

Zoning Ordinance

Township of Delaware

February 2018

DELAWARE TOWNSHIP ZONING ORDINANCE

TABLE OF CONTENTS

	Page
Preamble _____	1
Article I Title and Citation _____	2
Article II Activities Covered By Ordinance _____	4
Article III Administration _____	4
Section 3.02 Zoning Permits _____	5
Section 3.03 Principal Uses Permitted _____	6
Section 3.04 Uses Permitted After Special Approval _____	6
Article IV Zoning Districts _____	6
Section 4.01 Districts _____	6
Section 4.02 District Boundaries and Map _____	7
Article V AR Agricultural Residential District _____	7
Section 5.01 Principal Uses Permitted _____	7
Section 5.02 Uses Permitted After Special Approval. Amended 01-13-09 –	7
Article VI R Residential Single Family District _____	9
Section 6.01 Principal Uses Permitted _____	9
Section 6.02 Uses Permitted After Special Approval _____	9
Article VII RL Residential Lakeshore District _____	9
Section 7.01 Principal Uses Permitted _____	9
Section 7.02 Uses Permitted After Special Approval _____	10
Article VIII RM Residential Multiple Family District _____	10
Section 8.01 Principal Uses Permitted _____	10
Section 8.02 Uses Permitted After Special Approval _____	10
Article IX MHP Mobile Home Park District _____	11
Section 9.01 Principal Uses Permitted _____	11
Article X LC Lakeshore Commercial _____	11
Section 10.01 Principal Uses Permitted.....	11
Section 10.02 Uses Permitted After Special Approval	11
Article XI C Commercial District	12
Section 11.01 Principal Uses Permitted	12
Section 11.02 Uses Permitted After Special Approval.....	12
Article XII I Industrial District	13
Section 12.01 Principal Uses Permitted	13
Section 12.02 Uses Permitted After Special Approval	13
Article XIIA Wind Powered Electricity Generating Towers	
Amended 12-12-17	14
Section 12A.08.00 Energy Facilities.....	14
Section 12A.08.01 Conflicting Regulations.....	14
Section 12A.08.02 Definitions.....	14
Section 12A.08.03 Development Uses, Requirements and Restrictions.....	15
Section 12A.08.04 Permitted Zones.....	15
Section 12A.08.05 Wind Energy Facilities Amended 08-09-2016	15
Section 12A.08.06 Overlay Zone.....	19
Section 12A.08.07 Site Plan Review Amended 08-09-2011.....	20
Section 12A.08.08 Application Fee Amended 08-09-2011.....	21
Section 12A.08.09 Application Procedures.....	21
Section 12A.08.10 Decommissioning Amended 08-09-2011	22

TABLE OF CONTENTS – continued

	<u>Page</u>
Section 12A.08.11 Penalty.....	22
Section 12A.08.12 Governing Law.....	22
Article XIII Area, Setback and Height	23
Section 13.01 Compliance	23
Wind Powered Overlay District Map.....	24
Section 13.02 Table of Area, Setback and Height Requirements <i>Amended 10-09-2001</i>	25
Article XIV Parking and Loading Requirements.....	26
Section 14.01 General Parking Requirements	26
Section 14.02 Table of Parking Requirements.....	26
Section 14.03 Off Street Loading Requirements.....	27
Article XV General Provision	28
Section 15.01 Conflicting Regulations	28
Section 15.02 Road Frontage <i>Amended 01-13-1998</i>	28
Section 15.03 Property Divisions <i>Amended 08-09-2011</i>	29
Section 15.04 Moving of Buildings.....	29
Section 15.05 Occupancy of Building Other Than Completed Dwellings.....	29
Section 15.06 Single Family Dwellings Requirements.....	29
Section 15.07 Signs.....	30
Section 15.08 Ponds and Berms.....	31
Section 15.09 Greenbelts.....	31
Section 15.10 Temporary Mobile Homes.....	31
Section 15.11 Recreational Vehicle Occupancy.....	32
Section 15.12 Prohibited Structures.....	32
Section 15.13 Public Service.....	32
Article XV A MEDICAL MARIHUANA <i>Amended 01-09-18</i>	33
Section 15.14.01 Findings, Intent and Purpose of Ordinance	33
Section 15.14.02 Definitions for Medical Marihuana Act	33
Section 15.14.03 Prohibited Conduct	34
Section 15.14.04 Dispensaries & Growing Facilities for Medical Marihuana	36
Section 15.14.05 Requirements for Primary Caregivers	36
Section 15.14.06 Penalty	36
Section 15.15.00 PUBLIC SERVICE FACILITIES	37
Section 15.16.00 WIRELESS COMMUNICATION TOWERS	37
Section 15.16.01 Authorization	37
Section 15.16.02 Qualifying Conditions.....	37
Section 15.16.03 Co-location	38
Section 15.16.04 Removal	40
Section 15.16.05 Effect of Approval	40
Section 15.17.00 ALTERNATIVE ENERGY SYSTEMS (small scale)	41
Section 15.17.01 Small Scale Alternative Energy Systems.....	41
Section 15.17.02 Small Scale Wind Energy System.....	41
Section 15.17.03 Small Scale Solar Energy Systems.....	43
Section 15.18.00 SOLAR FARMS <i>Rescinded 01-09-18</i>	44
Section 15.18.00 Solar Energy Facilities.....	45
Section 15.18.01 Purposes and Objectives.....	46
Section 15.18.02 Conflicting Regulations.....	46

TABLE OF CONTENTS – continued

	<u>Page</u>
Section 15.18.03	Definitions.....46
Section 15.18.04	Development Uses, Requirements and Restrictions.....47
Section 15.18.05	Permitted Zones.....47
Section 15.18.06	Prohibitions.....47
Section 15.18.07	Location.....48
Section 15.18.08	Security & Safety.....48
Section 15.18.09	Glare and Solar Radation.....48
Section 15.18.10	Supplemental Regulations.....49
Section 15.18.11	Site Plan Required/Review.....50
Section 15.18.12	Application Fee.....51
Section 15.18.13	Application Procedures.....51
Section 15.18.14	Abandonment and Decommissioning.....51
Section 15.18.15	Inspections.....52
Section 15.18.16	Penalty.....52
Section 15.18.17	Compliance.....52
Section 15.18.18	Noise.....52
Section 15.18.19	Compliant Resolution.....53
Section 15.18.20	Solar Energy Overlay Zoning District.....53
Section 15.18.21	Signal Interference.....54
Section 15.18.22	Governing Law.....54
Article XVI	Non-conforming Lots, Uses, and Structures 54
Section 16.01	Continued Non-Conforming Lots, Uses and Structures... 54
Section 16.02	Non-Conforming Lots of Records..... 54
Section 16.03	Non-Conforming Structures..... 54
Section 16.04	Non-Conforming Uses of Land or Structures..... 55
♦Article XVII	Definitions Amended 02-09-2010 &08-09-2011 55
Section 17.01	Definitions 55
Article XVIII	Planning Commission..... 58
♦Section 18.01	Membership ♦Amended 06-06-2006 & 08-09-2011 58
♦Section 18.02	Powers Amended 08-09-2011..... 59
Article XIX	Site Plan Review Requirements..... 59
Section 19.01	Scope..... 59
Section 19.02	Procedure..... 59
Section 19.03	Content..... 59
Section 19.04	Standards.....60
Section 19.05	Bond..... 61
Section 19.06	Time for Completion..... 61
♦Article XX	Procedures for Special Land Use Approvals by Planning Commission 61
Section 20.01	Application..... 61
Section 20.02	Hearing..... 61
Section 20.03	Standards..... 61
Section 20.04	Decision..... 62
Section 20.05	Expiration..... 62
♦Article XXI	Zoning Board of Appeals Amended 02-09-2010..... 62
Section 21.01	Establishment and Membership of Zoning Board of Appeals 62
Section 21.02	Applications and Notice of Hearing..... 63

TABLE OF CONTENTS – continued

		<u>Page</u>
Section 21.03	Powers.....	63
Section 21.04	Decisions.....	63
Section 21.05	Expiration of Variance Approvals	64
◆Article XXII	Amendments and Rezoning <i>Amended 02-09-2010</i>	64
Section 22.01	Application	64
Section 22.02	Notice of Hearing	64
Section 22.03	Planning Commission Hearing and Recommendations..	64
Section 22.04	Township Board.....	65
Section 22.05	Voluntary Rezoning Agreements	65
◆Article XXIII	Violations ◆ <i>Amended 02-09-2010</i>	66
Section 23.01	Penalty	66
Section 23.02	Nuisances Per Se.	66
Section 23.03	Repeal.	66
Article XXIV	Severability and Repeal.....	66
Section 24.01	Severability	66
Section 24.02	Repeal	66
Article XXV	Enactment.....	67
Section 25.01	Ordinance Enacted.....	67
Section 25.02	Effective Date	67
Section 25.03	Certification.....	67
	Zoning Map.....	68
	Wind & Solar Overlay District Map.....	69

ZONING ORDINANCE

TOWNSHIP OF DELAWARE

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

THE TOWNSHIP OF DELAWARE ORDAINS:

Section 1. DEFINITIONS For the purpose of this Ordinance, certain terms are herein defined.

Act. Act No. 236 of the Public Acts of 1961, as amended.

Authorized Official. Any public officer, agent, or personnel authorized by ordinance to issue municipal civil infractions and any police officer having jurisdiction within the Township.

District Court. The Sanilac County 73rd A District Court or its Magistrate.

Municipal Civil Infraction. An act or omission that is prohibited by any ordinance, but which is not a crime, and for which civil sanctions, including without limitation, fines, damages, expenses, and costs may be ordered as authorized by Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended. A municipal civil infraction is not a lesser included offense of a violation of this Ordinance that is a criminal offense.

Municipal Civil Infraction Action. A civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

Municipal Civil Infraction Citation. A written complaint or notice prepared by an authorized official, directing a person to appear in court regarding the occurrence of existence of a municipal civil infraction violation by the person cited.

Township. Delaware Township, Sanilac County, Michigan.

Section 2. GENERAL PENALTIES AND SANCTIONS FOR VIOLATIONS OF ORDINANCES; CONTINUING VIOLATIONS; INJUNCTIVE RELIEF

- (A) Unless a violation of an ordinance is specifically designated in the ordinance as a Municipal Civil Infraction, the violation shall be deemed to be a misdemeanor.
 - (B) The sanction for a violation which is a Municipal Civil Infraction shall be a civil fine in the amount as provided by this Ordinance, plus any cost, damages, expenses, and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws.
- (1) Unless otherwise specifically provided for, the civil fine for a particular Municipal Civil Infraction shall be not less than One Hundred Dollars (\$100.00), plus costs and other sanctions, for each infraction

(2) Increased civil fines may be imposed for repeated violations by a person of any ordinance provision. As used in this Section, “repeat offense” means a second (or any subsequent) Municipal Civil Infraction violation of the same requirement or provision (i) committed by a person within any six (6) month period, unless some other period is specifically provided by Ordinance and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by Ordinance for a particular Municipal Civil Infraction violation, the increased fine for a repeat offense shall be as follows:

- (a) The fine for any offense which is a first repeat offense shall be no less than Two Hundred Fifty Dollars (\$250.00), plus costs.
- (b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than Five Hundred Dollars (\$500.00), plus costs.
- (c) A “violation” includes any act which is prohibited by any Ordinance or any omission or failure to act where the act is required by any Ordinance.
- (d) Each day on which any violation of any Ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
- (e) In addition to any remedies available at law, the Township may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of the Ordinance.

Section 3. ACTION; COMMENCEMENT

In the event of an alleged civil infraction violation, the following shall occur:

- (A) The Township Zoning Administrator or the Township Supervisor shall talk to the alleged violator regarding the violation and what needs to be done to correct it. The Zoning Administrator or Supervisor may allow a time period as set by the Township Board, for the corrective action to take place.
- (B) If the alleged violator fails to abate the violation on or before the time period allowed, the Township shall contact the Sanilac County Sheriff’s Department and provide it with the name, address, and list of violations. The Sanilac County Sheriff’s Deputy upon receipt of the violations list shall send by first class mail or personal delivery a thirty (30) day warning letter to the alleged violator on a form approved by the Township Board.
- (C) After the thirty (30) day warning letter is mailed or delivered, if no corrective action is taken by the alleged violator, a municipal civil infraction action may be commenced upon the issuance of a civil infraction ticket by an authorized official directing the alleged violator to appear in District Court.

Section 4. CITATIONS; ISSUANCE AND SERVICE

Municipal civil infraction citations shall be issued and served by authorized officials as follows:

- (A) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.

- (B) The place for appearance specified in a citation shall be the District Court.
- (C) Each citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator. The original citation shall be filed with the District Court. Copies of the citation shall be retained by the authorized official and issued to the alleged violator as provided by MCL 600.8705
- (D) A citation for a municipal civil infraction signed by an authorized official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: ***“I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief.”***
- (E) An authorized official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.
- (F) An authorized official may issue a citation to a person if:
 - 1.) Based upon investigation, the official has reasonable cause to believe that the person responsible for a municipal civil infraction; or
 - 2.) Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the municipal attorney approves in writing the issuance of the citation.
- (G) Municipal civil infraction citations shall be served by an authorized official as follows:
 - 1.) Except as provided by Section 4(G)(2) below, an authorized official shall personally serve a copy of the citation upon the alleged violator.
 - 2.) If the municipal civil infraction involves the use or occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure by posting the copy of the citation or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building, or structure at the owner’s last known address.

Section 5. CONTENTS

- (A) A municipal ordinance citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.
- (B) Further, the citation shall inform the alleged violator that he or she may do one of the following:
 - 1.) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
 - 2.) Admit responsibility for the municipal civil infraction “with explanation” by mail by the time specified for appearance or in person or by representation.

- 3.) Deny responsibility for the municipal civil infraction by doing either of the following:
 - a. Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the authorized official or municipal attorney.
 - b. Appearing in court for a formal hearing before a judge with the opportunity of being represented by an attorney.
- (C) The citation shall also inform the alleged violator of all of the following:
- 1.) That if the alleged violator desires to admit responsibility “with explanation” in person or by representation, the alleged violator must apply to the court in person.

ZONING ORDINANCE
 TOWNSHIP OF DELAWARE
 Ordinance No. 100

An Ordinance to regulate the use of land within the Township of Delaware, Sanilac County, Michigan in accordance with the authority and intent of [the Michigan Planning Enabling Act (2008 PA 33) as amended] Act 184, of the public Acts of 1943, as amended.

THE TOWNSHIP OF DELAWARE ORDAINS;

ARTICLE I

Title and Citation

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

ARTICLE II

Activities Covered By Ordinance

Section 2.01. No building or structure, or part thereof, shall be erected, constructed, placed, enlarged, or moved, and no new use or change in use shall be made of any building, structure, or land, or part thereof; except in conformity with the provisions of this ordinance. **[as amended 9/2013]** ~~No building or structure, or part thereof, shall be erected, constructed, placed, altered, or moved; and no new use or change in use shall be made of any building, structure, or land, or part thereof; except in conformity with the provisions of this ordinance.~~

ARTICLE III

Administration

Section. 3.01. ZONING ADMINISTRATOR. The provisions of this ordinance shall be administrated and enforced by a Zoning Administrator appointed by the Township Board.

