MET tower(s) and/or SCADA tower(s).

I. A copy of any applicable Waiver Agreements.

J. A statement indicating how the MET tower(s) and/or SCADA tower(s) will be lit, if applicable. Lighting must be as required by the FAA and as required by the Michigan Tall structures Act.

K. An applicant shall remit an application fee in the amount specified in the fee schedule adopted by the Elmer Township Board. This schedule shall be based on the cost of the application review and may be adjusted from time to time. If professional review of plans is required those costs shall be borne by the applicant and paid in full prior to the approval of any applications or permits being granted or approved.

Section 27.04 Application for each WET

An applicant must submit an application for each wind energy turbine to be located within Elmer Township, and provide a detailed map identifying parcel locations for all proposed wind turbines to the township of Elmer at the time a use application is submitted.

Section 27.05 Application Fee and a Fee Per Megawatt

An applicant for a wind energy system or turbine shall remit an application fee and a fee per megawatt of the nameplate capacity to Elmer Township included with all applications in the amount specified in the annual fee ordinance. This fee is based on the cost to Elmer Township of the review which fee may be adjusted from time to time, and shall include, but not be limited to, such costs as meeting expenses, publications and notification expenses, related attorney fees, and other costs as may be incurred by Elmer Township during the application and review process. The applicant or developer shall also pay any expenses or costs related to the project that are incurred by Elmer Township throughout the life of the wind energy turbine, including but not limited to, attorney fees, meeting costs, and emergency services.

Section 27.06 Certificate of Insurance Requirements A certificate of insurance with a minimum of \$1,000,000 liability coverage per wind turbine tower and per occurrence. Utility-Grid Wind Energy Systems with more than one wind turbine tower may provide a single insurance certificate covering multiple wind turbine towers. Each renewal period will require a copy of certificate of insurance be provided to Elmer Township. An expired insurance certificate or an unacceptable liability coverage amount is grounds for revocation of the use permit at any time. In lieu of a certificate of insurance, an applicant or owner may be self-insured, provided that it has a secured bond rating of at least BBB+ from Standard and Poors, or its equivalent.

Section 27.07 Public Hearing Within sixty (60) days after an application is determine to be complete, the Planning Commission will schedule a public hearing. The applicant shall participate in the hearing and be afforded an opportunity to present the project to the public and municipal officials, and answer questions about the project. The public shall be afforded an opportunity to ask questions and provide comment on the proposed project.

Section 27.08 Planning Commission Decision Within a sixty (60) days, and in good faith, the Planning Commission will make a decision whether to issue or deny the permit application.

Section 27.09 Applicant Changes to the Information in the Permit Application Throughout the permit process, the Applicant shall promptly notify the Planning commission in a written statement of any changes to the information contained in the permit application.

Section 27.10 Changes to the Pending Application Changes to the pending application require a public hearing.

Section 27.11 Expiration of a Utility-Grid Wind Energy System A Utility-Grid Wind Energy System use permit shall expire unless construction is started within five (5) years of use permit

issuance and completed with twenty-four (24) months of use permit issuance, or in accordance with a timeline approved by the Elmer Township Planning Commission. Upon written request of an applicant, and for good cause, the Elmer Township Planning commission may grant an extension of time.

Section 27.12 Design and Installation Standards

1. Construction Codes, Towers, and Interconnection Standards. Utility-Grid Wind Energy Systems, including towers, shall comply with all applicable state construction and electrical codes and local building permit requirements. Utility Grid Wind energy systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and local jurisdiction airport overlay zone regulations. The minimum FAA lighting standards shall not be exceeded. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA. Utility Grid wind energy systems shall comply with applicable utility, Michigan Public Service Commission, and Federal energy Regulatory Commission interconnection standards.

2. No form of advertising shall be allowed on the pole, turbine, blades, or other buildings or facilities associated with the use, except for reasonable identification of the manufacturer, operator or owner of the Utility-Grid Wind energy System. No graffiti will be allowed, removal will be the responsibility of the owner.

3. All electrical components of the Utility-Grid Wind Energy System shall conform to relevant and applicable local, state, and national codes, or relevant and applicable international standards.

4. The owner of a Utility-Grid Wind energy System shall defend, indemnify, and hold harmless Elmer Township and their officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses, and liabilities whatsoever including attorney fees arising out of the acts or omissions of the operator concerning the operation of the Utility-Grid Wind Energy System or arising out of the issuance of the use permit hereunder. The owner shall provide a written and signed affirmation of this obligation to the Township.

