

MARLETTE TOWNSHIP

ZONING ORDINANCE

ORDINANCE NO. 200

2013

TOWNSHIP OF MARLETTE ZONING ORDINANCE

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ZONING ORDINANCE
TOWNSHIP OF MARLETTE
ORDINANCE NO. 200

AN ORDINANCE to regulate the use of land within the Township of Marlette, Sanilac County, Michigan in accordance with the provisions of the Michigan Zoning Enabling Act, being Public Act 110 of the Public Acts of 2006, as amended.

THE TOWNSHIP OF MARLETTE ORDAINS:

ARTICLE 1

Title

Section 1.01. This Ordinance shall be known and cited as the Marlette Township Zoning Ordinance No. 200.

Section 1.02. PURPOSE AND OBJECTIVE. This Zoning Ordinance is based on the Michigan Zoning Enabling Act and the adopted Marlette Township master Plan and any amendments to the Master Plan addressing future development patterns and development goals. This Ordinance is intended to implement the Master Plan by regulating the use of land, buildings and structures to promote the public health, safety and general welfare by accomplishing the following:

- A. Establishment of zoning districts and uniform regulations applicable to each district governing the use of the land and dimensions for building and site development with such minimum regulations as are deemed necessary to carry out the provisions of this Ordinance.
- B. Accommodate and promote land uses which are compatible with the Township's character and conserve the property values and stability of prime farmlands, rural residence areas, residential neighborhoods, conservation/recreation areas, and general business districts.
- C. Encourage use of the lands and natural resources in accordance with their character and capability, thus preserving the sensitive and significant natural features in the Township, such as wetlands, lakes, prime farmland, topography, open space, mature vegetation and wildlife habitat. The Ordinance acknowledges the importance of these features on the long-term economic climate of all uses in the Township and the overall quality of life for Township residents.
- D. Limit or prohibit improper use of land.
- E. Reduce hazards to life and property.
- F. Balance the Township's right to compatible and quality development with the property owners' right in land.
- G. Provide property owners with reasonable, though not always direct, access to property.

- H. Establish controls over potential conflicting land uses and uses which may need special regulations as Special Land Uses to be compatible with surrounding development patterns and zoning.
- I. Promote the gradual elimination of uses, buildings and structures which do not conform to the regulations and standards of this Ordinance.
- J. Provide for administering this Ordinance, including resolving conflicts with other ordinances, collection of fees, procedures for petitions, hearings and appeals; and to provide for any other matters authorized by the Zoning Enabling Act.
- K. Protect natural features, ground and surface waters from pollution.

ARTICLE 2

Activities Covered By Ordinance

Section 2.01. No building or structure, or part thereof, shall be erected, constructed, reconstructed, 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 3

Administration

Section 3.01. ZONING ADMINISTRATOR. The provisions of this Ordinance shall be administered 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 the Township Board may determine.

Section 3.02. ZONING PERMITS. A zoning permit shall be acquired from the Zoning Administrator before any construction is undertaken, any structure is moved, any pond is excavated, or any change in the use of any land or structure is undertaken within the Township. A zoning permit shall not be required for accessory structures containing less than 200 square feet. The term "change in use" shall mean a land use which is a new land use on the property and which is not accessory to an existing land use which conforms to the ordinance.

- A. APPLICATION. A zoning permit shall be applied for in writing on an application form provided by the Township and shall include a plot plan of the proposed land use.
- B. PERMIT ISSUANCE. A zoning permit shall be approved 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 (1) year after the date of issuance unless the proposed use has been commenced within that year. Any amendment to the Zoning Ordinance shall have the effect of voiding any outstanding zoning permits for uses which have not been commenced and which would violate the amendment.
- D. VOID PERMITS. Any zoning 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 permit due to violations of private covenants, agreements, or deed restrictions if the proposed use is permitted by the Zoning Ordinance.
- F. FEES. The amount of any fees charged for zoning permits, applications, or inspections shall be established by the Township Board.

Section 3.03. OTHER PERMITS. All land uses and construction activities shall conform with the provisions of this Ordinance and all applicable local, county, state and federal regulations including, but not limited to those listed below. Prior to the issuance of a Building Permit, Zoning Permit, Special Land Use Permit, or other permit required under this Ordinance, there shall be submitted to the Zoning Administrator the following approved permits in all cases such permits are required, or applicable:

- A. Driveway permit including approved culverts, where necessary, as approved by the County Road Commission or the Michigan Department of Transportation, as applicable.
- B. Septic system permit approved by the County Health Department.
- C. Soil erosion and sedimentation control permit from the County Building and Zoning Department.
- D. Floodplain permit from the County Department of Public Works.
- E. Wetland permit from the Michigan Department of Environmental Quality.
- F. Erection of towers or communication equipment from the Federal Communications Commission.
- G. Erection of tall buildings or structures within an airport approach zone, from the airport authority.
- H. Other permits from local, county, state or federal authorities as pertinent such as transport, storage, use, and/or disposal of hazardous substances, waste or other materials.
- I. Building permit addressing requirements of the State Construction Code.

ARTICLE 4

Zoning Districts

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

AR	Agricultural - Residential
SFR	Single Family Residential
RM	Medium Density Residential
MHP	Manufactured Housing Park
C	Commercial
I	Industrial

Section 4.02. DISTRICT BOUNDARIES AND MAP. The boundaries of the zoning districts are shown on the zoning map which is a part of this Ordinance. The map shall be designated as the Marlette Township Zoning Map.