The Zoning Administrator shall serve under such terms and at such rate of compensation as Township Board may determine. The Zoning Administrator shall, for the purposes of this Ordinance's administration and enforcement, have the powers as established by the Michigan Zoning Enabling Act. P.A. 110 of 2006 and specifically as follows:

1. All applications for land use permits shall be submitted to the Zoning Administrator who shall keep a record of all applications which have been submitted and their disposition. When all applicable provisions of this Ordinance have been met regarding any application, the Zoning Administrator shall issue a Land Use Permit for the proposed use. When conditions are not met, the Zoning Administrator shall consult with the applicant to determine the proper course of action. The Zoning Administrator shall maintain a record of all applications and related land use permits, including documentation for each.
2. When an application is denied, the Zoning Administrator shall provide the applicant with a written denial stating the reasons for the denial.
3. Whenever a zoning matter is the subject of a public hearing before the Planning Commission or the Zoning Board of Appeals, the designated committee member from each of the Planning Commission or Zoning Board of Appeals shall prepare notices of the hearing and disseminate said notices as required by this Ordinance.
4. The Zoning Administrator shall be empowered to make inspections of buildings or premises to carry out enforcement of this Ordinance.
5. The Zoning Administrator shall keep a record of all Special Use Permits issued under the terms of this Ordinance for the purpose of carrying out the provisions of Article XX.
6. The Zoning Administrator shall respond to inquiries and dispense information or copies of this Ordinance to make the public aware of any familiar with the provisions of this Ordinance will help to maintain compliance with it.
7. The Zoning Administrator shall respond within five (5) business days, whenever possible, to any complaint regarding an alleged violation of the terms or conditions of this Ordinance or any permit issues pursuant to it. The Zoning Administrator shall provide a report at each regular Planning Commission meeting summarizing the nature and disposition of complaints that have been received. A written record of all complaints, responses and dispositions of the complaint will be maintained.
8. Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance or to vary the terms of this Ordinance. Suggestions by the Zoning Administrator for changes to this Ordinance will be taken under advisement of the Planning Commission. ♦[as amended 9/2013]

~~**Section. 3.01. ZONING ADMINISTRATOR.** The provision of this ordinance shall be administrated by a Zoning Administrator appointed by the Township Board. The Zoning Administrator shall serve under such terms and at such rate of compensation as Township Board may determine.~~

Section 3.02. LAND USE PERMITS. A land use permit shall be acquired from the Zoning Administrator for any building or structure, or part thereof, that is to be erected, constructed, placed, enlarged, or moved, or for any new use or change in use of any building, structure, or land, or part thereof undertaken within the Township except for a self-standing, portable structure that is one hundred (100) square feet or less. Portable structures one hundred (100) square feet or less shall be exempt from land use permit and fee requirements but shall not be exempt from zoning standards. Remodeling or repairing the interior or exterior of a structure shall not require a permit. ♦[as amended 9/2013]

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

- ~~— A. APPLICATION. — A zoning permit shall be applied for in writing on an application form provided by the Township.~~
- ~~— B. PERMIT ISSUANCE. — A zoning permit shall be issued by the Zoning Administrator whenever the proposed use complies with the provisions of this ordinance and any necessary Planning Commission, Board of Appeals, or Township Board approvals have been obtained.~~
- ~~— C. EXPIRATION. — A zoning permit shall expire one year after the date of issuance unless the proposed use has been commenced within the year. Any amendment to the zoning ordinance shall have the effect of voiding any outstanding zoning permits for uses which have been commenced and which would violate the amendments.~~
- ~~— D. VOID PERMITS. — Any zoning compliance permit issued in error or pursuant to an application containing any false statements shall be void.~~
- ~~— E. PRIVATE RESTRICTIONS. — The Zoning Administrator shall not refuse to issue a zoning compliance permit due to violations of private covenants, agreements, or deed restrictions.~~
- ~~— F. FEES. — The amount of any fees charged for zoning permits, applications, or inspections shall be established by the Township Board.~~

Section 3.03. PRINCIPAL USES PERMITTED. All uses of land or structures listed as principal uses permitted are permitted throughout the district under which they are listed. Any uses not expressly listed as “principal uses permitted” are prohibited in that district, unless they are listed as “uses permitted after special approval in the district”.

Section 3.04. USES PERMITTED AFTER SPECIAL APPROVAL. All uses of land or structures listed as “uses permitted after special approval” are permitted within the district under which they are listed, provided that Planning Commission approval has been granted pursuant to Article XX of this ordinance.

ARTICLE IV

Zoning Districts

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

AR	Agricultural Residential
R	Residential
RL	Residential Lakeshore
RM	Residential Multiple Dwellings
MHP	Mobile Home Park
LC	Lakeshore Commercial
C	Commercial
I	Industrial

Section 4.02. DISTRICT BOUNDARIES AND MAP. The boundaries of the zoning district are drawn upon the map attached to this ordinance and made a part hereof. The map shall be designated the Delaware Township Zoning Map.

ARTICLE V

AR Agricultural Residential District

Section 5.01. PRINCIPAL USES PERMITTED.

- A. Farms, farm buildings, and farm uses.
- B. Roadside stands, provide the produce sold is produced on the farm on which the stand is located.
- C Single family dwellings (subject to Section 15.06).
- D Township government buildings, uses, structures, and parks.
- E Schools, churches, and cemeteries.
- F Building, structures and uses which are accessory to any of above permitted use
- G Wind powered electricity generating facilities within the wind energy overlay district(s) pursuant to Article XIIA
- ◆H. Small scale ground mounted solar energy systems (subject to Section 15.17).
- J. Small scale roof mounted solar energy systems (subject to Section 15.17).]

Section 5A.02.00. USES PERMITTED AFTER SPECIAL APPROVAL

- |A. Private parks, recreation areas, campgrounds, and golf course.
 - 1. Minimum site size of ten (10) acres.
 - ◆2. All development features shall be located so as to minimize the possibility of any adverse effect upon adjacent property. This shall include a minimum setback of One hundred (100) feet from property lines and road center lines.
[Amended January 13, 1997]
 - 3. All activities shall be adequately screened from abutting property as determined by the Planning Commission.
 - 4. Related accessory commercial uses may be permitted in conjunction with the recreation use when it is clearly incidental to the main recreational character of the property.
- B. Raising of fur and feather bearing animals, including dog kennels.
 - 1. All animals shall be housed, fenced and maintained in an adequate manner, as determined by the Planning Commission.
 - 2. All pens and runways shall be screened from view from any residences or roads by building or greenbelt plantings.
 - 3. Kennels shall be set back a minimum of fifty (50) feet from each property line and one hundred fifty (150) feet from the road.
- C. Quarrying of soil, sand, clay, gravel, or similar materials.
 - 1. Each application for special approval shall contain the following:
 - a) Names and addresses of property owners and proposed operators of premises.
 - b) Legal description of the premises.

- c) Detailed statement as to method of operation, type of machinery or equipment to be used and estimated period of time that the operation will continue,
- d) Detailed statement as to the type of deposit proposed for extraction.
- e) Reclamation plan and detailed statement as to the proposed use of the land after quarrying or fill operations are complete.

2. Operational Requirements.

a) Pit Operations

- i) In operations involving deep excavations, the operator shall provide adequate safeguards may include fencing, locked gates, and warning signs.
- ii) The Planning Commission may require that any gravel or dirt roads used for the purpose of ingress and egress to said excavation site be kept dust free by hard topping or chemical treatment.
- iii) The completed slopes of the banks of any excavation shall in no event exceed a minimum of three (3) feet to one (1) foot (three foot horizontals to one foot vertical).
- iv) No cut or excavation shall be made closer than two hundred (200) feet from centerline of the nearest road right-of-way nor nearer than fifty (50) feet to the nearest property line. The Planning Commissions may prescribe more strict requirements in order to give sub lateral support to surrounding property where soil or geologic conditions warrant it.

3. Surety Bond

- a) The Planning Commission shall, to insure strict compliance with any regulations or required conditions of a permit for quarrying, require the permittee to furnish a bond in an amount determined by the Planning Commission to be reasonably necessary to insure compliance.
- b) In fixing the amount of such surety bond the Planning Commission shall take into account the size and scope of the proposed quarry, probable cost of rehabilitating the premises upon default of the operator, estimated expenses to compel the operator to comply by Court decree, and such other factors and conditions as might be relevant.

D. Home Occupations.

- 1. The home occupation must be conducted entirely within a building.
- 2. The home occupation shall be clearly incidental and secondary to the use of the premises as a residence or farm.

3. No noise, odor, fire hazard, or traffic congestion shall be created beyond that which is normal in a residential-agricultural area.

E. State licensed residential facilities for seven or more residents.

F. Governmental buildings, structures and facilities.

◆G. Rental storage units, including fenced storage area facilities.

◆[H. Solar Farms.]

ARTICLE VI

R Residential Single Family District

Section 6.01. PRINCIPAL USES PERMITTED.

A. Single family dwellings (subject to Section 15.06).

B. Platted residential subdivisions.

C. Publicly owned parks.

D. Crop production.

E. Building, structures and uses which are accessory to any of the above permitted uses.

Section 6.02. USES PERMITTED AFTER SPECIAL APPROVAL.

A. Duplex dwellings.

B. Golf courses.

C. School, churches, and cemeteries.

D. Home occupations, subject to the requirement of Section 5.02.D.

E. State licensed residential facilities for seven or more residents.

F. Governmental building, structures, and facilities.

ARTICLE VII

RL Residential Lakeshore District

Section 7.01. PRINCIPAL USES PERMITTED.

A. Single Family Dwellings (subject to Section 15.06).

B. Platted Residential Subdivisions.

- C. Publicly owned parks.
- D. Crop Production.
- E. Building, structures and uses which are ordinarily accessory to any of the above principal permitted uses.
- ◆[F. Small scale ground mounted solar energy systems (subject to Section 15.17).
- G. Small scale roof mounted solar energy systems (subject to Section 15.17).]

Section 7.02. USES PERMITTED AFTER SPECIAL APPROVAL.

- A. Bed and Breakfast establishments.
 - 1. The home shall not rent out more than five sleeping rooms.
 - 2. Adequate on-site parking, as determined by the Planning Commission, shall be provided.
- B. Churches, schools and cemeteries.
- C. Governmental building, structures and facilities.
- D. Home occupations, subject to the requirements of Section 5.02.D.

ARTICLE VIII

RM Residential Multiple Family District

Section 8.01. PRINCIPAL USES PERMITTED

- A. Multiple family dwelling.
- B. Duplex dwellings.
- C. Single Family Dwellings (pursuant to Section 15.06).
- D. Building, structures and uses which are ordinarily accessory to any of the above principal permitted uses.
- ◆[E. Small scale ground mounted solar systems (subject to Section 15.17).
- F. Small scale roof mounted solar energy systems (subject to Section 15.17).]

Section 8.02. USES PERMITTED AFTER SPECIAL APPROVAL.

- A. Prisons, detention camps, and correctional facilities.

- B. Rooming house, boarding houses, and tourist homes.
- C. Hospital and convalescent homes.
- D. Nursery schools and day care centers.
- E. Private clubs or lodges which do not serve liquor on the premises.
- F. State-licensed residential facilities for seven or more residents.

ARTICLE IX

MHP Mobile Home Park District

Section 9.01. PRINCIPAL USES PERMITTED.

- A. Mobile Home Parks.
- B. Single Family Dwellings (pursuant to Section 15.06).
- C. Duplex Dwelling.
- D. Building, structures and uses which are ordinarily accessory to any of the above principal permitted uses.
- ◆[E. Small scale ground mounted solar systems (subject to Section 15.17).
- F. Small scale roof mounted solar systems (subject to Section 15.17).]

ARTICLE X

LC Lakeshore Commercial

Section 10.01. PRINCIPAL USES PERMITTED.

- A. Marinas.
- B. Parks, bathing beaches, campgrounds. And similar recreational facilities.
- C. Boat launching facilities.
- D. Buildings, structures and uses which are ordinarily accessory to any of the above principal permitted uses.
- ◆[E. Small scale ground mounted solar energy systems (subject to Section 15.17).
- F. Small scale roof mounted solar energy systems (subject to Section 15.17).]

Section 10.02. USES PERMITTED AFTER SPECIAL APPROVAL.

- A. Motels, Hotels, and Bed and Breakfast establishments.
- B. Restaurants.
- C. Establishments serving liquor.
- D. Party Stores.
- E. Repair, sales and storage facilities for boats and boat engines.
- F. Establishments selling boating and fishing supplies.

ARTICLE XI

C Commercial District

Section 11.01. PRINCIPAL USES PERMITTED.

- A. Any retail business which sells or rents merchandise within a completely enclosed building.
- B. Personal service establishments such as restaurants, tavern, Laundromats, barber shops, beauty shops, and dry cleaning establishments.
- C. Repair shops for consumer items such as watches, shoes, furniture and appliances.
- D. Professional and business offices.
- E. Financial institutional.
- F. Funeral homes, mortuaries, and cemeteries.
- G. Mini-storage facilities which provide storage space for personal uses.
- H. Hotel, motel, lodge halls, private clubs, and auditoriums, and indoor recreational establishments.
- I. Schools, Churches, and publicly-owned buildings or facilities.
- J. Buildings, structures and uses which are accessory to any of the above permitted uses.
- ◆K. Wind powered electricity generating facilities within the wind energy overlay district(s) pursuant to Article XIIA.
- ◆[L. Small scale ground mounted solar energy systems (subject to Section 15.17).
- M. Small scale roof mounted solar energy systems (subject to Section 15.17).]

Section 11.02. USES PERMITTED AFTER SPECIAL APPROVAL.

- A. Open-air business such as drive-in theaters, fuel or propane sales, race tracks, used car sales, farm machinery sales, fruit market, outdoor recreational facilities, or any retail business activities which are conducted entirely or partially outside of an enclosed building.
- B. Repairs, service, or storage facilities for automobiles, trucks, construction equipment, farm machinery, and similar equipment.
- C. Residences.

ARTICLE XII

I Industrial District

Section 12.01. PRINCIPAL USES PERMITTED.

- A. Factories engaged in manufacturing, assembling, machinery, or other industrial production.
- B. Trucks terminals, railroad yards and airports.
- C. Laboratories.
- D. Warehousing, storage, or wholesale facilities.
- E. Building, structures, and uses which are accessory to any of the permitted uses.
- ◆F. Wind powered electricity generating facilities pursuant to Article XIA.
- ◆[G. Small scale ground mounted solar energy systems (subject to Section 15.17).
- H. Small scale roof mounted solar systems (subject to Section 15.17).]

Section 12.02. USES PERMITTED AFTER SPECIAL APPROVAL.

- A. Junk or salvage yards. Any such yard must be completely enclosed by a wall, berm, or fence at least eight (8) feet in height which completely obscures all material within the yard.
- B. Garbage incineration plants, sewage treatment plants, and similar facilities.
 - 1. Must comply with all regulations of State of Michigan.
 - 2. Must be completely enclosed by an obscuring wall, fence, or greenbelt.
- C. Slaughter house.
- D. Industries involving the processing, treatment, uses or storage of explosives, toxic chemicals, or radioactive materials.

Article XIA (added)
June 13, 2006
WIND POWER ELECTRICITY GENERATING TOWERS
Amended December 12, 2017

12A.08.00. ENERGY FACILITIES

The purpose and intent of this Article is to establish a process for the creation of districts within Delaware Township that are suitable for the location of wind energy facilities, for the review and permitting of such facilities, to protect the health, welfare, safety, and quality of life of the general public, and to ensure compatible land use in the vicinity of the areas affected by such facilities. Wind energy facilities shall include any mechanical device such as a wind charger, windmill or wind turbine which is designed and used to convert wind energy into a form of useful energy. Except for 12A.08.05C. Setbacks, **this Ordinance shall not apply to.**

- A) Any wind energy facility consisting of less than two wind turbines.
- B) Any wind energy facility not in commercial use, nor
- C) Any wind energy facility consisting entirely of wind turbines with a total height that does not exceed 100 feet and nameplate capacity that does not exceed 100 kilowatts.

12A.08.01. CONFLICTING REGULATIONS

Whenever any provision of this Ordinance impose more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this Ordinance shall govern.

12A.08.02. DEFINITIONS

FAA shall mean the Federal Aviation Administration.

Hub Height shall mean the distance from ground level to the center of the turbine hub or horizontal rotor shaft.

Large Scale Facility is the interconnection of 5 or more wind turbines.

Michigan Tall Structures Act (Act 259 of 1959) shall govern the height of structures in proximity to airport related uses and is included as a standard in this Article by reference.

Wind Energy Conversion Facility (WECF) or Wind Energy Facility shall mean an electricity generating facility consisting of two or more wind turbines under common ownership or operation control, and include substations, meteorological towers, cable/wires and other buildings, structures, equipment, and facilities accessory to such facility, whose main purpose is to supply electricity to off-site customers.

Wind Energy Facility Site Permit is a special approval permit issued by the Planning Commission upon application and review.

Wind Energy Facility Site Plan Review is the process used to review a proposed Wind Energy Facility.

Wind Energy Overlay Zoning Districts are districts created by the Delaware Township Board, upon receiving a recommendation of the Planning Commission, by identifying

specific areas that are appropriate for development of Wind Energy Facilities and that have specific regulations for unique uses, structures or conditions.

Wind Turbine shall mean a wind energy conversion system which converts wind energy into electricity through the use of a wind powered turbine generator, and includes the turbine, blades, tower, base and pad transformer, if any; provided that such a system shall only be a wind turbine for purpose of this Ordinance if it both has a total height greater than 100 feet and nameplate capacity of greater than 100kilowatts.

12A.08.03. DEVELOPMENT USES, REQUIREMENTS AND RESTRICTIONS

All listed non-discretionary permitted uses in the underlying zoning district of this overlay zone are permitted. All listed discretionary conditional, special approval or special land uses in the underlying zoning district of the overlay zone are subject to conditional use or special land use permit process and review. Wind powered electricity generating sources and wind farms are special approval uses in a Wind Energy Facility Overlay Zoning District.

12A.08.04. PERMITTED ZONES

In any Wind Energy Overlay Zoning District, the Planning Commission shall review all Wind Energy Facility land use application, subject to the restriction contained in this Ordinance.

12A.08.05. WIND ENERGY FACILITIES

The following criteria shall be included and/or be utilized as standards when preparing, submitting and reviewing an application for a Wind Energy Facility. A special land use application and site plan which differ from these standards cannot be approved.