5. Any recorded access easement across private lands to a Utility-Grid Wind Energy System shall in addition to naming the Utility-Grid Wind Energy System owner as having access to the easement also permit Elmer Township access to the easement for purposes of inspection or decommission with 24 hour advance notice to the property owners and Utility-Grid Wind Energy System owner.

6. Any wind energy turbine or facility that does not produce energy for a continuous period of twelve (12) months shall be considered abandoned and shall be removed in accord with the removal and decommissioning provisions of Section 11.14(AA) of this ordinance. Upon a showing of good cause, the Planning Commission may grant the owner/operator an additional twelve (12) month period of non production.

7. Wires overhead or underground transmission and distribution lines are required to obtain a separate special land use permit from the Township. Underground and/or overhead collection lines or collection line systems are required to obtain a separate special land use permit from the township. Surface markers shall be placed to indicate the location of the wires and a map will be placed on the tower indicating same. Membership and participation in the MISSDIG Systems, Inc. of Michigan shall be required. Proof of membership shall be provided upon request. Any new substation shall be located at a distance of no less than one thousand five hundred (1,500) feet from the nearest residence, school, hospital, church or public library. A lesser setback may be approved if the intent of this Ordinance would be better served thereby. A lesser setback shall be considered only with written approval from the owner of the inhabited structure.

Section 27.13 Construction Bond and Permit.

1. Applicant, construction company, or other acceptable third party shall file a Construction Performance Bond or other agreement acceptable to the parties in an amount determined by the Township, to ensure that, in the event that the project is not completed, the project site and other affected private or governmental properties (ire., Roads, ditches, bridges, etc.) will be restored to pre-construction condition.

2. This bond shall be terminated upon timely completion of construction and activation of the facility.

Section 27.14 Setbacks for Utility-Grid Wind Energy Systems Setbacks for Utility-Grid Wind Energy Systems, MET Towers and SCADA Towers.

1. The following minimum setbacks herein shall be measured from the center point of the wind turbine, MET tower and SCADA tower.
 - a. Occupied community buildings and residences on nonparticipating properties; 2.5 times the maximum blade tip height to the nearest point on the outside wall of the structure.
 - b. Residences and other structures on participating properties; 1.5 times the maximum blade tip height to the nearest point on the outside wall of the structure.
 - c. Nonparticipating property lines; 2.0 times the maximum blade tip height.
 - d. Public road right-of-way; 1.5 times the maximum blade tip height to the center line of the public road right-of-way.

- e. 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 casement containing the overhead line.

3. The Elmer Township Planning Commission may grant a waiver to this requirement for a participating and/or non-participating landowner to decrease the setback, provided the following provisions have been implemented.

(a) The affected Property Owner signs a Waiver Agreement setting forth the applicable setback provisions and the proposed changes.

(b) The Waiver Agreement shall notify the affected Property Owner of the setback required by this Ordinance, describe how the proposed Utility-Grid Wind Energy System, MET tower(s) and/or SCADA tower(s) are not in compliance, and state that consent is granted for the Utility-Grid Wind Energy System, MET tower(s) and/or SCADA tower(s) to not be set back as required by this Ordinance.

Section 27.15 Noise and Vibration.

1. The sound pressure level generated by a wind turbine shall not exceed the greater of 50dB(A) equivalent sound level ("Leq") or the ambient Leq sound pressure level plus 5 dB(A) for more than 6 minutes in any hour (10% of any hour) at any inhabited structure or non-participating property line existing on the date of approval. The Leq is determined according to the Acoustical Society of America, American National Standard ANSI 512.18-1994. Sound pressure level monitoring to demonstrate compliance with this requirement shall use a ANSI Type 1 sound level analyzer (as defined by the Acoustical Society of America, American National Standard ANSI 51.4-1983) which has been calibrated according to a National Institute of Standards and Technology acoustic standard within the previous 12 months and shall be field-calibrated with an ANSI Type 1 calibrator. Measurements shall exclude invalid samples that are contaminated by extraneous noise sources other than the wind turbines. Monitoring shall not be done during precipitation events or extreme weather conditions. Compliance shall be demonstrated by taking fifty (50) valid is-second Leq sound level readings, excluding the two highest is-second readings (5% of the monitoring period), and forming the arithmetic average of the remaining is-second Leq sound readings. In the event of high, steady background sound levels, including wind background noise, the background Leq sound level (without wind turbine sound) shall be established either by monitoring with the nearby wind turbines turned off, or by sound level monitoring of Leq at a similar location unaffected by the wind turbine sound, and that background level shall then be subtracted (on an energy basis) from the measurement of the wind turbine to obtain the wind turbine only sound pressure level.

