

**ARTICLE 11
GENERAL PROVISIONS**

Sec. 11.01 GENERAL DIMENSIONAL STANDARDS

- 11.01.01 **Calculation of (Buildable) Lot Area:** In the calculation of areas required to maintain specific densities, open space requirements and similar needs, no lot or parcel or portion of same shall be used more than once in such calculation, nor shall adjacent outlots or other open space be used in lieu of space contained within the stated boundaries of the subject lot or parcel. In calculating density for residential developments, twenty-five percent (25%) of wetlands area shall be included in computing gross density. Submerged lands shall not be counted towards minimum lot area or density calculations.
- 11.01.02 **Required Area or Space to be Maintained:** No lot or lots in common ownership and no yard, court, parking area, or other space shall be divided, altered or reduced to make such area or dimension less than the minimum required under this Ordinance. If already less than the minimum required, said area or dimension shall not be further divided or reduced.
- 11.01.03 **Access to Dedicated Streets:** Any lot created after the effective date of this Ordinance shall have frontage upon a public street right-of-way or legally recorded access easement meeting the private road or shared driveway requirements of Article 15. Additional access requirements for specific types of uses:
- (a) Single family dedicated lots or condominiums within a planned unit development may have secondary access to a dedicated street through a private road built to Township standards.
 - (b) Multiple family developments, mobile home parks and other types of medium-high density residential development shall have as a minimum, secondary access to a thoroughfare as noted in the Township Master Plan from a private road constructed to Township standards.
 - (d) The Planning Commission may allow secondary access to a dedicated street through a private frontage road, service drive or private road within an approved access easement.
- 11.01.04 **Architectural Projections into Yards:** Except as otherwise provided, all projections shall comply with the setback requirements as provided for principal or accessory buildings for the district in which they are located. For the purposes of this requirement, porches with screens, lattice or removable storm window sashes shall be considered enclosed.

Notwithstanding these requirements, Certain architectural features may project into the required yards as noted in the table below:

PERMITTED ARCHITECTURAL PROJECTIONS INTO REQUIRED YARDS*

Projection	Front Yard	Rear Yard	Waterfront Yard	Side Yard	
				Side Yard 10' or less in LRR	Side Yard
Fireplaces and chimneys under 8' wide	3 ft.	5 ft.	2 ft.	2 ft.	3 ft.
Awnings and canopies	3 ft.	5 ft.	2 ft.	2 ft.	3 ft.
Bay and bow windows	3 ft.	5 ft.	2 ft.	2 ft.	3 ft.
Eaves and cornices, overhanging	3 ft.	3 ft.	3 ft.	2 ft.	3 ft.
Gutters	3 ft.	3 ft.	3 ft.	2 ft.	3 ft.
Mechanical equipment such as HVAC and generators	--	5 ft.	2 ft.	2 ft.	3 ft.
Unroofed porches and stoops	3 ft.	5 ft.	--	2 ft.	3 ft.
ADA Ramps	Permitted in any yard				

* In no case shall projecting architectural elements be less than three (3) feet from a property line except for ADA ramps.

(as amended 10/04/21)

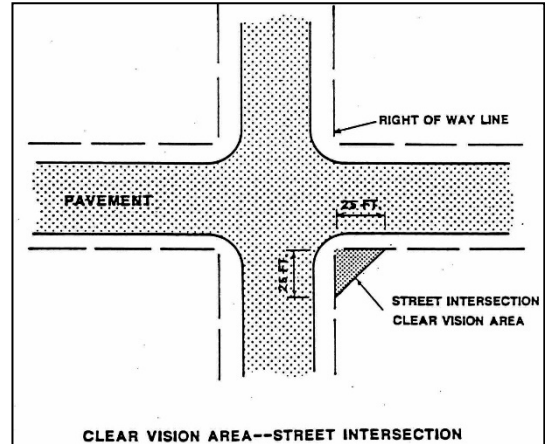
11.01.05 **Supplementary Height Regulations:** The following kinds of structural appurtenances may be permitted to exceed the height limitations for authorized use.

- (a) Schools, churches, hospitals and other institutional buildings may be erected to a height not exceeding sixty (60) feet provided the front, side and rear yards shall not be less than the height of the building wall abutting on such yard.
- (b) Chimneys, church spires, cupolas, domes, towers, water tanks, monuments or other architectural features approved by the Planning Commission may be erected to a height up to sixty (60) feet tall; flag poles may be up to sixty (60) feet tall. The Township shall be provided with sufficient evidence to assure that adjacent uses and structures are not threatened due to a collapse of the structure for any reason. (as amended 10/04/21)
- (c) Any mechanical equipment, including water and gas meters, elevator housings, stairways, tanks, heating, ventilation and air conditioning equipment, and other similar equipment, located on the roof of any building shall comply with the following standards:
 - (1) All such equipment shall be screened by a solid wall, fence, landscaping and/or architectural feature that is constructed of the same material and compatible in appearance with the principal building.
 - (2) Roof-mounted equipment shall not exceed a height of ten (10) feet above the surrounding roof surface, and shall occupy no more than fifteen percent (15%) of the total roof area. When roof-mounted equipment is located on a building that is adjacent to a residential use or is in view from the adjacent roadway, appropriate architectural screening shall be required.
- (d) Structural extensions appropriate to the building design, such as cornices, shall be limited to five feet above the stated height limit.

- (e) Silos and other farm features shall be limited to fifteen (15) feet above the principal structure height limit.

11.01.06 **Intersection Clear Vision Triangle:** No fence, wall, or structure shall be erected, established, or maintained on any lot which will obstruct the view of drivers in vehicles approaching the intersection adjacent to a corner lot or a driveway on any lot. Fences, walls, or structures located in the triangular area described below shall not be permitted to exceed a height of thirty-six (36) inches above the lowest point of the intersecting road(s). The unobstructed triangular area is described as follows:

- (a) The area formed at the corner intersection of two road right of way or easement lines, the two (2) sides of the triangular area being twenty-five (25) feet in length measured along abutting public right of way lines, and third side being a line connecting these two sides, or
- (b) The area formed at the corner intersection of a road right of way or easement and a driveway, the two (2) sides of the triangular area being ten (10) feet in length measured along the right of way line and edge of the driveway, and the third side being a line connecting these two sides.



Sec. 11.02 USES

11.02.01 **Principal Building, Structure or Use:** No lot may contain more than one (1) principal building, structure or use, except groups of multiple-family dwellings, under the same ownership, site condominium projects, mobile home parks, farm worker housing, unified retail/business centers, auto dealerships, office complexes or other groups of buildings the Zoning Administrator deems to be a principal use collectively.

11.02.02 **Determination of "Similar Uses":** Since every type of potential use cannot be addressed in the zoning ordinance, each district provides for "similar uses", referencing this section. All applications for a use not specifically addressed in any zoning district shall be submitted to the Planning Commission for review at a public hearing, based on the following standards.

- (a) A finding the proposed use is not listed as a Permitted or Special Land Use in any zoning district.
- (b) If the use is not addressed in the Zoning Ordinance, the Planning Commission shall select the use listed in the zoning ordinance which most closely resembles the proposed use using criteria such as the nature of the use, aesthetics, traffic generated, potential impact on property values, noise, vibration, dust, smoke, odor, glare and other objectionable impacts in terms of health, safety and welfare in the Township.
- (c) Once a similar use is determined, the proposed use shall comply with any conditional use standards that apply to the similar use.

- (d) Where the Planning Commission determines a proposed use is not similar to a use addressed in the Zoning Ordinance, the applicant may petition for an amendment to the Zoning Ordinance, as described in Article 22.
- (e) The determination as to whether a proposed use is similar in nature and class to another Permitted or Special Land Use within a district should be considered as an expansion of the use regulations, not a variance applying to a particular situation. Any use determined by the Planning Commission to be similar shall thereafter be included in the enumeration of the uses.
- (f) Any use that would constitute a violation of any other Federal, State or local law or regulation shall be prohibited. (as amended 12/31/06)

11.02.03 **Changes in Tenancy/Ownership:** All structures or uses which are conforming uses, nonconforming uses, or approved special uses, planned unit developments or site plans with conditions attached for approval, shall comply with these regulations, special approvals or conditions regardless of change of tenancy or ownership of the property or use. Regulations in this Ordinance pertaining to the discontinuance of nonconforming uses, as provided for elsewhere in this Article, shall continue to be met.

11.02.04 **Voting Place:** The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with Township, school or other public election.

11.02.05 **Temporary Buildings and Structures:** Temporary buildings and structures, including trailers incidental to construction work on a lot, may be placed on such lot for a period not to exceed twelve (12) months in conjunction with a project subject to the restrictions of this section.

- (a) Temporary buildings and structures may only be used in conjunction with an approved construction project for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, sales and for temporary on-site sanitation, solid waste or fuel facilities, related to construction activity on the same lot. No temporary building or structure shall be used as a dwelling unit.
- (b) A land use permit for such building or structure shall be issued by the Zoning Administrator prior to installation.
- (c) Temporary buildings and structures shall be removed from the lot within fifteen (15) days after an occupancy permit is issued by the Building Department for the permanent structure on such lot, or within fifteen (15) days after the expiration of a land use permit issued for construction on such lot.
- (d) Non-construction related residential temporary buildings and structures shall comply with accessory building and structure regulations of 11.04 and shall be properly maintained.
(as amended 10/04/21)

11.02.06 **Open Storage, Parking and Repair of Vehicles:** Except as otherwise provided in this Section, no boat, tractor, trailer, recreation vehicle, commercial vehicle, or other equipment and supplies may be parked or stored on a lot without a principal building. Except as otherwise provided in this Section, no boat, tractor, trailer, recreation vehicle, commercial vehicle, or

other equipment and supplies may be parked or stored on a residentially zoned lot with a principal building unless they are parked or stored in an enclosed building, or may be permitted as follows:

- (a) Boats, trailers and recreational vehicles of twenty-four (24) feet or less in length shall be parked or stored in a rear or side yard. Boats, trailers and recreational vehicles more than twenty-four (24) feet in length shall not be parked or stored within the minimum required rear or side yard setback. All such vehicles and/or trailers must display proof of current license or registration. The maximum number of boats, tractors, trailers, recreation vehicles may be stored or parked in and residential zoning district is as follows:

Lot Area	Total maximum number of boats, tractors, trailers, and recreation vehicles per lot*	Maximum number of boats, tractors, trailers, recreation vehicles over twenty-four (24) feet in length*
One (1) Acre or less	3	1
More than one (1) acre but less than five (5) acres	5	2
Five (5) acres or more	7	3

*Up to two (2) additional boats, tractors, trailers, or recreational vehicles of any length may be allowed provided they are fully screened and not visible from off-site.

- (b) Recreation trailers or recreation vehicles may be parked in the front yard for loading, unloading and cleaning purposes for a maximum of 48 hours (see also Section 11.03.03).
- (c) On waterfront lots, no tractor, trailer, commercial vehicle, recreational vehicle or similar equipment and supplies shall be parked or stored in the waterfront yard except non-motorized boats under eighteen (18) feet in length, boating supplies and docking equipment. Two (2) recreational vehicles, boats or trailers may be parked in the front yard driveway of a waterfront lot provided a minimum setback of twenty (20) feet is provided from a front lot line and the minimum parking requirements for the use is maintained.
- (d) Parking of vehicles, boats, trailers, recreational vehicles, tractors or other equipment in residential zoning districts shall be provided on a paved or gravel surface. Gravel surfaces shall be of sufficient depth to accommodate the weight of a vehicle and shall be resistant to erosion and weathering. Short term parking may be allowed on a grass/lawn for temporary short-term events whereby in no case shall vehicles be parked in grass/lawn for more than forty-eight (48) hours or more than five (5) times in a calendar year.
- (e) The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential zoning district, when such work is not conducted entirely within the interior of the vehicle, shall be subject to the following limitations:
 - (1) All vehicles parked or being worked on outside shall be licensed and operable. All cars, boats, tractors, trailers, recreation vehicles, and commercial vehicles shall be parked or placed on a paved surface. The Zoning Administrator may approve alternative surfaces, such as gravel or stone, if the applicant

demonstrates that the surface is resistant to erosion and weathering and will not have a negative impact on the environment.

- (2) Procedures exceeding forty-eight (48) hours in duration or which require the vehicle to be inoperable in excess of forty-eight (48) hours shall be conducted within an enclosed building.
- (3) Inoperable vehicles and vehicle parts shall be stored inside an enclosed building.
- (f) Class one (1) and two (2) US DOT Gross Vehicle Weight Rating vehicles, less than 10,000 pounds, may be parked on residential property. No more than one class three (3) heavy duty pickup truck, not more than 14,000 pounds, may be parked on residential property. Vehicles associated with GAAMPs-verified farms are exempt from this requirement.
- (g) It shall be unlawful for the owner, tenant or lessee of any lot to permit the open storage or outdoor parking of semi-tractor (WB-50 or larger) trucks and/or semi-trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless the storage or display of such vehicles is an approved use or unless the vehicles are temporarily parked while in use for approved construction on such lot (i.e., active land use permit). (as amended 8/24/07)
- (h) No vehicle used for transporting flammable liquids, explosives, toxic or noxious materials shall be parked or stored in a residential district.
- (i) Open storage, parking and repair is not permitted on any vacant land.
- (j) No part of any boat, tractor, trailer, recreational vehicle, commercial vehicle, or other equipment and supplies may encroach into public right-of-way or be placed or parked over sidewalks, pathways, private roads or other thoroughfares.
(as amended 10/04/21)

11.02.07 Essential Public Services

- (a) Essential services shall be permitted as authorized under any franchise in effect within the Township, subject to regulation as provided in any law of the State of Michigan or in any ordinance of the Township, provided it is the intent of this section to ensure conformity of all structures and uses to the requirements of this Zoning Ordinance wherever such conformity shall be practicable and not in conflict with the specific requirements of such franchise, state legislation or Township Ordinance. In the absence of such conflict, the Zoning Ordinance shall prevail. Appeal from the application of this Ordinance in regard to any essential service may be made to the Zoning Board of Appeals. Wireless communication facilities shall be subject to the requirements of Section 11.02.08.
- (b) Necessary utility services shall be provided for all uses. Prior to obtaining a plumbing permit for sewer or water, a land use permit shall be obtained from the Township. On-site septic systems shall be designed in accordance with the standards of the Livingston County Health Department.

11.02.08 **Wireless Communication Facilities**

- (a) **Purpose and Intent.** The regulations of this Section are intended to conform with federal laws and administrative rules governing facilities needed to operate wireless communication systems and to set forth procedures and standards for review and approval for the location of such facilities within Genoa Township. It is the Township's intent to reasonably regulate the location and design of such facilities to retain the integrity of neighborhoods and the character, property values and aesthetic quality of the township. Given the increase in the number of wireless communication facilities requested as a result of the new technology and the Federal Telecommunications Act of 1996, it is the policy of the township that all users should co-locate on Attached Wireless Communication Facilities and Wireless Communication Support Structures. Collocation is proposed in order to assure the most economic use of land and to prevent the proliferation of duplicative services. In recognition of the Township's concern that technological advances may render certain Wireless Communication Facilities obsolete or unnecessary in the future, requirements are set forth for the removal of unused or unnecessary facilities in a timely manner and provide security for removal.
- (b) **Definitions.** The following definitions shall apply in the interpretation of this Section:
- (1) **Wireless Communication Facilities.** All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices, personal communication transmission equipment and exchanges, microwave relay towers, telephone transmission equipment building, small cell wireless equipment and commercial mobile radio service facilities. This definition does not include "reception antenna" for an individual lot as otherwise defined and regulated in this zoning ordinance. (as amended 10/04/21)
 - (2) **Attached Wireless Communication Facilities.** Wireless communication facilities affixed to existing structures, including but not limited to existing buildings, towers, water tanks, or utility poles.
 - (3) **Wireless Communication Support Structures.** Structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.
 - (4) **Collocation.** Location by two (2) or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, to reduce the overall number of structures required to support wireless communication antennas within the township.
- (c) **Zoning Districts and Approval Process for Wireless Communication Facilities.** Wireless Communication Facilities may be located within the Township in accordance with the Table set forth below.

