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## **RESOLUTION 2024 - 6** **AMENDMENT/SUPPLEMENT TO OR-01-05 CLINTON COUNTY ZONING ORDINANCE** **ORDINANCE No. OR – 203 – 24**

At a public meeting held by the Board of Commissioners of Clinton County, Michigan on the 26<sup>th</sup> day of March 2024, at 9:00 a.m., the following Ordinance was offered:

WHEREAS, the Michigan Zoning Enabling Act, 2006 PA 110, as amended, authorizes the Clinton County Board of Commissioners ("Board") to adopt, amend and supplement a zoning ordinance regulating the public health, safety and general welfare of persons and property; and

WHEREAS, the Clinton County Planning Commission ("Planning Commission") duly noticed and held a public hearing on December 14, 2023 to consider amendment ("Ordinance Amendment") to the Clinton County Zoning Ordinance; and

WHEREAS, on December 14, 2023, the Planning Commission recommended approval of the Ordinance Amendment for the reasons stated at the meeting; and

WHEREAS, the Planning Commission transmitted a summary of the comments received at the public hearing and its recommended Ordinance Amendment to the Board; and

WHEREAS, the Board has determined that the Ordinance Amendment would promote and enhance the overall welfare and quality of life in Clinton County; and

WHEREAS, the Board has determined that enacting said Ordinance Amendment is in the best interests of the public health, safety and welfare of the County's residents.

THEREFORE, be it resolved by the Board of Commissioners of Clinton County, Michigan, as follows:

1. Ordinance No. OR 203-24, Amendment to Clinton County Zoning Ordinance, attached as Exhibit A, is hereby approved.
2. This Ordinance Amendment, attached as Exhibit A, shall be filed with the County Clerk.
3. A notice of Ordinance adoption shall be published in a newspaper of general circulation in the County within fifteen (15) days after adoption.
4. Any and all ordinances conflicting with this Resolution are hereby repealed.

ADOPTED:

AYES	<u>Six (6)</u>
NAYS	<u>One (1)</u>
ABSTAINING	<u>Zero (0)</u>
ABSENT	<u>Zero (0)</u>

STATE OF MICHIGAN  
COUNTY OF CLINTON

I, Debra A. Sutherland, Clerk of the County of Clinton, do hereby certify that the above and foregoing is a true and complete copy of certain proceedings taken by the Clinton County Board of Commissioners at a public meeting held on the 23rd day of April, 2024.

*Debra A. Sutherland*

Debra A. Sutherland, County Clerk  
Clinton County, Michigan

*Robert Showers*

Robert Showers, Chairperson  
Clinton County Board of Commissioners

**EXHIBIT A**  
**CLINTON COUNTY**  
**ORDINANCE NO. OR-203-24**  
**AN ORDINANCE TO AMEND THE ZONING ORDINANCE**  
**TO REGULATE WIND ENERGY SYSTEMS**

The County of Clinton ordains:

**Section 1. Addition of Definitions to Article 2 of the County Zoning Ordinance**

The following definitions are added to Article 2 of the County Zoning Ordinance, consistent with the existing ordering of definitions in that section:

- A. Wind Energy System (WECS): Any part of a system that collects or stores wind radiation or energy for the purpose of transforming it into any other form of usable energy, including the collection and transfer of heat created by wind energy to any other medium by any means.
- B. Utility-Scale Wind Energy System: A Wind Energy System in which the principal design, purpose, or use is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity.
- C. Non-Participating Property: A property that is not subject to a Utility Scale Wind Energy System lease or easement agreement at the time an application is submitted for a Special Land Use for the purposes of constructing a Utility Scale Wind Energy System.
- D. Participating Property: A property that participates in a lease or easement agreement, or other contractual agreement, with or that is owned by an entity submitting a Special Land Use Permit application for the purpose of developing a Utility Scale Wind Energy System.
- E. Owner/Operator: A person or entity that owns or operates a Utility Scale Wind Energy System. "Owner/operator," even when used in the singular, may refer to more than one person or entity if there are multiple owners or operators, or the Utility Scale Wind Energy System is owned and operated by different entities. "Owner/operator" includes any successor to the original owner/operator. "Owner/operator" may or may not be the same as the applicant.