- A. Avian Analysis.** The application shall submit an avian study to assess the potential impact of proposed Wind Energy Facility upon bird and bat species. The avian study shall at a minimum report on a literature survey for threatened and endangered species, and relevant information on critical flyways. The applicant must identify any plans for post-construction monitoring or studies. The analysis should also include an explanation of potential impacts and propose a mitigation plan, if necessary.
- B. Visual Appearance; Lighting; Power Lines.** The applicant shall use measures to reduce the visual impact of wind turbine to the extent possible, utilizing the following:

 - 1) Wind turbines shall be mounted on tubular, monopole towers, painted a non-reflective, non-obtrusive color. No lattice towers are allowed. The appearance of turbines, towers and buildings shall be maintained throughout the life of the wind energy facility pursuant to industry standards (i.e., condition of exterior paint, sign, landscaping, etc). A certified registered engineer or authorized factory representative shall certify that the construction and installation of the wind energy conversion system meets or exceeds the manufacturer's construction and installation standards.
 - 2) The design of the Wind Energy Facility buildings and related structures shall, to the extent reasonably possible, use materials, color, textures, screening and landscaping that will blend the facility components with the natural setting and than existing environment. No bold colors will be allowed.

- 3) Wind Energy Facilities shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof.
- 4) Wind turbine shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the Wind Energy Facility. No graffiti will be allowed.
- 5) The electrical collection system shall be placed underground within the interior of each parcel at a depth ♦ **[of not less than five (5) feet]** ~~designed~~ to accommodate the existing agricultural land use to the maximum extent practicable. The collection system may be placed overhead adjacent to county roadways, near substations or points of interconnection to the electric grid, between substations or points of interconnection to the electric grid, at crossings of terrain features such as stream, wetlands, steep hills, sensitive habitat and rocky ground, or in other areas as necessary. Any new substation shall be located at a distance of no less than one thousand ♦ **[five hundred (1,500)]** ~~(1,000)~~ feet from the nearest residence, school, hospital, church or public library. A lesser setback shall be considered only with written approval from the owner of the inhabited structure.

C. SETBACKS, SEPRATION AND SECURITY. The following setbacks and separation requirements shall apply to all wind turbines within a Wind Energy Facility:

1) Inhabited structures:

a) Each wind turbine shall be set back from the nearest dwelling, school, hospital, church, public library, municipal limit, a distance not less than the greater of:

- (i) Two (2) times its Hub Height or
- (ii) One thousand ♦ **[five hundred (1,500)]** ~~(1000)~~ feet.

b) A lesser setback may be permitted only with written approval from the owner of dwelling, school, hospital, church, public library within the lesser setback.

2) Property line setbacks: Wind turbines shall only be subject to the property line setbacks provided in this amendment as an article to the zoning ordinance.

a) Along the border of the Wind Energy Facility Overlay District, there shall be a setback distance ♦ **[of no less than one thousand (1,000) feet.]** ~~equal to one half (1½) times the Hub Height of the wind turbine.~~

b) Wind turbines and access roads shall be located so as to minimize the disruption to agricultural activity and, therefore, the location of towers and access routes is encouraged along internal property lines.

c) Where a proposed turbine location is nearer to a non-participating intra-district property line than ♦ **[one thousand (1,000) feet]** ~~one and one half (1½) times the Hub Height of the wind turbine~~, an easement may be established (subject to adjoining property owner's approval) on the abutting (non-participating) parcel(s).

3) Public Roads: Each wind turbine shall be set back from the nearest public road a distance no less than ♦ **[one thousand (1,000) feet]** ~~one and one half (1½) times its Hub~~

Height, determined at the nearest boundary of the underlying right-of-way for such public road.

4) **Electrical Lines:** Each wind turbine shall be set back from the nearest above-ground public utility transmission line a distance not less than one and one-half (1½) times its Hub Height, determined from the existing transmission line.

5) **Tower Separation:**

a) Turbine/tower separation shall be based on:

- 1) industry standards,
- 2) manufacture recommendation, and
- 3) the characteristics of the particular site location,

b) At a minimum, there shall be a separation between towers of not less than two (2) times the turbine (rotor) diameter.

c) The wind energy facility shall be designed to minimize disruption to farmland activity.

d) Record documents (ie “*as-built*” drawings) shall be submitted to the Township by the applicant confirming specifications for turbine/tower separation.

6) **Construction Certification:** following the completion of construction, the applicant shall certify that all construction is completed pursuant to the Wind Energy Site special land use permit.

D. Wind Turbine/Tower Height (Total Height):

1) The total height of a wind turbine shall be the distance to the center of the hub of the wind turbine plus the distance from the hub to the tip of the turbine blade at its highest point.

2) General, the Hub Heights shall not exceed 100 meters (328 feet) from existing grade unless modification of this maximum height is approved pursuant to this Article. The applicant shall demonstrate compliance with the Michigan Tall Structures Act (Act 259 Of 1959, as amended) and FAA guidelines as part of the approval process.

E) Noise:

1) Audible noise or the sound pressure level from the operation of the Wind Energy Facility shall not exceed ~~♦[forty five (45)] fifty five (55)~~ dBA, or the ambient sound pressure level plus five (5) dBA, whichever is greater, for more than ten percent (10%) of any sixty minutes interval, measured at any residence, school, hospital, church or public library existing on the date of approval of any Wind Energy Facility special approval permit. The applicant shall be able to provide sound pressure level measurements from a reasonable number of sampled locations at the perimeter and in the interior of the Wind Energy Facility to demonstrate compliance with this standard.

2) In the event audible noise from the operation of the Wind Energy Facility contains a steady pure tone, the standards for audible noise set forth in subparagraph a) of this subsection shall be reduced by five (5) dBA. A pure tone is defined to exist if the one-third (1/3) octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third (1/3) octave bands by five (5) dBA for center frequencies of five hundred (500) Hz and above, by eight (8) dBA for center frequencies between one hundred and sixty (160) Hz and four

hundred (499) Hz, or by fifteen (15) dBA for center frequencies less than or equal to one hundred and twenty-five (125) Hz.

3) Ambient noise levels shall be measured at the exterior of potentially affected existing residences, school, hospital, churches and public libraries. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind-generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project site are sufficient to allow wind turbine operations, provided that the wind velocity does not exceed thirty (30) mph at the ambient noise measurement location.

4) Any noise level falling between two whole decibels shall be the lower of the two.

5) In the event the expected noise levels resulting from the Wind Energy Facility exceed the criteria listed above, a waiver of said noise limitation may be approved, provided that the following has been accomplished:

a) Written consent from the affected property owner(s) has been obtained stating that they are aware of the Wind Energy Facility and the noise limitations imposed by this Article, and that consent is granted to allow noise levels to exceed the maximum limits otherwise allowed; and

b) If the application wishes the waiver to apply to succeeding owners of the property, a permanent noise impact easement must be recorded in the Sanilac County Register of Deeds office that describes the benefited and burdened properties and that advises all subsequent owners of the burdened property that noise levels in excess of those otherwise permitted by the ordinance may exist on or at the burdened property.

6) Sound studies and reports will be prepared at the expense of the wind energy company. The sound study will be conducted to determine compliance with the SLU as well as all applicable standards and ordinances. The sound study will be conducted no less than five (5) years after completion of the project or initial sound study. Thereafter, sound studies will be conducted every five (5) years. ♦[added 6/2013]

F. Minimum Ground Clearance:

The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of not less than fifty feet.

G. Signal Interference:

1) No Wind Energy Facility shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennas for radio, television, or wireless phone or other personal communication system would produce consistent and noticeable electromagnetic interference with signal transmission or reception.

2) No Wind Energy Facility shall be installed in any location along the major axis of an existing microwave communications link that is filed in the records of the Federal Communication Commission where its operation is likely to produce electromagnetic interference in the link's operation.

3) Notwithstanding the foregoing, an approval may be issued under this Article if Applicant demonstrates an ability to remedy any interference described above with the use of signal repeaters or other proven mitigation measures.

H. Safety:

- 1) All collection system wiring shall comply with all applicable safety and stray voltage standards.
- 2) Wind turbine towers shall not be climbable on the exterior.
- 3) All access doors to wind turbine towers and electrical equipment shall be locked at all times when unattended.
- 4) Appropriate warning signs shall be placed on wind turbine towers, electrical equipment, and Wind Energy Facility entrances. In addition, Beacon lights shall be placed on the top of each windmill. **(amended 8/9/16)**
- 5) Project shall be designed and operated in compliance with all applicable provisions of local, state, and federal laws and regulations.
- 6) The applicant shall be responsible for maintenance of the access roads. At the landowner's discretion, the entrance of each access road from public right of way shall be gated, with wings as appropriate, to discourage trespassers.

I. Erosion and Flooding:

Any erosion or flooding of property resulting from the construction of alternative energy structures or access roads, whether in the Overlay Zone or not, is the responsibility of the developer/owner of the structures.

◆[J. Complaint Resolution

- 1) The Wind Energy Facility Owner and/or Operator shall submit a detailed, written complaint resolution process developed by the applicant to resolve complaints from the Township Board or the Delaware Township property owners or residents concerning the construction or operation of the Facility. The complaint resolution process must be approved by the Township Board as a condition of approval of the special land use permit application.
- 2) The Township Board shall appoint a three-member Complaint Resolution Committee to oversee and participate in all complaint resolution discussions or meetings between the Township property owners or resident and the Wind Energy Facility Owners and/or Operator.
- 3) The Complaint Resolution Committee shall consist of one (1) member of the Township Board, one (1) member of the Township Planning Commission, and one (1) qualified elector chosen from the community.
- 4) The Wind Energy Owner and/or Operator shall provide not less than forty eight (48) hour notice to the Complaint Resolution Committee and shall provide the opportunity for the Committee to attend any and all complaint resolution discussions and meetings,
- 5) The Township Board shall be kept appraised of all complaints and shall receive a report as outlining the issue, the progress, and the resolution. Such report shall be presented monthly by the Complaint Resolution Committee.]

12A.08.06. Overlay Zone:

A. Overlay Zoning District. The Wind Energy Facility Overlay Zoning District shall consist

of the parcels identified in Appendix A and as depicted on the Delaware Township Zoning Map.

B. Purpose, Adoption of Districts:

The purpose of the Wind Energy Facility Overlay Zoning District is to regulate the placement and operation of the wind energy generation equipment in the district, and to provide a procedure by which wind energy projects may be addressed by the Planning Commission.

12A.08.07. Site Plan Review

A) Wind Energy Conversion Facilities shall not be located, constructed, erected, altered, or used without first obtaining a Wind Energy Facilities special land use approval permit issued by the Planning Commission pursuant to this Ordinance. An applicant proposing a Wind Energy Facility must submit the following site plan materials:

- 1) A detailed site plan of the property showing existing features such as contours, buildings, roads, overhead public utility lines, zoning district, and ownership of property, and vehicular access;
 - 2) Plan(s) showing the location of proposed turbines towers (with possible deviation), underground and overhead wiring (including the minimum depth of underground wiring), new drainage facilities (if any), access roads (including minimum width), substations and accessory structures;
 - 3) A description of the routes to be used by construction and vehicles and of any road improvements that will be necessary in the Township to accommodate construction vehicles, equipment or other deliveries, and an agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of the Wind Energy Facility;
 - 4) Engineering data concerning construction of tower and its base or foundation, which must be engineered and constructed in such a manner that upon removal of said tower, the soil will be restored to its original condition to depth of three (3) feet;
 - 5) Anticipated construction schedule; and
 - 6) Description of operations, including anticipated regular unscheduled maintenance.
- ◆[7] [Complaint resolution policy and procedures manual.
- ◆8) MISS DIG Systems, Inc. of Michigan membership.
- ◆9) Proof of liability insurance prior to the start of construction for all contractors and subcontractors that are to be part of the project.]

B) Construction Bond-

Applicant shall file a construction performance bond or other acceptable agreement ◆[in an amount determined by the Township} to ensure that, in the event that the project is not completed, the project site and other affected private or governmental properties (eg, roads, ditches, bridges, etc) will be restored to pre-construction condition. The bond shall be terminated upon timely completion of construction and activation of the facility.

C) Decommission **♦[ing]** Plan and Bond

Applicant shall file a decommissioning plan and an agreement that, **♦[upon activation of the facility] not later than (10) years after the permit is granted, a decommissioning bond ♦[or equivalent financial instrument shall]**will be posted. (See “Decommissioning”)

D) The applicant must also obtain a building permit from the Sanilac County Department of Construction and a permit from the Sanilac County Road Commission and/or Michigan Department of Transportation (MDOT) for driveways to connect access roads to existing County roads and from the Sanilac County Drain Commission for any culverts or other drainage facilities.

12A.08.08. Application Fee

An applicant for a Wind Energy Facility special approval permit shall remit an application fee and a fee per megawatt of nameplate capacity to the Township included with all applications in the amount specified in the fee schedule. This fee (which may be adjusted from time to time) is based on the Township review costs **♦[, and shall include, but not be limited to, such cost as meeting expenses, publication and notification expenses, related attorney fees, and other costs as may be incurred by the Township during the application and review process]**.

12A.08.09. Application Procedures

A developer/operator of any wind powered alternative energy source within the Overlay Zone shall comply with the following procedures for application for land use to permit to construct alternative energy structures.

- A. Make application for a special approval land use permit for wind energy facility to the Planning Commission as general required by the zoning ordinance and as specifically required by this Article. The application for special approval land use permit for wind energy structures will be accompanied by the required fees and information as required in this Article.
- B. The Planning Commission will review the application in a public meeting which shall be noticed pursuant to the special approval provisions of this zoning Ordinance and the Township Zoning Act (1943 PA 184, as amended; MCL125.271)

12A.08.10. Decommissioning

- A) At time of application for special land use permit, the applicant shall submit a plan describing the intended disposition of the alternative energy project at the end of its useful life and shall describe any agreement with the landowner regarding equipment removal upon termination of the lease.
- B) Any tower or turbine left unused or inoperable for more than 24 month would be deemed abandoned, to be disposed of by the applicant.
- C) The land must be returned to its original state with in six months of the determination of abandonment.
- D) Concrete bases must be removed three (3) feet below ground level with appropriate drainage and filled with like soil that was removed.
- ♦[E)** The application shall post a performance bond or equivalent financial instrument for decommissioning. The bond shall be in favor of Delaware Township and shall be in an amount of at least one hundred thousand dollars (\$100,000) per turbine and shall contain

a replenishment obligation. Evidence of decommissioning bond may be in form of escrow account, surety performance bond, letter of credit or similar financial commitment to guaranty decommissioning of an abandoned site.

- F) Within six month prior to the effective date of the performance bond or equivalent financial instrument the developer/applicant shall provide a report as to the estimated cost of decommissioning the project as of that date. The Township shall review the results and other such information as the Township may gather and shall adjust the initial amount of the bond or equivalent financial instrument accordingly. Such adjustments shall be at the sole discretion of the Township.
- G) Every two (2) years after the Effective Date of the bond or equivalent financial instrument the developer/applicant shall provide a report as to the estimated cost of decommissioning the project as of that date. The Township shall review the results and other such information as the Township may gather and shall adjust the amount of the bond or equivalent financial instrument accordingly. Such adjustments shall be at the sole discretion of the Township.
- H) Should the developer/applicant fail to decommission the project following abandonment, the Township shall have the authority to decommission the project, to sell the scrap, and to use the salvage value to defray the costs of decommissioning the project.]

~~E) The applicant shall post a performance bond or equivalent financial instrument for decommissioning within 10 years after the Wind Energy Facility commences commercial operation. The bond shall be in favor of Delaware Township and/or landowner(s) on whose land the Wind Energy Facility is located, and may be provided jointly as a single instrument for multiple Township and landowners within a single wind energy facility, provided that any such single instrument shall be in an amount equal to the estimated cost of decommissioning, net of their estimated salvage value; provided, that the amount of the bond shall be re-set every five (5) years after it is initially set, based on new estimates of the cost of decommissioning and salvage value. (but not less than \$10,000 per wind turbine). The financial instrument may be in the form of an escrow account, surety or performance bond, letter of credit, or similar financial commitment to guaranty decommissioning of an abandoned site.~~

12A.08.10 (1) Inspections

The Township will conduct annual inspections of any and all wind energy facilities. The cost of the annual Township inspection will be reimbursed to the Township by the wind energy company's owner/operator through an escrow fund established pursuant to a schedule of "Fees and Permits" as adjusted from time-to-time by the Township Board. The inspections will consist of but not be limited to evaluating compliance with original contract terms; compliance with improvements and updates; and evaluating compliance with SLU. ♦ [added 6/2013]

12A.08.11 Penalty

Violators of the provisions of this ordinance shall be subject to Grade D civil infraction penalties for each and every day of non-compliance.