GENOA TOWNSHIP ZONING ORDINANCE

Type/Location of Wireless Communication Facility	Districts Permitted	Approval Procedure
1. Attached to existing structures:		
- Attached to an existing conforming structure that will not be materially altered or changed in appearance	All non-single family residential districts	Administrative Land Use Permit approval by the Zoning Administrator
- Attached to an existing utility pole that will not be modified or materially alter the pole or impair sight lines or compromise safety	All districts	Administrative Land Use Permit approval by the Zoning Administrator, provided letter of acceptance is provided by the utility company
- Collocation upon an attached wireless communication facility previously approved for such collocation	All districts	Administrative Land Use Permit approval by the Zoning Administrator
2. Located on a municipally owned site:		
-Monopole up to 150 feet in height ¹	All districts	Special Land Use and Site Plan approval by the Township Board in accordance with Article 19.
3. Located on a site owned by another governmental entity, religious institution, or public school		
-Monopole up to 100 feet in height ¹	All districts	Special Land Use and Site Plan approval by the Township Board in accordance with Article 19.
4. New facility not addressed above:		
- Monopole up to 120 feet tall ¹	AG, PRF, OSD, GCD & RCD Districts	Special Land Use and Site Plan approval by the Township Board in accordance with Article 19.
- Monopole any height	IND District	Special Land Use and Site Plan approval by the Township Board in accordance with Article 19.
- Lattice tower where it can be demonstrated that a monopole is not feasible.	IND District	Special Land Use and Site Plan approval by the Township Board in accordance with Article 19.

1. Height may be increased ten (10) feet where determined necessary to provide future collocation. (as amended 12/31/06 and 10/04/21)

(d) Application Requirements. The following information shall be provided with the application, in addition to other submittal requirements for sketch plan or site plan, as required in Article 18.

(1) Signed certification by a professional engineer licensed by the State of Michigan with regard to the manner in which the proposed structure will fall in the event of damage, accident or injury (i.e. “fall zone”), and that the setback area provided shall accommodate the structure should it fall or break and provide a reasonable buffer in the event the structure fails.

(2) A description of performance guarantee to be posted at the time of receiving a land use permit for the facility to ensure removal of the facility when it is abandoned or is no longer needed. The applicant shall demonstrate that funds will be available to the Township for removal of any structure used for wireless communication in an amount which reasonably reflects the cost of removal of the facility and restoration of the property or structure upon which the facility is located or placed. Adequate funds shall also be provided to cover the Township's administrative costs in the event that the applicant or its successor does not remove the Wireless Communication Facility in a timely manner.

The security shall, at the election of the Township Board, be in the form of: (1) cash; (2) security bond; (3) letter of credit; or, (4) an agreement in a form approved by the Township Attorney and recordable at the office of the Register of Deeds, establishing a promise of the applicant and owner of the property, or their successors, to remove the facility in a timely manner as required under this section of the ordinance. It shall further be provided that the applicant, owner or successor, shall be responsible for payment of any costs or attorney fees incurred by the Township in securing removal.

- (3) A map that illustrates existing and known proposed wireless communication facilities within Genoa Township and adjacent communities, which are relevant in terms of potential collocation or to demonstrate the need for the proposed facility. If and to the extent the information in question is on file with the township, the applicant shall be required only to update as needed. Any such information which is trade secret and/or other confidential commercial information which, if released would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy MCL 15.243(1)(g). This ordinance shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the community.
 - (4) For all new facilities, in recognition of the township's policy to promote collocation, a written agreement, transferable to all assessors and assigns, that the operator shall make space available on the facility for collocation.
 - (5) The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.
- (e) Design Standards Applicable to All Facilities. In addition to the Criteria of Site Plan Review listed in Article 18 and Special Land Use Review listed in Article 19, all wireless communication facilities shall be constructed and maintained in accordance with the following standards:
- (1) Facilities shall be located and designed to be harmonious with the surrounding areas. The Planning Commission may require unique design of the structure to either diminish the visual impact or to create an architectural feature that will contribute to or enhance community character.
 - (2) A permit for the construction and use of a new wireless communication facility shall not be granted until the applicant demonstrates a feasible collocation is not available for the coverage area and capacity needs. Additionally, a permit for the construction and use of a new wireless communication facility shall not be granted in the AG District until it has been demonstrated that there are no feasible alternative locations. (as amended 10/04/21)
 - (3) All new and modified wireless communication facilities shall be designed and constructed to accommodate collocation, with a written agreement in a format approved by the Township Attorney.

- (4) Landscaping shall be provided to screen the structure base, accessory buildings and enclosure from adjacent uses and public rights-of-way.
- (5) Elevations of the accessory buildings shall be provided. All accessory buildings shall be constructed of brick, provided the Planning Commission may waive this requirement for a building that is located in the Industrial district and is not visible from a public right-of-way or non-industrial zoning district.
- (6) Fencing shall be provided for protection of the support structure and security from children and other persons who may otherwise access facilities.
- (7) Any nonconforming situations on the site, such as, but not limited to, outdoor storage, signs, inadequate landscaping, unpaved parking, lack of a sidewalk, improper lighting or similar conditions shall be brought into conformance prior to the erection of the wireless communication facility. If existing buildings or structures are not in conformance with the current zoning standards, improvements shall be made to decrease the nonconformity or additional landscaping shall be provided to reduce the impact of the nonconformity and the wireless facility.
- (8) The operator shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.
- (9) The applicant shall demonstrate that the requested height of the new or modified support structure and antenna shall be the minimum height necessary for reasonable communication by the applicant, including additional height to accommodate future collocation where appropriate.
- (10) Minimum required setbacks for new facility or support structure.
 - a. From any agricultural or residential district - the height of the structure, plus twenty-five (25) feet, provided the engineering information required in (d)(1) is provided. The person or body with authority to approve the facility may decrease this setback to that provided in c below upon a finding that no residential use exists or is expected on the adjacent site. (as amended 10/04/21)
 - b. From any existing or proposed rights-of-way or other publicly traveled roads or non-motorized improved pathways - half the height of the structure, plus twenty-five (25) feet, provided the engineering information required in (d)(1) is provided; otherwise the setback shall be the height of the facility.
 - c. From non-residential district - one half the height of the structure, plus ten (10) feet, provided the engineering information required in (d)(1) above demonstrates such setback is adequate.
 - d. In the agricultural (AG) District, spacing from an off-site residential building shall be not less than one thousand (1000) feet. The person or body with authority to approve the facility may decrease this setback to that provided in c above upon a finding that there are no

other alternatives and if impacts to adjacent residential use have been mitigated. (as amended 10/04/21)

- (11) Accessory buildings shall be a maximum of fourteen (14) feet high and shall be set back in accordance with the requirements for principal buildings in that zoning district.
 - (12) There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and the type of equipment which will need to access the site.
 - (13) Where an attached wireless communication facility is proposed on the roof of a building if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks.
 - (14) The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use.
 - (15) The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted. Any aviation hazard lighting shall be detailed on the plans.
 - (16) A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.
- (f) Removal. As a condition of every approval of a wireless communication facility, adequate provision shall be made for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:
- (1) When the facility has not been used for one hundred eighty (180) days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use.
 - (2) Six (6) months after new technology is available at reasonable cost, as determined by the Township Board, which permits the operation of the communication system without the requirement of the support structure.

- (3) The situations in which removal of a facility is required, as set forth in paragraph 1 above, may be applied and limited to portions of a facility.
 - (4) Upon the occurrence of one or more of the events requiring removal, specified in paragraph (1) above, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the Zoning Administrator.
 - (5) If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the Township may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected and/or enforced from or under the security posted at the time application was made for establishing the facility.
- (g) Collocation.
- (1) Statement of Policy. It is the policy of Genoa Township to minimize the overall number of newly established locations for Wireless Communication Facilities and Wireless Communication Support Structures within the Township and to encourage the use of existing structures for Attached Wireless Communication Facilities. If a provider fails or refuses to permit collocation on a facility owned or controlled by it, where collocation is feasible, the result will be that a new and unnecessary additional structure will be required, in contradiction with Township policy. Collocation shall be required unless an applicant demonstrates that collocation is not feasible.
 - (2) Feasibility of Collocation. Collocation shall be deemed "feasible" for the purpose of this section where all of the following are met:
 - a. The wireless communication provider or property owner where collocation is proposed will accept market rent or other market compensation for collocation and the wireless communication provider seeking the facility will pay such rates.
 - b. The site on which collocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
 - c. The collocation being considered is technically reasonable, e.g. the collocation will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure, antennas and the like.
- (h) Nonconforming facilities and penalties for not permitting collocation. If a party who owns or otherwise controls a wireless communication facility shall fail or refuse to alter a structure to accommodate a proposed and otherwise feasible collocation, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect. In addition, if a

party refuses to allow collocation in accordance with the intent of this Section, and this action results in construction of a new tower, the township may refuse to approve a new wireless communication support structure from that party for a period of up to five (5) years. Such a party may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five (5) year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

- (i) Variances. The Zoning Board of Appeals may consider a variance from the standards of this Section, based upon a finding that one or more of the following factors exist, as appropriate for the type of variance requested:
 - (1) For location, the applicant has demonstrated that a location within a district or location in accordance with the standards of this Section cannot reasonably meet the coverage or capacity needs of the applicant.
 - (2) For no collocation the applicant has demonstrated that a feasible collocation is not available for the coverage area and capacity needs because existing structures cannot support the facility, that collocation would result in unreasonable interference, or that reasonable financial terms are not available for collocation.
 - (3) For setback, the applicant has provided engineering information that documents that the tower is self-collapsing and that the setback area provided shall accommodate the structure should it fall or break and provide a reasonable buffer in the event the structure fails.
 - (4) For height, the height requested is due to signal interference due to topography, tall buildings, masses of trees, or other obstructions, or would reduce the number of towers to the benefit of the township.
 - (5) For all, the applicant has proposed means to mitigate any negative impacts through provision for future collocation, if found to be appropriate by the township, and special design of the facility and site.
 - (6) For all, the wireless communication and accessory facilities shall be designed to be compatible with the existing character of the proposed site, neighborhood and general area such as a steeple, bell tower, or similar form.

Sec. 11.02.09

Medical Marihuana/Recreational Marihuana (as amended 10/04/21)

- (a) Purpose and intent. The regulations of this Section are intended to conform with Michigan’s Medical Marihuana Act (“MMMA”), MCL 333.26421, et seq. and Michigan Supreme Court ruling in DeRuiter v Byron Township, 505 Mich. 130 (2020) and the Court of Appeals ruling in Charter Township of Ypsilanti v Pontius, unpublished per curiam opinion of the Court of Appeals, issued December 29, 2020 (Docket No. 340487). It is the Township’s intent to curtail problems associated with insufficient or improper electrical supplies, problems with ventilation leading to mold, offensive odors, other health hazards and/or other hazards that are associated with the

cultivation, growth, harvest, and storage of marihuana in structures, particularly in commercial and residential settings.

This article is intended to permit those persons in need of marihuana for medicinal purposes as allowed under the MMMA, to be afforded a reasonable opportunity to be treated, and for those persons who are permitted to furnish medical marihuana, to furnish it within the limitations of the MMMA and Michigan Zoning Enabling Act, MCL 125.3101, et seq. (“MZEА”), and the geographical restrictions imposed by the Zoning Ordinance in order to protect the public health, safety, and welfare.

This article is also intended to recognize the rights of individuals 21 years of age and older to use, possess, store, consume, process or cultivate, grow, harvest, and store marihuana (referred to collectively as the “use of recreational marihuana”) in their residence in accordance with the Michigan Regulation and Taxation of Marihuana Act (MRTMA), MCL 333.27952, et seq.,

This article is further intended to protect and preserve the public health, safety, and welfare of the Township, the quality of life and stability of property values, including, but not limited to, the value of residential, commercial and industrial districts.

Therefore, this Article is intended to prohibit a caregiver’s cultivation, growth, harvest, and storage of marihuana in residential and commercial districts in order to protect and preserve peace, order, property and safety of persons as a result of issues associated with the growth of marihuana in residential and commercial districts including problems with insufficient or improper electrical supply, problems with ventilation leading to mold, offensive odors, or other health hazards and other hazards which are associated with the cultivation, growth, harvest, and storage of marihuana in residential and commercial settings and which is otherwise often difficult to detect and regulate. The MZEА provides the Township with statutory authority to impose zoning limitations as set forth in this Article.

- (b) Definitions. The following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning
- (1) MMMA. The Michigan Medical Marihuana Act, MCL 333.26421 et seq. currently, or as amended. (“Act or “MMMA”)
 - (2) Registered Primary Caregiver. A person meeting the definition of caregiver under the MMMA and who has been issued and possesses a registry identification card and possesses the documentation that constitutes a valid registry under the MMMA.
 - (3) Marihuana. Marihuana means that term as defined in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.
 - (4) Medical Use. Medical use means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transportation of marihuana, or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition, or

symptoms associated with the debilitating medical condition, as further defined under the MMMA.

- (5) Registered Qualifying Patient. A person meeting the definition under state law and who has been issued and possesses a registry identification card which is valid under the MMMA, as amended.
 - (6) Enclosed Locked Facility. An enclosed locked facility means a closet, room, or other comparable stationary and fully enclosed area equipped with secure locks or other functioning security devices that permit access only by a registered primary care giver, or registered qualifying patient. Marihuana plants grown outdoors, are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level, or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that it is anchored, attached, or affixed to the ground; located on land that is owned, leased, or rented by either the registered qualifying patient, or a person designated through the department registration process, as the primary giver, for the registered qualifying patient, or patients for whom the marihuana plants are grown; and equipped with functioning locks or other security devices that restrict access only to the registered qualifying patient, or the registered primary caregiver, who owns, leases, or rents the property on which the structure is located. Enclosed, locked facility includes a motor vehicle if both of the following conditions are met:
 - a. The vehicle is being used temporarily to transport living marihuana plants from one location to another with the intent to permanently retain those plants at the second location.
 - b. An individual is not inside the vehicle unless he or she is either the registered qualifying patient to whom the living marihuana plants belong, or the individual designated through the Department of Registration process as the primary caregiver for the registered qualifying patient.
 - (7) Transfer. To convey, sell, give, deliver, or allow the possession by another person or entity
 - (8) MRTMA. The Michigan Regulation and Taxation of Marihuana Act Initiated Law 1 of 2018, MCL 333.27952 et. seq currently, or as amended. (“MRTMA”)
 - (9) Other provisions and terms. The other provisions and terms of the MMMA and MRTMA for purposes of deferential context are incorporated by reference as though more fully restated herein.
- (c) **Requirements.**
- (1) Medical marihuana for registered qualifying patients or any individual over the age of twenty-one (21). Registered qualifying patients, or visiting

qualified patients and individuals over the age of twenty-one years old, may use, possess, and store medical marihuana as provided in the MMMA, MCL 333.26421 et seq as amended, and marihuana as provided in the MRTMA, MCL 333.27952 et. seq as amended, and as further regulated herein.

