

Zoning

Ordinance

Effective

06/10/2019

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## **Article 1 PREAMBLE**

### **SECTION 1.01 TITLE.**

This Ordinance shall be known as the “Elbridge Township Zoning Ordinance”

### **SECTION 1.02 PURPOSE.**

The primary purpose of this ordinance shall be:

- a. To promote and preserve the health, safety, security, and general welfare of all the inhabitants of the township.
- b. To provide for the orderly and wholesome development of the township.
- c. To encourage the use of lands and resources of the township in accordance with their character and adaptability.
- d. To create and maintain safe and favorable conditions for living, economic activity and recreational activities in the township.
- e. To provide for safety in traffic and reduce hazards to life and property.
- f. To provide in the interests of health and safety, standards under which certain buildings and structures may hereafter be erected and used.
- g. To stabilize and enhance property and civic values.
- h. To facilitate the development of adequate systems of transportation, fire protection, education, recreation, sewage disposal, safe and adequate water supplies, and other public requirements.
- i. To conserve life, property, and natural resources, and the use of public funds for public services and improvements to conform with the most advantageous uses of land, resources and properties.

## **Article 2 ZONING DISTRICTS**

### **SECTION 2.01 TYPES OF ZONING DISTRICTS.**

To achieve the purposes set forth in the Preamble, the entire area of Elbridge Township is hereby designated Residential (R) and Agricultural Residential (AR) districts.

### **SECTION 2.02 EXISTING USES OF LANDS, BUILDINGS AND STRUCTURES.**

The provisions of this ordinance shall not be retroactive. At the discretion of the owner, the lawful use of any dwelling, building, road side stand or structure, and of any land or premises as existing and lawful at the time of enactment of this ordinance may be continued even though such use does not conform with the provisions of this ordinance, or in the case of an amendment, then at the time of the amendment.

## **SECTION 2.03 FARM BUILDINGS AND STRUCTURES OTHER THAN DWELLINGS.**

The provisions of this ordinance shall not apply to farm buildings and structures customarily erected and used in agricultural activities in the township, provided that no building or structure other than open fence shall be erected less than 100 feet from the center of any road right-of-way, and not less than 50 feet from any interior property line.

### **Article 3**

## **AGRICULTURAL-RESIDENTIAL / RESIDENTIAL DISTRICTS**

The following provisions shall apply to all Agricultural-Residential Districts, (AR) and all Residential Districts (R).

### **SECTION 3.01 PURPOSE**

The purpose of creating Agricultural-Residential and Residential districts is to provide areas primarily designated for Agricultural-Residential and Residential uses. While land use in Agricultural-Residential Districts, (AR) are primarily agricultural in character, and appears likely to generally continue in such use in the foreseeable future, the provisions also recognize the desirability of including nonfarm residential uses; and, under "special approval" as described in X.02 B, uses of land for other purposes generally considered compatible with the agricultural use of land under appropriate limitations. And:  
The purpose of creating residential districts is to provide areas primarily designated for residential uses, consisting primarily of dwellings for only one family or household group, each located on individual lots or premises, one (1) acre or more in size. The requirements are intended to protect and stabilize the basic qualities of each dwelling and provide suitable and safe conditions for family living.

### **SECTION 3.02 USES.**

No building or structure shall hereafter be erected, used or occupied, or land or premises used or occupied for other than one or more of the following specified uses:

#### **3.02A PRIMARY USES**

1. Crop farms, including truck gardens, fruit, dairy, and livestock farms.
2. Roadside stands.
3. Woodlots and forestry
4. One-family dwellings including both farms and nonfarm.
5. Detached one-family dwellings including a private garage for passenger automobiles not exceeding a three (3) car capacity.
6. Swimming Pools
7. Farm buildings, pole barns, and out buildings
8. Mobile Homes

**3.02B USES BY SPECIAL APPROVAL, AS PROVIDED IN ARTICLE 6, SECTION 6.04**

1. Two-family and multi-family dwellings.
2. Service enterprises similarly enclosed, as described in 3.02 A (2)
3. Churches, schools, or libraries.
4. Public utility buildings without storage yards.
5. Public parks and playgrounds
6. Gas processing plant, processing plant pipelines, oil and gas wells.
7. Cemeteries.
8. Recreational areas including hunting and fishing preserves, public and semi-public amusement parks or areas, or campgrounds.
9. Motels or hotels.
10. RV parks as defined by and subject to the states trailer coach park act (243 of 1959).
11. Waste disposal facilities such as a township dump, sewage disposal, ect.
12. Retail stores and shops offering chiefly new merchandise, when conducted entirely within a building having a roof and four sides.
13. Any and all other uses that are not listed in 3.02 A

**3.02C ACCESSORY USES**

Accessory uses are buildings and structures customarily and clearly incidental to the primary use, or use by special approval, as described in 3.02 B above, including housing for migrant labor, such housing not subject to provisions of section 4.03 and 4.05, provided, that such housing be of frame or concrete construction with floors of wood or concrete; provided further, that occupancy be limited to the period between April 1<sup>st</sup> and November 30<sup>th</sup>; provide further, that mobile homes shall be permissible for such housing during the aforesaid period, but such temporary housing shall not include motor coach or bus bodies.

**SECTION 3.03 MINIMUM LAND OR LOT REQUIREMENTS: DWELLINGS.**

1. Every dwelling hereafter erected on unplatted land shall be located on not less than one (1) acre, and not less than 100 feet from the center of the road right-of-way, except any person may build up to three (3) dwellings on any ten (10) acre parcel providing that the dwellings are not less than 100 feet apart from each other and not less than 100 feet from the center of the road right-of-way.
2. All lots shall have the description or the boundaries on record at the register of deeds office

**SECTION 3.04 MINIMUM YARD REQUIREMENTS.**

**3.04A SETBACKS.**

Every building hereafter erected shall be setback not less than 100 feet from the center of the road right-of-way.

### **3.04B SIDE YARDS.**

1. Every lot or premises upon which a building hereafter erected shall have open side yards of not less than 25 feet in width between the building and the property line on both sides.
2. No yard surrounding a dwelling, building or structure shall be used for, occupied or obstructed in any way either permanently or temporarily, except for the parking of vehicles in active service.

### **SECTION 3.05 MINIMUM FLOOR AREA: DWELLING**

The first floor area of any home shall not be less than 480 square feet.

### **SECTION 3.06 WATER SUPPLY AND SEWAGE DISPOSAL**

1. Every dwelling, building or structure hereafter erected or moved upon any premises and shall be used in whole or in part for human occupancy or frequency shall be provided with a safe and sanitary water supply and a system of sewage and waste disposal, each of which shall be maintained and constructed with the standards of material and installation according to the Michigan department of Health, and shall meet or exceed all County or State regulations the most strict of which shall apply.
2. No well shall be installed within fifty (50) feet of a septic tank or within one hundred (100) feet of a drain field. No drain field shall be installed at the closest point within fifty (50) feet of, or drain into, a creek, lake, swamp, roadside ditch, or any other type of natural water course or body.
3. Privies or other outside toilet facilities shall not be allowed with the exception of an approved and regularly maintained pre-manufactured port-a-jon.

### **SECTION 3.07 UTILITIES**

1. Every dwelling, building or structure hereafter constructed, all connected utilities including water, well, sewer, electrical or propane shall meet or exceed all county or state regulations and building codes the most strict of which shall apply.

## **Article 4**

### **AGRICULTURAL-RESIDENTIAL DISTRICTS**

This Article has been re-written and replaced by Article 3  
Article 4 shall remain unused.

## **Article 5**

### **RV (Recreational Vehicles)**

The following provisions shall apply to all RV's (Recreational Vehicles)

**SECTION 5.01 PURPOSE.**

To achieve the purposes in article 5 of this ordinance the following shall apply:

**SECTION 5.02 USES.**

No person shall use or permit the use of any RV (Recreational Vehicle) as a residence or living accommodations on any site, lot, field, or tract of land not specifically licensed as a RV park by the State of Michigan, for more than 90 consecutive days. A RV (Recreational Vehicle) shall not be used for any other purpose other than as a temporary living accommodations or sleeping place for persons.