2. Certifications and Compliance.

a. The Planning Commission must be notified within thirty (30) days of closing of a change in ownership of a Utility-Grid Energy System. This notification will include the name and address of a contact person related to the new ownership.

b. The Planning Commission reserves the right to inspect the Utility-Grid Wind Energy System annually in order to ensure compliance with the Zoning Ordinance. The reasonable cost of the inspections shall be paid by the owner/operator of the Utility-Grid Wind Energy System.

c. In addition to the Certification & Compliance requirements listed previously, the Utility-Grid Wind Energy System shall also be subject to the following.

(1) A sound pressure level analysis shall be conducted from a reasonable number of sampled locations, as set forth in the post-construction test plan submitted to demonstrate compliance with the requirements of this ordinance. Proof of compliance with the noise standards is required within thirty (30) days after completion of the post-construction sound testing. Sound shall be measured by a third-party, qualified professional.

(2) The Utility-Grid Wind Energy System Owner(s) or Operator(s) shall provide the Zoning Administrator with access to review the facility's yearly maintenance inspection records.

5. If audible noise exceeds the limits set forth in (1) above, the owner/operator must take action to mitigate the noise levels for the offending turbine, and if unable to satisfactorily mitigate the noise levels, then the offending wind turbine must be inoperable until repairs are completed, or a waiver agreement is obtained from affected property owners.

6. In the event the noise levels resulting from the Utility-Grid Wind Energy System exceed the criteria listed above, a waiver to said levels may be granted by the Elmer Township board provided that written consent from the affected property owners has been obtained stating that they are aware of the Utility-Grid Wind Energy System and noise limitations imposed by this Ordinance, and that consent is granted to allow noise levels to exceed the maximum limits otherwise allowed.

Section 27.16 Electro-magnetic Interference. No Utility-Grid Wind Energy System shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for global positioning system corrections systems (RTK), radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system. No Utility-Grid Wind Energy System shall be installed in any location within the line of sight of an existing microwave communications link where operation of the wind energy system is likely to produce electro-magnetic interference in the link's operation unless the interference is insignificant.

Section 27.17 Shadow Flicker. The applicant shall conduct an analysis of potential shadow flicker created by each proposed wind turbine at all inhabitable structures with direct line-of-sight to a wind turbine. Such analysis shall be documented in a shadow flicker modeling report to be submitted as part of the Special Land Use Permit Application to the Planning Commission. The analysis shall identify the locations of shadow flicker created by each proposed wind turbine and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. Site plans shall depict a contour around each proposed wind turbine that represents the maximum predicted thirty (30) hours per year or thirty (30) minutes per day shadow flicker generated by the modeling software used in the report. The analysis shall identify all areas where shadow flicker may affect the occupants of the inhabitable structures and describe measures that shall be taken to eliminate or mitigate the problems. A shadow flicker mitigation plan shall also be submitted with the shadow flicker modeling report. Any shadow flicker complaint shall be addressed by the applicant and be mitigated.

Section 27.18 Decommissioning Requirements.

1. The applicant shall submit a plan describing the intended disposition of the Utility-Grid Wind Energy System at the end of its useful life and shall describe any agreement with the landowner regarding equipment removal upon termination of the lease. Prior to the start of construction, a financial instrument shall be posted and maintained as set forth in section (6) below.

2. The Utility-Grid Wind Energy System owner shall complete decommissioning within twelve (12) months after the end of the useful life of the Utility Grid wind energy System or within twelve (12) months of not correcting a default or other event of noncompliance. Upon request of the owner(s) or the assignee of the Utility-Grid Wind Energy System, and for good cause, the Township Board may grant a reasonable extension of time in which to accomplish decommissioning. The Utility-Grid Wind Energy System will be presumed to be at the end of its useful life if no more than 20% of its cumulative nameplate capacity in commercially viable electricity is available for generation for a continuous period of twelve (12) months. All decommissioning expenses shall be the responsibility of the owner(s).