12A.08.12 Governing Law Amended 12-12-17

Any contract related to the development or operation of a wind power electricity generating tower under this ordinance shall be governed by the laws of the State of Michigan.

APPENDIX A

The following parcels constitute the Wind Powered Electricity Generating Overlay District: In Delaware West- T14N-R15E.

Section 5,6,7,8,9,15,16,17,18,19,20,21,22,27,28,29,30,31,32,33,34.

ARTICLE XIII

Area, Setback and Height

Section 13.01. COMPLIANCE

- A. All structures shall comply with the area, setback, and height requirements of Section 13.02, unless different requirements are specified as a condition for a use permitted after special approval.

Section 13.02

TABLE OF AREA, SETBACK AND HEIGHT REQUIREMENTS

Zoning District	Minimum Land Area Per Dwelling or Commercial or Industrial Building	Minimum Lot Width In Feet (a)	Minimum Front Yard Setback In Feet (c)	Minimum Side Yard Setback In Feet (d)	Minimum Rear Yard Setback In Feet (d)	Minimum Floor Area per Dwelling In S. Ft.	Maximum Building Height In Feet (e)
◆Amended August 06, 2001							
◆AR	1.5 acres	150 (b)	100	15	15	920	35
◆R	1 acre (f)	150 (b) (f)	100	15	15	920	35
◆RL	1 acre (f)	100	100	15	15	920	35
RM	2 acre (g)	250	100	25	25	700 (h)	35
MHP	(i)	(i)	100	25	25	800	25
C, LC, or I	1 acre	200	100	25	25	—	50

- (a) Measured at the road of way.
- (b) In no case shall the length of any parcel exceed 4 times the width of the parcel.
- (c) Measured from center of the road right-of-way.
- (d) No building shall be constructed within 100 feet of the centerline of any public or private road.
- (e) Not applicable to farm structures such as barns, silo, or grain elevators.
- (f) Within platted subdivisions, the minimum lot area shall be 20,000 square feet and the minimum lot width shall be 100 feet.
- (g) In no case shall there be less than 5,000 square feet of land area per dwelling unit.
- (h) An additional 100 square feet shall be required for each bedroom beyond the first.
- (j) The minimum size of the mobile home park site shall be 20 acres and the minimum width of the site shall be 600 feet.

ARTICLE XIV

Parking and Loading Requirements

Section 14.01. GENERAL PARKING REQUIREMENTS. In all zoning districts, off-street parking facilities for storage and parking of motor vehicles shall be provided as required below. The parking space shall be maintained and shall not be encroached upon so long as the main building or structure remains, unless an equivalent number of parking spaces are provided elsewhere.

- A. Area for Parking Spaces. For the purpose of this Section, three hundred (300) square feet of lot area shall be deemed a parking space for one (1) vehicle, including access aisles.
- B. Location of Parking Spaces. The parking facilities shall be located on the same lot or within five hundred (500) feet of the permitted uses requiring the parking.
- C. Seating. As used in this Article for parking requirements, a seat shall mean either an individual chair or each twenty-four (24) inches of seating facilities.
- D. Similar Uses and Requirements. In the case of a use not specifically mentioned, the requirements of off-street parking for a use which is similar shall apply.
- E. Existing Off-Street Parking. Off-street parking existing at the effective date of this Ordinance which serves an existing building or use shall not be reduced in size to less than that required under the terms of this Ordinance.
- F. All parking areas shall be drained so as to dispose of surface water which might accumulate within or upon such areas.
- G. All illumination for such parking areas shall be deflected away from adjacent residential areas.
- H. All parking areas shall be paved or graveled in a manner sufficient to provide a soiled base at all times of the year.

Section 14.02. TABLE OF PARKING REQUIREMENTS.

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

Use	Required No. of Parking Spaces	Per Each Unit of Measure as Following:
1. Auditoriums, Assembly Halls, Theaters, Churches, Private Clubs, Lodge Halls, Schools	1	Two seats based upon maximum seating capacity in the main place of assembly therein, plus one space for every two employees.
2. Banks, Business or	1	Two hundred (200) square

	Professional Offices, Libraries, Museums		feet of usable floor area.
3.	Barber Shops and Beauty Parlors	3	Each barber or beauty operator.
4.	Bowling Alleys, Golf Courses	5	Each bowling lane or each hole on a golf course.
5.	Furniture, Appliance, and Household equipment repair Shops, Showroom of a Plumber, Decorator, Electrician or similar trade, Clothing and Shoe repair, Laundry, Motor vehicle salesroom, Hardware Stores, Wholesale stores and Machinery sales.	1	Six hundred square (600) feet of usable floor area plus one space for each two employees.
6.	Hotels, Tourist Homes, Motel, Hospitals, Conval- escent Homes.	1	Each guest bedroom and each two employees.
7.	Industrial Establishments and Warehouses	1	Each employee computed on the basis of the greatest number of person employed at any one period during the day.
8.	Residential	2	Each dwelling unit.
9.	Restaurant or establishments in which is conducted the sale and consumption on the premises of beverages, food or refreshments	1	Each two seats, plus one space for each two employees, Minimum for forty (40) spaces for drive-in restaurants,
10.	Service Garages, Auto sale- rooms, Auto repair, Collision or Bumping shops, Car wash establishments	1	Two hundred square feet of usable floor area, plus one space for each auto service space.
11.	Retail establishments and Businesses, except as otherwise specified above.	1	One hundred square feet of usable floor space.

Section 14.03 OFF-STREET LOADING REQUIREMENTS.

On the same property with every building of structure used for manufacturing, storage, warehouse, goods display, department store. Wholesale, market, hospital, mortuary, laundry, dry cleaning, or other uses involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for loading,

and unloading in order to avoid undue interference with public use of the street, alleys, or off street parking areas.

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

<u>Gross Floor Area (Square Feet)</u>	<u>Loading Space Required</u>
0 -2,000	None
2,00 - 20,000	One Space
2,000 - 100,000	One Space for each 20,000 square feet.
Over 100,000	Five spaces plus one space for each 40,000 Square feet in excess of 100,000 square feet.

ARTICLE XV

General Provisions

Section 15.01. CONFLICTING REGULATIONS. Whenever any provisions of this Ordinance impose more stringent requirements than are imposed by the provisions of any other law of Ordinance, the provisions of this Ordinance shall govern.

◆**Section 15.02.00 ROAD FRONTAGE.** Unless exempted as provided herein, every land division hereafter created shall front upon a public road and building shall be located on a lot or parcel which shall front upon a public road. If a building is located on a lot or parcel which does not front on a public road but does front on a private road which provides access to a public road, such private road shall, for purposes of Section 15.02.00, be considered equivalent to a public road if:

Section 15.02.10. EASEMENT.

The private road is described in a recorded easement which:

15.02.11 Benefits all parcels contiguous to such private roads.

15.02.12 Allows roadway, drainage and aerial and subsurface utilities.

15.02.13 Provide minimum standards for roadway and drainage per County Road Commission specification.

15.02.14 Establishes a procedure for initiating and completing construction, repairs, maintenance and improvements to the private road shall be included in the recorded easement.

15.02.15 Designates and agent or agency with authority to construct, improve and maintain, with power to contract for such projects.

15.02.16 Establishes a procedure for equitably assessing and collecting the costs and expenses for construction, repairs, maintenance and/or improvements to the private road.

15.02.17 Is accepted by all affected property owners.

Section 15.02.20 DEED COVENANT.

By deed covenant, the benefited parcels shall be subject to the terms of the easement and special assessment for all necessary costs and expenses to construct, repair, maintain and/or improve the private road.

Section 15.02.30 BOND

As a condition of issuing a land use or building permit for properties fronting on private roads, the Township Planning Commission may require a performance bond in an amount not to exceed \$10,00 per linear foot.

◆Section 15.03. PROPERTY DIVISION. No property shall be divided in such a manner that the length of any resulting parcel exceeds four (4) times the width of the parcel. ◆[The depth to width ration requirements shall not apply to one remainder parcel from the parent parcel or parent tract provided the division remains in compliance with the requirements of the Land Division Act being Act 288 of 1967, as amended.]. *This requirement shall not apply in the Residential Lakeshore (RL) district. .*

Section 15.04. MOVING OF BUILDINGS. No structure shall be moved upon any premises in the Township until a zoning compliance permit shall have been secured. Any such structure shall fully conform to all the provision of this Ordinance in the same manner as a new structure. No structure shall be moved to any site within the Township until the owner has posted a cash deposit in the amount specified by the Township Board, guaranteeing full compliance with the Township Ordinance. The site from which a building or structure has been moved shall be graded level and all debris shall be cleared away.

Section 15.05. OCCUPANCY OF BUILDINGS OTHER THAN COMPLETED DWELLINGS.

Garages, barns, accessory buildings and basements shall not be occupied either temporarily or permanently as dwellings.

Section 15.06. SINGLE FAMILY DWELLINGS REQUIREMENTS. Any single family dwelling shall comply with the following minimum standards:

- A. Minimum Size. Each dwelling shall contain the minimum number of square feet specified in Section 11.02, prior to any alterations or additions.
- B. Minimum Width. Each dwelling shall be no less than fourteen (14) feet in width in all directions. In the RL Residential Lakeshore district each dwelling shall be no less than twenty-four (24) feet in width in all directions.
- C, Foundation. Each dwelling shall be provided with foundation support in the form of a perimeter foundation or pillars as required by the building inspector. Each dwelling shall be securely anchored to the foundation.
- D. Storage Facilities. Each dwelling shall have either a basement, garage or storage building containing at least 100 square feet of storage area constructed at the same time as the dwelling.
- E. Skirting. Skirting consisting of brick, concrete blocks, wood, vinyl or aluminum shall be constructed completely around the lower edge of the dwelling.

- F. Roof. Each dwelling which is more than twenty-four (24) feet in width shall have a roof with at least a 3-12 pitch.
- G. Construction Code. Each dwelling and dwelling addition shall comply with current building code requirements.

Section 15.07. SIGNS. All outdoor sign shall be regulated as follows:

- A. No sign shall overhang or encroach upon any public road right-of-way or obstruct the vision of motor vehicle operators. All free standing signs shall be set back at least five (5) feet from all public or private road right-of-way lines and from all property lines.
- B. Temporary signs promoting political candidates or election issues shall be permitted in all districts, provided that such sign shall not exceed thirty-two (32) square feet in area. All such signs shall be removed within ten (10) days after the election.
- C. Signs advertising real estate for sale or rent or directing the public to such real estate are permitted in all districts, provided that they are not larger than sixteen (160 square feet in area.
- D. Signs are permitted in all districts which advertise for sale either agricultural produce grown on the premises or personal property owned by a resident of said premises; provided such produce or personal property was not purchased for the purpose of resale. Such signs shall not exceed sixteen (16) square feet.
- E. Signs advertising commercial, industrial, or other facilities located on the same parcel of land as the facility advertised may be permitted after site plan review and issuance of a building permit, subject to the following conditions;
 - 1. Any direct illumination for the sign shall be shielded from the view of persons on public roads or adjacent properties.
 - 2. No more than one permanent sign shall be permitted for each business.
 - 3. Permanent signs shall not exceed one hundred (100) square feet in area unless flush with the side of a building.
 - 4. Permanent signs which are flush with the side of a building may be as large as the side of the building. Such signs may not be extended above or beyond the wall on which they are located. No roof signs shall be permitted.
 - 5. No more than two (2) temporary signs shall be permitted at any one time for any business.
 - 6. Temporary signs shall not exceed sixteen (16) square feet in area.
- F. Signs located on parcels of land separate from the commercial, industrial, or other facilities advertised on the signs may be permitted by the Planning Commission after site plan review and issuance of a building permit, subject to the following conditions:

1. Any direct illumination for the sign shall be shielded from the view of persons on public roads or adjacent properties.
2. No such sign shall be permitted within six hundred and sixty (660) feet of any other sign or of any sign permitted pursuant to paragraph E of this section.
3. No such sign shall exceed one hundred (100) square feet in sign area.

Section 15.08. PONDS AND BERMS.

- A. Ponds. This section shall apply to all ponds established after the date of this ordinance whether by excavation, damming of streams, or otherwise. Work on any such pond shall not be commenced until the person creating the pond first obtains a zoning compliance permit from the Township Zoning Administrator. No pond shall be dug within any front, side or rear setback line required by this ordinance. In no case shall any pond be created on any parcel of land containing fewer than ten (10) acres.
- B. Berms. Any berm which is created after the adoption of this zoning ordinance shall comply with this section. Any such berm shall be contoured so as to blend into the surrounding landscape. All berms shall be planted with grass, shrubs, or other vegetation which shall cover all bare earth and prevent erosion. Any berms established in residentially zoned areas shall be properly maintained, including the mowing of grass and the trimming of shrubbery. Any berms established in commercial or industrial areas shall be maintained according to specification of the Planning Commission.

Section 15.09. GREENBELTS.

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

Section 15.10. TEMPORARY MOBILE HOMES.

- A. The zoning administrator may issue a permit for a temporary mobile home which does not comply with the single family dwelling requirements of Section 11.06 to be occupied during the time that a permanent dwelling is being constructed. A temporary mobile home permit may be issued if the following requirements are complied with:

1. The building permit for the permanent dwelling must be acquired before the temporary mobile home is placed on the premises.
2. The permanent dwelling must be completed and the temporary mobile home removed from the property before the expiration of the temporary mobile home permit.
3. The applicant must execute an affidavit guaranteeing that the temporary mobile home will be removed from the premises at the expiration of the permit period.
4. A temporary mobile home permit may be renewed one time to grant up to one additional year for completion, providing reasonable progress has been made on construction of permanent dwelling during the first one year permit.

B. Variances to permit the occupancy of mobile homes within the township may also be granted by the Board of Zoning Appeals pursuant to the procedures contained in Article XVI. Such variances for mobile home occupancy may only be granted for the purpose of housing farm labor or for the purpose of housing of family members who are unable to reside elsewhere due to age, poor health, or indigence. Any mobile home approval pursuant to this section shall be placed on a reinforced concrete pad or concrete piers and provided with adequate tie downs and skirting. In the event that the temporary mobile home ceases to be used for the purpose it was granted for, the mobile home shall be removed from the property within thirty (30) days of the date it ceases to be used for the purpose for which it was granted.

Section 15.11. RECREATIONAL VEHICLE OCCUPANCY.

The owner or lessee of any premises may permit the temporary occupancy of one recreational vehicle for guest or visitors for a period not to exceed three (3) Months in any calendar year. Recreational vehicles shall be deemed to include travel trailers, motor homes, truck campers and similar vehicles, but shall not include mobile homes.

Section 15.12. PROHIBITED STRUCTURES.

No bus, motor vehicle body or similar item shall be placed on any property for use as a storage structure or other building purpose. Semi-trailers maintained in good condition may be utilized for storage in the AR, C, and I districts.

Section 15.13. PUBLIC SERVICES.

Facilities provided by any public utility company or by the Township government shall be permitted in all zoning districts. Public utility facilities permitted by this section shall include transmission lines, sewers, mains, pumping stations, sub-stations, towers, poles, and related equipment. Any buildings erected shall be subject to the site plan review requirements, Any office, warehouse, manufacturing, or sales buildings of a public utility must be located in a zoning district permitting that use.