**SECTION 5.03 UTILITIES.**

All connected utilities to a RV including water, well, sewer, electric, or propane shall meet or exceed all county and state regulations and building codes, the most strict of which shall apply.

**Article 6  
SUPPLEMENTARY PROVISIONS**

**SECTION 6.01 PURPOSE.**

To achieve the purposes in article 6 of this ordinance the following shall apply:

**SECTION 6.02 NONCONFORMING BUILDINGS AND USES**

**6.02A CONTINUATION OF NONCONFORMING BUILDINGS, STRUCTURES AND USES.**

Nonconforming buildings, structures or uses of buildings, structures or land which were lawful at the time of commencement of such use may be continued subject to article 6. The nonconforming nature or use of a building or structure or land shall not be extended or increased in any manner unless such new use, building or structure complies with the provisions of this Ordinance. However, nothing in the Ordinance shall prohibit the improvement or modernizing of a lawful nonconforming building or structure provided that such improvement or modernizing does not increase the nonconformity of such building or structure. Any lawful conforming building or structure may be repaired during its normal useful life to correct normal wear and tear.

**6.02B ABANDONMENT.**

Whenever a nonconforming use of a building, structure or land shall be abandoned for a period of more than three hundred sixty (360) consecutive days, such use shall not thereafter be re-established unless such use conforms to this Ordinance.



**6.02C NONCONFORMING USE BROUGHT INTO COMPLIANCE-NO REVERSION.**

If a nonconforming building, structure or nonconforming use of a building, structure or land is changed in any manner so as to bring it into compliance with the provisions of this Ordinance applicable, such building or structure or use of the building, structure or land shall not hereafter be changes back to a nonconforming building, structure or use.

**6.02D RESTORATION OF DAMAGE.**

Any lawful nonconforming building or structure damaged by fire or other act of God, may be restored provided that such restoration does not exceed eighty percent (80%) of assed value of the building or structure. If the cost of such restoration exceeds eighty% (80%) of the assessed value, then the restoration or rebuilding may still be undertaken if bringing the building or structure into compliance with this Ordinance.

**SECTION 6.03 SIGN REGULATIONS**

**6.03A GENERAL SIGN REGULATIONS**

A) Subject to provisions of this Article 6, applications for the erection, placement, or utilization of signs shall be treated as a request for special approval and subject to the special use permit process as set forth in Article 6.04. Provided further that a special use permit for the erection, placement, or use of a sign shall not violate any of the conditions of this Article 6, or any other relevant portion of this Ordinance.

B) No sign shall be erected at any location, whereby reason of the position, size, shape, color, movement, or illumination it may interfere with, obstruct the view of, be confused with any authorized traffic sign, signal, or device so as to interfere with, mislead, or confuse traffic. Consideration of traffic visibility and injurious effects on adjacent properties is essential. All signs shall be designed, constructed, and maintained so as not to change the essential character of such area and no part of any sign shall be located in any public right-of-way.

C) Portable or temporary or seasonal signs shall be allowed without permit on any lot for a period not to exceed one hundred twenty (120) days per year. On-premises signs advertising the sale of agricultural products sold on the premises shall also be allowed without permit, if equal to or less than thirty two (32) square feet in size.

**6.03B SIGNS IN ALL DISTRICTS**

A sign in any district shall be allowed without permit as follows:

A) A non-illuminated sign advertising the sale or rental of the building or property not exceeding six (6) square feet in surface display area and placed no nearer to the street line than fifteen (15) feet. A non-illuminated sign announcing a home occupation or service

that is offered on the premises is allowed, provided that such sign shall not exceed six (6) square feet in surface display area.

B) One sign advertising per subdivision or development not to exceed twenty (20) square feet in surface display area and placed no closer to any street right-of-way than one-third (1/3) the minimum front setback.

C) A sign or bulletin board identifying a place of worship, school, or other use, shall not exceed twenty (20) square feet in surface display area. Such sign may be illuminated by a non-flashing reflected light and the source of illumination shall not be visible.

## **SECTION 6.04 USES BY SPECIAL APPROVAL**

### **6.04A GENERAL REQUIRMENTS**

Use by special approval, where provided, shall be subject to the provisions of the zoning district wherein located in addition to the provisions of section 6.04, to prevent conflict with or impairment of the primary use thereof. Each such use shall be considered as an individual case and shall conform to Article 1 of this Ordinance.

### **6.04B SPECIFIC REQUIRMENTS**

1. A written application, with all its requirements and a fee of \$400 shall be filed with the zoning administrator and shall also include:
  - a) Name of applicant and owner of premises
  - b) Legal recorded description of premises.
  - c) Description of proposed use, including any parking facilities, if required, and any exceptional traffic issues that the use may cause.
  - d) A sketch or drawing to approximate scale showing the size of the proposed building or structure and location on the premises.
  - e) Sewage disposal and water supply facilities, existing and or proposed.
  - f) The current use of all premises on adjacent properties.
  - g) A statement by applicant appraising the effect of proposed use on adjacent properties and general development of the surrounding area.
2. The zoning administrator shall review these afore mentioned documents and turn them over to the planning commission for their consideration, with a recommended action, after which the planning commission shall hold a public hearing and shall consider the following before making their determination.
  - a) Whether the use, location and nature of operation will be in conflict with the primary permitted uses of the district or surrounding area and shall conform to Article 1 of this Ordinance
  - b) Whether the use will be more objectionable to the adjacent and nearby properties than the operation of the primary uses of the district by reason of traffic, noise, vibration,

- dust, flames, smoke, odor, fire-hazard, glare, glint, flashing lights, health hazard, infra-sound, unsightliness, or disposal of waste and or sewage.
- c) Whether the use will discourage or hinder the appropriate development and use of the adjacent premises, properties or nearby surrounding areas.
  - d) Whether the sewage disposal facilities and water supply will be safe and adequate, and shall not impose an unsafe or undesired condition to the adjacent premises or surrounding area.
  - e) Whether the use will create a major traffic problem or hazard.
3. Upon the determination of the planning commission of the use by special approval the zoning administrator shall present a signed certificate to the applicant including the date of the public hearing, the date of the planning commissions meeting and the action taken by the planning commission whether the use was granted or declined, and file a copy of the certificate with the township clerk and the planning commission.

# REQUEST FOR A SPECIAL APPROVAL PERMIT

## ELBRIDGE TOWNSHIP

The use that you have proposed for your property requires a special use permit, as provided by Public Act 207 of 1921 (Sec.125.286b) and the Elbridge Township Zoning Ordinance, Article 6 Section 6.04. The following information is necessary to ensure that the Planning Commission has all the information necessary to process your application in the most efficient manner possible. When you have completed this form, return it with all the required information to the Elbridge Township Zoning Administrator.

Name of Applicant:
Current Address:
Daytime Phone Number:
Address of Subject Property:
Current Zoning District of Subject Property:

With as much detail as you feel necessary, please explain your request.

As part of your request, the Zoning Ordinance requires that you submit a development, site plan to the Planning Commission for their review. The development, site plan shall include all of the following information, unless the Zoning Administrator determines that some of the required information is not reasonably necessary for the consideration of the site plan.

Provide a map scaled not more than 1"=100' indicating:

1. Property dimensions and legal description, including angles, lot area, and North Arrow.
2. A vicinity sketch showing the location of the site in relation to the surrounding street system and other land uses within 300 feet in every direction of the proposed use including land uses on the opposite side of any roadways.
3. Provide zoning of the subject property and adjacent property including names and addresses of adjacent property owners within 300 feet of the proposed use.
4. Provide locations and dimensions of all existing and proposed structures, open spaces, walls, outdoor lighting, fences screen planting and other landscaping.
5. Existing and proposed sewer, water and other utilities, including location and type.
6. Required setbacks of the zoning district, percentage of total project area to be covered by buildings.
7. The intended use, size, shape, location height and floor area of propose buildings and finished ground and basement grades.
8. Natural features such as woodlands, wetlands, streams, county drains, lakes or ponds, and man-made features such as existing roads and structures, with indication as to which are to be removed, altered or remain.
9. Existing public right-of-way and private easements on record.
10. Proposed streets, driveways, malls, parking spaces and sidewalks with indication of direction of travel, the inside radii of all curves including driveway curb returns. The width of streets, driveways and sidewalks and the total number of parking spaces and dimensions of a typical parking space and associated aisles.