**Section 2. Amendment of Section 4.43, entitled "Wind Energy Systems"**

Section 4.43, entitled "Wind Energy Systems," is amended in the County Zoning Ordinance to read as follows:

**Section 4.43 Wind Energy Systems.**

- A. Purpose. This Section is intended to provide suitable locations for utility-scale wind energy systems that are otherwise authorized under state law and the County Code of Ordinances and Zoning Ordinance. It is the intent of the County to permit these systems by regulating the siting, design, construction, operation, monitoring, modification, and removal of such systems to protect the public health, safety, and welfare, and to ensure compatibility of land uses in the vicinity of wind energy systems. The County seeks to preserve its rural character and agricultural heritage in a manner consistent with the Clinton County Comprehensive Plan.

B. Findings. The County finds as follows:

1. It is reasonable to permit utility-scale wind energy systems in the County.
2. The County wishes to preserve its existing topography and rural character, maintain property values, and protect and preserve the quality and pace of rural life of its residents while preserving the environment and protecting wildlife.
3. Wind Energy Systems may impact the health, safety, welfare, and prosperity of that community, including existing property values, especially when in proximity to farms, forests, and residential properties.
4. Wind Energy Systems shall be carefully managed to reduce the potential adverse long-term effects.
5. Impervious surfaces such as wind turbines channel stormwater runoff, and trenching is likely to damage drain tiles. Thus, Utility Scale Wind Energy Systems must be carefully sited, designed, and limited in scope.
6. The County adopts these land use regulations to balance utility-scale wind energy systems in the County with the public, health, and safety impacts identified above.

C. General Provisions. All Wind Energy Systems are subject to the following requirements:

1. All Wind Energy Systems shall conform to the provisions of this Ordinance and all county, state, and federal regulations and safety requirements, including applicable building codes and applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriter Laboratory (UL), National Electrical Code (NEC), National Fire Protection Association (NFPA), and the most current Michigan Uniform Building Code adopted by the enforcing agencies.
2. If an applicant, operator, or landowner of a Wind Energy System fails to comply with this Ordinance, the County, in addition to any other remedy under this Ordinance, may revoke any approvals after giving the applicant notice and an opportunity to be heard. Additionally, the County may pursue any legal or equitable action to abate a violation and recover any and all costs, including the County's actual attorney fees and costs.

D. Utility-Scale Wind Energy Systems. Utility-Scale Wind Energy Systems are permitted by Special Land Use approval in the A-1, A-2, A-3, and MR zoning districts and require a special land use permit under section 6.2 and site plan approval under section 6.1. Utility-Scale Wind Energy Systems are also subject to the following requirements:

1. Special Land Use Permit Application Requirements. In addition to the requirements of section 6.2, the applicant for a Utility-Scale Wind Energy System shall provide the County with all of the following:
  - a. Application fee in an amount set by resolution or fee schedule approved by the County Board of Commissioners.
  - b. A deposit for an escrow account in an amount set by resolution or fee schedule approved by the County Board of Commissioners. The escrow account is used to cover all costs and expenses associated with the special land use review and/or approval process, which costs can include, but are not limited to, review fees of the County Attorney, County Planner, and County Engineer, as well as any reports or studies which the County anticipates will be required during the review and/or approval process for the application. At any point during the review process, the County may require that the applicant place additional monies into escrow with the County if the existing escrowed funds on account with the County will be insufficient, in the determination of the County, to cover any remaining costs or expenses with the review and/or approval process. If additional funds are required by the County to be placed in escrow and the applicant refuses to do so within 14 days after receiving notice, the County will cease the zoning review and/or approval process until and unless the applicant makes the required escrow deposit. Any escrow amounts in excess of actual cost will be returned to the applicant. An itemized billing of all expenses will be provided to the applicant upon request.
  - c. A list of all parcel numbers that will be used by the Utility-Scale Wind Energy System; documentation establishing ownership of each parcel; and any and all lease or option agreements, easements, or purchase agreements for the subject parcels, together with any attachments to such agreements or easements.
  - d. An operations agreement setting forth the operations parameters, the name and contact information of the certified operator, the applicant's inspection protocol, emergency procedures, and general safety documentation.
  - e. Federal Employer Identification Number for current owner/operator is required at the time of application.
  - f. A written emergency response plan detailing the applicant's plan for responding to emergencies, including fire emergencies, and analyzing whether adequate resources and access routes exist to respond to fires and other emergencies. If adequate resources and access routes do not exist, the applicant shall identify its plan for providing those resources. The emergency plan shall include identification of potential hazards to adjacent properties, public roadways, and to the community in general that may be created, as well as plans for immediate cleanup, long-term monitoring, and continued mitigation efforts following an emergency.
  - g. A written description of the fire suppression system that will be installed, which shall identify the manufacturer of the fire suppression system and generally describe its operations and capacity to extinguish fires.
  - h. A written description of specialized training and/or equipment necessary for handling fires and/or other emergencies at the Utility Scale Wind Energy System site. The training plan must include, at a minimum, annual emergency response training for local firefighters and other local emergency personnel at the site of the Utility-Scale Wind Energy System.
  - i. A complete set of photographs, video, and topography map of the entire Participating Property prior to construction.