◆Article XV A (added)
August 09, 2011
MEDICAL MARIHUANA
Rescinded January 9, 2018

◆Section 15.14.01 — FINDINGS, INTENT AND PURPOSE OF ORDINANCE

- ~~—The Township of Delaware adopts this Ordinance based on the following findings:~~
- ~~— A. In 2008, the voters of the State of Michigan, adopted by initiative election a statute authorizing the limited use, growing, and distribution of marihuana for certain medical conditions.~~
 - ~~B. The stated intent of the statute approved by the voters was to enable certain specified persons who comply with the registration provisions of the law to legally obtain, possess, grow, use and distribute marihuana and to assist specifically registered individuals identified in the statute without fear of criminal prosecution under limited specific circumstances.~~
 - ~~C. Despite the provision of the medical marihuana legislation, marihuana is still a controlled substance under Michigan law and the limited legalization of medical marihuana has a potential for abuse that should be closely monitored and to the extent permissible regulated by local authorities.~~
 - ~~D. Pursuant to the rules adopted (R333,125) under the Michigan Medical Marihuana Act, additional felony penalties apply to any caregiver who is convicted of distributing marihuana to someone not allowed to use marihuana for medical purposes.~~
 - ~~E. It is the intention of the Township that nothing in this Ordinance be construed to allow persons to engage in conduct that endangers others or causes a public nuisance, or to allow the use, possession, growing, distribution or consumption of marihuana for non-medical purposes that is otherwise illegal. This ordinance is not intended to condone, authorize or provide immunity from prosecution for violations of state law, but rather only to describe the type of conduct which constitutes a violation of this ordinance. :~~
 - ~~F. It is the purpose of this Ordinance to impose specific requirements for those individuals registering with the State of Michigan as “qualifying patients” or “primary caregivers” as those terms are defined by MCL, 333.26421, the Michigan Medical Marihuana Act, and to regulate the conduct of activity pursuant thereto so as to protect the public health, safety and welfare.~~

Section 15.14.02 — DEFINITIONS

~~—The definition of words and terms used in this ordinance shall be the definitions contained in the Michigan Medical Marihuana Act MCL 333.26421 et. seq.~~

~~— DEBILITATING MEDICAL CONDITION~~

~~— One or more of the following:~~

- ~~— 1) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn’s disease, agitation of Alzheimer’s disease, nail patella, or the treatment of these conditions.~~
- ~~— 2) A chronic or debilitating disease or medical condition or its treatment that produces one (1) or more of the following; cachexia or wasting syndrome, severe and chronic pain, severe nausea; seizures, including but not limited to those characteristic of epilepsy, or sever and persistent muscle spasms, including by not limited to those characteristic of multiple sclerosis.~~

~~3) Any other medical condition or its treatment approved by the department, as provided for in the Medical Marihuana Act.~~

~~DEPARTMENT~~

~~The state department of community health.~~

~~ENCLOSED LOCKED FACILITY~~

~~A closet, room, or other enclosed area equipped with locks or other security devices that permit access only by a registered primary caregiver or registered qualifying patient.~~

~~MARIHUANA~~

~~All parts of the Cannabis sativa L., growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt derivative, mixture, or preparation of the plant or its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted there from, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.~~

~~MEDICAL USE~~

~~The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or 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.~~

~~PHYSICIAN~~

~~An individual licensed as a physician under Part 170 of the public health code, or an osteopathic physician under Part 175 of the public health code.~~

~~PRIMARY CAREGIVER~~

~~A person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has never been convicted of a felony involving illegal drugs.~~

~~QUALIFYING PATIENT~~

~~A person who has been diagnosed by a physician as having a debilitating medical condition.~~

~~REGISTRY IDENTIFICATION CARD~~

~~A document issued by the department that identifies a person as a registered qualifying patient or registered primary caregiver.~~

~~USABLE MARIHUANA~~

~~The dried leaves and flowers of the marihuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and root of the plant,~~

~~VISTING QUALIFYING PATIENT~~

~~A patient who is not a resident of this state or who has been a resident of this state for less than 30 days.~~

~~WRITTEN CERTIFICATION~~

~~A document signed by a physician, stating the patient's debilitating medical condition and stating that, in the physician's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition.~~

~~In addition, for purposes of this Ordinance, a "dispensary" is defined as any location providing Medical Marihuana to qualified patients.~~

~~**Section 15.14.03 PROHIBITED CONDUCT**~~

~~**3.01.00 Medical Marihuana Compensation Restrictions**~~

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

~~3.02.00 Medical Marihuana Possession Limits~~

~~No primary caregiver or qualifying patient shall possess marihuana or marihuana plants in excess of the amount he or she is allowed to possess under MCL 333:26424(b). The possession limits for a registered caregiver under the Michigan Medical Marihuana Act are as follows:~~

- ~~A) 2.5 ounces of usable marihuana for each qualifying patient that is connected to the caregiver.~~
- ~~B) 12 marihuana plants kept in an enclosed, locked facility, for each registered patient who has specified that the qualified caregiver will be allowed to cultivate marihuana for the qualifying patient.~~
- ~~C) Any incidental amount of seeds, stalks, and unusable roots.~~

~~The possession limits for a qualifying patient under the Michigan Medical Marihuana Act are as follows;~~

- ~~A) 2.5 ounces of usable marihuana.~~
- ~~B) 12 marihuana plants kept in an enclosed, locked facility, provided that the qualifying patient has not specified that a primary caregiver will be allowed to cultivate marihuana for qualifying patient.~~
- ~~C) Any incidental amount of seed, stalks, and unusable roots shall also be allowed under state law and shall not be included in this amount.~~

~~3.03.00 Entity Restrictions~~

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

~~3.04.00 Common Facilities Restrictions~~

~~It shall be a violation of this Ordinance for any person to participate as a registered primary caregiver in a jointly shared building space which is used in common to assist more than 5 qualifying patients with the medical use of marihuana. Use "in common" as that phrase is used in this subparagraph, shall include a shared or common reception area or shared or common customer service area.~~

- ~~A. A registered primary caregiver must be located outside of a one thousand (1,000') foot radius from any school, including child care or day care facility, to insure community compliance with the Federal "Drug Free School Zone" requirements;~~
- ~~B. Not more than one (1) primary caregiver shall be permitted to service qualifying patients on a parcel or lot;~~
- ~~C. Not more than (5) qualifying patients shall be assisted with the medical use of marihuana within any given calendar week on a parcel or lots;~~
- ~~D. All medical marihuana shall be contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient;~~

- ~~E. All necessary buildings, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting, and/or watering devices that support the cultivation, growing, or harvesting of marihuana are located;~~
- ~~F. If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11pm to 7am shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties;~~
- ~~G. That portion of the residential structure where energy usage and heat exceeds typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approved by the Delaware Township Fire Department to insure compliance with the Michigan Fire Protection Code~~

~~3.05.00 **Restrictions Against Delegation of Caregiver Functions**~~

~~It shall be a violation of this Ordinance for a primary caregiver to delegate to an employee or other person not independently and specifically authorized by the Michigan Medical Marihuana Act to provide assistance with the medical use of marihuana to the specific qualifying patient.~~

~~3.06.00 **Continued Illegality of Non-Medical Marihuana**~~

~~The sale, distribution, cultivation, possession and use of marihuana or marihuana plants is prohibited to the extent it is in violation of the Michigan Medical Marihuana Act or other Michigan statutes.~~

~~3.07.00 **Prohibitions**~~

- ~~No medical marihuana caregiver or patient shall:~~
 - ~~A. Undertake any task under the influence of marihuana, when doing so would constitute negligence or professional malpractice.~~
 - ~~B. Possess or engage in the use of medical marihuana:

 - ~~1. In a school bus.~~
 - ~~2. On the ground of any preschool or primary or secondary school;~~~~
 - ~~C. Smoke marihuana in any public places.~~
 - ~~D. Operate or be in actual physical control of any motor vehicle, while under the influence of marihuana.~~

~~**Section 15.14.04 DISPENSARIES AND GROWING FACILITIES FOR MEDICAL MARIHUANA**~~

~~It shall be unlawful for any “primary caregiver”, as defined by the Michigan Medical Marihuana Act, to dispense or grow medical marihuana within any retail store, storefront, office building, manufactured building, processing facility, or any other type of commercial or industrial building located within the Township.~~

~~**Section 15.14.05 REQUIREMENTS FOR PRIMARY CAREGIVERS**~~

- ~~A person who has been issued and possesses a Michigan registration identification card as a “primary caregiver” shall:~~
 - ~~A. Comply with all applicable statutes, including the Michigan Medical Marihuana Act;~~
 - ~~B. Have hours of operation which do not extend beyond 8:00 a.m. to 9:00 p.m. Monday through Saturday.~~

~~**Section 15.14.06 PENALTY**~~

~~Any person, firm, or corporation who shall violate any provision of this Ordinance shall be deemed responsible of violating a municipal civil infraction and shall, upon finding thereof, be subject to a fine of not more than One Hundred and 00/100 (\$100.00) Dollars, plus Court~~

~~costs and costs of prosecution, both at the discretion of the Court. Each day that a violation occurs shall be considered a separate offense. The Township may in addition seek injunctive relief.]~~

◆**Section 15.15.00 PUBLIC SERVICE FACILITIES**

Certain facilities provided by utility companies or by the Township government shall be permitted in all zoning districts. Facilities permitted by this Section shall include transmission lines, sewer lines, water mains, pumping stations, substations, poles, and related equipment. Any equipment enclosures, substations or similar structures shall be subject to the site plan review requirements of Article XIX. Any office, warehouse, manufacturing, or sales buildings must be located in the Commercial or Industrial zoning districts,]

◆**Section 15.16.00 WIRELESS COMMUNICATION TOWERS**

15.16.01 Authorization

- A) All communication towers, including transmission towers, relay or receiving antennas, and normal accessory facilities involved in telephone, television, radio, microwave, cable system, cellular, wireless internet, and similar communication services, other than those exempted may be allowed as special land uses in all zoning districts, pursuant to Article XX, subject to the qualifying conditions.
- B) Communication antennas and related facilities belonging to farmers, homeowners, or business owners and which do not involve the state of electricity or communication service shall be exempt from the requirements of this Section and shall be allowed as a permitted use in all zoning districts. This shall also include equipment used by ham radio operators, as well as residential television and radio antennas. The antenna, tower, or related facilities shall not exceed one hundred (100') feet in height. The height shall be measured from the ground level to the top of the tower or antenna, whichever is taller.

15.16.02 Qualifying Conditions

- A) **The following site development requirements shall apply:**
 - 1) A minimum site of two (2) acres and one hundred twenty five (125') feet of road frontage.
 - 2) The base of the tower and wire cables supports shall be fenced with a minimum five (5') foot high fence topped with barbed wire.
- B) **Special Performance Standards:**
 - 1) The tower must be setback from all property lines a distance equal to its height, unless engineering plans and specifications have been verified by the Township Engineer that the structural integrity of the tower will withstand high winds and impacts, and the likelihood of a tower failure is minimal. The applicant shall incur all cost associated with Township Engineering review.
 - 2) Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to any property line than thirty (30') feet.
 - 3) Accessory structures shall not exceed six hundred (600) square feet of gross building area.
 - 4) All buffer yard requirements within the zoning ordinance shall be met.
 - 5) The plans of the tower construction shall be certified by a registered structural engineer.

- 6) The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.
- 7) All towers must meet the standards of the Federal Aviation Administration and the Federal Communication Commission.
- 8) Communication towers in excess of one hundred (100') feet in height above grade level shall be prohibited within a two (2) mile radius of a state recognized public or private airport or ½ mile radius of a helipad.
- 9) No part of any tower or antenna shall be constructed, located or maintained at any time, permanently or temporarily, on or upon any required setback area for the district in which the antenna or tower is to be located. In no case shall a tower or antenna be located within thirty (30) feet of a property line.
- 10) Metal towers shall be constructed of, or treated with, corrosive-resistant material.
- 11) Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
- 12) Towers and antenna shall be designed to withstand a uniform wind loading as prescribed in the building code.
- 13) All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eighty one (81') feet above the ground at all points, unless buried underground.
- 14) Towers shall be located so that they do not interfere with reception in nearby residential areas.
- 15) Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property owned and or leased by the applicant.
- 16) Minimum spacing between towers locations shall be two thousand (2,000') feet
- 17) Height of the tower shall not exceed one hundred and seventy five (175') feet from grade within a Residential District, two hundred (200') feet from grade within a Business District, and three hundred (300') feet from grade within a Manufacturing and Ag-Res District.
- 18) Towers shall not be artificially lighted except as required by the Federal Aviation Administration.
- 19) Existing on-site vegetation shall be preserved to the maximum extent practicable.
- 20) There shall not be displayed advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.
- 21) The antenna shall be painted to match the exterior treatment of the tower. The chosen paint scheme should be designed to minimize off-site visibility of the antenna.
- 22) Structures shall be subject to any state and federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive state or federal standards are adopted in the future, the antenna shall be made to conform to the extent required by such standard or the Special Use approval will be subject to revocation by the Township Planning Commission. Cost for testing and verification of compliance shall be borne by the operator of the antenna.
- 23) There shall be no employees located on the site on a permanent basis to service or maintain the antenna or tower. Occasional or temporary repair and service activities are excluded from this restriction.
- 24) The tower shall be removed by the property owner or lessee within six (6) months of being abandoned.

15.16.03 Co-location

A) Statement of Policy

It is the policy of the Township to minimize the overall number of newly established locations for wireless communication facilities and wireless communication support structures within the community, and encourage the use of existing structures for attached wireless communication facility purposes, consistent with the statement of purpose and intent, set forth in Paragraph A of this section. Each licensed provider of a wireless communication facility must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress. However, particularly in light of the dramatic increase in the number of wireless communication facilities reasonably anticipated to occur as a result of the changes of federal law and policy in and relating to the Federal Telecommunication Act of 1996, it is the policy of the Township that all users should collocate on attached wireless communication facilities and wireless communication support structures in the interest of achieving the purposes and intent of this section, as stated above, and as stated in paragraph A of this section. If a provider fails or refuses to permit collocation on a facility owned or otherwise controlled by it where collocation is feasible. The result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the Township. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the Township.

B) Feasibility of Co-location

Co-location shall be deemed to be “feasible” for purposes of this section where all of the following are met;

- 1) Wireless communication provider entity under consideration for collocation will undertake to pay market rent or other market compensation for collocation.
- 2) The site on which collocation is being considered, taking into consideration reasonable modification of replacement of a facility, is able to provide structural support.
- 3) The collocation being considered is technologically reasonable. eg, the collocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
- 4) The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the Township.

C) Requirements for Co-location

- 1) Special land use permit for the construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that a feasible collocation is not available for the coverage area and capacity needs.
- 2) All new and modified wireless communication facilities shall be designed and constructed so as to accommodate collocation.
- 3) The policy of the community is for collocation. Thus, if a party who owns or otherwise controls a wireless communication facility shall fail or refuse to alter a structure so as 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 and subject to removal as a not conforming structure.
- 4) If a party who owns or otherwise controls a wireless communication facility shall fail or refuse to permit a feasible collocation, and this requires the construction and/or use of a new wireless communication support structure, the party failing or refusing to permit a feasible collocation shall be deemed to be in direct violation

and contradiction of the policy, intent and purpose of the Township, and, consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for a new wireless communication support structures within the Township for a period of five (5) years from the date of the failure or refusal to permit the collocation. Such a party may seek 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) years prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication service, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

D) Incentive

Review of an application for collocation, and review of an application for a permit for use of a facility permitted under paragraph C above, shall be expedited by the Township.

15.16.04 Removal

A) A condition of every approval of a wireless communication facility shall be adequate provision 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) The facility has not been used for one hundred eighty (180) days or more. For purpose 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 municipal legislative body, which permits the operation of the communication system without the requirement of the support structure, or with a support structure, which is lower and/or less incompatible with the area.

B) The situations in which removal of a facility is required, may be applied and limited to portions of a facility.

C) Upon the occurrence of one (1) or more of the events requiring removal, 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.

D) 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, collected and/or enforced from or under the security posted at the time application was made for establishing the facility.

E) The person who had used the facility shall immediately notify the Township Clerk in writing if and as soon as use of a facility ceases.

15.16.05 Effect of Approval

A) Subject to the following paragraph, final approval under this section shall be effective for a period of six (6) months.

B) If Construction of a Wireless Communication Facility is commenced within two thousand (2,000') feet of the land on which a facility has been approved, but on which Construction has not been commenced during the one (1) year period of effectiveness, the approval for the facility that has not been commenced shall be void thirty (30) days following notice from the Township of the commencement of the other facility unless the applicant granted approval of the facility which has not been commenced

demonstrates that it would not be feasible for it to collocate on the facility that has been newly commenced.]

◆Section 15.17.00 ALTERNATIVE ENERGY SYSTEMS (SMALL SCALE)

15.17.01 Small Scale Alternative Energy Systems

Small scale alternative energy system, including, but not limited to thermal, hydro, or biomass, for the purpose of serving residential, agricultural, commercial or industrial buildings on site shall be permitted as an accessory use in the Agricultural-Residential, Commercial and Industrial Districts provided they are in compliance with State and Federal regulations.

A) Requirements

- 1) The structure employed shall be required to obtain a land use permit subject to site plan approved by the Delaware Township Zoning Administrator. A simple site plan shall be drawn to an appropriate scale and shall provide construction details and show the location of all existing public roads, existing structures, utility lines and all structures, facilities and power lines to be constructed on the site as well as identifying adjoining property owners and the location of any structures on adjoining properties.
- 2) No small scale alternative energy system shall be erected, constructed, installed or modified as provided in this section without first obtaining a Delaware Township Land Use Permit from Zoning Administrator. Applications and fees apply. Such fees are as established in the Delaware Township Annual Fee Ordinance.
- 3) The property owner shall obtain any necessary electrical permits required. No system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- 4) The property owner shall construct and maintain the small scale alternative energy system in a safe and neat manner so as not to present a danger to neighbors or present an unsightly appearance.
- 5) The construction and operation of all such proposed small scale alternative energy systems shall be consistent with all applicable local, state, and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and FAA aviation requirements.
- 6) It is unlawful for any person to construct, install, or operate a small scale alternative energy system that is not in compliance with this ordinance or with any condition contained in a building permit issued pursuant to this section. Alternative energy systems installed prior to the adoption of this ordinance are exempt.
- 7) This section shall be administered and enforced by the Zoning Administrator or other official as designated. The Zoning Administrator may enter any property for which a building permit has been issued under this ordinance to conduct an inspection to determine whether the condition stated in the permit have been met.
- 8) Any person who fails to comply with any provision of this ordinance or a land use or building permit issued pursuant to this section shall be guilty of a Grade A civil infraction and subject to enforcement and penalties as allowed by applicable law.