Plans for residential projects, multiple family developments and mobile home parks shall include the following additional information:

11. Minimum floor area of dwelling units in multiple units.
12. Total number of units proposed.
13. Number of bedrooms per unit in multiple family developments.
14. Areas to be used for open space and recreation.
15. Description of any plat or deed restrictions contemplated.
16. Indication of sites natural drainage pattern and any plan to alter or modify it, including proposed use of retention ponds, or similar on-site drainage systems.
17. Retention plan must include a design sketch of reasonable scale and all hydrogeological data used in preparing said design. (ie. Rainfall assumptions, runoff coefficients, storage needs, ect. )

Your hearing is scheduled for \_\_\_\_\_, at 7:00 PM in the Elbridge Township Hall.

## RECORD OF PLANNING COMMISSION ACTION

Case number:	
Filing Date:	
Received By:	Receipt Number:
PC Action:	Date:
Effective Date:	
Zoning Administrator Signature:	

#### **6.04C HARMONY**

To provide the basis for determination that the location of the special use will consider harmony with the objectives of the Township's development plans, regulations and guidelines; harmony with the general vicinity; hazard to nearby uses; availability to public services; not be costly to the public and consistent with the ordinance.

#### **6.04D ADDITIONAL CONDITIONS**

To allow the Elbridge Planning Commission to impose additional conditions to protect health, safety and welfare of township residents.

#### **6.04E RE-APPLICATION**

To prohibit re-application for the special use permit within one (1) year without a showing of changed conditions to justify reconsideration.

### **SECTION 6.05 ESSENTIAL SERVICES**

The erection, construction, or alteration or maintenance by public utilities or municipal departments or commissions, broadcast stations and radio transmission towers and antennas, to serve stations licensed by the FCC, of overhead or underground gas, electrical, steam, water, distribution or transmission systems, collection, communication, supply or disposal systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or broadcast station and radio transmission towers and antennas, to serve stations licensed by the FCC or for the public health, safety or general welfare, shall be permitted as authorized or regulated by law and this Ordinance of Elbridge Township in any use district, it being the intention hereof to except such erection, construction, alteration, and maintenance from application of this Ordinance.

## **Article 7 ADMINISTRATION**

### **SECTION 7.01 ZONING ADMINISTRATOR**

The provisions of this Ordinance shall be administered by a Zoning Administrator who shall be appointed by the Township Board for such a term and subject to such conditions as the Township Board deems desirable to carry out the terms of this Ordinance. The Zoning Administrator shall hold office at the pleasure of the Township Board, and shall receive such compensation as shall be determined by the Township Board.

## **SECTION 7.02 TOWNSHIP PLANNING COMMISSION**

The Township Planning Commission shall consist of not more than seven (7) nor less than five (5) members. They shall be appointed by the Township Board and shall hold office at the pleasure of the Township Board and receive such compensation as determined by the Township Board.

The Planning Commission shall act in a formal, advisory role, making recommendations to the Elbridge Board. To address all matters brought to them to ensure the spirit of this ordinance is kept as it relates to the regulations for the land use of land and standards for development within identified zoning district boundaries. It shall review and alter as needed the Township Master Plan and this Ordinance as required by State law.

## **SECTION 7.03 TOWNSHIP ZONING BOARD OF APPEALS**

The Township Zoning Board of Appeals shall consist of not more than five (5) members. One (1) member shall be from the Planning Commission and four (4) impartial members selected from the eligible registered voters list of Elbridge Township, Oceana County, Mi. All members shall be appointed by the Elbridge Township Board.

The Township Zoning Board of Appeals shall performed its duties and exercised its powers as provided by Act 184 of the public acts of 1943, as amended, and by the provisions of this Ordinance. It shall have the power in passing upon appeals to vary or modify any provision of this Ordinance, however maintain the provisions of Article 1, or the decision of the Planning Commission, the Zoning Administrator, or any other Administrative Agent so that the spirit of this ordinance is observed, safety, sanitation and protection is secured, and substantial justice done. It shall have the power to act upon any matter referred to it.

Any person adversely affected by a decision made by the Zoning Board of Appeals may appeal to the Circuit Court of Oceana County, Mi. Said Appeal to be filed to the Circuit Court within twenty (20) days after the rendering of the Zoning Board of Appeals decision.

## **SECTION 7.04 APPLICATION AND CERTIFICATE OF APPROVAL**

### **7.04A APPLICATION**

Before proceeding with the erection, moving or use of any building or structure, the use of any premises subject to the provisions of this Ordinance, the owner shall first obtain a certificate of Approval from the Zoning Administrator. Application shall be in writing upon forms provided by the Zoning Administrator. It shall be the duty of all contractors and other persons having charge of erection or movement to determine that proper certificate has been issued before undertaking any such work; and persons performing such work in violation shall be deemed guilty of violation in the same manner as the owner of the premises.



## **7.04B ISSUANCE OF CERTIFICATE**

If the Zoning Administrator finds that, the application conforms to the requirements of this Ordinance and other applicable law, within one week of the date of application all copies shall be marked "Approved" with the Zoning Administrator's name, signature and date. One (1) copy shall be filed with the Township Clerk and the other delivered to the applicant together with a card signed by the Administrator, stating the terms of the permit and shall be attached to and remain on the construction site during the progress of the work and be valid for six (6) months from the date of issue, and can be renewed subject to the terms of the Ordinance then in effect.

The Zoning Administrator shall have the power to revoke any certificate in case of failure or neglect to comply with any provisions of this Ordinance, or in the case of false statements or misrepresentation made in the application, and the owner shall be notified in writing of any such revocation.

## **7.04C FEES**

For each certificate of approval issued a fee of \$100 shall be paid for the deposit with the Township Treasurer and shall be used as directed by the Township Board. No Certificate shall be considered approved, nor shall it be delivered until all fees are paid. No separate fee shall be required for accessory buildings or structures when applied for at the same time as the principle building on the premises.

## **Article 8 AMENDMENTS**

Amendments or supplements to this Ordinance may be made from time to time, in the same manner as provided by Zoning Enabling Act 10 of 2006, as amended, for the enactment of the original Ordinance. Any amendment to any Article of this Ordinance shall deem that the Article in its entirety shall be amended by replacement and it shall be necessary to publish that Article. The amended article shall be added to, and replace the current Article to this Ordinance.

## **SECTION 8.01 PROCEDURE**

### **8.01A INITIATION**

Proposals for amendments or supplements may originate from the Elbridge Township Board, The Planning Commission, or by written petition signed by no less than twenty-five (25) Elbridge Township property owners. A petition by property owners shall show the address of each signer and the location of that persons property in the township, including the zoning district wherein located.

### **8.01B REFERENCE TO THE PLANNING COMMISSION**

Each proposed amendment or supplement shall be referred to the Elbridge Planning Commission for its consideration and recommendation to the Elbridge Township Board.

### **8.01C PUBLIC HEARING**

The Elbridge Planning Commission shall hold at least one (1) public hearing on its recommendations as required by section 9 and section 14 of the Zoning Enabling Act 10 of 2006, as amended.

### **8.01D SUBSEQUENT PROCEDURES**

As a courtesy, the Elbridge Planning Commission shall provide a copy of its recommendations to the Oceana County Planning Commission for their review. Then shall proceed in accordance to the provisions of section 10 of act 184 of the public acts of 1943, as amended, including the provisions of act 191 of the public acts of 1939.

## **SECTION 8.02 SPOT ZONING**

In a case of petition requesting spot zoning it shall be deemed to fall under the special land use and be subject to the provisions set forth in this Ordinance.