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(Section 4.03. PRINCIPAL USES PERMITTED. All uses of land or structures listed as "principal uses permitted" shall be permitted throughout the district under which they are listed. Any use not expressly listed as a "principal use permitted" is prohibited in that district, unless approval has been obtained from the Planning Commission for the use as a "use permitted after special approval".

Section 4.04. SPECIAL LAND USES. A use of land or structures listed as a "special land use" shall be permitted within the district under which it is listed, provided that Planning Commission approval has been granted pursuant to this Ordinance.

ARTICLES

AR Agricultural - Residential District

Section 5.01. PRINCIPAL USES PERMITTED.

- A. Farms, farm buildings, and farm uses. The keeping of livestock, poultry and rabbits shall be consistent with the Generally Accepted Agricultural Management Practices (GAAMPs) established by the Michigan Department of Agriculture pursuant to the Michigan Right to Farm Act.
- B. Forestry, conservation areas, game refuges, publicly owned parks, and similar non-commercial uses.
- C. Single-family dwellings (subject to Section 13.05).
- D. Farm roadside stands or sales limited to the selling of produce raised primarily on that farm.
- E. State licensed family day-care homes for children.
- F. State licensed residential facilities for six or fewer residents.
- G. Home Occupations.
 - 1. The home occupation must be conducted entirely within an existing building.
 - 2. The home occupation shall be clearly incidental and secondary to the use of the premises as a residence.
 - 3. No noise, odor, fire hazard, or traffic activity shall be created beyond that which is normal in an agricultural or residential area.
 - 4. No outdoor storage or display of merchandise or materials shall be allowed.
 - 5. There shall be no employees, other than family members who reside in the home on the property.
- H. Medical marijuana facilities and caregivers, subject to the following:
 - 1. Any medical marijuana caregiver shall be in continual compliance with all state laws pertaining to the growing, possession, use or distribution of medical marijuana.

- 2. Medical marijuana caregivers shall only be allowed to operate within single family dwellings where they reside. No medical marijuana caregiver shall be allowed to operate in any office building, commercial building, industrial building, apartment building or residential apartment.
- 3. No more than one (1) caregiver shall operate out of any single location. In no event shall more than one caregiver conduct operations on a single parcel of land.
- 4. Any medical marijuana facility shall be at least one thousand (1,000) feet from any school property line and at least five hundred (500) feet from any church, library, or licensed day-care center.

I. Buildings, structures and uses which are accessory to any of the above-permitted uses.

Section 5.02. SPECIAL LAND USES.

- A. Private parks, recreation facilities and activities, campgrounds, shooting ranges, and golf courses.
 - 1. Minimum site size shall be ten (10) acres.
 - 2. AU development features shall be located so as to minimize the possibility of any adverse effect upon adjacent property. This shall include a minimum setback of one hundred (100) feet from property lines.
 - 3. Activities shall be adequately screened from abutting property.
 - 4. The Planning Commission may impose restrictions as to hours of operation, noise levels, and sanitation requirements.
 - 5. Related accessory commercial uses may be permitted by the Planning Commission in conjunction with the recreation use when it is clearly incidental to the main recreational character of the property.
- B. Dog kennels and the raising of fur bearing animals.
 - 1. All animals shall be housed and maintained in a safe and sanitary manner.
 - 2. All pens and runways in dog kennels shall be screened from view from any residences or roads by buildings or greenbelt plantings. Kennels shall have restrictive fencing at least six (6) feet in height.
 - 3. Dog kennels shall be set back a minimum of fifty (50) feet from each property line and one hundred fifty (150) feet from the road.
 - 4. For purposes of this section, a dog kennel is defined as any property on which five (5) or more dogs over the age of four (4) months are kept or harbored.
- C. Quarrying or removal of soil, sand, clay, gravel or similar materials.

It shall be unlawful for any person, firm, corporation, partnership, or any other organization or entity to stockpile, strip or mine any top soil, sand, clay, gravel, stone or similar material; to tunnel, shaft mine or quarry coal, minerals, or earth resources; to use lands for filling or to expand an existing operation without first submitting a 11 application and securing special approval from the Planning Commission and issuance of a permit by the Zoning Administrator.

1. No permits will be required for the following:
 - a) Excavations for building construction purposes, pursuant to a duly issued zoning and building permits.
 - b) Minor or incidental grading or leveling of the above materials when used during development, provided no soil erosion conditions result.
 - c) Quarrying of less than one thousand (1,000) cubic yards per year on a single parcel of land.
2. Each application for special approval shall contain the following information:
 - a) Names and addresses of parties with ownership interest in the premises and the proposed operators of the site.
 - b) Legal description of the premises.
 - c) Detailed statement as to the method of operation, type of machinery or equipment to be used, estimated period of time that the operation would continue, and the acreage proposed for removal.
 - d) Detailed statement as to the type of deposit proposed for extraction. •
 - e) Reclamation plan and detailed statement showing the proposed use of the land after quarrying of fill operations are complete.
 - f) Such other information as may be reasonably requested by the Planning Commission, such as a topographical survey map.
3. Pursuant to the requirements of Public Act **113** of 2011, a proposal which complies with all the requirements of the Zoning Ordinance shall be approved if the applicant can demonstrate the following:
 - a) There are valuable natural resources to be extracted. Under the statute, valuable natural resources are defined by whether the operator can receive revenue and can reasonably expect to operate at a profit and that there is a need for the natural resources by the applicant or on the open market.
 - b) There are not any very serious consequences which would result from the extraction of the natural resources. In determining whether very serious consequences would result, the following factors may be considered:
 - I. The relationship of extraction and associated activities with existing land uses.