3. Decommissioning shall include the removal of each wind turbine, all electrical components, and associated facilities (such as MET towers) within the footprint of the wind turbine foundation to a depth of ninety six (96) inches below original grade. Any foundation shall be removed to a minimum depth of ninety six (96) inches below original grade, or to the level of bedrock if less than ninety six (96) inches below original grade, provided, however, that the land owner may submit a request allowing concrete foundations to be left for other uses, subject to the approval of the township Zoning Administrator. Following removal, the location of any remaining turbine foundation shall be identified on a map as such and recorded with the deed to the property with the Sanilac County Register of Deeds.

4. All access roads to the Utility-Grid Wind Energy System shall be removed, cleared and graded by the facility owner(s), unless the property owner(s) requests, in writing, a

desire to maintain the access road. The Township will not be assumed to take ownership of any access road and such remaining roads will not be considered public roads.

5. The site and any disturbed earth shall be stabilized, graded and cleared of any debris by the owner of the Utility-Grid Wind Energy System or its assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion, and restored to its condition existing prior to any construction activity, unless the property owner(s) requests in writing that the land surface areas not be restored.

6. In addition to the requirements listed previously, the Utility-Grid Wind Energy System shall also be subject to the following:

a. If the Utility-Grid Wind Energy System owner fails to complete decommissioning within the period prescribed above, including any extensions, the Township may designate a contractor to complete decommissioning with the expense thereof to be charged against the decommissioning financial instrument; if said financial instrument fails on funding the existing landowner is responsible for said expenses.

b. An independent and certified professional engineer shall be retained by the Owner(s) to estimate the total cost of decommissioning ("Decommissioning Costs"). These estimates shall be submitted to the Township Zoning Administrator prior to the start of construction and every fifth year thereafter and the financial instrument amount shall be adjusted accordingly.

c. Prior to the start of construction of the Utility-Grid Wind Energy System, the applicant shall post and maintain decommissioning funds in an amount equal to one and a half times the Net Decommissioning Costs, as determined by the certified professional engineer pursuant, (in b. above).

d. Decommissioning funds shall be in the form of a financial instrument made out to the Township and determined to be acceptable by the Township Board.

e. A condition of the financial instrument shall be notification by the entity issuing financial instrument to the Township Zoning Administrator thirty (30) days prior to its expiration or termination.

f. Failure to keep the financial instrument in effect while Utility-Grid Wind Energy System is in place shall constitute a violation of the permit. If a lapse of the financial instrument occurs, the Township may take action up to and including requiring cessation of operation of the Utility-Grid Wind Energy System until the financial instrument is restored.

g. The entity issuing financial instrument shall pay over to the Township the decommissioning funds when the Township has demonstrated that decommissioning has not been satisfactorily completed as required herein.

h. The financial instrument shall be terminated when the owner(s) has demonstrated and the Township concurs that decommissioning has been satisfactorily completed in accordance with the plan submitted under section AA.1 above.

Section 27.19 Complaint Resolution Should an aggrieved property owner allege that the Utility-Grid Wind Energy System is not in compliance with either the noise or the shadow flicker requirements of this Zoning Ordinance, the procedure shall be as follows:

1. Noise Complaint

a. Both the Utility-Grid Wind Energy System Owner(s) and the Elmer Township Planning commission shall be notified in writing regarding concerns about noise level.

b. If the complaint is deemed sufficient by the Planning commission to warrant an investigation, the Planning Commission shall notify the Utility-Grid Wind Energy System Owner(s) and shall make a recommendation that the Board of Trustees will require the aggrieved property owner to put a cash deposit in an amount sufficient to pay for a noise level test to be conducted by an independent qualified acoustic technician approved by Elmer Township to determine compliance with the requirements of this Zoning Ordinance. Such testing shall be performed in accordance with the requirements of Subsection S herein and advance notice of such testing will be provided to the Owner(s). Nothing in this subsection shall be construed as prohibiting the Owner(s) from performing its own noise level tests as part of its investigation into said noise complaint.

c. If the test indicates that the noise level is within Zoning Ordinance noise requirements, the Board of Trustees will use the deposit to pay for the test.

d. If the test indicates that the Utility-Grid Wind Energy System Owner(s) is in violation of the Zoning Ordinance noise requirements, the Owner(s) shall be provided with a copy of the test results and be allowed to perform their own noise level test prior to reimbursing the board of Trustees for the noise level test. The Owner(s) may present their findings to the Planning' Commission for a final determination of compliance or violation. If the Planning Commission finally determines that a violation exists then the Owner(s) shall take immediate action to bring the violating turbine(s) within the Utility-Grid Wind Energy System into compliance which may include ceasing operation of said turbine(s) until Zoning Ordinance violations are corrected or the impact has been mitigated to the complainant's satisfaction. The Board of Trustees will refund the deposit to the aggrieved property owner upon the final determination of violation.