15.17.02 Small Scale Wind Energy System

Small scale wind energy systems for the purpose of serving residential, agricultural, commercial or industrial buildings on site shall be permitted as an accessory use in all Districts provided they are in compliance with State and Federal regulations and the following requirements:

A) **Definition**

Small Scale Wind Energy System: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which is intended to primarily reduce on-site consumption of utility power.

B) **Requirements**

- 1) The structure employed shall be required to obtain a land use permit subject to site plan approval by the Delaware Township Zoning Administrator. A simple site plan shall be drawn to an appropriate scale and shall provide construction details and show locations of all existing public roads, existing structures, utility lines and all structures, facilities and power lines to be constructed on the site as well as identifying adjoining property owners and the location of any structures on adjoining properties within 1.1 times the total height of the turbine/wind tower of the common property lines.
- 2) No small scale wind energy system shall be erected, constructed, installed or modified as provided in this section without first obtaining a Delaware Township Land Use Permit from the Zoning Administrator. Applications and fees apply. Such fees are as established in the Delaware Township Annual Fee Ordinance.
- 3) The property owner shall obtain any necessary electrical permits required. No system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- 4) The property owner shall construct and maintain the small scale wind energy system in a safe and neat manner so as not to present a danger to neighbors or present an unsightly appearance. The property owner receiving site plan approval shall provide a verified report of a qualified contractor as to the structural integrity of the tower and wind turbine assembly. Facilities, including but not limited to towers, shall be subject to any requirements of the Uniform Construction Code and manufacturer's recommendations.
- 5) The construction and operation of all such proposed small scale wind energy systems shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communication and FAA aviation requirements.
- 6) Towers and other facilities must follow applicable setbacks within the particular zoning district. The minimum setback between a wind energy system and public street(s) or family dwelling shall be no less than 1-1/4 times the total height of the wind tower. A tower or facility mounted on a dwelling shall meet all setback requirements with the exception of that required for a family dwelling.
- 7) A small scale wind energy system shall not exceed one hundred twenty five (125') feet. The total height of a small scale wind turbine shall be the distance to the center of the hub of the wind turbine plus the distance to the tip of the turbine blade at its highest point.
- 8) The base of the wind tower shall be totally and permanently enclosed by a security fence at least six (6') feet high. No fence is required if the climbing apparatus is enclosed inside the wind tower and the entry is secured, or if the climbing apparatus is located at least eight (8') feet above the ground level.
- 9) The owner shall maintain the wind energy system in good condition. Maintenance shall include, but not be limited to, painting, structural repair, and security measures. Any small wind energy system which has been abandoned to disrepair for one year shall be removed by the owner. If the owner is not in compliance the township shall

have the authority to enter the owner's property and remove the system at the owner's expense as allowed by law.

- 10) All wind energy systems shall be non-reflective.
- 11) All efforts shall be made not to affect any resident with any strobe effect.
- 12) Small scale wind energy system shall not exceed forty-five (45) dB at the property line closest to the wind turbine. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the ambient sound pressure levels exceed forty-five (45) dB the standard shall be ambient dB plus five (5) dB.
- 13) A small scale wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lighting protection. If a tower is protected by guy wires, the wires shall be clearly visible to a height of at least six (6') feet above the guy wire anchors. The minimum vertical blade tip clearance from grade shall be twenty (20') feet for a wind energy system employing a horizontal axis rotor.
- 14) It is unlawful for any person to construct, install, or operate a small scale wind energy system that is not in compliance with this ordinance or with any condition contained in a building permit issued pursuant to this ordinance. Wind energy systems installed prior to the adoption of this ordinance are exempt.
- 15) This section shall be administrated and enforced by the Zoning Administrator or other official as designated. The Zoning Administrator may enter any property for which a building permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met.
- 16) Any person who fails to comply with any provision of this ordinance or a land use or building permit issued pursuant to this ordinance shall be guilty of a Grade A civil infraction and subject to enforcement and penalties as allowed by applicable law.

15.17.03 Small Scale Solar Energy Systems

Small scale solar energy systems for the purpose of serving residential, agricultural, commercial or industrial buildings on site shall be permitted as an accessory use in all District provided they are in compliance with State and Federal regulations and the following requirements.

A. Requirements

- 1) The structure employed shall be required to obtain a land use permit subject to site plan approval by Delaware Township Zoning Administrator. A simple site plan shall be drawn to an appropriate scale and shall provide construction details and show the location of all existing public roads, existing structures, utility lines and all structures, facilities and power lines to be constructed on the site as well as identifying adjoining property owners and the location of any structures on adjoining properties.
- 2) No small scale solar energy system shall be erected, constructed, installed or modified as provided in this section without first obtaining a Delaware Township Land Use Permit from the Zoning Administrator. Applications and fees apply. Such fees are as established in the Delaware Township Annual Fee Ordinance.
- 3) The property owner shall obtain any necessary electrical permit required. No system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- 4) The property owner shall construct and maintain the small scale solar energy system in a safe and neat manner so as not to present a danger to neighbors or present an unsightly appearance.

- 5) The construction and operation of all such proposed small scale solar energy systems shall be consistent with all applicable local, state, and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and FAA aviation requirements.
- 6) Solar panels shall be placed such that concentrated solar glare shall not be directed onto nearby properties or roadways.
- 7) A ground mounted system shall not exceed the maximum building height for adjacent accessory buildings, but in any case the top of the system shall not be more than twenty-five (25') feet above the ground.
- 8) The system shall not be installed in a front yard.
- 9) All power transmission lines from a system to any building or structure shall be located underground.
- 10) The solar farm and associated equipment shall be screened from any adjacent property. The screen shall consist of shrubbery, trees, or other non-invasive plant species that provide a visual screen. In lieu of a planting screen, a decorative fence, meeting the requirements of the Zoning Ordinance may be used.
- 11) A category II or larger ground mounted system shall be fenced in with a minimum six (6') foot chain link fence, and have a minimum setback from all property lines of one hundred twenty five (125') feet.
- 12) Solar panels erected on a building shall not extend beyond the peak of the roof.
- 13) Roof mounted panels shall be installed with a minimum three (3') feet setback from the edge of the roof, the peak, or eave, or valley to provide for pathways of accessibility.
- 14) It is unlawful for any person to construct, install, or operate a small scale solar energy system that is not in compliance with this ordinance or with any condition contained in a building permit issued pursuant to this section. Alternative energy systems installed prior to the adoption of this ordinance are exempt.
- 15) This section shall be administered and enforced by the Zoning Administrator or other official as designated. The Zoning Administrator may enter any property for which a building permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met.
- 16) Any person who fails to comply with any provision of this ordinance or a land use or building permit issued pursuant to this section shall be guilty of a Grade A civil infraction and subject to enforcement and penalties as allowed by applicable law.

~~◆Section 15.18.00 — SOLAR FARMS (Rescinded January 9, 2018)~~

~~— Solar farms, whether utilizing ground mounted or roof mounted systems, shall only be allowed in the AR Agricultural Residential District as a special use approval by the Planning Commission and are subject to the following requirements:~~

- ~~— A. The owner of a solar farm shall provide the Township an operations agreement which shall set forth the operations parameters, the name and contact information of the certified operator, inspection protocol, emergency procedures and general safety documentation. A descriptive site plan for all solar farms shall be submitted as part of the Special Land Use application. The site plan shall include setbacks, panel size, panel locations, utility lines, proposed utility lines and buildings, the locations of property lines, building, easements, and road right of ways. It shall also identify adjoining property owners and the location of any structures on adjoining properties.~~
- ~~— B. All plans shall be drawn to scale.~~

- ~~— C. A solar farm must comply with all County, State, and Federal regulations and safety requirements.~~
- ~~— D. The design of the solar farm shall conform to applicable industry standards.~~
- ~~— E. A solar farm shall not have a negative impact on public health, safety or value on humans, animals, or neighboring properties.~~
- ~~— F. No signage shall be allowed except for public and employee safety.~~
- ~~— G. No solar farm shall be installed until evidence has been provided to the Zoning Administrator that the electric utility company has been informed of the applicant's intent to install an interconnected applicant owned generator to the grid. "Off Grid" systems shall be exempt from this requirement.~~
- ~~— H. Any on-site electrical storage (battery storage system) shall conform to industry standards and applicable regulations.~~
- ~~— I. Solar panels shall be placed such that concentrated solar glare shall not be directed onto nearby properties or roadways.~~
- ~~— J. In the event that the operation of the solar farm interferes with the supply of electric service to other residents of the township, the township may restrain said operation for the health, safety and welfare of the other residents.~~
- ~~— K. A ground mounted system shall not exceed the maximum building height for adjacent accessory buildings, but in any case the top of the system shall not be more than twenty-five (25') feet above the ground.~~
- ~~— L. The system shall not be installed in a front yard.~~
- ~~— M. All power transmission lines from a system to any building or structure shall be located underground.~~
- ~~— N. The solar farm and associated equipment shall be screened from any adjacent property. The screen shall consist of shrubbery, trees, or other non-invasive plant species that provide a visual screen. In lieu of a planting screen, a decorative fence, meeting the requirements of the Zoning Ordinance may be used.~~
- ~~— O. A category II or larger ground mounted system shall be fenced in with a minimum six (6') foot chain link fence, and have a minimum setback from all property lines of one hundred twenty five (125') feet.~~
- ~~— P. Solar panels erected on a building shall not extend beyond the peak of the roof~~
- ~~— Q. Roof mounted panels shall be installed with a minimum three (3') foot setback from the edge of the roof, the peak, or eave or valley to provide for pathways of accessibility.~~
- ~~— R. In the event that a solar farm has been abandoned or has not been in operation for a period greater than one (1) year, the property owner shall be responsible for removing the abandoned system upon notice from the Township. Should the property owner fail to remove or repair the abandoned or defective system, the Township may pursue legal action to have the solar farm removed at the property owner's expense. The Township may require a removal bond.}]~~

ORDINANCE REGULATING THE OPERATION AND MAINTENANCE OF SOLAR ENERGY FACILITIES IN DELAWARE TOWNSHIP

WHEREAS, this Board desires to enact the following ordinance regulating the operation or maintenance of Solar Energy Facilities in Delaware Township.

THE TOWNSHIP OF DELAWARE ORDAINS,

Section 15.18.00. TITLE

This ordinance may be known and may be cited as “Ordinance Regulating the Operation and Maintenance of Solar Energy Facilities in Delaware Township.”

Section 15.18.01. PURPOSES AND OBJECTIVES

The purpose and objectives for which this ordinance is passed are as follows:

- A. To preserve the dignity and aesthetic quality of the environment in Delaware Township.
- B. To preserve the physical integrity of land in close proximity to residential areas.
- C. To protect and enhance the economic viability and interests of the citizens and residents of Delaware Township who have made substantial financial investments in homes, businesses, and industry in Delaware Township.
- D. To facilitate the construction, installation and operation of Solar Energy Facilities (SEFs) in the Township of Delaware in a manner that minimizes the adverse impacts to residential, forestry, agricultural, commercial, and wildlife interests.

Section 15.18.02. CONFLICTING REGULATIONS

Whenever any provision of this Ordinance impose more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this Ordinance shall govern.

Section 15.18.03. DEFINITIONS

For the purpose of this ordinance, certain terms and words are hereby defined; words used in the present tense shall include the future; words used in the singular number shall include the plural number; and the plural the singular; and the word “shall” is mandatory and not discretionary.

A) Abandonment: to give up, discontinue, withdraw from. Any Solar Energy Facility that ceases to produce energy for 12 continuous months will be considered abandoned.

B) Building: Any structure having a roof supported by columns or walls, and designated or intended for the shelter, support, enclosure or protection of persons, animals or chattels.

C) Decommissioning plan: A document that details the planned shut down or removal of a solar energy facility from operation or usage.

D) Fence: A continuance barrier extending from the surface of the ground to a uniform height of not less than four (4) feet from the ground at any given point, constructed of dirt, wood, stone , steel , or other metal, or any substance of a similar nature and strength.

E) Gate: A door or other device attached to a fence which, when opened, provides a means of ingress and egress of persons and things for which it was intended, and which, when closed, forms and continuous barrier as a part of the fence to which it is attached.

F) Glare: The effect produced by light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

G) Improved Area: Area containing solar panels, electrical inverters, storage buildings and access roads.

H) Opaque Fence: A continuous opaque, unperforated barrier extending from the surface of the ground to a uniform height of not less than four (4) feet from the ground at any given point, constructed of dirt, wood, stone, steel, or other metal, or any substance of a similar nature and strength which will hide the Solar Energy Facility.

I) Public Road: Any road or highway located within the Township of Delaware which is now or hereafter designated and maintained by the Township of Delaware, County of Sanilac or the Michigan Department of Transportation as part of the State Highway System, Whether primary or secondary, hard surfaced or other dependable roads which provide access to residential areas. Setbacks for improved areas shall be measured from the road right away.

J) Residence: A building used as a dwelling for one or more families or persons.

K) Solar Energy Facility: An energy facility, an area of land, or a structural rooftop principally used to convert solar energy to electricity, which includes, but is not limited to, the use of one or more solar energy systems. This definition shall only include those facilities that sell electricity to be used off site and shall not include “Small Scale Solar Energy Systems” as governed by Section 15.17.03.

L) Solar Energy Overlay Zoning District: Districts created by the Delaware Township Board, upon receiving a recommendation of the Planning Commission, by identifying specific areas that are appropriate for development of Solar Energy Facilities and that have specific regulations for unique uses, structures, or conditions.

M) Township: Township shall mean the Township of Delaware, Sanilac County, Michigan.

Section 15.18.04. DEVELOPMENT USES, REQUIREMENTS AND RESTRICTIONS

All listed principal permitted uses in the underlying zoning district of this overlay zone are permitted. All listed discretionary conditional, special approval or special land uses in the underlying zoning district of the overlay zone are subject to conditional use or special land use permit process and review. Solar powered electricity generating sources and solar farms are special approval uses in a solar energy facility overlay zoning district

Section 15.18.05. PERMITTED ZONES

In any Solar Energy overlay zoning district, the Planning Commission shall review all the Solar Energy Facility land use applications, subject to the restrictions contained in this Ordinance.

Section 15.18.06. PROHIBITIONS

It shall be unlawful after the effective date of this Ordinance for any person, firm, or corporation, or other legal entity to operate, maintain or establish in any area of Delaware Township a Solar Energy Facility which the site plan has not been approved by the Delaware Township Planning Commission. Modifications or upgrades to an existing Solar Energy Facility that increases the area by more than 20% of the original footprint or changes the solar panel type shall be subject to this ordinance.

Section 15.18.07. LOCATION

- A. All Solar Energy Facilities must comply with the requirement established in the Delaware Township Zoning Ordinance.
- B. All Solar Energy Facilities shall be considered any special use in a Solar Energy Overlay Zoning District, subject to the restrictions contained in the Ordinance.
- C. All improved areas, including disposal areas, shall be at least 100 ft. from a public road and 25 Ft from a fence line.
- D. All improved areas shall maintain a 25 ft. set back from residential areas and adjacent properties.
- E. All improved areas located in a residential area shall have a minimum landscape buffer within 25 ft. The buffer shall contain evergreen trees or bushes planted no more than 8 ft. apart and at least 4 ft. tall at the time of planting. The buffer shall obtain a height of 10 ft.

Section 15.18.08. SECURITY & SAFETY

- A. Solar Energy Facilities shall be completely fenced. No fence shall be less than four feet in height. The perimeter fence shall be signed to restrict unauthorized access. If a wire fence is used, vegetation must be planted along the residential sides.
- B. Each owner, operator or maintainer of a Solar Energy Facility to which this Ordinance applies, and who chooses to use vegetation as defined in Section 15.18.08 above with wire fence, shall utilize good husbandry techniques with respect to said vegetation, including but not limited to proper pruning, proper fertilize, 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 at the next appropriate planting time. Plants or grasses not part of landscaping shall be maintained by the facility operator not to exceed twelve inches in height.
- C. All collection system wiring shall comply with all applicable safety and stray voltage standards.
- D. All access doors to solar buildings and electrical equipment shall be locked at all times when unattended.
- E. Solar Energy Facilities shall be designed and operated in compliance with all applicable provisions of local, state and federal laws and regulations.
- F. The applicant shall be responsible for maintenance of the access roads. At the landowner's discretion, the entrance of each access road from public right of way shall be gated, with wings as appropriate, to discourage trespassers.

Section 15.18.09. GLARE AND SOLAR RADIATION

- A. All Solar Energy Facilities shall be placed such that concentrated solar radiation or glare does not project onto nearby structures, properties, or roadways.
- B. Must have glare reduction-anti reflective coating according to F.A.A.