- j. A copy of any power purchase agreement or other written agreement that the applicant has with an electric utility or any agreement or approval for interconnection between the proposed Utility-Scale Wind Energy System and an electric utility or transmission company.
- k. A written plan conforming to the requirements of this ordinance for maintaining the subject property, including a plan for maintaining and inspecting drain tiles and addressing stormwater management.
- l. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Utility-Scale Wind Energy System, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the Utility-Scale Wind Energy System and restore the subject parcels to as near as possible to the condition the subject parcels were in prior to being used as a Utility-Scale Wind Energy System.
- m. Financial security that meets the requirements of this ordinance.
- n. A plan for resolving complaints regarding but not limited to noise, shadow flicker, maintenance, and drainage from the public or other property owners concerning the construction and operation of the Utility-Scale Wind Energy System.
- o. Identification of and a plan for managing any hazardous waste.
- p. A transportation plan for construction and operation phases, including any applicable agreements with the County Road Commission and Michigan Department of Transportation. The staging area for construction of the Utility-Scale Wind Energy System shall be on a Class A road.
- q. An attestation that the applicant and owner of the subject property will indemnify and hold the County and its officials, elected or appointed, harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Utility-Scale Wind Energy System.
- r. A copy of the manufacturer's directions, instruction manual, and specification sheets including any unredacted safety manuals and Safety Data Sheets (SDS), for installing, maintaining, and using the Utility-Scale Wind Energy System.
- s. A ground cover vegetation establishment and management plan that complies with this ordinance.
- t. Proof of environmental compliance, including compliance with:
  - i. Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.);
  - ii. Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances;
  - iii. Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.);
  - iv. Part 303, Wetlands (MCL 324.30301 et. seq.);
  - v. Part 365, Endangered Species Protection (MCL324.36501 et. seq.);

and any other applicable laws and rules in force at the time the application is considered by the County.

- u. Compliance with the Michigan Uniform Building Code and National Electric Safety Code: Construction of a Utility Wind Energy Facility shall comply with the most current version of the Michigan Uniform Building Code and National Electrical Code adopted by the enforcing agencies as a condition of any Special Land Use Permit under this section.
- v. Conceptual plan. A graphical computer generated depiction of how the Utility-Scale Wind Energy System will appear from all directions.
- w. Any additional information or documentation requested by the Planning Commission, County Board of Commissioners, or other County representative.