2. Shadow Flicker Complaint.

a. Both the Utility-Grid Wind Energy System Owner(s) and the Elmer Township Planning Commission shall be notified in writing regarding concerns about the amount of shadow flicker.

b. If the complaint is deemed sufficient by the Planning Commission to warrant an investigation, the Planning Commission shall notify the Utility-Grid Wind Energy System Owner(s) and shall make a recommendation that the Board of Trustees require the Owner(s) to provide a shadow flicker analysis of the turbine as constructed to determine compliance with the requirements of this Zoning Ordinance.

c. If the Utility-Grid Wind Energy System Owner(s) is in violation of the Zoning Ordinance shadow flicker requirements, the Owner(s) shall take immediate action to bring the turbine(s) into compliance which may include ceasing operation of said turbine(s) until the Zoning Ordinance violations are corrected or the impact has been mitigated to the complainant's satisfaction, see subsection V.

3. The Township Board shall appoint a three-member Complaint Resolution Committee to oversee and participate in all complaint resolution discussions or meetings between the Township property owner or resident and the Wind Energy Facility Owner and/or Operator. The Complaint Resolution Committee shall consist of one (1) member of the Township Board, one (1) member of the Township Planning Commission, and one (1) qualified elector chosen from the Elmer Township community.

ARTICLE XXVIII ENERGY STORAGE FACILITY FOR SOLAR AND WIND

Section 28.01 Energy Storage Facility

- A. The following minimum setback requirements, with setback distances measure from the nearest edge of the perimeter fencing of the facility:
1. Occupied community buildings and dwellings on nonparticipating properties; 400 feet from the nearest point on the outer wall.
 2. Public road right-of-way; 100 feet measured from the nearest edge of a public road right-of-way.
 3. Nonparticipating parties; 100 feet from the nearest shared property line and 400 feet on ten (10) Arce or less.
 4. The energy storage facility does not generate a maximum sound in excess of 50 average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on and adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.
 5. The energy storage facility will implement dark ski-friendly lighting solutions.
 6. The energy storage facility will comply with any more stringent requirements adopted by the Michigan Public Service Commission as provided in MCL 460.1226(8)c(v).
 7. To ensure proper removal of the energy storage facility when it is abandoned, any application for approval of a new structure shall include a description of the financial security guaranteeing removal of the structure which must be posted at the time of receiving a building permit for the facility. The security shall be: 1) a cash bond; 2) an irrevocable bank letter of credit; or 3) a performance bond in a form approved by the Township. The amount of such a guarantee shall be no less than the estimated cost of removal and may include a provision for inflationary cost adjustments. The estimate shall be prepared by the engineer for the developer and shall be subject to approval by the Township. If said financial instrument fails on funding the existing landowner is responsible for said expenses.

Section 28.02 Issuance and Compliance with Permit.

- A. Upon approval of an application the Township shall issue the permit to the electric provider or IPP. Construction of the proposed energy facility must begin within five (5) years after the date the permit is issued and any challenges to the grant of the permit are concluded. The township Board may extend this timeline at the request of the electric provider or IPP without requiring a new application.
- B. The permit shall request the electric provider or IPP to remain in compliance at all times with the standards identified for approval of the permit and all documentation submitted with and affirmations made in the application, including, but not limited to, the site plan, decommissioning plan, fire response plan, and emergency plan. No change may be made to the permit by the electric provider or IPP without the written agreement of the Township. The energy facility must further comply with all local ordinances, state and federal laws and regulations except as otherwise provided in Section MCL 460.1231. The Township shall not revoke a permit except for material noncompliance with the permit by the electric provider or IPP.
- C. A permit may be transferred to another electric provider or IPP upon the filing with the Township of an attestation by the transferee that it accepts the terms of the permit and acknowledges that it is subject to this Ordinance.

Section 28.03 Host Community Agreement.