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2. The impact on existing land uses in the vicinity of the property.
 3. The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
 4. The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
 5. The impact on other identifiable health, safety, and welfare interests in the Township.
 6. The overall public interest in the extraction of the specific natural resources on the property.
4. Operational Requirements for Operations.
- a) Operations shall only be conducted on parcels of land containing a minimum of twenty (20) acres.
 - b) The operator shall acquire a haul permit from the Road Commission.
 - c) The use of explosives is prohibited.
 - d) In operations involving excavations over five (5) feet in depth, the operator shall provide adequate safeguards to protect the public safety. The Planning Commission may require fencing, locked gates, warning signs and greenbelts where appropriate.
 - e) 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 hardtopping or chemical treatment.
 - f) The completed slopes of the banks of any excavation shall in no event exceed a maximum of three (3) feet to one (1) foot (three foot horizontal to one foot vertical).
 - g) No cut, excavation or stockpiling of material shall be allowed closer than two hundred (200) feet from the centerline of the nearest road right-of-way nor closer than one hundred and fifty (150) feet to the nearest property line. The Planning Commission may prescribe more strict requirements in order to give subterranean support to surrounding property where soil or geologic conditions warrant it.
 - h) The Planning Commission shall, to ensure strict compliance with Ordinance provisions and required conditions of a permit for quarrying and reclamation, require the permittee to furnish a bond, letter of credit, or cash deposit in an amount determined by the Planning Commission.
- D. State licensed residential facilities for seven or more residents.
- E. State licensed group child day-care homes.
- F. Township and other governmental buildings, structures and facilities.

- G. Schools, churches, and cemeteries.
- H. Bed and breakfast establishments. •
- I. Communications and wind generation towers (subject to Section 13.12).
- J. Two family dwellings (subject to Section 13.05).
- K. Veterinary clinics.
- L. Platted subdivisions in compliance with the Michigan Land Division Act.
- M. Site condominium developments.

Single-family detached condominium developments, subject to the following requirements:

1. Review. Pursuant to authority conferred by Section 141 of the Michigan Condominium Act, all Site Condominium Plans shall require final approval by the Planning Commission before site improvements may be initiated. The review process shall consist of the following two steps:
 - a) Preliminary Plan Review. In the preliminary review phase, the Planning Commission shall review the overall plan for the site including basic road and unit configurations and the consistency of the plans with all applicable provisions of Township ordinances. Plans submitted for preliminary review shall include information specified in items a, b, and c of the submission requirements in subsection 2 below.
 - b) Final Plan Review. Upon receipt of preliminary plan approval, the applicant may prepare the appropriate engineering plans and apply for final approval by the Planning Commission. Final plans shall include information as required by items a-g of the submission requirements. Such plans shall have been submitted for review and comment to all applicable county and state agencies. Final Planning Commission approval shall not be granted until such time as all applicable review agencies have had an opportunity to comment on the plans.
2. Submission Requirements. All Condominium Plans shall be submitted for review pursuant to the standards in Article 16 of this Ordinance (Site Plan Review) and Section 66 of the Michigan Condominium Act, and shall also include the following information:
 - a) A survey of the condominium subdivision site.
 - b) A plan delineating all natural features on the site including, but not limited to ponds, streams, lakes, drains, flood plains, wetlands and woodland areas.
 - c) The location size, shape, area and width of all condominium units, and the location of all proposed streets.
 - d) A copy of the master deed and a copy of all restrictive covenants to be applied to the project.

- e) A utility plan showing all sanitary sewer, water, and storm drainage improvements, plus any easements granted for installation, repair and maintenance of utilities.
 - f) A street construction, paving, and maintenance plan for all sheets within the proposed Condominium Subdivision.
 - g) A storm drainage and storm water management plan, including all swales, drains, basins, and other facilities.
3. Zoning District Requirements. The development of all site condominium projects shall observe the applicable yard setback and minimum floor area requirements for structures within the zoning district within which the project is located. The dwelling unit density of the project shall be no greater and spacing no less than would be permitted if the parcel were subdivided into individual lots.
 4. Streets. All streets for a site condominium project shall conform to the Sanilac County Road Commission standards for subdivision streets and shall be dedicated as a public road.
 5. Utility Easements. The site condominium plan shall include all necessary easements for the purpose of constructing, operating, maintaining, repairing, altering, replacing and/or removing pipelines, mains, conduits and other installations of a similar character for the purpose of providing public utilities. Easements shall also be provided for any necessary stormwater run-off across, through, and under the property, including excavating and maintenance of ditches and stormwater retention areas.
 6. Engineering Reviews. Copies of an "as built" survey shall be provided to the Township demonstrating compliance with applicable Township ordinances.
- N. Farmland and open space preservation.
1. Open Space. Land qualifying as open space shall be land set aside for recreational, conservation or agricultural uses and preserved in an undeveloped state. Open space shall not be deemed to include areas within road rights of way, county drain easements or residential yard areas. Development of preserved open space lands or their use for other than recreation, conservation or agriculture purposes shall be prohibited.
 2. Minimum Site Size. The clustering of single-family dwellings for open space preservation may only be permitted on parcels of land containing at least twenty (20) acres.
 3. Open Space Minimum Area. A single-family cluster development must preserve open space equal to a minimum of fifty (50%) percent of the total area of the parcel on which the cluster housing is constructed.
 4. Features To Be Preserved. In order to approve a cluster housing proposal, the Planning Commission must determine that the parcel of land contains natural features which would be preserved through the use of cluster development. Such features must include at least one of the following:

- a. Productive farm land.
 - b. Natural stands of large trees.
 - c. Natural habitat for wildlife within the developed portion of the property.
 - d. Unusual topographic features.
 - e. Water or wetland areas.
5. Maximum Number of Dwelling Units Allowed and Minimum Lot Area. Within an open space preservation development, the Planning Commission may allow a dwelling unit density within the developed area, greater than otherwise would be permitted in the AR zoning district. The maximum number of dwelling units which may be allowed shall be the number of dwelling units which would ordinarily be allowed, based on the total land area of the parcel, including the area to be preserved. The minimum lot area for each dwelling unit within the development may be reduced by the Planning Commission to no less than one (1) acre.
 6. Minimum Setbacks and Lot Width. In areas approved open space preservation development, the required setbacks and lot widths may be reduced by the Planning Commission, subject to the following minimums:
 - a. The minimum side yard and rear yard setbacks shall be at least fifteen (15) feet.
 - b. The minimum lot width shall be at least one hundred (100) feet.
 7. Road Access. All dwelling units within an open space preservation development shall enter only onto a private road or onto a new public road established within the development.
 8. Common Ownership of Preserved Areas. Any land intended to be used as common area by home owners shall be set aside for their exclusive use. All such lands shall be designated on the site plan and shall be protected by restrictions running with the land. The restrictions shall be reviewed and approved as to wording by the Township Attorney to assure the following:
 - a. That title to the open space would be held in common by the owners of all dwelling units in the cluster development.
 - b. That a permanent organization for maintenance and management of such areas would be assured by legal documents prior to the issuance of any building permits or the sale of any property.
 - c. That the restrictions would be sufficient to assure the permanent preservation of the open space.
 - d. That the restrictions could be enforced by all property owners and by the Township.
 9. Preserved Areas Not Owned in Common. Land areas which are to be preserved but not held in common ownership shall be designated on the site plan and shall be protected by restrictions running with the land. The restrictions shall be reviewed and approved as to wording by the Township Attorney to assure the following:

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- a. That the proposed manner of holding title to the preserved open land is acceptable to the Township.
- b. That the proposed restrictions would adequately preserve the natural features and regulate the use of the open land.
- c. That the restrictions could be enforced by all property owners and by the Township.

ARTICLE6

SFR Single Family Residential

Section 6.01. PRINCIPAL USES PERMITTED.

- A. Single and two family dwellings (subject to Section 13.05).
- B. Family day care homes and state licensed residential facilities for six or fewer residents.
- C. Crop production.
- D. Buildings, structures and uses which are accessory to any of the above permitted uses.

Section 6.02. USES PERMITTED AFTER SPECIAL APPROVAL.

- A. Home Occupations, subject to the requirements of Section 5.01.F.
- B. State licensed residential facilities for seven or more residents.
- C. Group day care homes.
- D. Township governmental buildings, structures and facilities.
- E. Schools, churches and cemeteries.

ARTICLE7

RM Medium Density Residential

Section 7.01. PRINCIPAL USES PERMITTED.

- A. Single and two family dwellings (subject to Section 13.05).
- B. Crop production.
- C. State licensed family and group day-care homes for children.
- D. State licensed residential facilities.

- E. Multiple family dwellings on parcels at least five (5) acres in size.
 - 1. There shall be no more than six (6) dwelling units per acre unless the wtltts are served by a municipal sewer system.
 - 2. Each dwelling unit shall contain the minimum number of square feet specified in Section 11.02.
- F. Site condominium developments in compliance with the requirements of Section 5.02.N.
- G. Bed and breakfast establishments.
- H. Platted subdivisions in compliance with the Michigan Land Division Act.
- I. Buildings, structures and uses which are accessory to any of the above permitted uses.

Section 7.02. USES PERMITTED AFTER SPECIAL APPROVAL.

- A. Home occupations (subject to the requirements of 5.01.F.).
- B. Hospitals, convalescent homes, and assisted living facilities.

ARTICLE 8

MHP Manufactured Housing Park

Section 8.01. PRINCIPAL USES PERMITTED.

- A. Manufactured housing parks which comply with the regulations of the Michigan Manufactured Housing Commission.
 - 1. The parcel of land on which a manufactured housing park is located shall contain at least twenty(20) acres.
 - 2. Anymanufactw-ed housing park development which utilizes a privately owned sewage treatment system, shall post a bond with the Townsltlp Treasurer in an amount equal to the estimated cost to replace the system.
- B. Single family dwellings (subject to Section 13.05).
- C. Crop production.
- D. State licensed family day-care homes.
- E. State licensed residential facilities for six or fewer residents.
- F. Buildings, structures and uses which are accessory to any of the above-permitted uses.

ARTICLE 9

C Commercial District

Section 9.01. PRINCIPAL USES PERMITTED.

- A. Any retail business which sells or rents merchandise within a completely enclosed building, except those uses specified in Section 9.02.
- B. Personal service establishments which operate within a completely enclosed building such as restaurants (without drive-through services or alcoholic beverages), laundromats, barber shops, beauty shops, photographic studios, bowling alleys, theaters, and dry cleaning establishments.
- C. Repair or service shops for consumer items such as watches, shoes, or appliances.
- D. Professional and business offices.
- E. Financial institutions.
- F. Funeral homes and mortuaries.
- G. Mini-storage facilities which provide storage space for personal use.
- H. Schools, churches, and publicly-owned buildings or facilities.
- I. Single-family dwellings (subject to Section 13.05).
- J. Crop production.
- K. Medical, dental or veterinary clinics.
- L. Facilities for electricians, plumbers and similar trades within a completely enclosed building.
- M. Buildings, structures and uses which are accessory to any of the above permitted uses.