## 2. Site Plan Application Requirements.

- a. Contents of Site Plan. In addition to the requirements in section 6.1, the applicant shall, at its expense, provide a detailed application and site plan drafted to a scale of 1" = 200 feet with the following:
  - 1. Location of all proposed structures, turbines, equipment, transformers, and substations.
  - 2. Location of all existing structures or dwellings on the parcel and location of all existing structures or dwelling on adjacent Non-Participating Property within 1000 feet of the property lines of any Participating Properties.
  - 3. Depiction of all setbacks, property lines, fences, signs, greenbelts, screening, drain tiles, easements, flood plains, bodies of water, proposed access routes, and road rights of way.
  - 4. Indication of how and where the system will be connected to the power grid.
  - 5. Plan for any land clearing and grading required for the installation and operation of the system.
  - 6. Plan for ground cover establishment and management.
  - 7. Anticipated construction schedule including, but not limited to, hours and days of construction and completions date.
  - 8. Sound modeling study including sound isolines extending from the sound sources to the property lines.
  - 9. All of the following studies:
    - a. Visual Impact Assessment: A technical analysis by a third party qualified professional of the visual impacts of the proposed project, including a description of the project, the existing visual landscape, and important scenic resources, plus visual simulations that show what the project will look like (including proposed landscaping and other screening measures), a description of potential project impacts, and mitigation measures that would help to reduce the visual impacts created by the project.
    - b. Environmental Analysis: An analysis by a third-party qualified professional to identify and assess any potential impacts on the natural environment including, but not limited to, removal of trees, wetlands and other fragile ecosystems, wildlife, endangered and threatened species. If required, the analysis will identify all appropriate measures to minimize, eliminate or mitigate adverse impacts identified and show those measures on the site plan, where applicable.
    - c. Stormwater Study: An analysis by a third-party qualified professional studying the proposed layout of the Utility-Scale Wind Energy System and how the layout affects

stormwater infiltration, including calculations for a 100-year rain event. Percolation tests or site-specific soil information shall be provided to demonstrate infiltration on-site without the use of engineered solutions.

d. Shadow Flicker Study: An analysis by a third-party qualified professional to determine if shadow flicker from the Utility-Scale Wind Energy System will be visible from nearby airports, air strips, residences, and roadways. The analysis will consider the changing position of the sun throughout the day and year and its influences on the utility-scale wind energy system.

e. Any other studies or information requested by the Planning Commission.

10. Approvals from Other Agencies. Final site plan approval may be granted only after the applicant receives all required federal, state and local approvals, including any applicable approval by the state historic preservation office. Applicant shall provide copies of all review letters, final approved plans, and reports issued by any other governing agencies to the County.

11. The site plan must show the existing topographical grades in two-foot intervals and conditions of all Participating Property at the time of application.

12. Soil testing shall be done as prescribed by state and federal law and reported to the County. Phase I Environmental Site Assessment Study shall be reported to the County. If a Phase II Environmental Site Assessment study is completed, it shall also be reported to the County. If there is contamination and a Phase III Environmental Site Remediation is conducted, it shall be reported to the County.

Immediately prior to decommissioning, a soil test shall be conducted on the wind energy site by a third-party professional with knowledge of current testing procedures. This soil test is for the purpose of determining if there is any contamination from the wind turbines.

13. A written description of how the applicant will address dust control during construction.

3. Application Items as Substantive Requirements. The information, plans, documents, and other items identified as application requirements in this ordinance, including the site plan and special land use permit, are substantive requirements for obtaining approval for a Utility-Scale Wind Energy System. The Planning Commission is to review the sufficiency of the application materials. If the Planning Commission determines that the substance of any application item is insufficient to protect the public health, safety, and welfare, the Planning Commission shall deny approval on that basis.

4. Insurance. Before commencing construction of the Utility-Scale Wind Energy System, Applicant must provide to the County Planning staff proof of the owner/operator's public liability insurance. If the applicant is approved, proof of insurance shall be provided to the County annually thereafter. The policy shall provide for bodily injury and property damage and shall name the County and each Participating Property owner as an additional insured. The owner/operator shall insure for liability for the utility scale wind system until removed for at least \$25,000,000 per occurrence to protect the owner/operator, County, and Participating Property owner. Proof of a current policy is required annually and shall be provided each year to the County prior to the anniversary date of the Special Land Use Permit.

5. System and Location Requirements.

a. Utility-Scale Wind Energy Systems are to be located only in the A-1, A-2, A-3, and MR zoning districts.

b. The minimum setback from any property line of a Non-Participating Landowner is the greater of 1,600 feet or four times the Tip Height of each turbine in the Utility-Scale WECS. The minimum

setback from any property line or a road right of way is one and one-half times the Tip Height of each turbine in the Utility-Scale WECS. Additionally, each turbine must be located at least one mile from the nearest lake or body of water. If a single Utility-Scale Wind Energy System is located on more than one lot, or if the adjacent parcel is owned by the same owner as the property on which the Utility-Scale Wind Energy System is located, then the lot line setbacks of this subsection do not apply to the lot lines shared by those lots. A lesser setback from those set forth in this subsection may be allowed only if the owner of the non-participating property signs a waiver consenting to a specific setback and the waiver is recorded with the County Register of Deeds.