- a. May use, possess and store marihuana in their principal residence within the Township for personal use only, and shall comply at all times and in all circumstances with the Act, MRTMA and the General Rules of the Michigan Community Health or the Michigan Department of Licensing and Regulatory Affairs, as they may be amended from time to time.
- b. May only cultivate, grow, harvest, and store marihuana for him or herself in compliance with the MMMA and the MRTMA, on a residentially zoned parcel or otherwise authorized for residential use in an enclosed locked facility, inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered qualifying patient and individuals twenty-one years or older, provided that no more than twelve (12) marihuana plants are possessed, cultivated, stored or processed on the premises at once.
- c. No equipment or process shall be used in growing, processing, or handling marihuana which creates additional noise, vibration, glare, light, fumes, odors or electrical interference detectable to the normal senses at or beyond the property line of the property. In case of electrical interference, no equipment or process shall be used which creates visual or audible interreference with any radio, television, broadband, or similar receiver off the premises or causes fluctuation in line voltage off the premises.
- d. The separation of plant resin from a marihuana plant by butane extraction or any other method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, a motor vehicle, inside a residential structure or the curtilage of a residential structure is prohibited.
- e. If a room with windows is utilized as a marihuana-cultivation or grow location, any lighting methods that exceed usual residential use between the hours of 11:00 p.m. and 6:00 a.m. shall employ shielding methods, without alteration to the exterior of the residence or dwelling unit, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties.
- f. If the registered patient, or individual twenty-one years or older, is not the owner of the premises, a written statement that there is no lease or that the lease does not prohibit the cultivation of marihuana shall be provided.
- g. No person other than the registered patient or individual twenty-one years or older shall be engaged or involved in the growing, processing, handling of marihuana.

- h. Use of the registered patient's residential dwelling unit for medical marihuana or an individual twenty-one years or older for recreational marihuana related purposes, shall be clearly incidental and subordinate to its use for residential purposes. Not more than one hundred (100) square feet of any residential dwelling unit and/or accessory structure on a residential lot, shall be used for the growing, processing, and handling of medical or recreational marihuana.
 - i. Any modifications to the dwelling unit made for the purpose of cultivation, growing, harvesting, and storing medical or recreational marihuana shall comply with all applicable building, electrical, mechanical, and fire safety code requirements, including all requisite permit applications and related inspections.
 - j. No part of an accessory building, detached garage, pole barn, or similar building or structure shall be used for the growing, processing, or distribution of medical or recreational marihuana unless such building or structure has been inspected and approved for the building, electrical, mechanical, and fire safety requirements of such use and fits the definition of an enclosed, locked facility.
 - k. The registered qualifying patient, individuals over the age of twenty-one and the owners, agents, and employees of the parcel at which marihuana for personal or medical use is present are responsible jointly and severally for compliance with this section.
 - l. All marijuana cultivation, growth, harvest, and storage shall have odor mitigation systems such that odor is imperceptible from the outside of any property line.
- (2) Registered Primary Caregiver Operations. Any registered primary caregiver may acquire, possess, cultivate, grow, harvest, store, manufacture, transfer, or transport medical marihuana compliant with the MMMA, MCL 333.26421 et seq. as amended. Cultivation of medical marihuana by a registered primary care giver as defined under the MMMA, is prohibited in any zoning district, except the Agricultural (AG) and Industrial (IND) Districts subject to the following:
- a. A registered primary caregiver may only grow, cultivate, manufacture, process, and store marihuana on a conforming parcel occupied by a permitted use in the AG district and IND district; and in an enclosed locked facility.
 - b. A registered primary caregiver facility cultivating, growing, harvesting, manufacturing, processing and storing medical marihuana must not be located within one thousand (1,000) feet of any other medical marihuana facility or off-premises residential dwelling.
 - c. A registered primary caregiver facility cultivating, growing, harvesting, manufacturing, processing and storing medical marihuana must not be located within one thousand (1,000) feet of

- any school, childcare facility, community center, youth center, playground, public or private library, housing facility owned by a public housing authority, and place of worship as measured from the outer most boundaries of the lot or parcel on which the medical marihuana facility is located.
- d. Not more than one registered primary caregiver with a maximum of 72 marihuana plants but no more than 12 plants for each individual registered qualifying patient as set forth in the MMMA shall be allowed per parcel.
 - e. The registered primary caregiver is responsible for utilizing an enclosed locked facility upon the agricultural or industrial zoned parcel, compliant with the MMMA for cultivating, growing, harvesting, manufacturing, processing, and storing marihuana for medical use only. The enclosed locked facility utilized by the primary registered caregiver, shall provide separation by fully enclosed walls, or fences, for plants that are grown on behalf of each registered qualifying patient, on whose behalf the registered primary caregiver is furnishing marihuana for medical use, so it is accessible only to the primary caregiver and registered patient. The cultivating, growing, harvesting, manufacturing, processing, and storing of medical marihuana is permitted only by registered primary caregivers and registered qualifying patients.
 - f. All caregiver marihuana cultivation, grow, harvest, manufacture, process, and storing facilities are required to be in compliance with the state requirements and shall have odor mitigation systems such that odor is imperceptible from the outside of any building or lease line. A ventilation plan shall be required for marihuana cultivation, growth, harvest, manufacturing, processing, and storage facilities that provides for adequate ventilation so as to prevent pesticides, insecticides or other chemicals used in the cultivation of marihuana or marihuana related products from being dispersed or released outside the building or lease line. The plan shall further provide for resulting smoke, vapor, fumes, gases and particulate matter from marihuana or its cultivation, growth, harvest, manufacture, processing, and storage to be effectively confined to the any building or lease line.
 - m. No equipment or process shall be used in growing, processing, or handling marihuana which creates additional noise, vibration, glare, light, fumes, odors or electrical interference detectable to the normal senses at or beyond the property line of the property. In case of electrical interference, no equipment or process shall be used which creates visual or audible interreference with any radio, television, broadband, or similar receiver off the premises or causes fluctuation in line voltage off the premises.
 - n. If marihuana is grown or located in a room, building or structure with windows or non-opaque form of enclosure, all interior lighting

shall be shielded to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent properties.

- o. Any modifications or alterations made in support of or in association with cultivating, growing, harvesting, manufacturing, processing, and storing medical or recreational marihuana shall comply with all applicable building, electrical, mechanical, and fire safety code requirements, including all requisite permit applications and related inspections
- p. Certificate Required. The operations of a registered primary caregiver within an industrial or agricultural zoning district, shall only be permitted upon the issuance of a Zoning Certificate to Cultivate Medical Marihuana. Such certificate is required to be renewed annually. The following information shall be provided with an application for zoning certificate to cultivate medical marihuana:
 - i. A complete and accurate application shall be submitted on a form provided by the Township along with submission of the application fee. The application fee and renewal fee shall be an amount determined by resolution of the Township Board.
 - ii. Proof of property ownership or a written statement that there is no lease or that the lease does not prohibit the cultivation of marihuana shall be provided.
 - iii. A photocopy of the current and valid caregiver registry card issued by the state to the person who is permitted to grow, cultivate, harvest, process, manufacture and store medical marihuana and who will be doing so at the registered location. Upon expiration of the card, an updated and new copy of the renewed card shall be provided to the Township. Information treated as confidential under the MMMA, including the primary caregiver registry identification card and any information about qualifying patients associated with the primary caregiver, which is received by the Township, shall be maintained separately from public information submitted in support of the application. It shall not be distributed or otherwise made available to the public and shall not be subject to disclosure under the Freedom of Information Act.
 - iv. Specification of the number of qualifying patients for whom marihuana will or may be grown, cultivated, harvested, manufactured, processed and stored.
 - v. A floor plan, with dimensions, illustrating the enclosed and locked location in the building where marihuana will be grown, cultivated, harvested, manufactured, processed and

- stored, and detailing the security measures related to that location and building. The floor plan shall also depict the required separation for plants grown on behalf of each registered qualifying patient showing the construction method used to ensure that it is accessible only to the primary caregiver and registered patient.
- vi. A full description of the nature and types of equipment which will be used in marihuana cultivation and processing; and a description of the location at which the use will take place.
 - vii. Details regarding electrical, mechanical, plumbing, and another other related improvements and installations or facilities that will be used for growing, cultivating, harvesting, and storing the marihuana.
 - viii. A full description of the odor mitigation systems and a ventilation plan that provides for adequate ventilation so as to prevent pesticides, insecticides or other chemicals used in the cultivation of marihuana or marihuana related products from being dispersed or released outside the building or lease line. The plan shall further provide for resulting smoke, vapor, fumes, gases and particulate matter from marihuana or its manufacturing or cultivation to be effectively confined to the any building or lease line.
 - ix. An operations plan that addresses water use, wastewater, and the disposal of waste.
 - x. A description of type, quantity, location and method of containment for any herbicides, pesticides, fertilizers that will be used for growing, cultivating, and harvesting the marihuana.
 - xi. The zoning administrator may require additional information necessary to demonstrate compliance with all requirements. The planning zoning administrator shall review the application to determine compliance with this Ordinance, the MMMA and the MRTMA and any applicable Michigan Regulatory Agency General Rules. A certificate shall be granted if the application demonstrates compliance with this Ordinance and the MMMA
 - xii. The use shall be maintained in compliance with the requirements of this Ordinance and the MMMA. Any departure shall be grounds to revoke the certificate and take other lawful action. If a certificate is revoked, the applicant shall not engage in the activity unless and until a new Zoning Authorization to Cultivate Medical Marihuana certificate is granted.

- (3) Marihuana establishments prohibited.
 - a. Any and all types of a “marihuana establishment,” as that term is defined and used in Michigan Initiated Law 1 of 2018, commonly known as the Michigan Regulation and Taxation of Marihuana Act, are completely prohibited in the Township, and may not be established or operated in any zoning district, by any means, including by way of a variance.
 - b. Any and all types of “marihuana facilities” as described in Act 281 of 2016, the Medical Marihuana Facilities Licensing Act are completely prohibited in the Township and may not be established, licensed or operated in any zoning district, by any means, including by way of a variance.
 - c. Nothing in this Section 3.2.I shall limit any privileges, rights, immunities or defenses of a person as provided in the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq.
- (4) Nonconforming Status. Registered Patient Caregivers that have applied for and have obtained building, electrical, plumbing and/or mechanical permits for the cultivation of medical marihuana within any zoning district, prior to the enactment of this Ordinance, shall enjoy nonconforming use status from the provisions of this Ordinance and shall be permitted to continue subject to section 24.05 of this Ordinance
- (5) Severability. If any section, subsection, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion of this Ordinance, and such holding shall not affect the validity of the remaining portions of this Ordinance.

(as amended 10/04/21)

Sec. 11.03 DWELLINGS

11.03.01 **Single Family Dwelling Design Standards:** Single family dwellings and mobile homes located outside a mobile home park or manufactured housing subdivision shall conform to the standards of this section.

- (a) Certification: If the dwelling unit is a mobile home, the mobile home must either be (i) new and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Dept. of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated, or (ii) used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced in (i) above, and found, on inspection by the Zoning Administrator or his/her designee, to be in excellent condition and safe and fit for residential occupancy.
- (b) Dimensional Standards: Each such dwelling unit shall comply with the minimum standards listed in Article 3 for the Zoning District in which it is located, including minimum lot area, minimum lot width, minimum floor area, required setbacks and maximum building height.

- (c) Dimensions: Each such dwelling unit shall have a minimum width across any front, side or rear elevation of 20 feet and comply in all respects with the Michigan State Construction Code Commission, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan State Construction Code Commission, then such federal or state standard or regulation shall apply.
- (d) Foundation: Each such dwelling unit shall be firmly attached to a permanent foundation constructed on the site in accordance with the Michigan State Construction Code Commission and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. If said dwelling is a mobile home, the dwelling shall be securely anchored to the foundation to prevent displacement during windstorms.
- (e) Undercarriage: In the event that such dwelling unit shall be a mobile home, the wheels, tongue, hitch assembly and other towing appurtenances shall be removed before attachment to a permanent foundation. The foundation or masonry skirting shall fully enclose the undercarriage and chassis prior to occupancy.
- (f) Sewage disposal and water supply: Each such dwelling unit shall be connected to a public sewer and water supply approved by the Township or to such private facilities approved by the Livingston County Health Department.
- (g) Code compliance: Each such dwelling unit shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- (h) Storage area: Each such dwelling unit shall contain a storage area equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less. This storage area shall consist of a basement, attic, closet areas or attached garage, or in a separate detached accessory structure which complies with the standards of this Article regarding accessory buildings and structures.
- (i) Compatible Building Design: All newly constructed single family and two-family homes shall be aesthetically compatible in design and appearance with other residences in the vicinity. This shall be accomplished by maintaining the architectural styles, details, building materials and design themes of dwelling units on both sides of the street, within five hundred (500) feet of the subject lot and in the same zoning district. Similarity and compatibility with surrounding dwelling units in terms of the following design requirements and features must be provided in order to meet this requirement:
 - (1) roof drainage systems that concentrate roof drainage at collection points along the sides of the dwelling;

- (2) minimum of two exterior doors with one facing the front lot line and the second one being in either the rear or side of the dwelling;
 - (3) steps connected to exterior door areas or to porches connected to the door areas where a difference in elevation requires the same;
 - (4) roof pitch of no less than four (4) feet of rise for each twelve (12) feet of horizontal run;
 - (5) front facade appearance that is manifestly designed as a front façade containing a door, windows and other architectural features customary of the front facade of a residence; and
 - (6) exterior building materials compatible with surrounding dwellings;
- (k) Compatibility determination: The compatibility of design and appearance shall be determined in the first instance by the Township Zoning Administrator. An applicant may appeal to the Board of Zoning Appeals within a period of fifteen (15) days from the receipt of notice of said Zoning Administrator's decision. The determination of compatibility shall be based upon the building compatibility design standards listed in Section 11.03.01(i) above and all other design standards outlined in this Section. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
- (l) Additions: Each such dwelling unit shall contain no addition or room or other area which is not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein. In addition, the dwelling unit shall have no less than two (2) exterior doors, with one being either at the rear or side of the dwelling unit.
- (m) Building permit: All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Michigan State Construction Code provisions and requirements.
- (n) Exceptions: The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this ordinance and pertaining to such parks. Mobile homes which do not conform to the standards of this section shall not be used for dwelling purposes within the Township unless located within a mobile home park or a mobile home subdivision district for such uses, or unless used as a temporary residence as otherwise provided in this Ordinance.

11.03.02 Dwellings Outside of the Agricultural and Residential Districts:

- (a) The construction of dwellings in nonresidential districts is prohibited except for housing used exclusively by security, custodial maintenance or management personnel and approved by the Planning Commission. The use of trailers and recreational vehicles for housing such security and custodial personnel, or other persons, is prohibited.

- (b) The use of recreation vehicles and trailers is permitted as a temporary residence between May 1st and October 1st each year provided the vehicles and trailers are located in a designated recreation vehicle/trailer park, and that they are connected to appropriate sewer, water and electric facilities serving the park.

Sec. 11.03.03 Regulations on Accessory Dwellings

- (a) Recreational vehicles or camping trailers may be used for living purposes when accessory to single-family or two-family dwellings, provided such use shall only be permitted for a cumulative total of no more than twenty-one (21) days in any twelve (12) month period. Any such recreational vehicle parked in a front yard shall be parked in the driveway.
- (b) For lots of 120 acres or more in the Agricultural District, one additional principal building (a total of two) shall be permitted if the additional principal building is occupied by a member of the family who occupies the principal building, or employees working on the property for farming purposes, raising livestock or training horses, provided each accessory dwelling unit meets the minimum size for a one (1) bedroom unit as specified in Section 3.04.
- (c) The use of any portion of the basement of a partially completed building, or any detached garage or accessory building for dwelling or sleeping purposes in any zoning district is prohibited.