Section 9.02. SPECIAL LAND USES.

- A. Open-air businesses such as drive-in theaters, fuel or propane sales, race tracks, used car sales, farm machinery sales, outdoor recreational facilities, building supply operations, or any retail business activities which are conducted entirely or partially outside of an enclosed building.
- B. Repair, service, washing, or storage facilities for automobiles, trucks, construction equipment, farm machinery, and similar equipment.
- C. Recycling facilities (not including junk yards).
- D. Communications and wind generation towers (pursuant to Section 13.12).
- E. Taverns, bars, clubs, or other facilities serving alcoholic beverages.

- F. Adult book stores, adult motion picture theaters, adult novelty stores, massage parlors, cabarets, topless bars, or similar establishments, subject to the requirements of this subsection.
 - 1. No two (2) uses listed in this subsection shall be located within one thousand (1,000) feet of each other.
 - 2. No use listed in this subsection shall be located within one thousand (1000) feet of any residential dwelling unit. This prohibition may be waived if the person applying for the waiver shall file with the Planning Commission a petition which indicates approval of the proposed use by fifty-one (51%) percent of the persons owning property, residing or doing business within a radius of one thousand (1,000) feet of the location of the proposed use. The petitioner shall attempt to contact all eligible locations within this radius and must maintain a list of all addresses where no contact was made.
 - 3. No use listed in this subsection shall be located within one thousand (1,000) feet of any church, school, park, or township hall.
 - 4. Signs shall contain no photographs, silhouettes, drawings, videos, or pictorial representations which include specified anatomical areas or specified sexual activities.
 - 5. Adult related businesses shall not be located within a building in which one (1) or more dwelling units are located.
 - 6. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, at an illumination of not less than one (1) foot candle measured at floor level.
- G. Drive-Through-Restaurants.
 - 1. Access to and egress from a drive-in establishment shall be arranged to ensure the free flow of vehicles at all times and to prevent the blocking or endangering of vehicular or pedestrian traffic through the stopping of vehicles on sidewalks or streets.
 - 2. All lighting and audio facilities shall be as designed so as not to disturb nearby residential areas.
- H. Wholesale business operations.
- I. Hotels, motels, lodge halls, private clubs, auditoriums, and indoor recreational establishments.

ARTICLE10

I Industrial District

Section 10.01. PRINCIPAL USES PERMITTED.

- L A. Factories engaged in manufacturing, assembling, machining, or other industrial or commercial production.

- (B. Truck terminals.
- C. Public utility service yards.
- D. Repair facilities.
- E. Laboratories.
- F. Warehousing, storage, or wholesale facilities.
- G. Building material sales operations.
- H. Township municipal buildings and uses.
- I. Crop production.
- J. Buildings, structures, and uses which are accessory to any of the above permitted uses.

Section 10.02. SPECIAL LAND USES.

- A. Junk or recycling yards.
 - 1. No parcel of land shall be used for the operation of a junk yard unless such parcel shall have an area under single ownership of at least forty (40) acres.
 - 2. The setback from the front road right of way line to any area upon which junk materials are stored shall be not less than one hundred (100) feet.
 - 3. Any junk yard must be completely enclosed by a wall, berm, or fence at least eight (8) feet in height which completely obscures the view of all material within the yard. Any wall or fence shall be kept uniformly painted, neat in appearance and shall not have any signs, posted bills, or advertising symbols painted on it. Any berm shall be landscaped and maintained with trees, shrubs and mowed grass.
 - 4. No junk, scrap, inoperable vehicles or unlicensed vehicles shall be stored, placed or parked outside of the enclosed area.
- B. Recycling facilities.
- C. Slaughter houses and meat processing facilities.
- D. Industries involving the processing, treatment, use or storage of explosives, toxic chemicals, or radioactive materials.
- E. Communications or wind generation towers (pursuant to Section 13.12).
- F. Fuel storage facilities and fuel transfer facilities, including propane, petroleum, ethanol, and similar fuels.
- G. Airports.

ARTICLE 11

Area, Setback and Height

Section 11.01. COMPLIANCE.

- A. All lots, structures and ponds shall comply with the area, setback, and height requirements of Section 11.02, unless different requirements are specified as a condition for a use pennitted after special approval or pursuant to a variance.

Section 11.02. TABLE OF AREA, SETBACK AND HEIGHT REQUIREMENTS.

Zoning District	Minimum Lot Area	Minimum Lot Width (In feet) (1)	Minimum Front Yard Setback (In feet) (2)	Minimum Side Yard Setback (In feet)	Minimum Rear Yard Setback (In feet)	Minimum Floor Area Per Dwelling (In Sq. ft.) (6)	Maximum Building Height (In feet)
AR	2 acres	200	100	25	25	1300	35 (7)
SFR	1 acre(3)	100(3)	100	15(3)	15(3)	1300	35
RM	2 acres	200	100	25	25	1300 (4)	35
MHP	(5)	200	100	25	25	980	35
C	2 acres	200	100	25	25		35
I	2 acres	200	100	25	25		50