- A. The permit holder shall enter into a host community agreement with the Township within 90 days after issuance of the permit. The host community agreement shall require that, upon commencement of any operation, the energy facility owner must pay the township \$2,000.00 per megawatt of nameplate capacity located within the Township. The payment shall be used a determined by the Township for police, fire, public safety, or other infrastructure, or for other projects as agreed to by the Township and the permit holder within said 90 days.

**ARTICLE XXIX
SMALL STRUCTURE WIND ENERGY SYSTEMS**

Section 29.01 Wind Energy Turbines

A. **APPLICABILITY.** This Ordinance applies to Wind Energy Turbines (WETs) proposed for construction after the effective date of this Amendment. Any physical modification to an existing WET that materially alters the size/ type, equipment or location shall require approval under the standards of this Ordinance.

B. **GENERAL REQUIREMENTS.**

1. No WETs shall be located on any property in such a manner as to interfere with the safe takeoff/ approach and landing of aircraft at any publicly or non-publicly owned airport as defined by the Michigan Airport Zoning Act/ as amended.
2. The WET installation must minimize the adverse impacts of technological obsolescence of such equipment.
3. All WETs, except Small Structure Mounted Wind Energy Turbine (SSM-WETs) shall be mounted on a tubular tower.
4. All WETs/including accessory buildings and related structures/ shall be a non-reflective/non-obtrusive color/ such as white or gray. No striping or advertisement shall be visible on the blades/ nacelle or tower.
5. The appearance of the WET and all accessory structures shall be maintained throughout the life of the unit.
6. Exterior lighting of a tower/ rotor blades and nacelle shall only be allowed in order to meet FAA requirements.
7. Exterior lighting of accessory buildings or entrance points shall be permitted/provided that such exterior lighting fixtures shall be full cutoff "shoebox" fixtures. These fixtures shall not be mounted on poles or other structures that exceed a total height of twenty (20) feet, as measured from the grade at the base of the fixture. Small WETs shall not contain commercial signage, banners, flags or advertising logos, except for the identification of the turbine manufacturer and unit specifications for regulatory purposes.

C. TEMPORARY USES. Anemometers are permitted in all zoning districts as a temporary use, subject to the provisions of this Section.

1. The construction, installation or modification of an anemometer shall require a building permit.
2. Anemometers shall conform to all applicable local, state and federal safety, construction, environmental, electrical, communications and FAA requirements.
3. Anemometers shall be subject to the requirements of this Section for height; setbacks, separation, location, safety and decommissioning that correspond to the size of the WETs) proposed on the site.
4. An anemometer shall be permitted on a site for no more than thirteen (13) months for a SSM-WET, STM-WET or M-WET.
5. An anemometer shall be permitted on a site for no more than three (3) years for an L-WET.

D. PERMITTED USES. Small Structure Mounted Wind Energy Turbines (SSM-WET) and Small Tower Mounted Wind Energy Turbines (STM-WET) shall be considered a permitted use in all zoning districts subject to the following:

1. SSM-WETs and STM-WETs must receive a building permit prior to construction, installation, relocation or modification. The WET Owner/Applicant or Operator must apply for and receive the building permit.

2. Ground Clearance: The lowest extension of any rotor blade or other exposed moving component of an SSM-WET or STM-WET shall be at least twenty (20) feet above the ground, as measured from the highest point of grade within thirty (30) feet of the base of the WET. In addition, the lowest extension of any rotor blade or other exposed moving component of an SSM-WET or STM-WET shall be at least twenty (20) feet above any outdoor areas intended for human use that are located below the WET. Examples include balconies, roof gardens, etc.

3. Noise Control:

a. Noise produced by an SSM-WET or STM-WET shall not, at any time, exceed the lowest ambient sound level that is otherwise present between the hours of 9:00 P.M. and 9:00 A.M. at any adjacent property line of a residential use.

b. Noise produced by an SSM-WET or STM-WET shall not, at any time, exceed the lowest ambient sound level plus 5 Decibels dB(A) that is otherwise present between the hours of 9:00 P.M. and 9:00 A.M. at any adjacent property line of a commercial, office, civic, public, agricultural or industrial use.

4. Vibration: An SSM-WET or STM-WET shall not produce vibrations that are perceptible to humans beyond any property line upon which a WET is located.

5. Wire Supports: Guy wires or similar apparatus shall not be allowed as part of an SSM-WET or STM-WET installation.

6. All STM-WET shall be of monopole construction.

7. SSM-WET Height: The height of an SSM-WET shall not exceed twenty (20) feet, as measured from the highest point of the adjacent roof or structure, excluding chimneys, antennae or other similar features.