Sec. 11.04 ACCESSORY BUILDINGS AND STRUCTURES (as amended 10/04/21)

11.04.01 Accessory Buildings, Structures and Uses in General

- (a) Relation to Principal Building: Accessory buildings, structures and uses are permitted only in connection with, incidental to and on the same lot with a principal building, that is occupied by a use permitted in the particular zoning district. No accessory building, structure or use shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.
- (b) Permit Required: Any accessory building or structure shall require a land use permit, except minor accessory structures, gardens, landscaping, flagpoles, and play structures, as defined herein. In addition, one (1) accessory structure two hundred (200) square feet or less shall be allowed with a land use waiver.
- (c) Required Setbacks (Attached): Where the accessory building, structure or use is structurally attached to a principal building, structure or use, it shall be subject to all the regulations applicable to principal buildings, structures and uses, except for decks as noted in Section 11.04.03(a) and fences and walls as noted under section 11.04.03(b). An accessory building, structure or use shall be considered part of the principal building if it is structurally and architecturally integrated into the principal building, and/or is attached by a covered or enclosed breezeway or similar architectural feature with a roof style consistent with the principal building by a distance not greater than twenty (20) feet in length.
- (d) For the purposes of this section screens, lattice, trellis, slats, beams, rafters or removable storm window sashes shall be considered enclosed and/or covered.

- (e) Natural Features Setback: All accessory buildings, structures, and uses are subject to the natural feature setback requirements of Section 13.02.04(d).
(as amended 10/04/21)

11.04.02 **Accessory Buildings**

- (a) Restrictions in Front Yard: Detached accessory buildings shall not be erected in any front yard, except as follows:
 - (1) Waterfront lots in the Lakeshore Resort Residential District, provided the front setback is not less than ten (10) feet.
 - (2) Lots of at least five (5) acres in the AG or CE District when the front setback is equal to or greater than the average setback of established buildings on adjoining lots or seventy-five (75) feet, whichever is greater, as determined by the Zoning Administrator. If both of the adjacent lots are undeveloped, then front yard accessory buildings are permitted with a minimum front yard setback of two hundred (200) feet.
 - (1) In the case of attached residential dwelling complexes, detached parking garages or carports may be permitted in the non-required front yard provided the Planning Commission approves the site plan, elevation drawings and construction materials. In reviewing such structures, the Planning Commission shall consider the impact of headlights and views from nearby public streets and adjacent properties.
- (b) Required Setbacks (Detached, two hundred (200) square feet or less total floor area): Detached accessory buildings with two hundred (200) square feet or less total floor area shall be at least four (4) feet from any principal building, and at least four (4) feet from any lot line.
- (c) Required Setbacks (Detached, over two hundred (200) square feet total floor area): Detached accessory buildings over two hundred (200) square feet of total floor area shall be at least ten (10) feet from any principal building, and at least ten (10) feet from any side or rear lot line; except as follows:
 - (1) On lots greater than one (1) acre detached accessory buildings over two hundred (200) square feet of total floor area shall meet the setback requirements for principal buildings. (as amended 10/04/21)
 - (2) On lots in the Lakeshore Resort Residential District detached accessory buildings over two hundred (200) square feet of total floor area shall be allowed to reduce one (1) side yard setback to at least five (5) feet as follows:
 - a. The accessory building shall be setback at least ten (10) feet from the other side lot line.
 - b. There shall be a minimum of ten (10) feet of separation from buildings on adjacent lots.
 - (3) In non-residential districts, all detached accessory buildings shall meet the setback requirements for principal structures unless otherwise provided herein.

- (d) **Setback from Shoreline:** Detached accessory buildings shall be setback at least fifty (50) feet from the nearest edge of any lake shoreline, except in the Lakeshore Resort Residential District where accessory buildings shall meet the shoreline setback requirements for the principal building as specified in Table 3.04.02. All accessory buildings are subject to the natural feature setback requirements of Section 13.02.04(d).
- (e) **Maximum Size:** The combined total of all accessory buildings in any residential district shall be a maximum of nine hundred (900) square feet in area for lots less than one (1) acre, one thousand five hundred (1500) square feet in area for lots equal to or greater than one (1) acre but less than three (3) acres, and two thousand two hundred (2200) square feet in area for lots three (3) acres or greater. Accessory buildings located on lots five (5) acres or more in Agricultural and Country Estates Districts shall not be limited by size, provided all required setbacks are met.
- (f) **Maximum Number:** No more than two (2) detached accessory buildings shall be permitted on any lot in any district except conforming lots in the Agricultural and Country Estate District.
- (g) **Maximum, Height:** The maximum building height of any detached accessory building shall be eighteen (18) feet (see Article 25 for calculation of building height), except as follows:
 - (1) Antenna heights may be as noted in Section 11.04.03(l)
 - (2) On lots two (2) acres or greater in Agricultural, Country Estate and Rural Residential Districts, accessory building heights shall not exceed 35 feet..
- (h) **Restrictions on Use:** Accessory garages shall only be used to store vehicles or equipment associated with a Permitted Use.
- (i) **Not used for dwelling/business:** Accessory buildings shall not be occupied for dwelling purposes nor used for any business profession, trade or occupation except for agricultural uses in an Agricultural District as permitted in Section 3.03 and home occupations as provided for in Section 3.03.02(a).
(as amended 12/31/06, 3/5/10, 2/25/11, and 10/04/21)

11.04.03 **Accessory Structures**

- (a) **Decks, Balconies, Porches, and Similar Structures.** Decks, balconies, porches or similar structures are permitted only when they are attached to or abutting buildings that are occupied by a use permitted in the particular zoning district.
 - (1) Attached or abutting covered or enclosed decks, balconies, porches or similar structures with an open or enclosed roof and/or walls or enclosure shall be considered to be part of the building for purposes of determining setbacks with the exception of one (1) pergola or gazebo as regulated in Section 11.04.03(a)(3) below.
 - (2) **Required Setbacks:** When attached or abutting the building uncovered decks and similar structures without a roof, walls or other form of enclosure shall be permitted within all principal structure non-required yards. Within the

principal structure required yard, attached or abutting uncovered decks, balconies and similar structures without a roof, walls of other form of enclosure shall be permitted as follows:

- a. Front Yard: Attached or abutting uncovered decks, balconies and similar structures without a roof, walls or other form of enclosure may extend twelve (12) feet from the front building line provided they shall be at least twenty (20) feet from the front lot line.
 - b. Side Yard: Attached or abutting uncovered decks, balconies and similar structures without a roof, walls or other form of enclosure may extend into the required side yard provided they shall be at least four (4) feet from any side lot line.
 - c. Rear Yard: Attached or abutting uncovered decks, balconies and similar structures without a roof, walls or other form of enclosure may extend into the required rear yard provided they shall be at least ten (10) feet from any rear lot line.
 - d. Waterfront Yard: Attached or abutting uncovered decks, balconies and similar structures without a roof, walls or other form of enclosure may extend a maximum fifteen (15) feet into the required waterfront yard provided that a minimum fifteen (15) foot wide open space greenbelt shall be provided between the deck and the closest edge of the shoreline.
- (3) Gazebos/Pergolas: When attached or abutting a principal building and not within the principal structure required waterfront yard, uncovered decks, balconies and similar structures may include a covered or enclosed pergola or gazebo with a maximum size of one hundred fifty (150) square feet and a maximum height of fourteen (14) feet (see Article 25 for calculation of building height). Detached, freestanding gazebos or pergolas shall meet accessory building setbacks of Section 11.04.02.
- (4) For condominiums, the placement of decks shall be stipulated in the Condominium Master Deed and Exhibit B Site Plan, in conformance with the regulations of this section. Where there are no property lines between the two condominium units, decks shall be setback a minimum of four (4) feet from the halfway point between the two units, provided the decks are separated a minimum of eight (8) feet (combined four (4) foot setback of both decks).
- (5) Detached, freestanding, or non-abutting decks, balconies, porches, and similar structures shall comply with the requirements of Section 11.04.02 for Accessory Buildings.
(as amended 5/13/05, 3/5/10 and 10/04/21)
- (b) 11.04.03 **Swimming Pools, Spas, Hot Tubs and Similar Structures.**
- (1) Requirement for Fence: Every person owning land on which there is located a swimming pool, spa, hot tub, or similar device (below ground or above ground) which contains twenty-four (24) inches or more of water in depth at any point, shall erect and maintain thereon a fence, wall, barrier or other

form of enclosure approved by the Building Official surrounding the device sufficient to make such device inaccessible to small children. Such fence, including the gates, shall not be less than four (4) feet or greater than (6) feet above grade. All gates shall be self-latching with latches placed no less than four (4) feet above grade or otherwise made inaccessible from the outside to small children. A hot tub or spa with a locking cover shall not require a fence.

- (2) Restriction from Front Yard: Swimming pools, spas, hot tubs and similar devices and their associated enclosures, decks, and/or patio shall not be located in any front yard.
- (3) Restriction from Waterfront Yard: All pools, spas, hot tubs, and their associated enclosures, decks and /or patio shall not be erected in the required shoreline setback for principal buildings as stated in Table 3.04.02. Such structures are also subject to the natural feature setback requirements of Section 13.02.04(d).
- (4) Relationship of Height to Setback: Swimming pools, spas, hot tubs, similar facilities and associated enclosures or surrounding decks with an elevation measured from the mean grade at any point adjacent to such facility of three (3) feet or less shall be at least ten (10) feet from any side or rear lot line. Where the elevation is greater than three (3) feet above grade at any point, the setback shall be at least fifteen (15) feet from any side or rear lot line.

(as amended 10/04/21)

(c) **Fences and Walls**

- (1) All fences and walls shall be located entirely on the property of the owner of the fence. Adjoining property owners may jointly apply for a fence permit for the purpose of constructing a fence on the common property line.
- (2) Unless specifically authorized elsewhere in this Ordinance, fences and walls located within the front yard in any residential zoning district shall not exceed three (3) feet in height, or be in excess of forty-nine (49) percent (%) solid or impervious.
- (3) Chain link fences shall not be erected in any front yard unless enclosing a retention pond that has been approved by the Planning Commission.
- (4) Waterfront Lots: Fences and walls shall not be permitted in the required shoreline setback for principal buildings as stated in Table 3.04.02.
- (5) Unless specifically authorized elsewhere in this Ordinance, fences and walls located within the side yard, rear yard or non-required waterfront yard in any zoning district shall not exceed a height of six (6) feet, except the Zoning Administrator may approve an eight (8) foot high security fence of a permitted essential public service building, essential public service storage yard, towers, conforming commercial or industrial use, which may also include a maximum of one (1) additional foot of barb wire.

- (6) Fences must be constructed of a natural or synthetic material that is all-weather resistant and is engineered and designed to be used for permanent installation as a fence or screen material. Where a fence has a finished and unfinished side, the more decorative side shall face outward toward the adjoining property or street.
 - (7) Fences shall be installed and maintained free from defects, safety hazards and collapse, and shall be kept in good repair. No signs, words, letters, images, or illustrations shall be installed on any fence.
 - (8) Fences and walls shall not be erected within any public right-of-way or maintained in such a way as to obstruct the vision of motorists exiting driveways or within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two points located on those intersecting right-of-way lines twenty-five (25) feet from the point of intersection with the right-of-way lines.
 - (9) The use of electric current or charge on any fence or part thereof is prohibited, except for low voltage fences in the Agricultural, Country Estate and Rural Residential Districts, intended to enclose permitted livestock, or electronic fences buried beneath the ground.
(as amended 12/31/06, 3/5/10 and 10/04/21)
- (d) **Waterfront Accessory Structures:** Waterfront structures are permitted accessory structures on waterfront property, subject to the requirements of this section. The following requirements apply to all structures within the required waterfront yard (i.e. the required principal structure setback from the ordinary high-water mark.) in all zoning districts.
- (1) Only the following structures shall be permitted within the required waterfront yard:
 - a. Permitted Projections, subject to the requirements of Section 11.01.04.
 - b. No more than one accessory building, subject to the requirements of Section 11.04.02.
 - c. Accessory Structures, subject to the requirements of Section 11.04.03.
 - d. A dock and mooring apparatus;
 - e. Allowable accessory use of the waterfront in a single-family residential district shall be limited to not more than (1) dock per lot occupied with a principal permitted use. Boat houses shall not be permitted.
 - f. Commercial boat rental shall be prohibited in residential districts.
 - g. Boat launching sites and boat docks within a common use riparian lot and dockminiums shall comply with the provisions of Section 13.03.
- (as amended 10/04/21)

- (e) **Gardens and landscaping.** Gardens and landscaping are permitted in all yards. (as amended 10/04/21)

- (f) **Manufactured landscape features and minor structures.** Manufactured landscape features and minor structures may be permitted in all yards subject to the following:
 - (1) Any such feature or structure that exceeds a dimension of six (6) feet in width, length, diameter, etc. shall not be located closer than three (3) feet from a front, side or rear property line and five (5) feet from a shoreline.
 - (2) Manufactured landscape features and minor structures that exceed a height of six (6) feet shall be setback from lot lines a distance not less than equal to the height.
 - (3) No landscape feature or minor structure shall exceed the height of twelve (12) feet in height, measured from the lowest ground level at the base of the structure/feature to the highest point of the feature.
 - (4) No such landscape feature or minor structure shall be located where it will obstruct the vision of drivers or otherwise impede traffic.
(as amended 10/04/21)

- (g) **Ground level unenclosed projections (G.L.U.P.).** Ground level unenclosed projections shall be permitted to encroach into the required setback areas as follows:
 - (1) G.L.U.P.s shall be not be permitted within three (3) feet of any front, side or rear property line.
 - (2) For riparian waterfront lots, a minimum fifteen (15) foot wide open space greenbelt shall be provided between the G.L.U.P. and the closest edge of the shoreline with the following exception:
 - a. Within the fifteen (15) foot greenbelt a G.L.U.P. of one hundred (100) square feet or less shall be permitted along the shoreline with a maximum length along the shoreline of ten (10) feet.
 - (3) G.L.U.P.s shall be subject to lot coverage requirements.
(as amended 10/04/21)

- (h) **Steps, stairways and stoops.** Unroofed and unenclosed steps, stairways and stoops may encroach in the required yards as follows:
 - (1) Steps, stairways and stoops shall not be located any closer than three (3) feet to any property line.
 - (2) Steps, stairways and stoops may include a landing area which does not exceed twenty (20) square feet.
 - (3) Encroachments into required yards shall be allowed as indicated in the table below:

Front Yard	Rear Yard	Waterfront Yard ⁽¹⁾	Side Yard	
			Side Yard 10' or less in LRR	Side Yard
10 ft.	15 ft.	15 ft. ⁽¹⁾	2 ft.	5 ft.

^{1.} Waterfront yard - Steps, staircases and landing areas (not to exceed twenty (20) square feet in area) may be permitted to extend to the shoreline where required by topography as confirmed by the Zoning Administrator. Stair treads shall not exceed four (4) feet in width by fourteen (14") or less in depth.
(as amended 10/04/21)

- (i) **Flagpoles.** Flagpoles are permitted in all yards provided that they are setback a distance at least equal to their height. (as amended 10/04/21)

- (j) **Retaining walls.** Retaining walls may be permitted subject to the following conditions:
 - (1) Retaining walls may be utilized only where needed to stabilize steep slopes which exceed thirty-three (33) percent (one foot vertical rise in three feet of horizontal run) and where retaining walls are necessary to establish grade for buildings and accessory structures, preserve grade around trees, wetlands or other natural features to be preserved or as part of a grading plan to establish positive drainage from a site as determined by the Zoning Administrator.
 - (2) Retaining walls shall not be used to alter the overall natural topography of the land. For example, retaining walls could be used to create a terrace on the slope, but the direction of the slope and the drainage patterns should not be altered.
 - (3) Retaining walls over three (3) feet tall shall be designed by a licensed professional engineer and calculations demonstrating its structural stability must be submitted as part of the site plan.
 - (4) Retaining walls shall comply with the following dimensional standards. Height of the wall shall be measured at any point on either side of the wall, from the grade level adjacent to the wall to the top of the wall. Where possible, permission to grade on adjacent property shall be sought to minimize retaining wall height.
 - i. Front Yard: Retaining walls within the required front yard shall not exceed three (3) feet in height and shall not be located within twenty (20) feet of the front lot line or be less than two (2) feet from the side lot line.
 - ii. Side and Rear Yard: Retaining walls within the required side or rear yard shall not exceed a height of six (6) feet and shall not be located closer than two (2) feet to the side or rear lot line.
 - iii. Waterfront Yard: Retaining walls within the required waterfront yard shall not exceed a height of four (4) feet and shall not be located closer than fifteen (15) feet to the shoreline or be less than two (2) feet from the side lot line. This does not include seawalls which are regulated

by the Michigan Department of Energy, Great Lakes and Environment (EGLE).