## **Article 9 VIOLATIONS**

### **SECTION 9.01 PENALTIES**

Any building or structure which is erected, altered, maintained or used, or any use of land which is begun, maintained or changed in violation of this Ordinance, or any other governing laws, is hereby declared to be a nuisance per se. Any persons, firms, corporations, or any other group, individual or organizations which violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any provision, after which all allowable remedies or appeals have been made, shall be fined after a lawful conviction in the courts of not more than two hundred (200) dollars for each offence, together with the cost of prosecution, together with all other punishment rendered by the courts. The imposition of any sentence rendered by the courts shall not exempt the offender from compliance with the provisions of this ordinance.

### **SECTION 9.02 PROCEEDINGS**

The Elbridge Township Board, the Elbridge Planning Commission, the Zoning Administrator, the Elbridge Zoning Board of Appeals, or any Elbridge Township land owner may institute injunction, mandamus, abatement or any other appropriate proceeding to prevent, enjoin, abate, or remove any unlawful erection, alteration,

maintenance or use. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law,

## **Article 10 DEFINITIONS**

For the purpose of this Ordinance, certain terms used are here-by defined.

### **SECTION 9.01 TERM DEFINITION**

#### **Shall**

Mandatory and not merely directory

#### **Residence**

Any conventional structure used as the home or sleeping place of human families or individuals, but shall not include basement-type buildings, barns, sheds, tents, canopies, vehicles whether mounted or not, club houses, trailer coaches, or other unconventional or substandard dwelling structures.

#### **Farm**

All of the contiguous, neighboring, or associated land operated as a single unit on which bona fide farming is carried on directly by the owner-operator, or manager or tenant farmer by his own labor or provided, however, that land to be considered as a farm hereunder shall include a contiguous, unplatted parcel of not less 10 acres in area; Provided further, that farms may be considered as including establishments operated as a bona fide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms, apiaries; but establishments keeping game or operated as fish hatcheries, stock yards, stone quarries, or gravel or sand pits shall not be considered farms hereunder or operated as hunting and/or fishing preserves.

#### **Lot**

The parcel of land on which the principle building including any accessories, are placed, together with the required yards or open spaces and legal description of which are recorded at the office of the Register of Deeds.

#### **Mobile Home**

A dwelling, transportable not under its own power in one or more sections which is built on a permanent chassis and is unable to be licensed and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and included the plumbing, heating, air conditioning and electrical systems contained therein. (Excludes RV)

#### **Roadside Stand**

The sale of agricultural products or value-added agricultural products, directly to the consumer from a site on a working farm or any agricultural, horticultural or agribusiness operation or agricultural land.

#### **Yard**

An open space on the same lot with a building or building group lying between the front, rear, side wall of a building and the nearest lot line, unoccupied and unobstructed from the ground

upward, except for projections, such as porches and steps, and specific accessory uses, or structures allowed in such open space under the provisions of this Ordinance.

Unplatted Land

Barren land that has never been subdivided.

Side Yard

The open unoccupied space between the building and side lot line and extending from the front yard to the rear yard. The width of which is the nearest point on the side lot line to the nearest point of the main building.

RV (Recreational Vehicle)

A motor vehicle or trailer equipped with some amenities of home and designated and intended for temporary use as living accommodations.

Accessory Use

A use of a building, lot or portion thereof, which is customary incidental and subordinate to the principal use of the main building or lot.

Dwelling, Single family

A single detached dwelling contains only one dwelling unit and is completely separated by open space on all sides from any other structure, except its own garage or shed. ... a single-family (home, house, or dwelling) means that the building is a structure maintained and used as a single dwelling unit.

Dwelling, Multi family

Multifamily dwellings are buildings that contain separate residences for two or more families.

Farm Building

A building not used for human habitation, whose primary purpose and function, includes the housing and storing of grain, feed, silage, or crops, and includes poultry, and other animals which are customary and incidental to the use of the land as a farm.

Nonconformance

A use of land lawfully in existence on the effective date of this Ordinance, or any amendments thereto, that does not conform to the use regulations of the zoning district in which it is located.

Unplatted Land

Barren land that has never been subdivided

**Article 11 WIND ENERGY HARVEST SITE**  
(Adopted by the board on 3-14-2017)

- A. Introduction: A Wind Site Assessment or a Wind Energy Harvest Site (commonly referred to as a “wind farm”) may be approved by the Planning Commission as a special land use in the Agricultural Preservation zoned area, upon compliance with the conditions of this ordinance. The purpose is to provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of wind energy conversion facilities in Elbridge Township, to protect the health, welfare, safety, and quality of life of the general public, and to ensure compatible land uses in the vicinity of the areas affected by wind energy facilities.
- B. Small Turbines: A single small turbine to service the energy needs of the property where the structure is located shall be defined as follows:
1. A single wind turbine generator to service the energy needs of only the property where the structure is located may be approved in the agricultural preservation and the rural Preservation zones as a right of use if the total height does not exceed sixty (60) feet and is set back at least two (2) times the total height from property lines and road right of ways.
  2. A single wind turbine generator to primarily service the energy needs of the property where the structure is located may be approved in the agricultural preservation and the rural Preservation zones as a special use per Section 10, provided the following:
    - a. The total height shall not exceed one hundred twenty (120) feet.
    - b. The rotor diameter shall not exceed thirty five (35) feet.
    - c. The tower shall be set back a minimum of two (2) times the total height from all property lines, inhabited structures and road right of ways.
    - d. Except for the above requirements the other requirements of Article 6 do not apply.
- C. Definitions: For the purposes of this section, the following terms and phrases shall be defined as provided below:
1. **ANSI**. The American National Standards Institute.
  2. **Applicant**. The legal entity, which includes an individual or a business that seeks to secure a special land use permit under this ordinance.
  3. **Background Sound (L90)**. Background sound refers to the sound level present at least 90% of the time. Background sounds are those heard during lulls in the ambient sound environment, that is, when transient sounds from flora, fauna, and wind are not present. Background sound levels vary during different times of the day and night.
  4. **Blade Reflection**. Blade reflection is the intermittent reflection of the sun off the surface of the blades of a wind turbine generator.
  5. **Blade Clearance**. In reference to a horizontal axis rotor, the distance from grade to the lowest point of the rotor’s swept arc.

6. **Emission.** Sound energy that is emitted by a noise source (WTG) is transmitted to a receiver (dwelling) where it is immitted (see "immission).
7. **Horizontal Axis Wind Turbine (HAWT).** A wind turbine generator designed with a rotor mounted on a horizontal axis of rotation. The rotor thus sweeps through a vertical plane perpendicular to the motion of the wind.
8. **IEC.** The International Electrotechnical Commission.
9. **Immission.** Noise immitted at a receiver (dwelling) is transmitted from noise source (WTG) that emitted sound energy (see "emission").
10. **Inhabited Structure.** Any structure that is, or is likely to be, occupied by persons or livestock. This includes, but is not limited to dwellings, places of business, places of worship, schools, and barns.
11. **Low Frequency Noise (LFN.** Sounds with energy in the lower frequency range of 20 to 200 Hz.
12. **Measurement Point (MP).** The location where sound measurements are taken such that no significant obstruction blocks sound from the site.
13. **Met Tower (Meteorological Tower).** A guy-wire supported tower, containing instrumentation such as anemometers that is designed, and used for the assessment of wind resource on site.
14. **Nacelle.** The structure that is mounted on top of the tower and houses the rotor support shaft, mechanical and electrical components, and generator.
15. **Non-participating Property.** Any property within the notification area other than a Participating Property.
16. **Notification Area.** All land within Elbridge Township.
17. **Owner/operator.** The person or entity with legal ownership of the WTG, including successors and assigns, that has the authority and responsibility to operate the WTG on a day-to-day basis. An Owner/operator must have the legal authority to represent and bind decisions.
18. **Operations & Maintenance Office (OMO).** A local facility constructed for the purpose of operating and maintaining the Wind Energy Harvest Site including the storage of spare parts and consumable materials.
19. **Participating Landowner.** A landowner whose property (or portion thereof) is currently leased or proposed to be leased for the production, siting or development of a Wind Energy Harvest Site.
20. **Participating Property.** A property on which a WTG is located or proposed to be located, pursuant to an agreement with the Owner/operator.