- (1) Measured at minimum front yard setback line.
- (2) Measured from the center of the road right of way.
- (3) The minimums are reduced to 20,000 squarefeet lot area and 75 feet lot width if served by a central sewer system or iflocated within a platted subdivision or a condominium subdivision, providing that all Health Department requirements for sewage systems are complied with. The minimum side yard and rear yard setbacks are reduced to 10 feet onsuch lots.
- (4) The minimum floor space for multiple-family dwelling units unit shall be:
- | | |
|-------------------------|-----------------|
| Efficiency | 350 Square Feet |
| One-Bedroom Apartment | 500 Square Feet |
| Two-Bedroom Apartment | 700 Square Feet |
| Three-Bedroom Apartment | 800 Square Feet |
| Four-Bedroom Apartment | 900 Square Feet |
- (5) Internal development within manufactured housing parks is regulated by the Michigan Manufactured Housing Commission. The minimum site size of a oumufactured housing park shall be 20 acres. Any land uses in tltdistrict other than manufactured housing parks shall meet therequirements of Section 11.02 for t11e AR zoning district.
- (6) In no event shall the total floor area of all buildings ona lot or parcel exceed 20% of the total land area of the lot.
- (7) Agricultural structures shall be exempt.

ARTICLE 12

Parking and Loading Requirements

Section 12.01. GENERAL PARKING REQUIREMENTS. In all zoning districts, off-street parking facilities for the storage and parking of motor vehicles shall be provided as required

below. The parking spaces shall be maintained and shall not be encroached upon so long as the main building or structure remains, unless an equivalent number of parking spaces are provided elsewhere.

- A. MINIMUM PARKING SPACE SIZE. Each parking space shall be at least ten (10) feet wide and twenty (20) feet long, exclusive of drives.
- B. MINIMUM WIDTH OF ACCESS LANES IN PARKING AREAS. The minimum width of access lanes for parking spaces shall be twenty-five (25) feet.
- C. LOCATION OF PARKING SPACE. The parking facilities shall be located on the same lot or within five hundred (500) feet of the permitted uses requiring the parking.
- D. 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.
- E. 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.
- F. 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.
- G. DRAINAGE. All parking areas shall be drained so as to dispose of surface water which might accumulate within or upon such area. Drainage shall be provided to ditches, retention ponds or entirely on to the property on which the parking lot is located.
- H. ILLUMINATION. All illumination for such parking areas shall be deflected away from adjacent residential areas.
- L. HARD SURFACING. All parking areas shall be paved or graveled in a manner sufficient to provide a solid base at all times of the year.

Section 12.02. 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:

Use	Required Number Of Parking Spaces	Per Each Unit of Measure as Follows:
A. Auditoriums, Assembly Halls, and Theaters	1	Two seats based upon maximum seating capacity in the main place of assembly therein, plus one space for
B. Churches	1	Four seats based upon maximum seating capacity.
C. Automobile Service Stations	1	Each gasoline pump and lubrication stall plus one space for each employee.
D. Banks and Business	1	Two hundred (200) square

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or Professional Office
of Doctors, Lawyers, Archi-
tects, Engineers, or other
similar professions

feet of usable floor area plus
one space for each employee.

E. Barber Shops and Beauty
Parlors

2

Each barber or beauty
operator plus one space for
each employee.

F. Drive-In Restaurants

1

Twenty-five square feet of
usable floor area, plus one space
for each employee, with a
spaces.

G. Golf Courses

1

Each two employees plus one
space for every five hundred
square feet of usable floor
area h1 the cJub house, plus
a minimum of four parking
spaces per hole on the goJf
course.

H. Industrial Establishments
and Warehouse Facilities

Each employee computed on
the basis of the greatest
number of persons employed
at anyperiod during theday;

I. Residential dwellings

2

Each dwelling unit.

J. Restaurants or similar
establishments in which is
conducted the sale
and consumption on the
premises of beverages, food
or refreshments. This shall
include private clubs, lodges,
and recreational facilities

1

One for each two persons at
maximum seating capacity,
plus one space for each
employee.

K. Retail stores and service
establishments other than
those specified herein

Three hundred square feet
of usable floor area, plus
one space for each employee. There
shall be a minimum of four parking
spaces.

L. Sanitariums, convalescent
homes and hospitals

1

Two beds plus one space for
eachemployee.

M. Hotels, motels and similar
establishments

1

Each sleeping unit, plus one space
for each employee.

L

N. Service garages, auto
salesrooms, auto repair,

1

Two hundred square feet of
usable floor area, plus one

collision or bumping shops,
car wash establishments

space for each employee
on the basis of the maximum
number of employees on duty
at any one time, plus two
spaces for each auto serviced.

0. Repair establishments for
appliances, household items,
glass, and similar items; lawn
and garden establishments

Three hundred square feet
of usable floor area plus one
space for each employee. There
shall be a minimum of four parking
spaces.

For purposes of this section, the term "usable floor area" shall mean the floor area open to the public for customer, office, or retail use. This excludes areas such as bath rooms, warehousing areas, and mechanical rooms. Also for purposes of this section, references to Aeach employee@ shall mean the maximum number of employees on the premises at any one time.

Section 12.03. OFF-STREET LOADING REQUIREMENTS. On the same property with every building or structure used for manufacturing, storage, warehouse, goods display, department store, wholesale, market, hospital, mortuary, laundry, chy cleaning, or other uses involving the receipt or distribution of vehicles, materials, or merchandise, there sball l be provided and maintained on the lot adequate space for loading and unloading. All suchloading and unloading areas shall be paved with a pavement having an asphalt or concrete binder.