- (5) Stepped or Tiered Walls: Retaining walls which are stepped in multiple tiers having a series of two (2) or more parallel walls shall each comply with the maximum height allowed by Section 11.04.03(j)(4). The height of the upper retaining wall shall be less than or equal to the height of the lower wall and the distance between the retaining walls must be at least equal to the height of the lower wall but not less than three (3) feet.
- (6) If a guard railing is required by the building code, said railing shall not exceed the minimum required height and shall be the maximum amount of transparency utilizing thin rails, wire, glass or similar and in no case shall the railing be less than fifty (50) percent pervious or transparent. Except for a railing required by the building code, where a fence is located on top of a retaining wall, the height of the retaining wall shall be included in the height of the fence for the purpose of determining compliance with the fence height requirements of Section 11.04.03(c).
- (7) Notwithstanding the conditions above, this ordinance shall not prohibit the replacement or maintenance of existing retaining walls that do not meet the requirements of this ordinance but were constructed prior to the effective date of this ordinance provided that the replacement or maintenance does not increase the non-conformity of the structure.

(as amended 10/04/21)

- (k) **Play Structures.** Play structures shall be permitted in side, rear, and waterfront yards subject to the following:

- (1) Play structures shall not be permitted in the front yard.
- (2) Play structures shall not be located any closer than four (4) feet to any property line.
- (3) Encroachments into the required waterfront yard yards shall not exceed fifteen (15) feet.

(as amended 10/04/21)

- (l) **Reception Antennas and Towers:** Radio or television antennas or towers, including satellite dish antennas and transmission or reception antennas erected or installed in any zoning district as an accessory structure to a permitted use shall comply with the standards below. Wireless communication facilities, such as cellular antenna and commercial broadcasting antenna, shall be subject to the requirements of Section 11.02.08

- (1) **Intent and Exceptions:** The intent of this section is to provide reasonable regulations for reception antenna facilities to achieve the objectives listed below.
 - i. Promote safety and prevent hazards to persons and property resulting from accidents involving antenna facilities which could fall from building or structural mountings due to wind load, snow load or other factors.

- ii. Promote utilization of ground mounting for antennae facilities where reasonably feasible.
 - iii. Require screening of ground-mounted facilities and minimize visibility to roof or structure mounted facilities to maintain architectural integrity and aesthetic quality of property improvements and preserve property values.
 - iv. Exclude from provisions of this section are conventional VHF and UHF television antennae, satellite dishes less than one (1) meter in diameter and short wave radio antennae based upon the following findings: there is relatively minor concern for wind and snow load issues due to an established safety record; there has been an historical acceptance of such facilities from architectural and aesthetic standpoints; and the cost of complying with the procedure for application and review would be unreasonable in relation to the cost of purchasing and installing the facility.
 - v. Balance regulations on the placement and manner of reception antenna installation to the minimum required to achieve the objectives herein.
 - vi. Promote and protect the public health, safety and welfare by the exercise of Township police powers in relation to a property owner's right to construct and use reception antennae to receive signals without reasonable restriction.
- (2) Requirements: A ground mounted regulated reception antenna or tower, shall be located only in a rear yard and shall not be within the required side yard setback. For lots with lake frontage, regulated reception, antenna and towers shall be located in the side or front (street side) yard. A roof mounted regulated reception antenna shall be placed on a section of the roof in the rear yard.
- i. Conventional VHF and UHF television antennae, satellite dishes less than one (1) meter in diameter and short-wave radio antennae shall be exempt from the regulations of this section and not require a land use permit, provided the equipment is not located in the front yard or on the portion of the building facing the front lot line.
 - ii. No portion of a regulated reception antenna shall be located closer than six (6) feet, measured on a horizontal plane, from any side or rear lot line or placed on any easement.
 - iii. Ground-mounted antenna in a front yard within one hundred (100) feet of a public street or within fifty (50) feet of a residential lot line shall be screened from such street by landscaping or a wall with a sketch plan approved by the Zoning Administrator prior to erection of the antenna. If there is no conforming location on the property where the facility may be so obscured from view, screening shall be accomplished to the extent reasonably feasible, as approved by the Zoning Administrator or if the antenna is mesh type, screening need not exceed six (6) feet in height.

- iv. The color of all antennae shall be of tones similar to the surroundings. Ground-mounted antennae shall not be white unless they are of a mesh type or unless the background consists primarily of a white building. Bright or pastel colors shall not be used in any instance.
- v. Ground mounted reception antenna shall be secured to the ground with cement or similar material.
- vi. The diameter of a regulated reception antenna shall not exceed twelve (12) feet.
- vii. Regulated reception antenna and towers shall extend a maximum of twenty (20) feet above the rooftop.
- viii. No advertising or identification display shall be placed on any portion of a reception antenna or tower, except for the name of the manufacturer and serial number.
- ix. All electrical and antenna wiring shall be placed underground, where applicable.
- x. The antenna shall be located and designed to meet the manufacturer specifications to withstand a wind force of one hundred (100) miles per hour.
- xi. If a usable signal cannot be obtained by locating the antenna in the rear yard, the antenna may be located in the side yard of the property subject to the submission of a written affidavit and approval of the Zoning Board of Appeals provided the placing of an antenna in a side yard shall remain subject to all other conditions set forth in this section.
- xii. Erection of regulated reception antenna or towers shall require a land use permit from the Township Zoning Administrator.

(m) **Outdoor Furnaces:**

- (1) **Purpose.** Although outdoor furnaces may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. This section is intended to ensure that outdoor furnaces are utilized in a manner that does not create a nuisance or hazard and is not detrimental to the health, safety and general welfare of the residents of Genoa Charter Township.
- (2) **Permit Required.** No outdoor furnace shall be constructed or installed without obtaining a land use permit. (as amended 10/04/21)
- (3) **Definitions.** The following definitions shall apply to the terms used in this section:

- i. **Firewood.** Trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than three inches in diameter.
 - ii. **Outdoor Furnace.** Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space.
 - iii. **Untreated Lumber.** Dry wood that has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.
 - iv. **Stack.** A vertical structure enclosing a flue or flues that carry off smoke or exhaust from an outdoor furnace, including that part of the structure extending above a roof.
- (4) **Requirements.** Outdoor furnaces located outside the principal building may be permitted in any zoning district as an accessory structure to a permitted use only under the following conditions:
- i. The outdoor furnace shall be for the purpose of providing heat to a dwelling or accessory structure on the same lot.
 - ii. The outdoor furnace shall be a minimum of forty (40) feet from all structures on the lot.
 - iii. The outdoor furnace shall be a minimum of one hundred (100) feet from all property lines.
 - iv. The outdoor furnace may only be located in a rear or side yard and shall not be located in the front yard.
 - v. An area at least thirty (30) feet in diameter around the outdoor furnace shall be free of ignitable materials or debris; except that fuel for the outdoor furnace may be stored within this area.
- (6) The outdoor furnace shall utilize a stack with a minimum height of fifteen (15) feet and shall not exceed fifteen (15) feet above the height of the principal structure height limit. All outdoor furnaces shall be equipped with properly functioning spark arrestors.
- (7) Only materials meeting outdoor furnace manufacturer's specifications are permitted to be burned in the outdoor furnace, such as firewood, untreated lumber, natural gas, propane or pellets. Burning of any and all other materials in an outdoor furnace is prohibited. Trash, garbage, plastics, gasoline, rubber, naphtha, material treated with petroleum products (particle board, railroad ties and pressure treated wood), painted or stained wood, leaves, paper products, cardboard, and material that could pose a hazard to surrounding residents shall not be used for fuel. Lighter fluids, gasoline or chemicals to start the furnace are prohibited.

- (8) The outdoor furnace shall not be located where smoke will create a nuisance to neighboring properties pursuant to Section 13.05.
- (9) The outdoor furnace shall be from a manufacturer with a safety certification from a qualified independent laboratory that has tested the furnace and certified that it complies with safety standards established by Underwriters Laboratory (UL 391-1955).
- (10) Use of the outdoor furnace must follow all operating instructions supplied by the manufacturer.
- (11) The outdoor furnace must also comply with all applicable county, state or federal guidelines. (as amended 2/25/11)

Sec. 11.05 WIND ENERGY CONVERSION SYSTEMS (WECS)

11.05.01 General:

- (a) **Intent:** The intent of these regulations is to provide for sustainable energy sources by allowing the development of Wind Energy Conversion Systems (WECS), while providing regulations that limit the impact of these facilities as follows:
 - (1) Protect public health, safety, welfare, and quality of life by minimizing the potential adverse impacts of a WECS.
 - (2) Protect the aesthetic quality of the natural, rural open spaces of the Township.
 - (3) Protect neighboring property owners from noise and safety impacts.
 - (4) Protect waterfowl and birds.
 - (5) Ensure structures do not exceed a height that would impact aviation safety.
 - (6) To establish standards and procedures by which the siting, design, engineering, installation, operation, and maintenance of a WECS shall be governed.
- (b) **Applicability:** WECS shall comply with the standards below.
 - (1) On-site use WECS up to a height of seventy-two (72) feet shall be allowed in any zoning district as an accessory structure, subject to the requirements of Section 11.05.02.
 - (2) On-site use WECS over a height of seventy-two (72) feet shall be allowed in certain zoning districts as an accessory structure, subject to the requirements of Section 11.05.03.
 - (3) A utility grid WECS shall be allowed as a principal use of land in certain zoning districts, subject to the requirements of Section 11.05.03.
- (c) **Definitions:** For the purpose of this section, the following words and phrases shall have the meanings respectively ascribed to them as follows:

- (1) **Ambient Noise:** The amount of background noise at a given location prior to the installation of a WECS which may include, but is not limited to, traffic, machinery, lawnmowers, general human activity and the interaction of the wind with the landscape. Ambient Sound Level is measured on the Decibel – dB (A) – weighted scale as defined by the American National Standards Institute (ANSI). Such noise levels shall be measured on the property line or on the adjacent property, which is receiving the noise.
- (2) **Anemometer tower:** A freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system used by utility companies to monitor energy production from a central control unit, which is an accessory land use to a utility grid WECS.
- (3) **ANSI:** The American National Standards Institute.
- (4) **dB (A):** dB (A) means the sound pressure level in decibels measured on the "A" scale of a standard sound level meter having characteristics defined by the American National Standards Institute, Publication ANSI s1.4-1971.
- (5) **Decibel:** The unit of measure used to express the magnitude of sound pressure and sound intensity (dB).
- (6) **Horizontal axis WECS:** A WECS which converts wind energy into electricity through the use of a wind turbine generator with a horizontal axis of rotation. This type of WECS is directional in that it achieves optimal energy production while pointed into or away from the direction of the wind.
- (7) **IEC:** The International Electrotechnical Commission.
- (8) **ISO:** The International Organization for Standardization.
- (9) **Lease unit boundary:** The boundary around property leased for purposes of a WECS, including adjacent parcels to the parcel on which the WECS tower or equipment is located. For purposes of setback, the lease unit boundary shall not cross road rights-of-way.
- (10) **On site WECS:** A land use for generating electric power from wind that is accessory to a legal principal use and intended to primarily serve the needs of the electric power consumer at that site.
- (11) **Rotor:** An element of a WECS that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.
- (12) **Shadow flicker:** Alternating changes in light intensity caused by the moving blades of a WECS casting shadows on the ground and stationary objects, such as but not limited to a window at a dwelling.
- (13) **Tower height:** The vertical distance as measured from the ground level of the base of a wind energy conversion system tower to the uppermost vertical extension of a rotor blade, or the maximum height reached by any part of a WECS.

- (14) **Utility grid WECS:** The use of wind power to generate electric power for the principal purpose of supplying electric power to the energy grid, with little or no on-site use of the generated power.
- (15) **Vertical axis WECS:** A WECS which converts wind energy into electricity through the use of a wind turbine generator with a vertical axis of rotation. This type of WECS is not directional in that it does not need to be pointed into or away from the direction of the wind in order to achieve optimal energy production.
- (16) **Wind energy conversion system (WECS):** A land use for generating power by use of wind; utilizing wind turbine generators, including the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the WECS to the electric utility grid. See also on-site WECS and utility grid WECS.
- (17) **Wind site assessment.** An assessment to determine the wind speeds at a specific site and the feasibility of using that site for construction of a WECS.

11.05.02 **On-site Use WECSs:** An On-site Use WECS up to seventy-two (72) feet tall is an accessory use which shall meet the following standards:

- (a) **Locations Where System Allowed:** An accessory WECS up to seventy two (72) feet tall shall be permitted in all districts with administrative land use permit approval by the Zoning Administrator.
- (b) **Number of Systems:** An on-site use WECS is to be designed to primarily serve the needs of a home, farm, or on-site business. One (1) on-site use WECS shall be permitted per property.
- (c) **Clearance above Ground:** The minimum blade or rotor clearance will be at least ten (10) feet from the ground.
- (d) **System Attached to a Structure or Roof:** A WECS may be attached to an existing structure. Roof-mounted equipment shall not exceed a height of fifteen (15) feet above the surrounding roof surface.
- (e) **Property Setback:** The minimum distance between an on-site use WECS and the owner's property lines shall be equal to the height of the WECS tower including the top of the blade in its vertical position. No part of the WECS structure, including guy wire anchors, may extend closer than ten (10) feet to the owner's property lines, or the distance of the required setback in the respective zoning district, whichever results in the greater setback. Where a WECS is located in the front yard, it shall be setback two hundred (200) feet from the front lot line.
- (f) **Color:** WECS shall be painted a non-obtrusive (light color such as white, beige or light gray) color that is non-reflective. No striping or color shall be visible on the blades or tower. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades. Nacelles may have lettering that exhibits the manufacturer's identification.

- (g) **Towers:** WECS shall use tubular towers. Lattice towers shall be prohibited.
- (h) **Sound Pressure Level:** On site use WECS shall not create noise levels that exceed sixty (60) dB (A) measured at the property line.
- (i) **Construction Codes, Towers, & Interconnection Standards:** On-site use WECS, including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. On-site use WECS including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 *et seq.*), and the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 *et seq.*).
- (j) **Connection to Energy Grid:** An interconnected on-site use WECS shall comply with Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.
- (k) **Safety:** An on-site use WECS shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lightning protection. If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least eight (8) feet above the guy wire anchors.
- (l) **Accessibility:** Towers shall be designed and constructed in such a manner that integrated tower climbing devices are a minimum of twelve (12) feet above the base of the tower and only accessible by using a separate climbing device.
- (m) **Labeling of WECS Tower Subsystem:** The following information shall be provided on labels attached to the tower in a visible, easily read, and easily accessible location:
 - (1) Equipment weight of the tower subsystem;
 - (2) Manufacturer's name and address;
 - (3) Model number;
 - (4) Serial number;
 - (5) The survival wind speed in miles per hour and meters per second;
 - (6) Name of installer;
 - (7) Name of person responsible for maintenance;
 - (8) Emergency telephone number in force for (6) and (7) above.
- (n) **Labeling of WECS Power Conversion Subsystem:** The following information shall be provided on labels attached to the WECS power conversion subsystem in a visible, easily read, and easily accessible location:
 - (1) Maximum power input (KW), rated voltage (volts) and rated current output (amperes) of the generator, alternator, etc.;

- (2) Manufacturer's name and address;
 - (3) Model number;
 - (4) Serial number;
 - (5) Emergency and normal shutdown procedures;
 - (6) Underwriters label, where appropriate.
- (o) **Utilities:** Power lines shall be placed underground. If the WECS 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.
- (p) **Removal of Abandoned Facilities:** Any WECS that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of such WECS shall remove the WECS within ninety (90) days of receiving an abandonment notification from the Township. Failure to remove an abandoned WECS within ninety (90) days shall be grounds for the Township to remove the WECS at the owner's expense.