21. **Project Boundary.** The external property boundaries of parcels owned by or leased by the WTG developers, upon which the Wind Energy Harvest Site is or shall be located. It is represented on a plot plan view by a continuous line encompassing the project area, within which all WTG(s) and related equipment associated with the WTG project are or shall be located.
22. **Rotor.** An element of a wind turbine generator that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.
23. **SCADA 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 system (SCADA).
24. **Setback.** The minimal allowable horizontal distance as measured from the Project Boundary to a structure.
25. **Shadow Flicker.** Alternating changes in light intensity caused by the movement of wind turbine generator blades casting shadows on the ground or a stationary object.
26. **Shadow Flicker Receptor.** An inhabited building affected by or potentially affected by shadow flicker, plus an additional one hundred (100) foot area surrounding the exterior of the inhabited building; and the entire outdoor public area surrounding schools, churches, public buildings and public roads within the area affected by or potentially affected by shadow flicker.
27. **Spectrum.** The description of a sound wave's resolution into its components of frequency and amplitude.
28. **Supervisory Control and Data Acquisition (SCADA).** A control system designed to acquire data and perform both automatic and manual control function to the Wind Energy Harvest Site.
29. **Total Height.** The height from grade to the highest vertical point of the swept rotor arc. In the case of wind turbine generator with horizontal axis rotor, the total height includes the distance from grade to the rotor axis of rotation within the nacelle plus one-half the swept rotor diameter.
30. **Tower.** The tubular structure, above grade, that supports the nacelle and rotor assembly.
31. **Wind Energy Harvest Site (Wind Farm).** A Wind Energy Harvest Site is a location where any number of commercial grid-connected wind turbine generators are sited for the purpose of extracting kinetic energy from the wind, generating electricity, and supplying the electricity to the transmission utility ("grid").
32. **Wind Energy Harvest Site Construction Application.** An application to the Planning Commission seeking special land use approval to construct a Wind Energy Harvest Site.

33. **Wind Site Assessment Application.** An application to the Planning Commission seeking special land use approval to erect one or more anemometer towers (Met Towers”) on lands deemed necessary by the applicant for wind resource assessment.

34. **Wind Turbine Generator (WTG).** A device designed to extract energy from the wind and supply it in the form of electrical energy that is suitable for use by the local electrical transmission utility.

D. Application Requirements: The construction of a Wind Energy Harvest Site typically involves a two-phased process, whereby the feasibility of a Wind Energy Harvest Site is first tested through the conducting of a Wind Site Assessment and then, if testing is successful, a Wind Energy Harvest Site is constructed.

The applicant shall pay a non-refundable application fee of twenty thousand dollars (\$20,000). The applicant shall also deposit in escrow a sum of fifty thousand dollars (\$50,000) to cover all costs of all experts and professionals, including but not limited to engineers, surveyors, sound consultants and attorneys, as chosen by the Elbridge Township Board, to assist the township in reviewing the applications to ensure they comply with all ordinance requirements. If the costs exceed the amount in escrow the applicant shall pay all additional cost.

The Applicant shall also deposit with the township a sum of twenty thousand dollars (\$20,000) to cover all cost of periodic inspections and enforcement that may occur during the years of operation. In the event that this fund becomes exhausted the applicant shall replenish the fund by the same amount as the original deposit, repeatedly as required.

Accordingly, each of these two phases shall require separate special land use applications meeting the requirements set forth below:

1. **Wind Site Assessment Application.** An applicant seeking special land use approval (special land use permit) for a Wind Site Assessment shall submit a site plan complying with the requirements of Article 6, and the following information:

a. Additional site plan elements:

i. The proposed location, size, height and type of all Met towers intended to assess the wind resource.

ii. The location of all buildings and any other structures on the subject assessment site as well as any buildings and dwellings on adjacent properties within 1½ times the proposed Met tower height.

iii. The features of the site including the location of roads both public and private, wood lots, property lines, and any other feature deemed pertinent by the Planning Commission.

b. The names, addresses, and phone numbers of the applicant, the owner/operator (if different), the owner of all equipment proposed to be installed, and the owner(s) of the land(s) within the project boundary.



- c. A copy of that portion of the applicant's lease with the land owner(s) granting authority to install one or more Met towers for the purpose of conducting a Wind Site Assessment, which shall include a provision requiring the applicant to remove all equipment and restore the site upon cessation of the Wind Site Assessment.
  - d. Proof of the applicant's public liability insurance for the Wind Site Assessment in a minimum sum of two million dollars (\$2,000,000), naming the property owner and the Township as additional insured.
  - e. A Met tower shall not be located on a site in excess of thirty-six (36) months. The Planning Commission may approve an extension of the permit upon proper proof of need or necessity.
  - f. An approved Wind Site Assessment application shall not be considered or construed to mean future approval of a Wind Energy Harvest Site construction application.
2. Wind Energy Harvest Site Construction Application. An applicant seeking special land use approval for Wind Energy Harvest Site construction shall submit a site plan complying with the requirements of Article 6, and the following additional materials and information:
- a. A finalized site plan, bearing the certification(s) of all licensed engineering consultants and agencies required by law, showing in detail the following information:
    - i. The proposed location of all wind turbine generators and access roadways.
    - ii. The proposed location of the Operations and Maintenance Office, and all substations, permanent Met Towers and/or SCADA Towers comprising the proposed Wind Energy Harvest Site, if applicable.
    - iii. The proposed location of all underground and/or overhead cabling.
    - iv. The physical size and electrical nameplate capacity of the proposed wind turbines, including the total height and the swept rotor diameter.
    - v. The method, materials and color of fencing, if any.
    - vi. The method and type of tower lighting, if required.
    - vii. All existing structures, roadways, wetlands of all kinds, right of ways of all kinds, underground power and gas lines of all kinds, wooded lands, and farm lands.
  - b. A visual representation, including scale elevations of the proposed Wind Turbine Generators and perspective drawings or photographic representations showing the WTGs in relation to the landscape and surrounding land uses.

- c. A copy of the applicant's lease with the participating landowner(s) for the Wind Energy Harvest Site, which must include a provision requiring the applicant, or owner/operator, to remove all equipment to a minimum depth of four (4) feet from the natural grade and restore the site upon cessation of Wind Energy Harvest Site operations.
- d. The wind turbine generator manufacturer's specifications indicating:
  - i. The rated nameplate output, in kilowatts or megawatts, of the wind turbine generators.
  - ii. Safety features and sound characteristics.
  - iii. Type of materials used in foundation, tower, blade, and/or rotor construction.
  - iv. Manufacturer's MSDS (Material Safety Data Sheet) documentation including the type and quantity of the materials, lubricants, and coolants used to sustain the operation.
  - v. A discussion of the SCADA system employed to control and operate the Wind Energy Harvest Site.
- e. A sound impact study (noise report) prepared in accordance with Subsection D, below:
  - i. The study shall include sound level information, reported in both dBA and dBC, and shall show sound level contours in 5 dB increments overlaying an aerial view and property survey map out to two (2) miles of the proposed Wind Energy Harvest Site boundary.
  - ii. Predictions shall be made for the wind speed, direction and operating mode that would result in the worst case Wind Energy Harvest Site nighttime sound emissions.
- f. A background sound level study, dBA and dBC (as LA90 and LC90), shall be performed defining the background noise level for all inhabited structures within two (2) miles of the proposed Wind Energy Harvest Site boundary.
- g. Proof that the applicant has obtained or applied for approval from all other agencies having jurisdiction, including the following:
  - i. Federal Aviation Administration.
  - ii. County Road Commission and/or MDOT, as applicable.
  - iii. County Drain Commission.
  - iv. Other agencies having jurisdiction.