c. The maximum height of a Utility-Scale WECS with the blade fully extended must not exceed 450 feet, subject to FAA approval.

d. The minimum clearance from ground level to the blade at its lowest point must be at least 75 feet.

e. Blade arcs created by a Utility-Scale WECS must have a minimum of 100 feet of clearance over and away from any structure.

f. Each Utility-Scale WECS must be equipped with a braking or equivalent device, capable of stopping the Utility-Scale WECS operation in high winds with or without SCADA control. The braking system must be effective during complete grid power failure when Utility-Scale WECS are unable to communicate with SCADA control or receive power.

g. All turbines must be equipped with technology that automatically de-ices the turbine blades. The system must detect ice and heat the blades, such as through the use of built-in carbon heating mats or through the circulation of hot air.

h. A Utility-Scale WECS must not produce any shadow flicker on non-participating properties. This provision may be waived only if the owner of the affected non-participating property signs a waiver consenting to the flicker or some other mitigation efforts that is recorded with the County Register of Deeds.

6. **Permits.** All required county, state, and federal permits shall be obtained before the Utility-Scale Wind Energy System begins operating.

7. **Appearance.** All turbines and towers must be painted a non-obtrusive, neutral color, such as beige, gray, or off-white and must be non-reflective. All turbines bases and blades must be the same color and must be consistent with the color of other Utility-Scale WECS in the County. No advertisements, graphics, or striping are permitted on the blades or towers. The applicant is encouraged to select anti-icing paint that prevents the formation of ice on the surface of the turbine's blades.

8. **Lighting.** Lighting of the Utility-Scale Wind Energy System is limited to the minimum light necessary for safe operation. Towers may be lit only to the minimum extent required by the FAA. RADAR activated lighting must be used if allowed by FAA. Aircraft Detection Lighting System (ADLS) shall be required.

9. **Noise.**

A background (ambient) sound study shall be performed by a certified third-party acoustic or sound engineer selected by the Zoning Administrator at the expense of the applicant, and a report provided which indicates Leq 1 second, L10, and L90 sound levels using A-weighting and C-weighting. Data shall be collected at midpoints along property lines of adjoining Non-Participating and Landowners Participating. Measurement procedures are to follow the most recent versions of ANSI S12.18 and ANSI S12.9, Part 3 guideline (with an observer present). Measurements shall be taken using an ANSI or IEC Type 1 Precision Integrating Sound Level Meter. The study must include a minimum of a four-day (96 hour) testing period, include one Sunday, and divide data by daytime and nighttime. The sound background study shall report for the period of the monitoring topography, temperature,

weather patterns, sources of ambient sound, and prevailing wind direction. In such cases where the existing, pre-development background (ambient) sound levels exceed the following:

- a. 45 dBA or 55 dBC Leq 1 second, as measured at the property line, between the hours of 7:00 a.m. and 9:00 p.m.,
- b. 40 dBA or 50 dBC Leq 1 second, as measured at the property line, between the hours of 9:00 p.m. and 7:00 a.m.,

At no times shall the noise generated by the Utility Scale Wind Energy System result in sound measurements exceeding said pre-development ambient sound levels as described herein. All sound measurements are to be instantaneous and shall not be averaged.

Should the background (ambient) sound study result in sound levels at or below the measurements described in Sec. 4.43.D.9.a-b, then the noise generated by the Utility Scale Wind Energy System shall not result in a sound level exceeding said measurements.

10. Noise Impact Report. The applicant shall provide a report of the impact of the proposed Utility-Scale Wind Energy System with the application. It shall describe in detail all noise studies and must demonstrate compliance with all ANSI/ISO standards for outdoor measurements and predictions. Where such standards include confidence limits or limitations of use the report shall present them and provide an explanation of how they were addressed. Applicable Standards include: S12.9 "Quantities and Procedures for Description and Measurement of Environmental Sound," Part 4 "Noise Assessment and Prediction of Long-term Community Response," and ISO 9613-2 "Acoustics-Attenuation of sound during propagation outdoors, Part 2, "General Method of Calculation." It shall be produced and certified by a qualified acoustical consultant with Full Member status with the Institute of Noise Control Engineering (INCE) and include:

1. A description and map of the project's sound producing features, including the range of decibel levels expected and the maximum decibel levels expected (to be measured in dB(A) and dB(C)), and the basis for the expectation.
2. A description and map of the existing land uses and structures including any residences, hospitals, libraries, schools, places of worship, and parks within one (1) mile of the proposed Utility-Scale Wind Energy System. Said description shall include the location of the structure/land use, distances from the source of the sound or Utility-Scale Wind Energy System and background (as defined in S12.18 for "residual" noise) decibel readings (including appropriate documentation per ANSI standards for reporting, including the date and time, when measurements are taken) for each identified land use and structure described and mapped.
3. A description of the project's proposed sound control features shall be described in detail, including specific measures to minimize noise impacts to structures and land uses identified in the preceding item. Information about potential post construction mitigation options, such as operation in Noise Reduction Operating (NRO) modes shall be described. If there are no post construction mitigation methods available a statement to that effect shall be included along with reasons supporting that statement.

The report shall address the potential for any and all adverse impacts from sound emissions on the community and its residents located within 1 mile from the boundary of the Utility-Scale Wind Energy System.

11. Underground Transmission. All power transmission, communication, or other lines, wires, or conduits from a Utility-Scale Wind Energy System to any building or other structure shall be located underground at a depth that complies with current National Electrical Code standards, except for power switchyards or the area within a substation.

12. Drain Tile Inspections. The Utility-Scale Wind Energy System shall be maintained in working condition at all times while in operation. The owner/operator shall arrange for an inspection to be completed by a contractor qualified with experience in tiling (i.e. hydrogeologist). The owner/operator shall own and be responsible for all tile fixes for the life of the project.

13. Battery Storage. Commercial grid storage batteries or capacitor banks storing or returning supplemental power to the grid are not permitted. Use of Batteries in commercial applications is only permitted as emergency backup for safety lighting and related computer infrastructures.

14. A Utility-Scale WECS must not interfere with any radio, television, or other communication systems. If the County or the applicant or operator of the Utility-Scale WECS receive a complaint about communication interference, the applicant or operator must resolve the interference immediately and provide proof that the interference has been resolved within 90 days.

15. Stray Voltage Assessments: No stray voltage originating from a Utility Scale Wind Energy System may be detected on any Participating or Non-Participating property. A preconstruction stray voltage test shall be conducted on all livestock facilities located within a one-mile radius of the Participating Properties at the sole expense of the applicant/landowner. The tests shall be performed by an investigator approved by the County. A report of the tests shall be provided to the owners of all property included in the study area. The applicant/landowner shall seek written permission from the property owners prior to conducting testing on such owners' property. Applicants/landowners shall not be required to perform testing on property where the owners have refused to grant permission to conduct the testing. The owner of any Participating Property included in the list of project parcels shall not refuse the stray voltage testing if they have a MDARD registered livestock facility on the Participating Property.

16. Drainage. Drainage on the site shall be maintained in a manner consistent with, or improved upon, existing natural drainage patterns. Any disturbance to drainage or water management practices shall be managed within the property and on-site in order to not negatively impact surrounding properties as a result of the development. This shall be maintained for the duration of the operation and shall be able to be returned to pre-existing conditions following decommissioning. Any existing drainage tiles that are identified on the property shall be shown on the as-built drawings submitted following construction. Any damage shall be repaired, and a report submitted to the landowner and County. The owner/operator shall report the inspection, along with any damage and repair, to the County within 90 days after each three-year deadline. The County reserves the right to have the Building Inspector or other agent present at the time of repair. Wind turbine support structures and/or foundations shall be constructed to preserve any drainage field tile or system.

17. Access Routes. Access drives and routes are subject to the approval of the County Road Commission to the extent of the Road Commission's jurisdiction. All access drives and roads within the site shall be adequately maintained for emergency vehicle use, including winter maintenance.

18. The owner/operator shall submit an As Built Drawing with dimensions relative to property lines of all new structures including turbines and buried cable both inside and outside fenced areas upon completion and before any power is supplied to the grid. The As Built Drawing shall be a scale of 1" = 200 feet.