11.05.03 **Utility Grid WECS, Anemometer Towers and On-site Use WECS Over Seventy-Two (72) Feet High:** A utility grid WECS and anemometer towers, or on-site use WECS over seventy-two (72) feet high shall meet the following standards:

- (a) **Locations Where System Allowed:** Utility grid WECS and on-site WECS over seventy-two (72) feet in height shall be permitted in the AG, CE, PRF and IND districts with special land use approval by the Township Board in accordance with Article 19 and site plan approval by the Planning Commission in accordance with Article 18.
- (b) **Clearance above Ground:** The minimum blade or rotor clearance for a horizontal axis tower mounted WECS will be at least twenty (20) feet above ground or above any outdoor areas intended for human use. The minimum rotor clearance for a vertical axis WECS installed on-grade will be at least ten (10) feet above ground.
- (c) **System attached to a Structure or Roof:** A WECS may be attached to an existing structure so that the appearance of the structure will not be materially altered or changed. Roof-mounted equipment shall not exceed a height of twenty (20) feet above the surrounding roof surface. The equipment shall not be attached to a portion of the roof that is highly visible.
- (d) **Height:** No utility grid WECS or on-site use WECS shall exceed one hundred fifty (150) feet in height.
- (e) **Property Setback:** The minimum distance between a WECS and the property lines shall be equal to the height of the WECS tower including the top of the blade in its vertical position. The minimum distance between an anemometer tower and the owner's property lines shall be equal to the height of the tower. No part of the WECS

structure, including guy wire anchors, may extend closer than ten (10) feet to the owner's property lines, or the distance of the required setback in the respective zoning district, whichever results in the greater setback. Any operations and maintenance office building, a sub-station, or ancillary equipment shall comply with any property set-back requirement of the respective zoning district. Where a WECS is located in the front yard, it shall be setback two hundred (200) feet from the front lot line.

- (f) **Color:** WECS shall be painted a non-obtrusive (light color such as white, beige or light gray) color that is non-reflective. No striping or color shall be visible on the blades or tower.
- (g) **Sound Pressure Level:** WECS shall not create noise levels that exceed sixty (60) dB (A) measured at the property line.
- (h) **Safety Requirements:** WECS shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present. All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the WECS. A sign shall be posted near the tower or operations and maintenance office building that will contain emergency contact information. Signage placed at the road access shall be used to warn visitors about the potential danger of falling ice.
- (i) **Accessibility:** Towers shall be designed and constructed in such a manner that integrated tower climbing devices are a minimum of twelve (12) feet above the base of the tower and only accessible by using a separate climbing device.
- (j) **Performance Security:** Performance guarantee, pursuant to Section 21.03 of this Ordinance, shall be provided for the applicant making repairs to public roads damaged by the construction of the WECS.
- (k) **Utilities:** Power lines shall be placed underground. If the WECS 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. Utility grid WECS shall comply with applicable utility, Michigan Public Service Commission, and Federal Energy Regulatory Commission interconnection standards.
- (l) **Permits:** WECS shall comply with all applicable state construction and electrical codes and County building permit requirements.
- (m) **Aviation Hazard:** WECS shall comply with Federal Aviation Administration (FAA) requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950 as amended, M.C.L. 259.431 et seq.), and the Michigan Tall Structures Act (Public Act 259 of 1959 as amended, M.C.L. 259.481 et seq.). 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.
- (n) **Standards:** The following standards apply only to utility grid WECS:

- (1) **Visual Impact:** Utility grid WECS projects shall use tubular towers and all utility grid WECS in a project shall be finished in a single, non-reflective matte finished color. A project shall be constructed using WECS of similar design, size, operation, and appearance throughout the project. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades. Nacelles may have lettering that exhibits the manufacturer's and/or owner's identification.
- (2) **Decommissioning:** A decommissioning plan for the WECS and any anemometer towers shall be provided that indicates 1) the anticipated life of the project, 2) the estimated decommissioning costs net of salvage value in current dollars, 3) the method of ensuring that funds will be available for decommissioning and restoration, 4) the anticipated manner in which the project will be decommissioned and the site restored and 5) performance guarantee, pursuant to Section 21.03 of this Ordinance.
- (3) **Electromagnetic Interference:** Utility grid WECS shall not be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for 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 WECS. No utility grid WECS shall be installed in any location within the line of sight of an existing microwave communications link where operation of the WECS is likely to produce electromagnetic interference in the link's operation unless the interference is proven to be insignificant.
- (o) **Site Plan:** Site plan requirements for utility grid WECS and on-site WECS over seventy-two (72) feet in height are as follows:
 - (1) Documentation that sound pressure level, construction code, tower, interconnection (if applicable), and safety requirements have been reviewed and the submitted site plan is prepared to show compliance with these issues.
 - (2) Proof of the applicant's general liability insurance for at least three million dollars (\$3,000,000) for the project to cover the operator, the landowner and the Township.
 - (3) A copy of that portion of all the applicant's lease(s) with the land owner(s) granting authority to install the anemometer tower and/or utility grid WECS; legal description of the property(ies), lease unit(s); and the site plan shows the boundaries of the leases as well as the boundaries of the lease unit boundary.
 - (4) The phases, or parts of construction, with a construction schedule.
 - (5) The project area boundaries.
 - (6) The location of all dwellings within three hundred (300) feet of the system.
 - (7) The location of all guy wires or other support devices.

- (8) The location, height, and dimensions of all existing and proposed structures and fencing.
- (9) The location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest county or state-maintained road.
- (10) All new above ground infrastructure related to the project.
- (11) A copy of manufacturers' material safety data sheet(s) which shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
- (12) For utility grid WECS only:
 - a. A copy of a noise modeling and analysis report and the site plan shall show locations of equipment identified as a source of noise. Equipment shall be placed so that the WECS will not exceed the maximum permitted sound pressure levels. The noise modeling and analysis shall conform to IEC 61400 and ISO 9613. After installation of the utility grid WECS, sound pressure level measurements shall be done by a third party, qualified professional according to the procedures in the most current version of ANSI S12.18. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter. Documentation of the sound pressure level measurements shall be provided to Genoa Township within sixty (60) days of the commercial operation of the project.
 - b. A visual impact simulation showing the completed site as proposed on the submitted site plan. The visual impact simulation shall be from four viewable angles and conducted adjacent to property lines or the lease unit boundaries.
 - c. A copy of an environment analysis by a qualified professional to identify and assess any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.
 - d. A copy of an avian and wildlife impact analysis by a qualified professional to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts. (Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sites that are frequented by federally and/or state listed endangered species of birds and bats,

significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptor.)

1. At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, raptors, and general avian use should be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law.
 2. The analysis shall indicate whether a post construction wildlife mortality study will be conducted and, if not, the reasons why such a study does not need to be conducted.
- e. A copy of a shadow flicker analysis for residential buildings and livestock areas within one thousand (1,000) feet of the proposed system. The analysis shall to identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sun-rise to sun-set over the course of a year. The analysis shall identify problem areas where shadow flicker may affect residents and livestock within one thousand (1,000) feet. The analysis shall also show measures that shall be taken to eliminate or mitigate the problems.
- f. A second site plan which shows the restoration plan for the site after completion of the project which includes the following supporting documentation:
1. The anticipated life of the project.
 2. The estimated decommissioning costs net of salvage value in current dollars.
 3. The method of ensuring that funds will be available for decommissioning and restoration.
 4. The anticipated manner in which the project will be decommissioned and the site restored.
- g. A description of the complaint resolution process developed by the applicant to resolve complaints from nearby residents concerning the construction or operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude the local government from acting on a complaint. During construction the applicant shall maintain and make available to nearby residents a telephone number where a project representative can be reached during normal business hours.

Sec. 11.06 SOLAR ENERGY SYSTEMS (as amended 08/21/23)

11.06.01 General:

- (a) **Intent:** The intent of these regulations is to provide suitable locations for Solar Energy Systems to meet a reasonable demonstrated need for renewable energy land uses while providing regulations that limit the impact of these facilities as follows:
- (1) Protect public health, safety, welfare and quality of life by minimizing the potential adverse impacts of a solar energy system.
 - (2) To ensure the compatibility of land uses in the vicinity of the solar energy system.
 - (3) Protect the aesthetic quality of the natural, rural open spaces of the Township and to mitigate adverse impacts to agricultural lands, natural and environmentally-sensitive areas, and developed residential areas; and to preserve scenic views and cultural heritage.
 - (4) Protect neighboring property owners from glare, noise and safety impacts.
 - (5) Protect native vegetation, wildlife and pollinator habitat.
 - (6) To establish standards and procedures by which the siting, design, construction, operation, monitoring, modification, and removal of such systems shall be governed.
 - (7) Land considered for utility solar energy systems shall be within reasonable proximity to an electrical substation and electrical transmission lines to limit potential impact on other areas and uses within the Township.
- (b) **Definitions:**
- (1) **Abandonment:** Any solar energy system or facility that is no longer producing power.
 - (2) **Building Integrated Photovoltaics (BIPVs):** A private solar energy system that is integrated into the structure of a building (rather than a separate mechanical device), replacing or substituting for an architectural or structural component of the building. Building integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials such as solar roof tiles or solar shingles, windows, skylights and awnings.
 - (3) **Decommission:** To remove or retire a solar energy system or facility from active service.

- (4) **Ground-Mounted Solar Energy System:** A private or utility solar energy system that is not attached to or mounted on any roof or exterior wall of any principal or accessory building.
- (5) **Height:** The height of a solar energy system, measured vertically from the adjacent grade to its highest point at maximum tilt.
- (6) **Inhabited Structure:** Any existing structure usable for living or non-agricultural commercial purposes, including, but not limited to: working, sleeping, eating, cooking, recreation, office, office storage, or any combination thereof. An area used only for storage incidental to a residential use, including agricultural barns, is not included in this definition. If it is not clear by this definition, the Zoning Administrator shall make a determination of any structure regarding whether or not it is inhabited.
- (7) **Maximum Tilt:** The maximum angle of a solar array (i.e., most vertical position) for capturing solar radiation as compared to the natural or unaltered ground or topography upon which the solar array is installed.
- (8) **Minimum Tilt:** The minimal angle of a solar array (i.e., most horizontal position) for capturing solar radiation as compared to the natural or unaltered ground or topography upon which the solar array is installed.
- (9) **Non-Participating Property:** A property that is not subject to a Utility Solar Energy Facility lease or easement agreement at the time an application is submitted for a Special Land Use for the purposes of constructing a Utility Solar Energy Facility.
- (10) **Participating Property:** A property that participates in a lease or easement agreement, or other contractual agreement, with or that is owned by an entity submitting a Special Land Use Permit application for the purpose of developing a Utility Solar Energy Facility.
- (11) **Photovoltaic Array (PV Array):** A device designed to collect and transform solar energy into electricity.
- (12) **Private Solar Energy System:** A Solar Energy System used exclusively for private purposes with the purpose primarily of generating electricity for the principle use on the site and not used for commercial resale of energy, except for the sale of surplus electrical energy back to the electrical grid.
- (13) **Repowering:** Replacing or upgrading Solar Energy System to increase power rating of panels or Solar Energy System accessory structures within the approved project footprint. This does not apply to regular maintenance.

- (14) **Roof or Building-Mounted Solar Energy System:** A private solar energy system that is attached to or mounted on any roof or exterior wall of any principal or accessory building but excluding BIPVs.
 - (15) **Solar Energy System:** Any part of a system or device designed to collect or store solar radiation or energy for the purpose of transforming it into any other form of usable energy or electricity, including the collection and transfer of heat created by solar energy to any other medium by any mean which may include but is not limited to, PV arrays, racks, inverters, transformers, wiring, batteries, and electrical system components.
 - (16) **Solar Farm:** See Utility Solar Energy Facility.
 - (17) **Utility Solar Energy System or Facility:** A Solar Energy System where the principal design, purpose, or use of such system is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity.
- (c) **General Provisions:** Solar Energy Systems shall comply with the standards below:
- (1) All Solar Energy Systems shall be permanently and safely attached to the building or structure or to the ground and must conform to the provisions of this Ordinance and all County, State, and Federal regulations, and safety requirements, including applicable building codes and applicable industry standards, including those of the American National Standards Institute (ANSI).
 - (2) Solar Energy Systems shall be installed, maintained and used only in accordance with the manufacturer's directions. Upon request, a copy shall be submitted to the Township or building official prior to installation. The Township may inspect the completed installation to verify compliance.
 - (3) If an applicant or operator of a Solar Energy System fails to comply with this Ordinance, the Township, in addition to any other remedy under this Ordinance, may revoke any approvals after giving the applicant notice and an opportunity to be heard. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township's actual attorney fees and costs.

11.06.02 Private Solar Energy System:

- (a) Private Solar Energy Systems shall be permitted as an accessory use in all zoning districts, subject to the following:
 - (1) **Administrative Review.** A land use permit from the Township is required for the installation of any private solar energy system. The

applicant is responsible for contacting the building department to determine if a Private Solar Energy System requires a building permit. The application must include:

- a. A site plan depicting setback, panel size and location, wiring location, lot coverage, location of property lines, buildings, structures, fences, greenbelts, and road right of ways. The site plan must be drawn to scale.
 - b. Photographs of the property's existing condition.
 - c. Renderings or catalogue cuts of the proposed solar energy equipment.
 - d. A certificate of compliance demonstrating that the system has been tested and approved by Underwriters Laboratories (UL) or other approved independent testing agency acceptable to Township.
 - e. A copy of the manufacturer's installation directions.
- (2) The exterior surfaces of solar energy systems shall be generally neutral in color and substantially non-reflective of light. A unit may not be installed or located so that sunlight or glare is reflected into neighboring uses or onto adjacent streets.
 - (3) Solar energy systems shall be located in the least visibly obtrusive location where panels would remain functional.
 - (4) Batteries associated with Private Solar Energy Systems must be located within a secured container or enclosure.
 - (5) Solar energy systems that are damaged or are no longer in use for a period of one (1) year shall be replaced or removed by the property owner within six (6) months of the date of damage or abandonment.
 - (6) Signage shall be provided in a visible location with disconnection procedures for emergency first responders.
 - (7) All power transmission lines, wires, or conduits from a ground-mounted Private Solar Energy System to any building or other structure shall be located underground.

11.06.03 Ground Mounted Private Solar Energy System. Ground Mounted Private Solar Energy Systems are permitted in all zoning districts as an accessory use, subject to the following:

- (a) Ground Mounted Private Solar Energy Systems are subject to special land use review except small residential accessory systems which occupy less than 500 square feet in area are subject to administrative review of a land use permit pursuant to Section 11.06.02(a)(1).
- (b) Location. Ground Mounted Private Solar Energy System shall only be located in the non-required rear or side yard for principal buildings in the zoning district in which it is located. The unit may be located in the front yard only if permitted by the Planning Commission provided that the unit is no less than two-hundred (200) feet from the front lot line.
- (c) Size. The total combined area of all Ground Mounted Private Solar Energy System must not exceed one (1) percent of the size of the lot with a maximum of 2,500 square feet.
- (d) Lot Coverage. The total area of ground-mounted solar energy collectors shall be included in the calculation of maximum permitted lot coverage for impervious surface.
- (e) Height. 16 feet maximum, measured from the natural grade below the unit to the highest point when oriented to maximum tilt.
- (f) All power transmission lines, wires, or conduits from a ground-mounted Private Solar Energy System to any building or other structure shall be located underground.
- (g) Screening. Greenbelt screening is required around any Ground Mounted Private Solar Energy System and around any equipment associated with the system to obscure, to the greatest extent possible, the Solar Energy System from adjacent residences. The greenbelt shall consist of shrubs, trees, and other non-invasive plant species that provide a visual screen. All landscaping shall be maintained in a healthy, neat and orderly state free from refuse and debris. Any dead or diseased plants shall be removed and replaced within six (6) months. In lieu of a planting greenbelt, a decorative fence may be used if approved by the Planning Commission. Fences shall be installed and maintained free from defects, safety hazards and collapse, and shall be kept in good repair.