- h. Proof of the applicant's or Wind Energy Harvest Site owner's liability insurance for the Wind Energy Harvest Site at a level of five million dollars (\$5,000,000), increased annually by the estimated multiplication factor for the agricultural class, as determined by Oceana County or other taxing authority of jurisdiction; provided that, if the factor is less than 1.0, then 1.0 shall be the factor used.
  - i. A plan for resolving health-related complaints that can be reasonably attributed to the operation of the wind turbine generators, including, but not limited to, sleep deprivation, headaches, dizziness or nausea.
  - j. A plan for resolving claims by property owners within two (2) miles of the site where the inability to sell a property or a reduction in the value of a property can be reasonably attributed to the presence and/or operation of the wind turbine generators.
- E. Sound Studies and Requirements. All studies or tests related to sound conducted in accordance with this ordinance shall meet the following standards and requirements:
1. Qualified Independent Acoustical Consultant. Persons conducting baseline and other measurements and reviews related to the application for a WTG or for enforcement actions against operating WTGs shall demonstrate competence in the specialty of community noise testing. An example is a person with Full Membership in the Institute of Noise Control Engineers (INCE). Others must demonstrate their qualifications and show field measurement experience with background data and wind turbine generator noise emission. The Professional Engineer (PE) certification does not test for competence in acoustical principles and measurement; a PE without adequate further qualification is not considered to be qualified under this ordinance. The Qualified Acoustical Consultant can have no financial or other connection to the WTG developer or related company. Any person or entity performing tests or studies under this ordinance shall provide proof of their qualifications to the Planning Commission.
  2. Measurement. Standardized acoustical instrumentation and sound measurement protocol shall meet all the requirements of the following ANSI and IEC standards:
    - ANSI S1.43 Integrating Averaging Sound Level Meters: Type-1 (or IEC 61672-1)
    - ANSI S1.11 Specification for Octave and One-third Octave-Band Filters (or IEC 61260)
    - ANSI S1.40 Verification Procedures for Sound Calibrators
    - ANSI S12.9 Part 3 Procedures for Measurement of Environmental Sound
    - ANSI S12.18 Measurement of Outdoor Sound Pressure Level
    - IEC 61400-11 WTG systems –Part 11: Acoustic noise measurements
  3. Background Sound Level. Because WTGs can potentially operate continuously, the background sound levels studies shall focus on the quieter periods which are often the evening and night. Sounds from the WTG of interest, near-by birds and animals or people must be excluded from the background sound test data. Nearby electrical noise from streetlights, transformers and cycling AC units and pumps etc., must also be excluded from the background sound test data. Several contiguous ten (10) minute tests may be performed in one hour to determine the statistical stability of the sound

environment. Further, background L90 sound levels documenting the pre-construction baseline conditions should be determined when the ten (10) minute maximum wind speed is less than 2 m/s (4.5 mph) near ground level/ microphone location 1.5 m height.

4. Immission spectra imbalance. The spectra shall be determined not to be in balance when the C-weighted sound level is more than 20 dB greater than the A-weighted sound level. For the purposes of this requirement, the A-weighted sound level is defined as the long-term background sound level (LA90) +5 dBA. The C weighted sound level is defined as the dBC measured during the operation of the wind turbine generator operated so as to result in its highest sound output.
5. Low Frequency Noise (LFN). LFN is deemed to be excessive when the difference between a C-weighted sound level and an A-weighted sound level is greater than 20 decibels at any measurement point outside a residence or other occupied structure.
6. Measurement Point. The Measurement Point shall be located so as to not be near large objects such as buildings and in the line-of-sight to the nearest turbines. Proximity to large buildings or other structures shall be twice the largest dimension of the structure, if possible. Measurement Points should be at quiet locations remote from street lights, transformers, street traffic, flowing water and other local noise sources.
7. Measurement Wind Speed. For measurements conducted to establish the background noise levels (LA90 10 min, LC90 10 min, and etc.) the maximum wind speed, sampled within 5m of the microphone (Measurement Point) and at its height, shall be less than 2 m/s (4.5 mph) for valid background measurements. For valid WTG noise measurements conducted to establish the post-construction sound level the maximum wind speed, sampled within 5m of the microphone (Measurement Point) and at its height, shall be less than 4m/s (9mph). The wind speed at the WTG blade height shall be at or above the nominal rated wind speed and operating in its highest sound output mode. For purposes of enforcement, the wind speed and direction at the WTG blade height shall be selected to reproduce the conditions leading to the enforcement action while also restricting maximum wind speeds at the microphone (Measurement Point) to less than 4 m/s (9 mph).

For purposes of models used to predict the sound levels and sound pressure levels of the WTG

to be submitted with the Application, the wind speed shall be the speed that will result in the worst-case dBA and dBC sound levels at the nearest non-participating properties to the WTG. If there may be more than one set of nearby sensitive receptors, models for each such condition shall be evaluated and the results shall be included in the Application.

8. Spectrum. The WTG manufacturer is required to supply a one-third octave band frequency spectrum of the wind turbine generator sound emission at 90% of rated power. The published sound spectrum is often presented as A-weighted values but C-weighted values are also required. This information shall be used to construct a model of the Wind Energy Harvest Site's sound emission levels at locations of interest in

and around the WTG. The frequency range of interest for wind turbine generator noise is approximately 6 Hz to 10 kHz.

- F. Review Procedure: A Wind Site Assessment Application and Wind Energy Harvest Site Construction Application shall be evaluated by the Planning Commission pursuant to the procedures detailed in this Section and Article 6. The applicants and the entire Notification Area shall be notified by regular mail or personal delivery of the public hearing, in accordance with the notice requirements of the Zoning Act.
- G. General Standards: In addition to meeting the requirements of Article 6, all Wind Site Assessments and Wind Energy Harvest Sites shall comply with the following standards for approval:
1. No portion of any tower or blades shall display any name, symbol, words, letters, advertising message, graphic representation or other written or pictorial matter. A nacelle may have lettering that exhibits the manufacturer's and/or owner's identification.
  2. The visual appearance of all wind turbine generators within a Wind Energy Harvest Site shall be limited by the use of paint color and finishes that minimize visibility and reflectivity and create a consistent appearance among turbines and turbine components.
    - a. Color shall be RAL 9001, or similar muted soft white or gray.
    - b. At the time of application, a paint sample shall be provided for all visible turbine components to demonstrate consistent appearance in paint finish and color.
    - c. Coatings shall be defined according to ISO 2813.2014 (or most recent version utilized at the time of turbine construction) at a viewing angle of 60 degrees with a gloss rating of less than or equal to 30 gloss units.
    - d. All turbine components shall meet a gloss rating specification of equal to or less than 30 gloss units throughout special land use or shall be recoated at the owner's expense within 180 days of a determination of non-compliance.
    - e. The Planning Commission, or designated staff, shall ensure verification of paint finishes and gloss ratings prior to erection of the turbine components, at the expense of the wind energy system owner, through a third party qualified tester using ISO 2813.2014 (or most recent version utilized at the time of turbine production) to demonstrate compliance.
    - f. If the Planning Commission determines that additional testing of the paint finish is needed at any point during the duration of the special land use to confirm compliance with the 30 gloss unit maximum, testing shall be completed, at the expense of the wind energy system owner, by a third party qualified tester selected by the Planning Commission. Testing shall follow ISO 2813.2014 (or most recent version utilized at the time of turbine production) to demonstrate compliance.

3. Structures within the site, including any wind turbine generator, Met tower, and SCADA tower, shall not be illuminated by artificial means and shall not display strobe lights unless specifically required by the Federal Aviation Administration or other state or federal authority having jurisdiction over the site. If lighting is required, the lighting as installed shall not exceed FAA minimum standards.
4. The minimum vertical blade tip clearance from grade shall be sixty (60) feet for a wind turbine generator employing a horizontal axis rotor.
5. All conversion systems shall be equipped with manual and automatic over speed controls to limit rotation of blades to speed below the designed limits of the conversion system. The certified registered engineer and authorized factory representative shall certify that the rotor and over speed control design and fabrication conform to current engineering practices at the time of application. No changes or alterations from certified design shall be permitted unless accompanied by a certified registered engineer's and the authorized factory representative's statement of certification.

H. Setback Requirements:

The following setbacks and separation requirements shall apply to all wind turbine generators within a Wind Energy Facility.