Such loading and unloading space, unless adequately provided for within a building, shall be an area at least 12 feet by 40 feet, with minimum 14 foot height clearance, and shall be provided according to the following schedule:

<u>Gross Floor Area (Square Feet)</u>	<u>Loading Spaces Required</u>
0-2,000	None
2,000 - 20,000	One space
Over20,000	One space for each 20,000 square feet.

ARTICLE 13

General Provisions

Section 13.01. CONFLICTING REGULATIONS. Whenever any provisions of this Ordinance impose more stringent requirements than are imposed by the provisions of any other ordinance, the provisions of this Ordinance shall govern.

Section 13.02. ROAD FRONTAGE. Every dwelling or other building shall be located on a parcel of land which shall have frontage on a public road or on a private road improved to the standards of the Marlette Township Private Road and D1iveway Easement Ordinance or on a

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private driveway easement at least sixty-six (66) feet in width which is in compliance with the Private Road and Driveway Easement Ordinance.

Section 13.03. DEPTH TO WIDTH RATIO. No property shall be divided in such a manner that the length or depth of any resulting parcel exceeds five (5) times the width of that parcel.

Section 13.04. RESIDENTIAL OCCUPANCY IN BUILDINGS OTHER THAN COMPLETED DWELLINGS. Garages, barns, pole barns, accessory buildings, basements or other structures shall not be occupied as dwellings unless the requirements of Section 13.05 are complied with. However, the Zoning Administrator may grant temporary occupancy pursuant to Section 13.09.

Section 13.05. SINGLE-FAMILY AND TWO-FAMILY DWELLING REQUIREMENTS. Any single-family or two-family dwelling shall comply with the following minimum standards:

- A. MINIMUM SIZE. Each dwelling unit 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 twenty-four (24) feet in width in all directions, prior to any additions or alterations.
- C. FOUNDATION. Each dwelling shall be provided with foundation support in the form of a perimeter masonry or treated wood foundation or cement pillars pursuant to the specifications of the building inspector. Skirting consisting of brick, concrete blocks, wood, vinyl or aluminum shall be constructed completely around the lower edge of any dwelling utilizing pillars for a foundation. Each dwelling shall be securely anchored to the foundation.
- D. ROOF. Each dwelling unit shall have a roof with no less than a 3-12 pitch.
- E. UNIT AGE. In the case of manufactured housing, each unit shall have been manufactured no more than ten (10) years prior to the date that it is brought into the Township.
- F. STORAGE FACILITIES. Each dwelling shall have either a basement, garage or storage building containing at least one hundred (100) square feet of storage area. The storage facility shall be constructed at the time of the completion of the dwelling.
- G. CONSTRUCTION CODE. Each dwelling and dwelling addition shall comply with building code requirements in effect at the time the dwelling is constructed or moved within the Township.

Section 13.06. SIGNS. All signs shall comply with the requirements of this section.

- A. The following signs specified in items 1-7 may be erected in the Township without Planning Commission site plan approval, provided the other requirements of this section are complied with and provided (in the case of signs specified in items 1-5) that the signs are located on the property being advertised:
 - 1. Signs advertising real estate for sale or rent. Such signs may not exceed sixteen (16) square feet in sign area.
 - 2. Signs advertising agricultural produce grown on the premises. Such signs may not exceed sixteen (16) square feet in sign area.

3. Signs advertising personal property owned by a resident of the premises; provided such personal property was not purchased for the purpose of resale. Such signs may not exceed sixteen (16) square feet in sign area.
 4. Signs advertising home occupations which have received approval pursuant to the Zoning Ordinance. Such signs may not exceed sixteen (16) square feet in sign area.
 5. Signs stating the name and/or address of a property owner. Homeowner and farm owner signs shall not exceed sixteen (16) square feet in sign area.
 6. Signs promoting political candidates or election issues. Such signs may not exceed thirty-two (32) square feet in sign area. Such signs shall be removed within five (5) days after the election.
 7. Temporary signs advertising non-commercial public events for not to exceed thirty (30) days. Such signs shall not exceed thirty-two (32) square feet in sign area and shall be removed within five (5) days after the event. This shall include events for churches, charitable organizations, and community service groups such as 4H, Junior Chamber of Commerce, etc.
- B. A sign site plan shall be approved by the Township Planning Commission before any sign is erected, constructed, or altered, except for signs permitted by subsection A above and except for signs that are 32 square feet or smaller.
- C. The Planning Commission shall review each site plan as to location, height, aesthetics, compatibility with the surrounding buildings and facilities, and compliance with Township ordinances. The Planning Commission may require revisions to the sign site plan.
- D. No sign shall include any flashing, oscillating, or intermittent illumination. However, this section shall not prohibit signs with changing message displays such as digital signs.
- E. All illuminated signs shall be so placed as to prevent the rays and illumination therefrom from being directly cast upon any residences or roadways.
- F. No sign shall rotate nor contain any moving parts.
- G. All signs shall be set back from all side property lines no less than the minimum distance required by the Zoning Ordinance for buildings and structures and shall not encroach on any road rights of way.
- H. All signs shall be maintained so that they comply continuously with all requirements of this Ordinance and are kept in a good state of repair.
- I. ON-SITE SIGNS.
1. One principal sign shall be permitted on the site of each commercial, industrial, or institutional facility.
 2. Principal on-site signs shall not exceed sixty-four (64) square feet in sign area.

3. No more than two secondary signs shall be permitted on the site of each commercial, industrial, or institutional facility.
 4. Secondary on-site signs shall not exceed sixteen (16) square feet in sign area.
- J. OFF-SITE SIGNS. No off-site signs, including billboards, shall be erected within the Township, except for signs that are thirty-two (32) square feet or less in sign area. Such signs shall not require site plan approval but shall require Zoning Administrator approval and shall be limited to no more than two (2) such signs for the same enterprise anywhere within the Township.