11.06.04 **Building Integrated Photovoltaics.** Private solar energy system BIVPs shall be permitted in all zoning districts and shall be subject to the zoning regulations applicable to the structure or building to which they are integrated. BIVP's must comply with the general provisions of 11.06.01(c).

11.06.05 **Roof or Building Mounted Private Solar Energy Systems:**

- (a) Weight and Installation: A roof or building mounted unit shall be only of such weight as can safely be supported by the structure. Proof thereof, in the form of certification by a professional engineer or other qualified person, shall be submitted to the Township prior to installation.

- (b) Application: Applications for building and roof mounted solar energy systems must include horizontal and vertical elevation drawings that show the location and height of the system on the building and the dimensions of the system.
- (c) Location: Wall-mounted units shall not be located on the front yard elevation wall of a building.
- (d) Height:
 - (1) Wall-mounted units shall not exceed the height of the building wall to which they are attached.
 - (2) A roof-mounted system shall not project more than three (3) feet above the highest point of the roof and shall not exceed the maximum building height for the zoning district in which it is located.
- (e) Extension: A solar energy collector that is mounted on a building in an area other than the roof shall not extend vertically beyond the wall on which it is mounted and shall not extend more than twelve (12) inches beyond the wall on which it is mounted and may not extend into a required yard.

11.06.06 Utility Solar Energy System or Facility

- (a) Intent and Purpose. The intent and purpose of this Section is to establish standards for the siting, installation, operation, repair, decommissioning, and removal of Utility Solar Energy Systems or Facilities; establish the process for the reviewing and permitting of such facilities; protect the health, welfare, safety, and quality of life of the general public; and ensure compatibility with land uses in the vicinity of the areas affected by such facilities.
- (b) Locational Requirements. Utility Solar Energy Systems or Facilities are permitted by special land use in the Industrial (IND) and Planned Industrial (PID) Districts. Utility solar energy systems and facilities are not permitted on property enrolled in the Farmland and Open Space Preservation Act, being in PA 116, of 1974, now codified in Part 361 of the Natural Resources and Environmental Protection Act, PA 451 of 1974, as amended.
- (c) Application Requirements. An applicant proposing a Utility Solar Energy System or Facility must comply with the Special Land Use requirements of Article 19 and the Site Plan review requirements of Article 18. The information, plans, documents, and other items identified as application requirements in this ordinance, including the site plan and special land use permit, are substantive requirements for obtaining approval for a Utility Solar Energy System or Facility. The Planning Commission will review the sufficiency of the application materials. If the Planning Commission determines that the substance of any application item is insufficient to protect the public health, safety, and welfare, the Planning Commission may deny approval on

that basis. In addition, the applicant for a Utility Solar Energy System of Facility shall provide the Township with all of the following:

- (1) Applicant Identification. The name of the applicant, any parent company or subsidiary of the parent company, along with any “doing business as” of the parent company along with address in full. A statement that the applicant is the owner involved or is acting on the owner's behalf. The address of the property involved in the application (substitution may include a legal description and parcel identifications number(s)), and any additional contact information. Each application for a Utility Solar Energy Facility shall also be dated to indicate the date the application is submitted to the Township.
- (2) A complete copy of the agreement including all exhibits and attachments between the applicant and the utility company that will be purchasing electricity from the proposed Utility Solar Energy System or Facility.
- (3) An affidavit or evidence of an agreement between the lot owner or operator confirming the owner or operator has the permission of the property owner to apply for the necessary permits for construction and operation of Utility Solar Energy System or Facility.
- (4) Parcel Numbers. A list of all parcel numbers that will be used by the Utility Solar Energy System or Facility including applicable attachments, establishing ownership of each parcel, with all lease agreements, easements, or purchase agreements for the subject parcels.
- (5) Project Description. A general description of the proposed project including a legal description of the property or properties on which the project would be located and an anticipated construction schedule.
- (6) Insurance. Proof of the general liability insurance to cover the Utility Solar Energy Facility, the Township, and the Landowner.
- (7) Certifications. Certification that applicant will comply with all applicable state and federal laws and regulations.
- (8) Compliance with the County Building Code and the National Electric Safety Code. Construction of a Utility Solar Energy System or Facility shall comply with the National Electric Safety Code and the County Building Code (as shown by approval by the County) as a condition of any Special Land Use Permit under this section. In the event of a conflict between the County Building Code and National Electric Safety Code (NESC), the NESC shall prevail.

- (9) Operations and Maintenance Agreement. This agreement shall include landscaping upkeep, regular checks, and maintenance with a detailed description of operations and parameters including anticipated regular and unscheduled maintenance and the hours maintenance will take place, the name and contact information of the certified operator, the applicant's equipment maintenance and repair plan, the applicant's inspection protocol, and general safety documentation as well as consequences and penalties for noncompliance. This agreement shall attach copies of manufacturer's directions and/or instruction manuals for installing, maintaining and using the Utility Solar Energy System or Facility.
- (10) Hazardous Waste Plan. A plan for managing hazardous waste shall be provided. This plan shall include Manufacturers' Safety Data Sheets (MSDS) and documentation of the type, quantity and storage procedures of all materials used in the operation of all equipment.
- (11) Environmental Impact: Copy of the Environmental Impact Assessment meeting the requirements of 11.06.05(c)(36)(f) section and those of Section 18.07.
- (12) Sound modeling study including sound isolines extending from the sound sources to the property lines and indicating compliance with the requirements of 11.06.05(c)(36)(h).
- (13) Wildlife Impact: A wildlife impact study, including an analysis of the impact on the properties within one mile of the project and meeting the requirements of 11.06.05(c)(36)(e).
- (14) A ground cover vegetation establishment and management plan shall be provided and shall meet the requirements of 11.06.05(c)(36)(i).
- (15) A groundwater analysis performed by a certified hydrogeologist or other qualified environmental expert of all parcels in the participating property shall be provided.
- (16) Glare Study: An analysis by a third-party qualified professional acceptable to the Township to determine if glare from the Utility-Scale Solar Energy System will be visible from nearby residents and roadways. If required, the analysis will consider the changing position of the sun throughout the day and year and its influences on the utility-scale solar energy system.
- (17) Stormwater Study: An analysis by a third-party qualified professional acceptable to the Township studying the proposed layout of the Utility-Scale Solar Energy System and how the spacing, row separation, and slope affects stormwater infiltration, including calculations for a 100-

year rain event. Percolation tests or site-specific soil information must be provided to demonstrate infiltration on-site without the use of engineered solutions.

- (18) Visual Impact Assessment Analysis. A technical analysis by a third party qualified professional of the visual impacts of the proposed project, including a description of the project, the existing visual landscape, and important scenic resources, plus visual simulations that show what the project will look like (including proposed landscape and other screening measures) a description of potential project impacts, and mitigation measures that would help to reduce the visual impacts created by the project and documented on the site plan.
- (19) Decommissioning and Land Reclamation Plan: This plan shall describe the actions to be taken following the abandonment or discontinuation of the Utility Solar Energy System or Facility, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the system or facility and restore the subject parcels to a native state. This plan shall include the format of a financial security to be applied to the decommissioning process. This plan shall also comply with the requirements of Section 11.06.05(c)(37).
- (20) Complaint Resolution Protocol: A plan for resolving complaints from the public or others concerning the construction and operation of the Utility Solar Energy System or Facility. This plan shall comply with the requirements as provided in Section 11.06.05(c)(38).
- (21) Emergency Action Plan: Copy of a plan for the actions to be taken in event of an emergency. The emergency action plan must include a fire suppression plan, including the technology to be used and the training and equipment to be provided to Township or other firefighters before the facility becomes operational. The emergency action plan must include plans for immediate cleanup and long-term aftermath efforts following an emergency.
- (22) Proof of approval by Livingston County, Road Commission, and Drain Commission.
- (23) The applicant must also obtain a permit from the Livingston County Road Commission or Michigan Department of Transportation (MDOT) for permission to connect access roads to existing County or State roads and from the Livingston County Drain Commission for any culverts or other drainage facilities.
- (24) Proof that the Applicant and/or its contractor has informed the Livingston County Road Commission (LCRC) and the Township of all the roads they propose to use as haul routes to each construction

(including repair and decommissioning) site. This shall be done prior to beginning any construction (or decommissioning) at any site. A third-party road inspector will be retained, with mutual approval of the Township, the Applicant, and the LCRC or the Michigan Department of Transportation (MDOT) if a state highway is involved. The road inspector will determine any precautions to be taken (including videotaping and physical inspections) during the process to determine any damage that may be caused by Applicant's contractor(s), and then determine the appropriate road standards and measures to be taken to repair the damage. The cost of the third-party road inspector and/or any other required third-party assistance, and of all repairs necessitated to restore the roads [and related property which may be damaged by the contractor(s)], shall be the responsibility of the Applicant and/or their contractor, and shall in no case be the responsibility of the Township.

- (25) Anticipated construction schedule including timeline to completion and scope of work.
- (26) A complete description of the proposed technology to include type of solar panel and system, maximum height, fixed mounted versus tracking, number of panels and angles of orientation.
- (27) Current ground and aerial photographs and video of the entire development area prior to construction.
- (28) Proof of environmental compliance, including compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.; Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances; Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); Part 365, Endangered Species Protection (MCL 324.36501 et. seq.); and any other applicable laws and rules in force at the time the application is considered by the Township.
- (29) An attestation that the applicant will indemnify and hold the Township harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Solar Energy System. The Township shall be named as an additional insured for such indemnity under 11.06.05(c)(36)(l).
- (30) Airport Review: Any Solar Energy System must be reviewed using the current Solar Glare Hazard Analysis Tool (SGHAT) available through Sandia National Laboratories or a commercially available equivalent. The SGHAT will be used to ensure that airports and those that use

them will not be affected by unwanted visual or ocular impacts. The process is designed to save costs and increase public safety.

- a. The Study shall determine if there are any potential adverse effects on any registered airfield within ten miles of the project. Effects noted, but not exclusively, should include any possible decreased safety and utility.
 - b. In addition, all proposed solar facilities must obtain a Determination of No Hazard (DNH) from the Federal Aviation Administration (FAA). A DNH does not eliminate the need for the SGHAT study nor does it in any way eliminate the standard for glare on roadways or non-participating parcels.
 - c. The DNH must be obtained prior to breaking ground on any portion of the Solar Energy System.
 - d. No Solar Energy System that impacts safety or utility of any registered airfield shall be permitted.
- (31) Any other relevant studies, reports, certificates, or approvals as may be reasonably required by the Planning Commission.
- (32) Site Plan Requirements shall be submitted meeting the requirements of Section 18.04 and in addition, shall also include the following:
- a. The approximate height, and dimensions of all existing structures, existing parcel drainage tile layouts, water bodies, waterways, floodplains, landscaping, and fencing, on the parcels planned for Solar Energy installation including other parcels within one thousand (1000) feet of the project's boundaries.
 - b. Documentation of existing vegetation, floodplains and regulated and/or endangered species.
 - c. Indication of how and where the system will be connected to the power grid.
 - d. Photometric plan meeting the requirements of Section 12.03.07.
 - e. Plan(s) showing the location of proposed Utility Solar Energy System or Facility including panels, equipment, transformers, inverters, fencing, underground and overhead wiring (including the depth of underground wiring), new drainage facilities (if any), access drives (including width), substations and accessory structures, along with a note indicating where any trees

measuring over 2.5 feet in diameter within six inches of grade are to be removed.

- f. Plan for ground cover establishment and management.
- g. Plan for providing wildlife corridor that provides access for wildlife to navigate through the project.
- h. Security plan detailing measures to prevent unauthorized trespass and access during the construction, operation, removal, maintenance, or repair of the Utility Solar Energy System or Facility.
- i. Application Fee. Review fees shall be submitted for a Special Use application and Site Plan Review application. If requested by the Planning Commission, the applicant shall provide an escrow fee to the Township in the amount specified by the Zoning Administrator to cover the costs associated with but not limited to independent review by experts.

(33) Site Requirements.

- a. The site shall be at least twenty (20) acres.
- b. The site may consist of a single participating property or multiple participating properties.
- c. The site and all fenced compounds shall have access described below.
 - i. There shall be direct access from a public road or an access easement with a maximum length of one thousand (1,000) feet and a width of at least thirty-three (33) feet.
 - ii. Access drives shall be paved with a permanent, durable and dustless surface and shall be graded and drained to dispose stormwater without negatively impacting adjacent property. The Township Board, following a recommendation of the Planning Commission and the Township Engineer, may approve a gravel surface for low intensity use drives, upon a finding that neighboring properties and the environment will not be negatively impacted and that the surface is sufficient to support fire apparatus and provide access at all times of the year.
- d. Utility Solar Energy Systems (including all solar panels, components, equipment and related accessory structures) must be set back at least one hundred (100) feet from the property line

of any Non-Participating Property at the time of application. If a single Utility Solar Energy System is located on more than one lot, or if the adjacent parcel is owned by the same owner as the property on which the Utility Solar Energy System is located, then the Planning Commission may eliminate the lot-line setbacks of this subsection for the lot lines shared by those lots. All property in the setback areas, shall be maintained as defined in a maintenance setback plan acceptable to the Township.

- e. Utility Solar Energy Systems must be set back at least one hundred (100) feet from the edge of any road or rail right-of-way, wetland, shoreline, river, wellhead protection area or drain easement. The Planning Commission may increase this setback requirement up to 200 feet if the Planning Commission determines that such a setback is necessary to protect the public health, safety, and welfare.
 - f. Utility Solar Energy Systems must be set back at least five hundred (500) feet from non-participating residential dwellings, churches or religious institutions, schools, family or group child day-care homes, bed and breakfast establishments, residential facilities, and any other residence or inhabited structure.
 - g. The height of the Utility Solar Energy System and any mounts, buildings, accessory structures, and related equipment must not exceed sixteen (16) feet when oriented at maximum tilt. Lightning rods shall not exceed 20 feet in height and shall not be any greater than necessary to protect the Utility Solar Energy System from lightning.
 - h. The ground mounting of panels must be by screw or a similar system that does not require a footing, concrete, or other permanent mounting, to minimize soil compaction. No pounding of panel posts is permitted.
 - i. Permits. All required county, state, and federal permits must be obtained before commencement of construction of the Utility Solar Energy System.
- (34) Buffer and Screening Requirements. Greenbelt screening is required around any Utility Solar Energy System and around any equipment associated with the system to obscure, to the greatest extent possible. There shall be a landscape buffer at least fifty (50) feet wide along the exterior of the fenced compound with plantings required as described below.