19. Signs. Signs are permitted but shall comply with section 5.7. The lot shall include at least one sign identifying the owner and providing two 24-hour emergency contact business telephone numbers as well as one "No Trespassing" sign.

20. Emergency Action Plan and Training. Before the Utility Wind Energy System is operational, the owner/operator shall provide the necessary training, equipment, or agreements specified in the application to County or other emergency personnel.

21. Decommissioning and/or Abandonment.

a. If a Utility-Scale Wind Energy System is abandoned or otherwise non-operational for a period of six months, the owner/operator shall notify the County and shall remove the system within six months after the date of abandonment. Removal requires receipt of a demolition permit and full restoration of the site in accordance with the provisions of this Ordinance and to the satisfaction of the Zoning Administrator. The site shall be filled and covered with topsoil and restored to a state compatible with the surrounding vegetation. The requirements of this subsection also apply to a Utility-Scale Wind Energy System that is never fully completed or operational if construction has been halted for a period six months. The owner/operator may request an extension of the six-month periods set forth in this subsection in writing, which the County may grant for good cause.

b. The decommissioning plan shall be written to provide security to the County to remove and dispose of all turbines, removal of all wiring, footings, and pilings, (regardless of depth), and restoration of the land to its original condition. The cost of decommissioning shall be determined by a third-party financial consultant or engineer selected by the County and paid for by the developer. Security for the cost of decommissioning shall be in the amount of 125% of the cost of decommissioning, posted with the County, and shall be in the form of cash, an irrevocable letter of credit, or surety executed by a surety company authorized to do business in the State of Michigan with a Best's Rating of not less than A- and a financial size category of VII or higher. After the cost of decommissioning is initially determined, it shall be updated on a periodic basis of not less than every 3 years and additional security shall be required based on the average inflation rate of the preceding 3 years.

c. All abandonment and decommissioning work shall be done when soil is dry.

d. The ground shall be restored to its original topography within three hundred sixty-five (365) days of abandonment or decommissioning. An extension may be granted if a good faith effort has been demonstrated and any delay is not the result of actions or inaction of the owner/operator. A qualified third party must conduct soil testing (300 feet around each turbine, with a minimum of 10 core samples equally spaced) to ensure that the soil is in its original condition or better condition and to check for toxins that were not present in the baseline soil test.

e. If land balancing is required, all topsoil will be saved and spread evenly over balanced area according to the existing topography map provided at the time of application.

f. An annual report shall be provided to the Zoning Administrator showing continuity of operation and shall notify the Zoning Administrator if the use is to cease, prior to decommissioning, or abandonment.

g. Continuing Obligations: Failure to keep any required financial security in full force and effect at all times while a Utility Wind Energy System exists or is in place shall constitute a material and significant violation of the Special Land Use Permit, and this Ordinance, and will subject the Utility Wind Energy System owner/operator (jointly and severally, if more there is more than one owner or operator) to all remedies available to the County, including any enforcement action, civil action, request for injunctive relief, and revocation of the Special Land Use Permit.

h. The County shall have the right to seek injunctive relief to effect or complete decommissioning, as well as the right to seek reimbursement from the owner/operator or landowner for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real property owned

by the owner/operator or landowner for the amount of the excess, and to take all steps allowed by law to enforce said lien.

i. At the time of decommissioning, the Planning Commission may allow deviations from the above decommissioning requirements following notice and a public hearing in accordance with Section 103 of the Zoning Enabling Act.

22. Complaint Resolution. Utility Wind Energy Systems shall provide a complaint resolution process, as described below:

a. The site shall have signs posted with contact information to collect complaints related to the Utility Wind Energy System.

b. A log shall be kept by the owner/operator of all complaints received and shall be available to County officials for review at the County's request.

c. The owner/operator shall respond to complainants within ten (10) business days and shall provide notification to the Zoning Administrator.

d. Any resolution shall include lawful and reasonable solutions consistent with the Zoning Ordinance, which shall also be provided to the Zoning Administrator.

e. The owner/operator or its assigns reserve the right to adjudicate any claims made against it, including residential claims, in a court of competent jurisdiction. A monthly report shall be submitted to the Zoning Administrator and the County Board that details all complaints received, the status of complaint resolution, and actions taken to mitigate complaints.

f. The applicant or operator will establish an escrow account with the County with a minimum of \$25,000 balance at all times to pay the cost of investigating complaints and other post-construction enforcement such as attorney fees and costs.