8. SSM-WET Setbacks:

a. An SSM-WET shall be setback a minimum of 100% of the height above the structure that the SSM-WET is mounted on, or twenty five (25) feet, whichever is greater from any property line, public right-of-way, public easement or overhead utility lines.

b. If the SSM-WET is affixed by any extension to a structure's walls, roof or other elevated surface then the setback from property lines, public rights of-way, public easements or overhead utility lines shall be measured from the furthest outward extension of moving WET components.

c. An SSM-WET shall not be affixed to a wall on the side of a structure that directly faces a public street.

9. SSM-WET Separation Distances: If more than one SSM-WET is installed on a property, then a distance equal to the height of the tallest SSM-WET must be maintained between the bases of each SSM-WET.

10. STM-WET Height: The total height of a STM-WET shall not exceed one hundred (100) feet. Total height is defined as the vertical distance as measured from the ground level of the base of a WET tower to the uppermost vertical extension of a rotor blade, or the maximum height reached by any part of a WET.

11. STM-WET Setbacks:

a. On a property containing occupied buildings; STM-WETs shall only be located in the rear yard.

b. An STM-WET shall be setback a minimum of twenty (20) feet from all occupied buildings on the subject property. This setback will be measured from the base of the tower.

c. A minimum setback equal to one and a half times the total height of the STM-WET shall be required to any property line, public right-of-way, public easement or overhead utility lines. This setback will be measured from the base of the tower. This setback may be reduced if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl or bend within a distance less than the total height of the WET.

d. The setbacks may be reduced if the applicant provides a registered easement from any adjacent property owners on whose property the STM-WET could encroach.

12. STM-WET Separation Distances: If more than one STM-WET is installed on a property, then a distance equal to the total height of the tallest STM-WET must be maintained between the bases of each STM-WET.

13. Site Plan Review Required: SSM-WETs and STM-WETs shall be required to undergo site plan review by the Planning Commission, subject to the following:

a. Owner/applicants of SSM-WETs and STM-WETs proposed for Installation shall provide the following to the Township of Elmer Planning Commission.

b. A completed application for site plan review by the Planning Commission plus any applicable fees and/or escrow deposit approved by the Township Planning Commission.

c. A scaled site plan drawing that clearly locates the proposed WET(s) and all accessory structures/equipment in relation to all onsite and adjacent property lines, rights-of-way, public easements and overhead utility lines. Setbacks as required in this Section shall be clearly shown to scale on the site plan drawing.

d. A scaled site plan drawing that clearly displays property dimensions, existing buildings on the subject property and on adjacent properties, Sidewalks, non-motorized pathways and streets.

- e. A scaled site plan that includes existing and proposed onsite grading / topography at two-foot contour intervals.
- f. Product-specific technical information from the manufacturer of the SSM-WET or STM-WET. This information shall include the proposed height and type of WET, maximum noise output in Decibels, total rated generating capacity, product dimensions, rotor blade diameter and a detail of accessory structures.
- g. Documented compliance with the noise generation requirements set forth in this Section.
- h. Documented compliance with applicable local, state and federal regulations including, but not limited to, public safety, construction, environmental, electrical, communications and FAA requirements.
 - i. Proof of liability insurance.
 - j. Documented evidence that the utility company has been informed of, and approved, the owner/applicant's intent to install an interconnected, customer-owned generator. Off-grid systems shall be exempt from this requirement.
 - k. A narrative that explains the proposed methods that will be used to perform maintenance on the WET(s) in compliance with the manufacturer's recommendations and requirements.

14. Safety Requirements:

- a. If the SSM-WET or STM-WET is connected to a public utility system for net metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's current service regulations that meet federal, state and industry standards applicable to wind power generation facilities. Any such connection shall be inspected and approved by the appropriate utility company.
- b. The SSM-WET or STM-WET shall be equipped with an automatic braking, governing or feathering system in order to prevent uncontrolled rotation, over-speeding or excessive pressure on the WET.
- c. A clearly visible warning sign regarding voltage shall be placed at the base of the WET.
- d. The structural integrity of the WET shall conform to the design standards of the International Electrical Commission; specifically IEC 61400-1 "Wind Turbine Safety and Design," IEC 61400-2 "Small Wind Turbine Safety," IEC 61400-22 "Wind Turbine Certification," and IEC 61400-23 "Blade Structural Testing," as amended or succeeded.