- a. Where adjacent to a residential use or zoning district, the buffer shall include an eight (8) foot tall landscaped berm upon which the required landscaping will be placed.
- b. An evergreen buffer shall contain two rows of staggered evergreen trees planted not less than twelve (12) feet apart trunk to trunk, and the two rows shall be ten (10) ft apart. The buffer shall also include native shrubs planted with spacing of not more than six (6) feet apart on center. The Township may consider an alternative landscape buffer as a part of the special land use approval provided the alternative provides adequate screening.
- c. Evergreen plantings shall be least eight (8) feet tall at time of planting, measured from the top of the root ball to the base of the leader (not including the height of the leader) and must be a species that can reasonably be expected to reach a height of ten (10) feet within three (3) growing seasons.
- d. Native shrub plantings shall be a least two (2) feet tall at the time of planting measured from the top of the root ball to the top of the shrub.
- e. The trees may be trimmed but must maintain a height of at least eighteen (18) feet.
- f. The overall landscape plan shall not contain more than 33% of any one plant species. The use of trees native to the area, and mixture of trees from the same species association, is encouraged.
- g. Good arboricultural techniques shall be followed with respect to vegetation, including but not limited to, proper pruning, proper fertilizing, and proper mulching, so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased vegetation shall be removed and must be replanted in a manner consistent with this Section at the next appropriate planting time.

The Planning Commission may waive or reduce the above requirements if equivalent screening is provided by existing or planned parks, parkways, recreation areas, or by existing woodlands on the lot, and topographic or other natural conditions.

- (35) Appearance. The exterior surface of the Utility Solar Energy System must be generally neutral in color and substantially non-reflective of light.

(36) Performance Standards:

- a. Utility Solar Energy Systems or Facilities shall be designed, constructed, operated, and maintained in compliance with all applicable provisions of local, state, and federal laws and regulations.
- b. PV Array Components: PV array components shall be approved by the Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electronic Testing Laboratories (ETL), or other similar certification organization if the similar certification organization is acceptable to the Township.
- c. Fencing: If regulations require fencing, the Utility Solar Energy System or Facility compounds may be completely surrounded by a fence designed to prevent unauthorized access.
 - i. The fence shall be at least seven (7) feet tall without barbed wire and posts shall extend at least thirty-six (36) inches into the ground.
 - ii. Gate posts and corner posts shall have a concrete foundation.
 - iii. The fence shall be a woven agricultural-style fence or other design as approved by the Planning Commission.
 - iv. Gates shall be provided at all access points, unless otherwise permitted or approved. Gates for vehicular access shall be approved by the Fire Authority.
 - v. Gates shall be the same height and constructed of the same material as the fencing. Access, such as knock box, shall be provided for emergency responders.
 - vi. The Township may require or allow a fence design to allow for the passage of wildlife upon a finding that adequate access control and visual screening will be preserved.
 - vii. Alternate fencing may be approved by the Township upon a finding that the alternative provides adequate access control and visual screening.

- d. Safety:
 - i. All collection system wiring shall comply with all applicable safety and stray voltage standards.
 - ii. All electrical connection systems and lines from the Utility Solar Energy System or Facility to the electrical grid connection shall be located and maintained a minimum of six (6) feet underground within and adjacent to the site.
 - iii. All access gates and doors to Utility Solar Energy System or Facility compounds and electrical equipment shall be lockable and kept secured at all times when service personnel are not present.
 - iv. The applicant or owner shall be responsible for maintenance of the access roads.
 - v. The manufacturers or installer's identification and appropriate warning signs shall be posted on or near solar panels in a clearly visible manner.
 - vi. Fire suppression plans and Safety Data Sheets shall be kept on-site and be accessible for emergency responders.
 - vii. The applicant will provide an unredacted copy of the manufacturer's safety manual for each component of the Utility Solar Energy System without distribution restraints to be kept at the Township Hall or other locations deemed necessary by Planning Commission or local first responders. The Manual should include standard details for an industrial site such as materials, chemicals, fire, access, safe distances during system or facility failure, processes in emergencies, etc.
 - viii. The Township shall have the right upon issuing any Solar Energy System or Facility special use permit to inspect the premises on which each system is located at any reasonable time. The Township may hire a consultant to assist with any such inspections at a reasonable cost to be charged to the operator of the Solar Energy System or Facility.
 - ix. Advertising or non-project related graphics shall be prohibited. This exclusion does not apply to signs required by this Ordinance.

- x. Signs shall be posted at entrances to Utility Solar Energy System or Facility compounds containing emergency contact information, operator contact information, and complaint resolution information. The Township may require additional signs with this information on the fence surrounding the compound. These signs shall be maintained and the information shall be kept current.
 - xi. The Utility Solar Energy System or Facility owner, operator, and property owner shall be responsible, jointly and severally, for mitigating erosion, flooding, and all other environmental impacts resulting from the Utility Solar Energy System or Facility.
 - xii. The Utility Solar Energy System or Facility owner, operator, and property owner shall be responsible, jointly and severally, for making repairs to any public roads, drains, and infrastructure damaged by the construction of, use of, or damage to, a Utility Solar Energy System or Facility. Any solar panel damaged beyond repair or use must be removed from the project site within five days and must be disposed of off-site in accordance with any state or federal requirements.
 - xiii. Utility Solar Energy Systems or Facilities shall not have any on-site battery storage systems for the sale of stored energy.
 - xiv. Plants or grasses not part of the buffer area shall be maintained not to exceed a height of twelve (12) inches. The Township may approve a taller height upon a finding that it will not result in a nuisance.
- e. Wildlife Impact:
- i. The applicant shall have a third-party qualified professional, acceptable to the Township, conduct an analysis to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate, or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.
 - ii. Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sites

that are frequented by federally or state listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptors.

- iii. At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, raptors, or general avian use should be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law. The applicant shall follow all pre-construction and post-construction recommendations of the United States Fish and Wildlife Service.
 - iv. The analysis shall indicate whether a post-construction wildlife mortality study will be conducted and, if not, the reasons why such a study does not need to be conducted. Power lines should be placed underground, when feasible, to prevent avian collisions and electrocutions. All above-ground lines, transformers, or conductors should follow any Avian Power Line Interaction Committee (APLIC, <http://www.aplic.org/>) guidelines to prevent avian mortality.
- f. Environmental Impact:
- i. The applicant shall have a third-party qualified professional, acceptable to the Township, conduct an analysis to identify and assess any potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate, or mitigate adverse impacts identified in the analysis.
 - ii. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts. The applicant shall comply with applicable parts of the Michigan Natural Resources and Environmental Protection Act (Act 451 of 1994, MCL 324.101 et seq.) including but not limited to Part 31 Water Resources Protection (MCL 324.3101 et seq.), Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101 et seq.), Part 301 Inland Lakes and Streams (MCL 324.30101 et seq.), Part 303 Wetlands (MCL

324.30301 et seq.), Part 323 Shoreland Protection and Management (MCL 324.32301 et seq.), Part 325 Great Lakes Submerged Lands (MCL 324.32501 et seq.), and Part 353 Sand Dunes Protection and Management (MCL 324.35301 et seq.).

- g. Spacing. Utility Solar Energy Systems or Facilities shall be at least two thousand five hundred (2,500) feet from any adjacent, existing Utility Solar Energy System or Facility.
- h. Noise. The noise generated by a utility-scale solar energy system must not exceed the following limits:
 - i. Forty (40) Dba Lmax, as measured at the lot line of the project property.
 - ii. Thirty-Five (35) Dba Lmax, as measured at the lot line of the project property, between the hours of 9:00 p.m. and 7:00 a.m.
 - iii. In addition to the above limitations, a sound barrier of a solid decorative masonry wall or evergreen tree berm, with trees spaced not less than 10 feet apart, must be constructed to reduce noise levels surrounding all inverters. The berm must be no more than ten (10) feet from all inverters, must be at least as tall as all inverters but not more than three (3) feet taller than the height of all inverters.
 - iv. The noise level by a Utility Solar Energy Facility must be inspected every three (3) years, at the operator's expense, by an auditory expert to ensure compliance with these noise requirements. Copies of the inspection reports shall be provided to the Township.
- i. Groundcover. Utility Solar Energy Facilities shall include the installation of at least one (1) of the following types of dual use perennial ground cover vegetation to promote ecological benefits. The perennial ground cover vegetation shall be maintained for the duration of operation until the site is decommissioned.
 - i. Pollinator habitat with a score of at least seventy-six (76) on the Michigan Pollinator Habitat Planning Scorecard for Solar Sites (www.pollinators.msu.edu);
 - ii. Conservation cover focused on restoring native plants, grasses, or prairie with the aim of protecting specific species,

- such as bird habitat, or providing specific ecosystem services, such as carbon sequestration or improving soil health;
- iii. Incorporation of rotational livestock grazing and forage production as part of an overall vegetative maintenance plan; or
- iv. Raising crops for food, fiber, or fuel and generating electricity within the site to maximize land use.
- v. The Township may approve or require alternative ground cover upon finding it is not feasible to provide groundcover as defined above.
- vi. All groundcover must be native plants with substantial root system to support soil. Turf grass is not permitted as ground cover.
- vii. Invasive species and noxious weeds are not permitted and must be removed in a timely manner.
- j. Lighting. Lighting shall be limited to inverter or substation locations only and shall comply with 14.04(E) Lighting.
- k. Emergency Action Plan; Emergency Training. Before the Utility Solar Energy System or Facility is operational, it must provide the necessary training, equipment, or agreements specified in the application to Township or other emergency personnel.
- l. General Liability Insurance; Bonding Requirements; Escrow Requirements.
 - i. Utility Solar Energy Systems or Facilities shall have and maintain general liability insurance of at least ten million (\$10,000,000.00) dollars. The Township may require a higher amount for larger projects and may allow for a lesser amount for smaller projects upon a finding that the alternate amount is more consistent with the likely risk.
 - ii. In addition, In order to assure the funds will be available to perform all road repairs required under this ordinance, the Applicant will be required to post financial security acceptable to the Township, in the form of: a) a surety bond from a surety listed as acceptable on the Federal Surety Bond circular 570 of the U.S. Department of Treasury; or b) an acceptable letter of credit; or c) an escrow account established in a financial institution

licensed in the State of Michigan. The amount of the security shall be a minimum of one million two hundred fifty thousand dollars (\$1,250,000), but this amount may be increased if the third-party consultant determines the amount needed for road repairs is greater than this amount. The bond (or other security) shall only be released (in whole or part) when the Township Board, in consultation with LCRC and the third-party inspector, determines that all required road work has been completed and approved by LCRC and/or MDOT.

- iii. General Maintenance Bond. The Township shall require a General Maintenance Bond to guarantee all aspects of this Ordinance are met at all times during the construction and operation of the Utility Solar Energy System. At the time of the Special Use application, the Applicant shall submit two third-party contractor bids for construction of all fencing, landscaping, and drainage improvements associated with the Utility Solar Energy System, and the bond shall be the higher of the two bids. The Township may use the bond to repair any landscaping, fencing, drainage infrastructure (including drainage tiles), and/or to correct any ongoing violation of this Ordinance, in the event that the facility fails to adequately maintain the required site improvements, or fails to make operational changes to correct an operational violation.
 - iv. The Applicant shall be required, as a condition of the operation, to fund an escrow account for investigation of complaints for, but not limited to glare, stray voltage, noise, and signal interference in the amount of \$15,000.00 to be used at the discretion of the Township Board to pay for third party investigative services, the provider of which shall be chosen by the Township. Such funds shall be deposited with the Township Treasurer, or with a third-party fiduciary, at the discretion of the Township. When the escrow account balance is below \$5,000.00 the Township shall notify the Applicant and the Applicant shall replenish the account to the amount of \$15,000.00 within 45 days.
 - m. Repowering or Modifications. Any modifications of an approved site plan that are made after the initial date of approval, including an expansion of project, shall be resubmitted to the Township Planning Commission for review at an additional fee based upon current fee schedule. Any changes of the approved site plan, subject to this Ordinance as it exists at time of

application, will require a new site plan application and review, including reconfiguration of arrays, updating current technology, and Solar Energy Facility infrastructure.

- n. The Applicant must submit an attestation that the Applicant will indemnify and hold the Township harmless from any costs or liability arising from the approval, installation, construction, use, maintenance, repair, or removal of the Utility Solar Energy System.
 - o. Prior to the start of construction, any existing drain tile must be inspected by robotic camera and the imagery submitted to the township for baseline documentation on tile condition. Any damage shall be repaired, and a report submitted to the landowner and Township. While the facility is in operation, the owner or operator must reinspect the drain tiles every three years by robotic camera for any damage and must repair any damage within 60 days of discovery. The owner or operator must report the inspection, along with any damage and repair, to the Township within 90 days after each three-year deadline. The Township reserves the right to have the Building Inspector or other agent present at the time of repair. Solar panel support structures and/or foundations shall be constructed to preserve any drainage field tile or system.
 - p. Transfer or Sale: In the event of a transfer or sale of the Facility, the new owner or operator must notify the Township within 30 days of the transfer or sale, and the Zoning Administrator shall administratively amend the permit to name the new owner or operator. Upon transfer or sale, the cash bond shall be transferred to the new owner or operator and shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security bond adjusted to account for the new estimate.
- (37) Abandonment and Decommissioning: Following the operational life of the project, the Applicant shall perform decommissioning and removal of the Utility Solar Energy System or Facility and all its components and restore the site to its original conditions.
- a. The decommissioning plan shall be written to provide security to the Township for one hundred twenty-five percent (125%) of the cost to remove and dispose of all panels, wiring, and restoration of the land to its original conditions. The value of decommissioning shall be determined by a third-party financial consultant or engineer selected by the Township and paid for by the developer. The decommissioning security shall be paid in cash to the Township. Once value of decommissioning is

determined, it shall be updated on a periodic basis of not less than every three (3) years and additional security may be required on the basis of the average inflation rate of the preceding three (3) years.

- b. All abandonment and decommissioning work must be done when soil is dry or frozen to prevent compaction.
- c. Solar energy systems that are not operated for a continuous period of twelve (12) months shall be considered abandoned and shall be subject to removal proceedings.
- d. Solar energy systems that are damaged shall be replaced or removed within seven (7) days.
- e. The ground must be restored to its original topography within three hundred sixty-five (365) days of abandonment or decommissioning. An extension may be granted if a good faith effort has been demonstrated and any delay is not the result of actions or inaction of the operator. An alternative topography can be approved by the Township as part of the original site plan review or later as part of decommissioning.
- f. If land balancing is required, all top soil will be saved and spread evenly over balanced area.
- g. An annual report shall be provided to the Zoning Administrator showing continuity of operation and shall notify the Zoning Administrator if use is to cease, prior to decommissioning, or abandonment.
- h. Continuing Obligations: Failure to keep any required financial security in full force and effect at all times while a Utility Solar Energy System or Facility exists or is in place shall constitute a material and significant violation of the Special Land Use, Special Use Permit, and this Ordinance, and will subject the Utility Solar Energy System or Facility Applicant, owner, and operator, jointly and severally, to all remedies available to the Township, including any enforcement action, civil action, request for injunctive relief, and revocation of the Special Land Use Permit.
- i. The Applicant shall be responsible for the payment of all attorney fees and other costs incurred by the Township in the event that the structure is not voluntarily removed and the Township has to enforce removal.

- (38) Complaint Resolution. Utility Solar Energy Systems or Facilities shall provide a complaint resolution process, as described below.
- a. The site shall have signs posted with contact information to collect complaints related to the Utility Solar Energy System or Facility.
 - b. A log shall be kept by the owner or operator of all complaints received and shall be available to Township officials for review, per Township request.
 - c. The operator or its agent shall respond to complainants within ten (10) business days and shall provide notification to the Zoning Administrator.
 - d. Any resolution shall include lawful and reasonable solutions consistent with the Zoning Ordinance, which shall also be provided to the Zoning Administrator.
 - e. The operator or its assigns reserve the right to adjudicate any claims, including residential claims, in a court of competent jurisdiction. An annual report shall be submitted to the Zoning Administrator and the Township Board that details all complaints received, the status of complaint resolution, and actions taken to mitigate complaints. (as amended 08/21/23)