1. On a participating property, each wind turbine generator shall be set back from the nearest inhabited structure a distance of no less than 3 times the total height of the turbine, measured from the nearest edge of the turbine at the base of the tower.
  2. A wind turbine generator within the project boundary shall be set back no less than 6 times the total height of the turbine or 3,000 feet, whichever is greater, from the property line of the nearest non-participating property, measured from the nearest edge of the turbine at the base of the tower.
  3. No wind turbine generator shall exceed five hundred (500) feet in total height.
  4. Any Met tower or SCADA tower shall be located not less than one and one-half (1 ½) times the total tower height to any dwelling, road right of way or property line of any non-participating property.
  5. Any wind turbine generator within a Wind Energy Harvest Site shall be located not less than two (2) times the Total Height from the nearest wind turbine generator tower or any road right of way, utility right of way, or buried gas line, measured from the nearest edge of the turbine at the base of the tower.
- I. Noise Requirement: The following noise requirements shall apply to a Wind Energy Harvest Site.
1. The noise level for participating properties shall not exceed 47 dBA.
  2. The noise level for non-participating properties shall not exceed 40 dBA, measured at the adjacent property line.

3. Low frequency noise levels due to wind turbine generator operation as measured inside or outside any inhabited structure or at any property line shall not exceed 10 decibels (measured as dBC) above the pre-development background noise level (measured as dBA).

J. **Shadow Flicker and Blade Reflection:** The Wind Energy Harvest Site shall be designed and sited to prevent shadow flicker and/or blade reflection from having a negative impact on any shadow flicker receptor, as defined herein.

1. A Wind Energy Harvest Site shall be designed so that shadow flicker or blade reflection does not discernibly impact any shadow flicker receptor.
2. Based on demonstrably valid complaints, field verification and modeling by a qualified consultant, if necessary, shall be paid for by the owner/operator and hired independently by the Planning Commission.
3. The owner/operator shall be responsible for mitigating the problem within 10 days from a final determination of any shadow flicker or blade reflection demonstrably attributed to the operation of the Wind Energy Harvest Site. Mitigation involving significant construction or physical modification shall be completed within 90 days, unless an extension is granted by the Planning Commission for due cause.

K. **Electromagnetic Interference:** Each WTG and Testing Facility shall be designed, constructed, and operated so as not to cause interference with television, microwave transmission and reception, navigational, or radio reception within the notification area or neighboring areas. Should any of these interferences occur the owner/operator shall restore it to not less than before turbine conditions within 30 days.

L. **Stray Voltage Assessment and Requirements:**

1. The applicant shall conduct and include a report of a preconstruction stray voltage test on all livestock facilities located within and one mile beyond the wind farm boundary.
2. Following construction of the wind farm, the applicant shall conduct a post-construction stray voltage test on all livestock facilities within and one mile beyond the wind farm boundary.
3. The tests shall be performed by a certified stray voltage investigator approved by the Planning Commission.
4. Applicant shall seek written permission from property owners prior to conducting testing on such owners' property. Applicant shall not be required to perform testing on property where the owners have refused to grant permission to conduct the testing.

M. **Reporting Requirements:**

1. The owner/operator shall notify the Elbridge Township Supervisor of any extraordinary event within 24 hours of that event. "Extraordinary events" shall

include but not be limited to tower collapse, catastrophic turbine failure, fires, leakage of hazardous materials, unauthorized entry to the tower base, thrown blade or hub, any injury to a Facility worker or other person that requires emergency medical treatment, or other event that impacts the public health and safety of the township or its residents.

Additionally, the owner/operator shall provide the Elbridge Township Supervisor and the residents of any occupied dwelling within two (2) miles with a hotline phone number for reporting of any such extraordinary events to an individual or manned facility designated by the owner/operator that can be contacted at any time.

2. An annual report shall be submitted to the Elbridge Township Supervisor which shall contain the following:
  - a. Annual proof of liability insurance pursuant to subsection D, 2, h.
  - b. Annual proof of decommissioning funds pursuant to subsection Q, 2.
  - c. A summary of all complaints, complaint resolutions and extraordinary events.
- N. Ownership change: The special land use permit is transferrable to a new owner/operator of the Wind Energy Harvest Site. The proposed new owner or operator shall be required to register with the Elbridge Township Supervisor, prior to the transfer of ownership or operation of the Wind Energy Harvest Site. The new owner/operator shall conform to all requirements of this Section.
- O. Operational Requirements: The operation of a Wind Energy Harvest Site shall conform to operational requirements that reasonably protect the public from excessive danger due to weather conditions.
  - a. Turbines to be shut down during an icing event or freezing rain is forecasted.
- P. Complaint Resolution:
  1. Serious Violations: Except as otherwise provided in this Section, the owner/operator of the Wind Energy Harvest Site shall respond within five business days to any complaint or complaints deemed by the Township Zoning Administrator to require immediate attention due to actual or probable endangering of persons or property. Testing, if required, and paid for by the Owner/operator, will commence within ten (10) working days of verification of the validity of the complaint. The owner/operator shall provide a mitigation plan within five (5) working days of being notified of the violation, which shall be implemented as quickly as needed to mitigate or avoid the actual or probable damage. Any costs attributable to mitigation or elimination of serious violations shall be borne by the owner/operator.
  2. Other Violations: Except as otherwise provided in this Section, if the Township Zoning Administrator determines that a violation of the Ordinance or the special land use permit has occurred, and the violation is determined neither to be an emergency nor a serious violation as determined above, the Township Zoning Administrator shall



provide written notice to the owner/operator alleged to be in violation of this Ordinance or special land use permit. The Township Zoning Administrator and the involved parties shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within thirty (30) days of the written notice of violation. The Owner/operator shall pay for any necessary testing if the Owner/operator is subsequently determined to be in non-compliance. The Owner/operator is responsible for mitigating the problem within thirty (30) days from the final determination of any cause attributed to the operation of the WTG. At the discretion of the Township Zoning Administrator, mitigation involving significant construction or physical modification may have up to ninety (90) days to be completed.

3. If a complaint is not mitigated to the satisfaction of both the affected party or parties and the Township Zoning Administrator, nothing in this ordinance, the special land use permit or the landowner lease agreement shall preclude the Township or the landowner from pursuing appropriate legal action

Q. Removal/Decommissioning:

1. Should any wind turbine generator discontinue producing power for a minimum of one (1) year, the owner/operator shall be required to provide a status report to the Township Board. A review of the status report by the Township Board may result in a request for the affected wind turbine generator(s) or the entire Wind Energy Harvest Site to be decommissioned. Failure to comply with a decommissioning request may result in the issuance of a stop operation order by the Township Zoning Administrator, and revocation of the special land use permit in accordance with Article 9.
2. The owner /operator shall post and maintain decommissioning funds in an amount equal to the net costs of decommissioning the Wind Energy Harvest Site; at no point shall decommissioning funds be less than one hundred percent (100%) of decommissioning costs. The decommissioning funds shall be posted and maintained with a bonding company or Federal or State-chartered lending institution chosen by the owner/operator and participating landowners posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the State and is approved by the Township Attorney. No work can begin on the Wind Energy Harvest Site before the decommissioning bond is issued and accepted.
3. The Township Supervisor shall be notified within thirty (30) days of any changes in the status of a Wind Energy Harvest Site, including cessation of use, a change in its ownership, or a change in the terms of the underlying lease to the subject property.

R. Inspections:

Upon the provision of reasonable prior notice to the owner/operator, the Township Zoning Administrator, and/or his or her designated representative, may inspect any property for which special land use approval has been granted pursuant to this Section to determine whether the site complies with the applicable requirements of law and the terms of the special land use approval.

**S. Effective Date:**

This Ordinance shall become effective seven days after its publication or seven days after the publication of a summary of its provisions in a local newspaper of general circulation.

Elbridge Township  
ORV Ordinance  
Ordinance NO: ARTICLE 12

An ordinance authorizing and regulating the operation of Off Road Vehicles (ORVs) on county primary and county local roads in Elbridge Township, Oceana County, providing penalties for the violation thereof, and for the distribution of fines and costs resulting from those penalties pursuant to 2009 PA 175, MCL 324.81131.