15. Signal Interference: The SSM-WET or STM-WET shall not interfere with communication systems, such as, but not limited to, radio, telephone, television, satellite or emergency services communication systems.

16. Decommissioning:

- a. The SSM-WET or STM-WET owner/applicant shall complete decommissioning within twelve (12) months after the end of the WETs useful life. The term "end of useful life" is defined as zero electricity generation for a period of twelve (12) consecutive months from a particular WET.
- b. All decommissioning expenses are the responsibility of the owner/applicant.

c. The Township of Elmer Zoning Administrator may grant an extension of the decommissioning period based upon a reasonable and explanatory request by the owner/applicant. Such extension period shall not exceed one calendar year.

d. If the SSM-WET or STM-WET owner/applicant fails to complete the act of decommissioning within the period described in this Section, then Elmer Township may designate a contractor to complete the decommissioning. All decommissioning expenses shall be charged to the owner/applicant, successors or assigns. All decommissioning expenses shall become a lien against the premises.

e. Decommissioning shall be defined as the complete removal of the WET, structures, buildings, electrical components and any other accessory facilities.

f. For STM-WETs, following removal of all items required by this ordinance, the site shall be graded and stabilized to prevent soil erosion in a manner consistent with the post-WET use of the property.

17. Public Noise Complaints:

a. Should an aggrieved person allege that the SSM-WET or STM-WET is not in compliance with the noise requirements of this Section, the administrative enforcement procedure shall be as follows:

(1) The complainant shall notify the Township of Elmer Zoning Administrator in writing regarding the noise level.

(2) The Zoning Administrator shall coordinate with the Sheriff Department to test the Decibel level for compliance with the standards of this Section.

b. If the test results are unsatisfactory, the complainant may request a noise level test by a certified acoustic technician. The complainant will be required to submit a cash deposit in an amount sufficient to pay for the noise level test.

c. If the noise level test indicates that the noise level complies with the standards of this Section, then the Township will use the deposit to pay for the test.

d. If the noise level test indicates that the WET is in violation of this Section, then the owner/applicant shall reimburse the Township for the noise level test while taking immediate action to bring the WET into compliance with this Section. The Township may require the WET to be shut down until compliance can be achieved.

e. Under circumstances as noted in (d.) above, the Township shall refund the cash deposit to the complainant.

18. Inspections:

Elmer Township will conduct annual inspections of any and all SSM-WET or STM-WET. The cost of the annual Township inspections will be reimbursed to the Township by the wind energy company's owner/operator through an escrow fund established pursuant to a schedule of "Fees and Permits", adjusted from time-to-time by the Elmer Township Board. The inspections will consist of but not be limited to evaluating compliance with original contract terms; compliance with improvements and updates; and evaluating compliance with the WET use permit.

19. Remedies:

- a. The enforcement of the Ordinance shall be the responsibility of the Elmer Township Supervisor, unless otherwise specified in the Ordinance or designated by the Township.
- b. An owner/operator, landowner, firm, association, corporation or representative agent of any WET that is found by Elmer Township, or its designee, to be in violation of the WET land use permit, or to be abandoned, inoperable, or unsafe as defined in this Ordinance, or to have a serious adverse impact as defined in this Ordinance:
 - (1) Shall provide abatement by shut down, repair, or removal of the WET upon written notification from the Township Supervisor (or another Township designee).
 - (2) Is a civil infraction, the penalty for which shall be \$5,000.00 per occurrence. For violations that continue after a written demand for correction by the Township, each day shall be considered a separate occurrence.
 - (3) May be subject to revocation of the WET use permit for excessive and continued violations.
 - (4) May be required to reimburse Elmer Township for cost(s) and expenses of obtaining other relief including a temporary or permanent injunction; such reimbursement may include costs and reasonable attorney fees.

Section 29.02 Roof Mounted Solar Energy Systems. Roof mounted solar energy systems (other than those which involve the sale or distribution of electricity beyond the property to which the solar energy system is located) shall be considered an accessory use in all zoning districts. Roof mounted solar energy systems shall be subject to the following requirements:

1. Solar panels erected on a building shall not extend beyond the peak of the roof.
2. Roof mounted panels must be installed with a minimum of three (3) foot setback from the edges of the roof, the peak, or eave or valley to maintain pathways of accessibility.