23. Maintenance and Repair

a. Each Utility-Scale Wind Energy System shall be kept and maintained in good repair and condition at all times and the site shall be neat, clean, and free of refuse, waste, or unsightly, hazardous, or unsanitary conditions. All wind turbines damaged beyond repair or use shall be replaced and removed from the project site within 30 days and shall be disposed of off-site in accordance with any state or federal requirements. This 30-day period can be extended by the Planning Commission for good cause.

b. If the Planning Commission or Zoning Administrator determines that a Utility Scale Wind Energy System fails to meet the requirements of this Ordinance or the Special Land Use Permit, the Zoning Administrator or Planning Commission shall provide notice to the owner/operator of the non-compliance, and the owner/operator has 14 days to cure the violation. If the violation is a safety hazard as determined by the Zoning Administrator or Planning Commission, then the owner and/or operator has 7 days to cure the violation. If the owner and/or operator has not remedied non-compliance issues in the aforementioned time periods, then the Planning Commission may revoke the special land use permit for the Utility Scale Wind Energy System after holding a public hearing at an open public meeting. Additionally, the County may seek relief at law or equity to abate the nuisance and may also issue a municipal civil infraction citation. Each violation for which the owner/operator are deemed responsible shall result in a \$500.00 fine.

c. The owner/operator shall keep a maintenance log on the wind turbine(s), which shall be available for the County's review within 48 hours of such request.

d. General Maintenance Bond. At the time of the Special Land Use application, the owner/operator shall submit two (2) third-party contractor bids for construction of all fencing, landscaping, and

drainage improvements associated with the utility scale wind energy system. A performance bond in the amount of 125% of the higher bid shall be provided to the County to ensure completion. The County may use the bond to complete or repair any landscaping, fencing, or drainage infrastructure (including drain tiles).

24. Extraordinary Events. If the Utility-Scale Wind Energy System experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the owner/operator shall notify the County within 8 hours.

25. Annual Report. The owner/operator shall submit a report on or before January 1 of each year that includes all of the following:

- a. Amount of electric generation;
- b. Current proof of insurance with the County and Participating Property owner(s) shown as named insured;
- c. Verification of financial security; and
- d. A summary of all complaints, complaint resolutions, and extraordinary events;
- e. All maintenance completed throughout the year including any turbines that were out of commission; and
- f. A report of any personal property acquired or added (including replacements) during the previous year and the value of that personal property.

Additionally, a representative of the owner/operator shall appear before the Planning Commission annually to report on the Utility-Scale Wind Energy System and address questions or concerns from the Planning Commission.

26. Inspections. The County may inspect a Utility-Scale Wind Energy System at any time by providing 24 hours advance notice to the owner/operator.

27. Transferability. A special use permit for a Utility-Scale Wind Energy System is transferable to a new owner. The new owner shall register its name, Federal Employer Identification Number, and business address 30 days prior to the transfer date with the County and shall comply with this Ordinance and all approvals and conditions issued by the County. In the event of a sale or transfer of ownership and/or operation of the wind facility, the original security bond or escrow shall be maintained throughout the entirety of the process and shall not be altered.

28. Major and Minor Site Plan Amendments.

- a. Major site plan amendments include those listed in Section 6.1(U)(2) and any of the following:
  1. Changes of the location of turbines, fencing, buildings, or ancillary equipment by 10 feet or more.
  2. Any increase in the height of wind turbines.
- b. Minor site plan amendments include those listed in section 6.1(U)(1) and any of the following:
  1. Changes of the location of turbines, fencing, buildings, or ancillary equipment by less than 10 feet.

29. Remedies. If an owner/operator fails to comply with this Ordinance, the County, in addition to any other remedy under this Ordinance, may revoke the special land use permit and site plan approval after giving the owner/operator notice and an opportunity to be heard. Additionally, the County may pursue any legal or

equitable action to abate a violation and recover any and all costs, including the County's actual attorney fees and costs.

**Section 3. Validity and Severability.**

If any portion of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

**Section 4. Repealer.**

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

**Section 5. Effective Date.**

This Ordinance takes effect seven days after publication as provided by law.

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