- C. The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent properties.

Section 15.18.10 SUPPLEMENTAL REGULATIONS

- A. The manufacturer's or installer's identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner.
- B. On site power lines between solar panels and inverters shall be placed underground.
- C. The design of Solar Energy Facilities buffers shall use materials, colors, textures, screening and landscaping, that will blend the facility into the natural setting and existing environment.
- D. If the Solar Energy Facility consists of batteries or storage of batteries, adequate design must be provided to ensure all the local, state and federal requirements regulating outdoor battery storage have been met.
- E. The applicant must obtain from Sanilac County a driveway permit.
- F. The design and construction of Solar Energy Facilities shall not produce light emissions, either direct or indirect (reflective), that would interfere with pilot vision and / or traffic control operations. The applicant shall use measures to reduce the visual impact of solar panels to the extent possible.
- G. The design and construction of Solar Energy Facilities shall not produce electrical emissions that would interfere with aircraft communications systems or navigations equipment.
- H. A copy of the application to the utility company that will be purchasing electricity from the proposed site shall be provided to the Township.
- I. An affidavit or evidence of an agreement between the lot owner and the facility's owner or operator confirming the owner or operator has permission for construction and operation of the Solar Energy Facility.
- J. Any other relevant studies, reports, certificates and approval as may be reasonably required by the State of Michigan, County of Sanilac or Delaware Township.
- K. A description of the proposed technology to include type of solar panel and system, fixed mounted verses solar tracking, number of panels, and angles of orientation.
- L. An information sign shall be posted and maintained at the entrance(s) which lists the name and phone number of the owner and/or operator and identify a person responsible for the public to contact with inquiries and complaints throughout the life of the project and provide this number and name to Delaware Township. The Solar Energy Facility owner and / or operator shall make reasonable efforts to respond to the public's inquiries and complaints.

- M. Any erosion or flooding of property resulting from the construction of alternative energy structures or access roads, whether in the Overlay Zone or not, is the responsibility of the developer/ owner of the structures.
- N. Existing structures and landscaping on adjacent properties shall not be removed, altered, or affected by Solar Energy Systems.

Section 15.18.11. SITE PLAN REQUIRED /REVIEW

Solar Energy Facilities shall not be located, constructed, erected, altered, or used without first obtaining a Solar Energy Facilities special land use approval permit issued by the Planning Commission pursuant to this Ordinance. An applicant proposing a Solar Energy Facility must submit the following site plan materials:

- 1) A detailed site plan of the property showing existing features such as contours, buildings, roads, overhead public utility lines, zoning district, and ownership of property, and vehicular access:
 - 2) Plan(s) showing the location of proposed Solar Energy Facilities (with possible deviation), underground and overhead wiring (including the minimum depth of underground wiring), new drainage facilities (if any) , access roads, (including minimum width), substations and accessory structures;
 - 3) A description of the routes to be used and of any road improvements that will be necessary in the Township to accommodate construction vehicles, equipment or other deliveries, and an agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of the Solar Energy Facility;
 - 4) Engineering data concerning construction of Solar Energy Facilities and its base or foundation, which must be engineered and constructed in such a manner that upon removal of said solar farm, the soil will be restored to its original condition to depth of three (3) feet;
 - 5) Anticipated construction schedule;
 - 6) Description of operations, including anticipated regular unscheduled maintenance.
 - 7) Complaint resolution policy and procedures manual.
 - 8) MISS DIG Systems, Inc. of Michigan membership;
 - 9) Proof of liability insurance prior to the start of construction for all contractors and subcontractors that are to be part of the project.
- A) Construction Bond.
Applicant shall file a construction performance bond or other acceptable agreement, in an amount determined by the Township, to ensure that, in the event that the project is not completed, the project site and other affected private or governmental properties (eg, roads, ditches, bridges, etc.) will be restored to pre-construction condition. The bond shall be terminated upon timely completion of construction and activation of the facility.
- B) Decommissioning Plan and Bond.

Applicant shall file a decommissioning plan and an agreement that, upon activation of the facility, a decommissioning bond or equivalent financial instrument shall be posted. (See “Decommissioning”)

- C) The applicant must also obtain a building permit form the Sanilac County Department of Construction and Land Use and a permit from the Sanilac County Road Commission and / or Michigan Department of Transportation (MDOT) for driveways to connect access roads to existing County roads and from the Sanilac County Drain Commission for any culverts or other drainage facilities.

Section 15.18.12. APPLICATION FEE

An applicant for a Solar Energy Facility special approval permit shall remit an application fee and a fee per megawatt of nameplate capacity to the Township included with all applications in the amount specified in the fee schedule. This fee (which may be adjusted from time to time) is based on the Township review costs, and shall include, but not be limited to, such cost as meeting expenses, publication and notification expenses, related attorney fees, and other costs as may be incurred by the Township during the application and review process.

Section 15.18.13. APPLICATION PROCEDURES

A developer/operator of any Solar Energy Facilities within the overlay zone shall comply with the following procedures for application for land use permit:

- A) Make application for a special approval land use permit for Solar Energy Facility to the Planning Commission as generally required by the zoning ordinance and as specifically required by this Article. The application for special approval land use permit for Solar Energy Facilities will be accompanied by the required fees and information as required in this Article.
- B) The Planning Commission will review the application in a public meeting which shall be noticed pursuant to the special approval provisions of this zoning Ordinance and the Michigan Zoning Enabling Act (Act 110 of 2006; MCL 125.3101 et seq.)

Section 15.18.14. ABANDONMENT AND DECOMMISSIONING

- A) At time of application for special land use permit, the applicant shall submit a plan describing the intended disposition of the alternative energy project at the end of its useful life and shall describe any agreement with the landowner regarding equipment removal upon termination of the lease.
- B) Any Solar Energy Facilities left unused or inoperable for more than 12 months would be deemed abandoned, to be disposed of by the applicant pursuant to the ordinance.
- C) The land must be returned to its original state within six months of the determination of abandonment.
- D) Any Concrete bases must be removed three (3) feet below ground level with appropriate drainage and filled with like soil that was removed.

- E) The application shall post a performance bond or equivalent financial instrument for decommissioning. The bond shall be in favor of Delaware Township and shall be determined by the Delaware Township Board and shall contain a replenishment obligation. Evidence of decommissioning bond may be in form of escrow account, surety performance bond, letter of credit or similar financial commitment to guaranty decommissioning of an abandoned site.
- F) Within six months prior to the effective date of the performance bond or equivalent financial instrument the developer/ applicant shall provide a report as to the estimated cost of decommissioning the project as of that date. The Township shall review the results and other such information as the Township may gather and shall adjust the initial amount of the bond or equivalent financial instrument accordingly. Such adjustments shall be at the sole discretion of the Township.
- G) Every two (2) years after the Effective date of the bond or equivalent financial instrument the developer/ applicant shall provide a report as to the estimated cost of decommissioning the project as of that date. The Township shall review the results and other such information as the Township may gather and shall adjust the amount of the bond or equivalent financial instrument accordingly. Such adjustments shall be at the sole discretion of the Township.
- H) Should the developer/ applicant fail to decommission the project following abandonment the township shall have the authority to decommission the project, to sell the scrap, and to use the salvage value to defray the costs of decommissioning the project.

Section 15.18.15. INSPECTIONS

The Township will conduct annual inspections of any and all Solar Energy Facilities. The cost of the annual Township inspection will be reimbursed to the Township by the Solar Energy Company's owner/ operator through an escrow fund established pursuant to a schedule of " Fees and Permits" as adjusted from time-to-time by the Township Board. The inspections will consist of but not be limited to evaluating compliance with the original contract terms; compliance with improvements and updates and evaluating compliance with the special land use permit.

Section 15.18.16. PENALTY

Violators of the provisions of this ordinance shall be subject to a civil infraction penalty for each and every day of non-compliance.

Section 15.18.17. COMPLIANCE

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

Section 15.18.18. NOISE

- A) A noise study will be performed and included in the application. The noise study will be performed by an independent noise study expert and paid for by the applicant. Audible noise or the sound pressure level from the operation of the Solar Energy Facility shall not exceed forty-five (45) dBA, or the ambient sound pressure level plus five (5) dBA,

whichever is greater, for more than ten percent (10%) of any sixty minutes interval, measured at any property line existing on the date of approval of any Solar Energy Facility special approval permit. The applicant shall be able to provide sound pressure level measurements from a reasonable number of sampled locations at the perimeter and the interior for the Solar Energy Facility to demonstrate compliance with this standard.

- B) In the event audible noise from the operation of the Solar Energy Facility contains a steady pure tone, the standards for audible noise set forth in subparagraph a) of this subsection shall be reduced by five (5) dBA. A pure tone is defined to exist if the one-third (1/3) octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third (1/3) octave bands by five (5) dBA for center frequency of five hundred (500) Hz and above, by eight (8) dBA for center frequencies between one hundred and sixty (160) Hz and four hundred ninety-nine (499) Hz, or by fifteen (15) dBA for center frequencies less than or equal to one hundred and twenty –five (125) Hz.

Section 15.18.19. COMPLAINT RESOLUTION

- A) The Solar Energy Facility owner and /or Operator shall submit a detailed, written complaint resolution process developed by the applicant to resolve complaints from the Delaware Township board or the Delaware Township property owner or residents concerning the construction or operation of the Facility. The complaint resolution process must be approved by the Township board as a condition of approval of the special land use permit application.
- B) The Township Board shall appoint a three-member Complaint Resolution Committee to oversee and participate in all complaint resolution discussions or meetings between the Township property owners or resident and the Solar Energy Facility Owners and / or Operator.
- C) The Complaint Resolution Committee Shall consist of one (1) member of the Township Board, one (1) member of the Township Planning Commission, and one (1) qualified elector chosen from the community.
- D) The Solar Energy Owner and / or Operator shall provide not less than forty eight (48) hour notice to the Complaint Resolution Committee and shall provide the opportunity for the Committee to attend any and all complaint resolution discussions and meetings.
- E) The Township shall be kept appraised of all complaints and shall receive a report as outlining the issue, the progress, and the resolution. Such report shall be presented monthly by the Complaint Resolution Committee.

Section 15.18.20. SOLAR ENERGY OVERLAY ZONING DISTRICT

- A) The Solar Energy Overlay Zoning District shall consist of the Parcels identified in the Solar Overlay District map in the Delaware Township Zoning Book.
- B) Purpose, Adoption of Districts. The purpose of the Solar Energy Overlay Zoning District is to regulate the placement and operation of the Solar energy generation equipment in the district, and to provide a procedure by which Solar Energy projects may be addressed by the Planning Commission.

Section 15.18.21. SIGNAL INTERFERENCE

- A) No Solar Energy Facility shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennas for radio, television, or wireless phone or other personal communication system would produce consistent and noticeable electromagnetic interference with signal transmission or reception.
- B) No Solar Energy Facility shall be installed in any location along the major axis of an existing microwave communications link that is filed in the records of the Federal Communication Commission where its operation is likely to produce electromagnetic interference in the link's operation.
- C) Notwithstanding the foregoing, an approval may be issued under this Article if Applicant demonstrates an ability to remedy any interference described above with the use of signal repeaters or other proven mitigation measures.

Section 15.18.22. GOVERNING LAW

Any contract related to the development or operation of a Solar Energy Facility under this ordinance shall be governed by the laws of the County of Sanilac and the State of Michigan.

ARTICLE XVI

Non-conforming Lots, Uses, and Structures

Section 16.01. CONTINUED NON-CONFORMING USE PERMITTED.

Within the districts established by this Ordinance there exist lots, structures, and uses of land and structures, which were lawful prior to the adoption of this ordinance. These non conformities may continue until they are removed. The non-conformities shall not be enlarged upon, expanded or extended in any manner which increases their non-conformity.

Section 16.02. NON-CONFORMING LOTS OF RECORD.

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

Section 16.03. NON-CONFORMING STRUCTURES.

Where a lawful structure exists at the effective date adoption of this Ordinance that could not be built under the terms of this Ordinance, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions;

- A. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity.
- B. Should such non-conforming structure be destroyed by any means to an extent of more than seventy-five (75%) percent of its value, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

- C. Should such structure be moved for any reason whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 16.04. NON-CONFORMING USES OF LAND OR STRUCTURES.

Where at the time of passage of this Ordinance lawful use of land or structures exists which would not be permitted by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful, provided:

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

ARTICLE XVII

DEFINITIONS.

◆Sections 17.01. DEFINITIONS. Amended 02-09-2010

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

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

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

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

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

BUILDING. A structure, either temporary or permanent, having a roof supported by columns or walls for the shelter, support of enclosure of persons, animals, or personal

property. This shall include tents, awnings, vehicles, trailers, or mobile homes situated on private property and used for purposes of a building.

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

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

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

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

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

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

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

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

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

FLOOR AREA. The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls. The “floor area” of a building shall include the basement floor area when more than one-half (1/2) of the basement height is above the finished lot grade.

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

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

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

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

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

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

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

PARKING SPACE. An area of not less than nine and one-half (9-½) feet wide by twenty (20) feet long, designed for the parking of a motor vehicle, such space being exclusive of necessary drives, aisles, entrances, or exists and being fully accessible for the storage or parking of permitted vehicles.

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

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

SETBACK. The distance between a building and a road centerline or property line.

SIGN. Any device designed to inform, advertise or attract attention.

SIGN AREA. The total of the surface of one side of the sign computed in square feet. The total shall be determined by multiplying the total height of the sign surface by the total width of the sign surface area.

SIGN. PERMANENT. Any sign designed or intended to be placed on a parcel of land for more than six (6) months.

SIGN. TEMPORARY. Any sign designed or intended to be placed on a parcel of land for less than six month. Also any sign which is not permanently attached to real estate in accordance with the construction requirements of the building code.

◆SOLAR ENERGY SYSTEMS. Any method of converting sunlight into electrical energy.

◆SOLAR ENERGY SYSTEM CATAGORIES. A Solar Energy System is categorized by the amount of kilowatts that it produces.

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

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

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

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

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

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

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

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

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

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

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

ARTICLE XVIII

PLANNING COMMISSION

◆**Section 18.01.** MEMBERSHIP.

There is hereby established a Township Planning Commission as authorized by ◆[the Michigan Planning Enabling Act, PA 33 of 2008 MCL 125.3801, et seq., and Michigan Zoning Enabling Act (MZEA) P.A. 110 of 2006, MCL 125.3101, et seq., as amended] ~~Section 4 of the Township Planning Act, as amended.~~ The Planning Commission shall consist of seven members appointed by the Township Supervisor with approval of the Township Board. The members shall be representative of major interests as they exist in the

Township. One member of the Planning Commission shall be a member of the Township Board. Each member shall be appointed for a term of three years, except that the term of the member who also serves on the Township Board shall terminate if the membership on the Township Board terminates before the end of the three year Planning Commission term. The Planning Commission shall elect a Chairman, Vice-Chairman, and Secretary from its members. The term of these offices shall be one year.

Section 18.02. POWERS.

The Planning Commission shall have the power to review and approve site plans pursuant to Article XIX of this Ordinance, to hear and decide request for Uses Permitted after Special Approval pursuant to Article XX of this Ordinance, and to hear and make recommendations on zoning amendment requests pursuant to Article XXII of this Ordinance. The Planning Commission shall also have all other powers provided by statue including the power to prepare and adopt a plan as a guide for the development of the Township as provided for in ♦[the Michigan Planning Enabling Act, PA33 of 2008 MCL 125.3801, et seq., and Michigan Zoning Enabling Act (MZEA) P.A. 110 of 2006, MCL 125.3101, et seq., as amended] the Township Planning Act.

ARTICLE XIX

SITE PLAN REVIEW REQUIREMENTS

Section 19.01. SCOPE. A site plan shall be prepared and submitted for every construction project and every proposed change in land use in accordance with Section 3.02 of the Delaware Township Zoning Ordinance. ♦[as amended 9/2013]

~~**Section 19.01. SCOPE.**~~ A site plan shall be prepared and submitted for every construction project and every proposed change in land use, except that no site plan shall be required for single family residences, farm buildings, or buildings which are accessory to single family residences.

Section 19.02. PROCEDURE. All site plans shall be submitted first to the Zoning Administrator, who shall review the plans for compliance with requirements of the zoning ordinance. ♦[as amended 9/2013]

~~**Section 19.02. PROCEDURE.**~~ All site plans shall be submitted first to the Zoning Administrator, who shall review the plans for compliance with requirements of the zoning ordinance. The Zoning Administrator shall than refer the site plan to the Planning Commission for review and decision. Once a site plan is approved by the Planning Commission, it shall not be altered without the consent of the Planning Commission.

Section 19.03. CONTENT. Each site plan shall include the following:

- A. Area of the site.
- B. Date, north point, and scale.
- C. Dimensions of all property lines.