**THE TOWNSHIP OF ELBRIDGE ORDINANCES:**

**1. Definitions**

- a. "Township" means the Township of Elbridge, Oceana County.
- b. "County" means Oceana County
- c. "Driver License" means an operator's or chauffeur's license or permit issued to an individual by the secretary of state under chapter III of the Michigan vehicle code, 1949 PA 300, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.
- d. "Maintained portion" means that portion of a road improved, designated or ordinarily used for vehicular traffic, including the gravel shoulder or paved shoulder of the road.
- e. "Operate" means to ride on or on, and be in actual physical control of the operation of an ORV.
- f. "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- g. "ORV" means a motor driven off road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV or vehicle includes, but is not limited to, a multitrack or multiwheel drive vehicle, an ATV, a motorcycle, golf cart or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. ORV or vehicle does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft.
- h. "Road" means a County Primary Road or County Local road as described in Section 5 of 1951 PA 51, MCL 247.655.
- i. "Road Commission" means the Board of County Road Commissioners for the County of Oceana.
- j. "Safety Certificate" means a certificate issued pursuant to 1994 PA 451 as amended, MCL 324.81129, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.
- k. "Visual Supervision" means direct observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.
- l. "Township Board" means the Township Board of Elbridge Township.

**2. Operation of ORVs on County Roads**

- a. An individual may operate an ORV on a road within the township provided that the ORV is operated only with the flow of traffic, on the far right of the maintained portion, of the road, subject to the following additional regulations:
- b. A person shall not operate an ORV at a speed greater than 25 miles per hour, or a lower posted ORV speed limit or in a manner that interferes with traffic on the road.
- c. ORVs shall travel single file, except when passing or being passed by another ORV.
- d. All ORVs operating must have a lighted headlight and taillight.
- e. Unless a person possesses a Drivers License, a person shall not operate an ORV on a road if the ORV is registered as a motor vehicle under the Michigan Vehicle code and the ORV is either more than 60 inches wide or has three wheels.
- f. A person under the age of 12 shall not operate an ORV on a road

- g. A person under the age of 18 shall not operate an ORV on a road unless the person has in his possession an ORV Safety Certificate issued by Michigan, another state, or a province of Canada.
- h. All operators must, upon demand by a law enforcement officer, present either an ORV Safety Certificate or Driver's License.
- i. An owner or person in charge of an ORV shall not allow an ORV to be operated by an individual who is incompetent to operate a vehicle because of mental or physical disability.
- j. A child less than 16 years of age shall not operate a 3-wheeled ATV.
- k. A person shall not operate an ORV at a rate of speed greater than is reasonable and proper, or in a careless manner having undue regard for conditions.
- l. A person shall not operate or ride on an ORV unless they are wearing on their head a helmet and protective eyewear approved by the United States Department of Transportation. This section does not apply if the vehicle is equipped with a roof that meets or exceeds standard for crash helmet and the operator and each passenger is wearing a properly adjusted and fastened safety belt.
- m. A person shall not operate an ORV without a braking system.
- n. A person shall not operate an ORV during the hours of ½ hour after sunset and ½ hour before sunrise without a working brake light that is brighter than the taillight.
- o. All ORVs shall conform to the noise emission levels established by the United States environmental protection agency under the noise control act of 1972, 42 USC 4901 to 4918
- p. No person shall transport a passenger on an ORV unless the manufacturing standards for the vehicle make provisions for transporting passengers.
- q. No person shall operate an ORV with an opened container of alcohol unless it is in a trunk, separate compartment or is encased or enclosed.
- r. The ORV is equipped with a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed with immediately and automatically return to idle.
- s. The ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- t. An ORV shall otherwise be operated in full compliance with all applicable provisions of state law, including but not limited to, Part 811 of the Natural Resources and Environmental Protection Act, MCL 324.81101, et seq.

### **3. No Township Duty to Maintain County Roads**

- a. Despite the terms of this Ordinance allowing ORVs to use portions of County Roads, the Township has no duty to, and undertakes not duty to; maintain a road within its boundaries in a condition reasonably safe and convenient for the operation of ORVs.

### **4. Enforcement**

- a. A violation of this ordinance is a municipal civil infraction and a responsible person shall pay a fine of not more than \$500.00. In addition a court may order the defendant to pay the cost of repairing any damage to the environment, a road, or public property damaged as a result of the violation.
- b. The Township Treasurer shall deposit fines and damage costs collected under this ordinance and under applicable provisions of the Revised Judicature Act, MCL 600.8379, into a fund designated as the "ORV Fund".
- c. The Township Board shall appropriate revenue in the ORV fund as follows:
  - 1. Fifty percent to the Township ORV fund to be distributed to the Oceana County Sheriff's Department or to be distributed to a Township fund to cover the costs of the Township Constable, or to both, responsible for ORV enforcement and training.
  - 2. Fifty percent to the Oceana County Road Commission for repairing damage to roads or streets and the environment that may have been caused by ORVs and for posting signs indicating ORV speed limits or indicating whether roads or streets are open or closed to the operation of ORVs under this ordinance, with Elbridge Township.

**5. Evidence.**

- a. In a court action in this state, if competent evidence demonstrates that a vehicle that is permitted to operate on a road pursuant to state law was in a collision with an ORV required to be operated on the far right of the maintained portion of the road pursuant to this ordinance, the operator of the ORV shall be considered prima facie negligent.

**6. Effective Date**

- a. This ordinance shall be effective 30 days after its first publication. The ordinance will be reviewed one year after its effective date to determine its continuation.
- b. This ordinance shall be the Master ORV Ordinance for Elbridge Township effective date is the 15<sup>th</sup> day of December 2015.

This ordinance is adopted by action of the Elbridge Township Board this 14<sup>TH</sup> day of OCTOBER, 2014.

This ordinance was adopted as the MASTER ORV ORDINANCE by the action of the Planning Commission on 15th day of December, 2015.

This ordinance was adopted as the MASTER ORV ORDINANCE by action of the Elbridge Township Board on 15th day of December, 2015.

TOWNSHIP OF ELBRIDGE  
COUNTY OF OCEANA, STATE OF MICHIGAN  
ORDINANCE NO. ARTICLE 13

ADOPTED: May 14, 2019  
EFFECTIVE: June 14, 2019

**PROHIBITION OF RECREATIONAL MARIHUANA ESTABLISHMENTS  
ORDINANCE**

An ordinance to provide a title for the ordinance; to define words; to prohibit marihuana establishments within the boundaries of **ELBRIDGE** Township pursuant to Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, as may be amended; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith; and to provide an effective date.

**THE TOWNSHIP OF ELBRIDGE  
OCEANA COUNTY, MICHIGAN**

ORDAINS:

**SECTION I**  
**TITLE**

This ordinance shall be known as and may be cited as the **ELBRIDGE** Township Prohibition of Marihuana Establishments Ordinance.

**SECTION II**  
**DEFINITIONS**

Words used herein shall have the definitions as provided for in Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, as may be amended.

**SECTION III**  
**NO MARIHUANA ESTABLISHMENTS**

**ELBRIDGE** Township hereby prohibits all marihuana establishments within the boundaries of the Township pursuant to Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, as may be amended.

**SECTION IV**  
**VIOLATIONS AND PENALTIES**

1. Any person who disobeys neglects or refuses to comply with any provision of this ordinance or who causes allows or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.

2. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500, in the discretion of the Court. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction.

3. Each day during which any violation continues shall be deemed a separate offense.

4. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.

5. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Township or by such other person (s) as designated by the Township Board from time to time.

**SECTION V**  
**SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

**SECTION VI**  
**REPEAL**

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

**SECTION VII**  
**EFFECTIVE DATE**

This ordinance shall take effect June 14, 2019.

**ELBRIDGE TOWNSHIP**  
STEPHANIE VAN SICKLE, Clerk  
2266 E. POLK ROAD  
HART, MI 49420  
(231) 873-7164