- D. Location and dimensions of all existing and proposed structures on the property or on adjacent properties within 100 feet of the property lines.
- E. Location and dimension of all existing and proposed roads (including rights of way), driveways, sidewalks, and parking area (see Article XII).
- F. Location of all existing and proposed utility lines, wells, septic systems, and storm drainage.
- G. Location, dimensions and details of proposed plantings, greenbelts and landscaped areas (see Section 13.09).
- H. Exterior drawings of proposed new buildings or existing buildings to which major additions are proposed.
- I. Location, dimension, and drawings of existing and proposed signs (see Section 13.07).
- J. Name, address, and telephone number of the person who prepared the site plan.

Section 19.04. STANDARDS. In determining whether to approve, modify, or deny a site plan, the Planning Commission shall consider the following:

- A. Adequacy of traffic ingress, egress, circulations, and parking.
- B. Adequacy of landscaping to protect adjoining.
- C. Location and design of proposed structures so as to ensure that detrimental effects on adjacent properties will be minimized.
- D. Adequacy of storm drainage.
- E. Location and design of signs so as to prevent highway visibility obstructions, driver distractions, encroachments, and adverse impacts on the community environment. ♦ [as amended 9/2013]

~~**Section 19.04. STANDARDS.** In determining whether to approve, modify, or deny a site plan, the Planning Commission shall consider the following:~~

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

Section 19.05. BOND. A cash deposit, letter of credit or surety bond shall be posted with the Township as a guarantee that the project will be completed in accordance with the approved site plan. Upon the completion of the project in accordance with the approved site plan, the bond shall be released. The amount of the bond shall be determined by the Planning Commission based upon the size and nature of the project.

Section 19.06. TIME FOR COMPLETION. Each site plan shall be fully complied with and all construction completed within one (1) year of the date the building permit is issued. Site plan approval shall expire two (2) years from the date the Planning Commission granted initial approval, unless the site plan has been fully completed or unless an extension has been granted by the Planning Commission.

◆ARTICLE XX
Amended 02-09-2010

**PROCEDURES FOR SPECIAL LAND USE
APPROVALS BY PLANNING COMMISSION**

Section 20.01.00 APPLICATION. For all special land uses, a written application shall be submitted to the Planning Commission. Such application shall contain a description of the proposed use, a legal description and street location of the property on which the proposed use would be located, the signature of the property owner, the signature of the petitioner (if different from the property owner), and a scale drawing of the site. The scale drawing shall show existing and proposed buildings, driveways, points of ingress and egress, parking areas, fencing, landscaping, signs and road right-of-ways.

Section 20.02.00 HEARING. Request for special land uses may be heard and decided at any regular or special meeting of the Planning Commission, provided the petitioner has presented all required information and proper notice has been given, Notices of public hearing on special land uses shall be sent to the person requesting the special approval, the owner of the property which is subject of the request, and to owners of the property within a minimum of three hundred (300) feet from the property lines of the property which is the subject of the request. Notice shall be given to property owners as shown on the latest tax assessment roll. Notice shall also be given to any occupants of structures within three hundred (300) feet, if the occupants are different than the owners. A notice shall be published once in a newspaper of general circulation. All notices shall be published, mailed or personally delivered not less than fifteen (15) days prior to the hearing date.

Section 20.03.00 STANDARDS. Requests for special land uses shall be granted or denied based on the following standards:

- A. The location, size and character of the proposed use shall be in harmony with, and appropriate to the surrounding neighborhood.
- B. The proposed use shall not result in the creation of a hazardous traffic condition.
- C. The site layout, intensity of use, and time periods of use shall not be such as to create a nuisance due to dust, noise, smell, vibration, smoke, or lighting.

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

Section 20.04.00. DECISION. The Planning Commission may deny, approve, or approve with conditions any request for a special land use. The decision of the Planning Commission shall be incorporated in a statement containing the findings and conclusions on which the decision is based and any conditions imposed. Any condition imposed shall meet all of the following requirements;

- A. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- B. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

Section 20.05.00 EXPIRATION. Planning Commission permission for a special land use shall expire one (1) year from the date of the meeting at which permission is granted unless the premises has actually been occupied by the use permitted or unless construction has been undertaken to prepare the premises for the use permitted within the one-year period.

◆ARTICLE XXI

Amended 02-09-2010

Zoning Board of Appeals

Section 21.01. ESTABLISHMENT AND MEMBERSHIP OF ZONING BOARD OF APPEALS.

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

Section 21.02. APPLICATIONS AND NOTICE OF HEARING.

All applications for variances or appeals shall be applied for in writing on forms provided by the Township. The Zoning Board of Appeals may require the appellant to provide such additional information as is necessary to make a decision. The Zoning Board of Appeals shall give notice of the hearing by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within three hundred (300) feet of the property and to the occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located in the Township. Notice shall also be published in a newspaper of general circulation. All notices, whether mailed, personally delivered, or published shall be done at least fifteen (15) days prior to the hearing.

Section 21.03. POWERS.

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

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

C. Use Variances. The Zoning Board of Appeals shall also have the power to grant use variances whenever there are unnecessary hardships imposed on a property owner if the strict letter of the ordinance is carried out. In order to grant a use variance, each of the following requirements shall be met:

1. The situation cannot be self-created.
2. The circumstances must be unique to the property.
3. The character of the neighborhood cannot be altered by granting of the variance.
4. The land cannot be reasonably built upon in conformity with Zoning Ordinance.

Section 21.04. DECISIONS.

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

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

C. In making a decision, the Zoning Board of Appeals may impose such conditions as it may deem necessary to comply with the spirit and purpose of the Zoning Ordinance. Any conditions imposed by the Zoning Board of Appeals shall meet the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

Section 21.05. EXPIRATION OF VARIANCE APPROVAL.

Any variance shall expire one (1) year from date it is granted unless use of the property has begun or construction has been undertaken pursuant to the variance.

◆ARTICLE XXII
Amended 02-09-2010
Amendments and Rezoning

Section 22.01. APPLICATION. The Township Board may, after a public hearing by the Township Planning Commission, amend the regulations or the district boundaries of this Ordinance pursuant to the authority and according to the procedure set forth in the Michigan Zoning Enabling Act. Proposed amendments to the regulations or district boundaries of the Ordinance may be initiated by the Township Planning Commission, the Township Board or an individual petitioner. Whenever an individual petitioner request a zoning amendment, he shall be the free owner of the premises concerned or else have the free owner also subscribe to his petition. A petition for rezoning shall be submitted to the Township Clerk along with a rezoning fee, as established by the Township Board.

Section 22.02. NOTICE OF HEARING. Notice of a Planning Commission public hearing for a zoning amendment or a rezoning of property shall be published in a newspaper of general circulation in the Township for each proposed amendment to the regulations or district boundaries. If property is proposed to be rezoned, notice shall also be delivered personally or by mail to the owner of the property proposed for rezoning and the owners of all property within three hundred (300) feet of the property proposed to be rezoned. Notice shall also be given to any occupants of structures within three (300) feet, if the occupants are different than the owners. The notice shall be published, mailed or personally delivered no less than fifteen (15) days before the hearing date.

Section 22.03. PLANNING COMMISSION HEARING AND RECOMMENDATIONS. After conducting the required public hearing, the Township Planning Commission shall adopt recommendations as to the approval or denial of the proposed rezoning of property or amendment to the Ordinance regulations. Upon completion of action by the Township Planning Commission, the proposed rezoning or amendment shall be submitted to the Sanilac County Planning Commission for review and recommendation.

Section 22.04. TOWNSHIP BOARD. Upon receipt of the recommendations of the Township Planning Commission and the County Planning Commission, the Township Board shall undertake consideration of the proposed rezoning or amendment. If no recommendation is received from the County Planning Commission within thirty (30) days after it received the proposed rezoning or amendment, the Township Board shall conclusively presume that the County has waived its right for review and recommendation. Any decision by the Township Board which results in the rezoning of property or the amendment of the Ordinance shall be incorporated in an ordinance duly adopted and published by the Township Board.

Section 22.05. VOLUNTARY REZONING AGREEMENTS

- A. AUTHORITY.** The Township Board may, after a public hearing by the Township Planning Commission, enter into an agreement with a property owner to rezone property pursuant to the authority contained in Michigan Compiled Law Section 125.3405, being part of the Michigan Zoning Enabling Act.
- B. APPLICATION.** Any offer to enter into a rezoning agreement shall be submitted to the Township Clerk along with a rezoning agreement fee, in an amount established by the Township Board. Whenever a petitioner offers to enter into a rezoning agreement, the person shall be the fee owner of the premises concerned or else have the fee owner subscribe to the offer. Proposed rezoning agreements may only be initiated by a property owner and not by the Township.
- C. PRE-HEARING MEETING.** Whenever an application for a voluntary rezoning agreement is submitted, a pre-hearing shall be scheduled between the applicant and the Planning Commission. At the pre-hearing meeting, the applicant shall fully explain the agreement being proposed. The Planning Commission and the developer shall then discuss the proposed agreement and put it into appropriate form for a public hearing.
- D. PUBLIC HEARING AND RECOMMENDATION.** After due notice, a public hearing in compliance with all procedural rezoning requirements shall be conducted by the Planning Commission as to the proposed rezoning agreement. The Commission shall subsequently adopt recommendations as to the approval, approval with revisions, or denial of the proposed rezoning agreement.
- E. TOWNSHIP BOARDS.** Upon receipt of the recommendations of the Township Planning Commission, the Township Board shall undertake consideration of the proposed rezoning agreement. Any decision by the Township Board which results in a rezoning agreement shall be incorporated in a written document duly executed by the Township Board and the property owner. The proposed agreement shall be reviewed for legal sufficiency by the Township Attorney prior to final approval. Any such agreement shall be recorded with the Register of Deeds and shall run with the land. The Township shall either record the agreement or shall receive verification that the applicant has done recording.
- F. STANDARDS FOR DECISION.** In deciding whether or not to approve a proposed rezoning agreement, the Planning Commission and the Township Board shall base their decisions on the following factors:
1. The terms of the offer must be reasonably related to the property covered in the agreement.

2. The proposed land use must be designed in such a way as to be compatible with surrounding land uses.
3. The proposed land use permit must be consistent with the goals and policies of the Township, including the Township Master Plan.

G. LIMITATIONS ON AGREEMENTS. A rezoning agreement shall not be used to allow anything that would not otherwise be permitted in the proposed new zoning district. Any agreement shall include a specific time period during which the terms of the agreement must be completed.

H. ZONING REVISION. In the event that the terms of a zoning agreement are not fulfilled within the time specified in the agreement, the Township Board shall initiate a proposed rezoning to revert the property back to the original classification.

**◆ARTICLE XXIII
Amended 02-09-2010
Violations**

Section 23.01. PENALTY. Any person, firm, or corporation, who violate any of the provisions of this Ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine as provided for in the Delaware Township Civil Infraction Ordinance No 95.3, plus costs and other sanctions, for each infraction. Repeat offenses under this Ordinance shall be subject to increased fines as provided by the Civil Infraction Ordinance. In addition, the Township may seek injunctive relief to prohibit operations in violation of this Ordinance, together with reimbursement of all Township costs of court enforcement, including attorney fees.

Section 23.02. NUISANCE PER SE. Any building or structure which is used, erected, altered, raised, razed, or converted or any use of any premises which is begun or changed and in violation of any provision of this Ordinance, is hereby declared to be a nuisance per se.

Section 23.03. REPEAL. The former Articles XX, XXI, XXII, and XXIII of the Zoning Ordinance are hereby repealed and replaced by the provisions of this Ordinance Amendment.

ARTICLE XXIV

Severability and Repeal

Section 24.01. SEVERABILITY. This ordinance and the various articles, sections, paragraphs, sentences, and clauses thereof, are hereby declared to be severable. If any article, section, paragraph, sentence, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby.

Section 24.02. REPEAL. All provision of prior Township Ordinance inconsistent with this ordinance are hereby repealed.

ARTICLE XXV

Enactment

Section 25.01. ORDINANCE ENACTED. The provision of this Ordinance are hereby enacted and declared to be immediately necessary for the preservation of the public health, safety, and welfare of the people of the Township of Delaware.

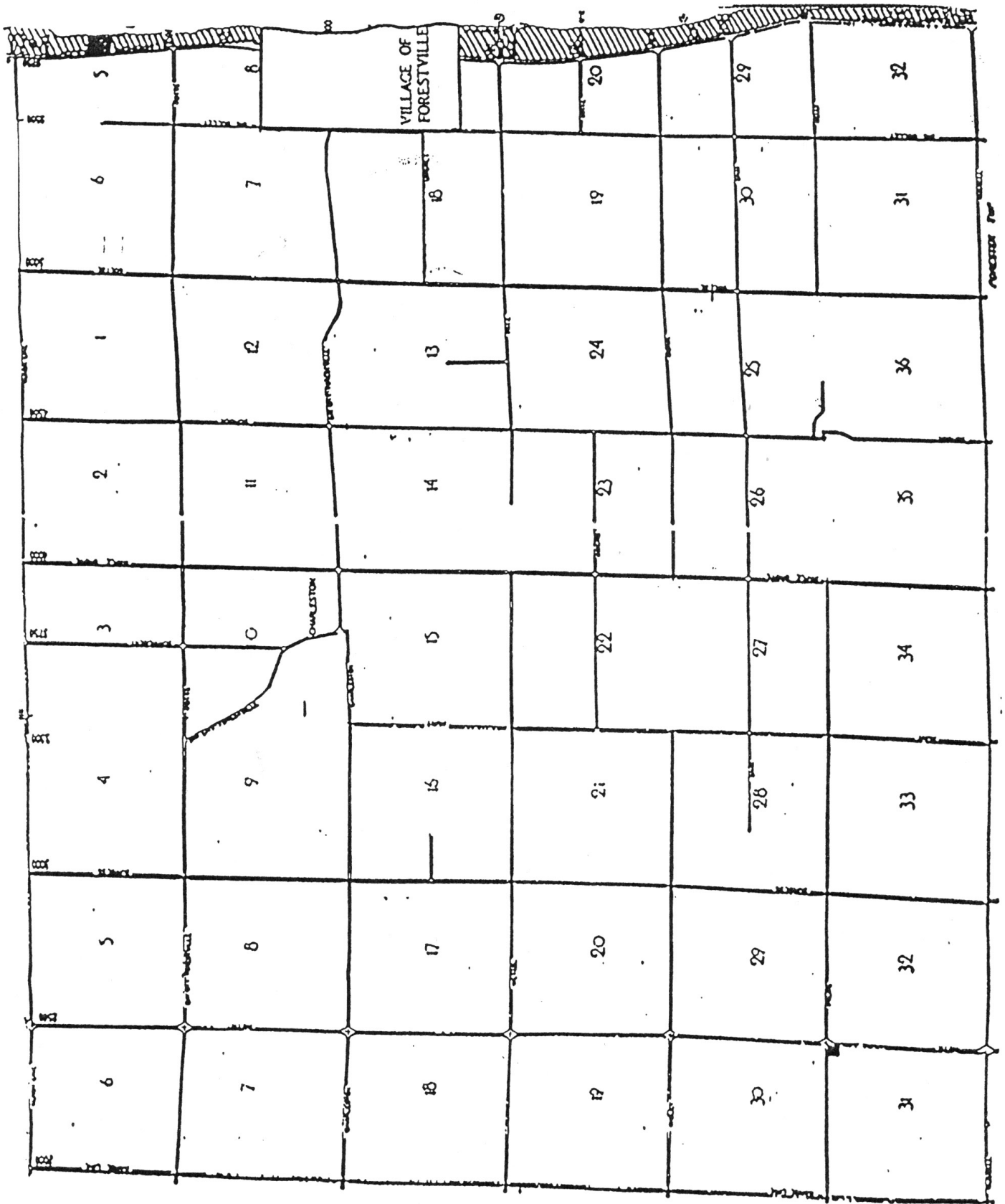
Section 25.02. EFFECTIVE DATE. This Ordinance is ordered to be given immediate effect as of the date of its adoption by the Township Board, pursuant to Section 11 of Michigan Public Act 184 as amended.

Section 25.03. CERTIFICATION. The undersigned Clerk of the Township of Delaware hereby certifies that this Ordinance is a true copy of the Ordinance which was duly adopted by the Delaware Township Board, at a meeting held on the 10 day of November, 1992. I further certify that a notice of adoption of this Ordinance was duly published in the Minden City Herald on the 19 day of November, 1992, pursuant to Section 11a of Michigan Public Act 184 of 1943, as amended.

George Booms
Delaware Township, Clerk

Drafted by: Gary W, Howell, Attorney at Law
Thumb Area Municipal Service, Inc
407 Clay Street
Lapeer, Michigan 48446

ZONING DISTRICTS MAP
1992



Wind & Solar Overlay District Map

Amended 12-12-18