Section 13.07. PONDS. Ponds shall only be permitted on a parcel of land containing a minimum of four (4) acres, subject to the following additional requirements:

- A. A zoning compliance permit shall be required for the construction, enlargement, or cleaning of all ponds. The property owner shall submit an application to the Township Zoning Administrator. The application shall be accompanied by a site drawing that demonstrates compliance with the requirements contained in subsections B - K below.
- B. There shall be a side and rear yard setback of at least fifty (50) feet from both the high water mark and the edge of the excavation to all property lines and at least seventy-five (75) feet from any road right of way lines.
- C. A minimum setback of fifty (50) feet shall be maintained from the edge of excavation to the nearest point of any building and twenty-five (25) feet from any driveway or ditch.
- D. There shall be a minimum setback of ten (10) feet from any well. There shall be a minimum setback from any septic tank, tile or disposal field, and any future replacement system site of at least one hundred (100) feet.
- E. The total area of all ponds on a parcel of land shall not exceed twenty percent (20%) of the total area of the parcel.
- F. All ponds shall be constructed with a maximum slope of 3-1 (three feet horizontal to one foot vertical), except that one side of a pond may have a slope with up to a 5-1 slope.
- G. Natural drainage courses encountered during the construction, enlargement, or cleaning of a pond shall not be altered in any way that would adversely affect their functioning.
- H. Discharge of water from a pond shall be controlled through the engineering of an outlet so that the discharge goes to an appropriate natural waterway or County Drain.
- I. No pond shall be located directly beneath an overhead electrical line nor within ten (10) feet horizontally of any overhead electrical line, unless written approval is received from the electric utility company.
- J. Excavated materials may not be hauled off the site except in compliance with Section 5.02.C of this Ordinance.
- K. Ponds that will disturb over one (1) acre of land shall only be excavated after a Soil Erosion Control Permit has been obtained. Ponds of five (5) acres or more in size, or connected to an existing lake or stream, shall only be excavated after a permit has been obtained from the State of Michigan.

Section 13.08. GREENBELTS.

- A. In all zoning districts, no area within the required front yard setbacks shall be used for any pennant or temporary structures other than signs permitted by Township ordinances. Said front yard setback areas shall be planted and continuously maintained 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. The Planning Commission may approve a fence or berm in lieu of a greenbelt.
- C. Detailed landscaping plans for all greenbelts for industrial, commercial, or institutional purposes shall be provided on the site plan relating to the development and shall be considered as a material part of the site plan. No construction project shall be deemed to be completed until all landscaping features required on the site plan have been planted or installed.
- D. The Planning Commission shall review and approve the type of plantings required to provide a satisfactory greenbelt in any specific situation for industrial, commercial or institutional properties.

Section 13.09. TEMPORARY DWELLINGS.

- A. The Zoning Administrator may issue a permit for a manufactured home or other structure as a temporary dwelling to be occupied for up to one (1) year during the time that a permanent dwelling is being constructed. A temporary dwelling does not have to comply with the single family dwelling standards contained in Section 13.05. A temporary dwelling permit may be issued if the following requirements are complied with:
 - 1. A building permit for the permanent dwelling must be acquired before the temporary dwelling is placed on the premises or occupied, except in the case of permanent dwellings which have been damaged by fire or other casualty.
 - 2. The permanent dwelling must be completed and any temporary manufactured home removed from the property before the expiration of the temporary dwelling permit. In the case of garages or other structures, the improvements which make the structure usable as a dwelling must be removed.
 - 3. The applicant must execute an affidavit guaranteeing that any temporary manufactured home will be removed from the premises at the expiration of the permit period. In the case of garages and other structures, the affidavit must guarantee that the improvements which make the structure usable as a dwelling unit will be removed.
 - 4. A temporary dwelling permit may be renewed one time by the Zoning Administrator for up to one (1) additional year for completion of the permanent dwelling, providing reasonable progress has been made on construction of the permanent dwelling during the first one (1) year permit period.
 - 5. A performance bond, letter of credit or cash deposit shall be posted with the Township Treasurer to guarantee removal of the temporary dwelling. The funds

shall be released to the applicant upon verification of removal of the temporary dwelling. The Township Board may waive this requirement in hardship cases.

- Keep to eliminate.*
- B. Variances to permit the occupancy of temporary dwellings, including manufactured homes, which do not comply with the single-family dwelling standards of Section 13.05 may be granted by the Board of Zoning Appeals pursuant to the procedures contained in Article 18. Such variances may only be granted for the purpose of housing family members who are unable to reside elsewhere due to age, poor health, or indigence. Any manufactured home approved under this section may not be over ten (10) years old at the time it is placed on the site. All such manufactured homes shall be inspected by the building inspector to verify code compliance prior to being brought into the Township. Any manufactured home approved pursuant to this section shall be placed on a reinforced concrete pad or concrete piers and provided with adequate tie downs and skirting. In the event that a temporary dwelling ceases to be occupied by the persons for which it was granted, the temporary dwelling shall be removed from the property within one hundred twenty (120) days of the date it ceases to be occupied by those persons. An Affidavit to that effect shall be provided to the Township as detailed in Section 13.09.A.3.

Section 13.10. ONE DWELLING PER PARCEL. No more than one (1) single-family dwelling may be constructed or placed on a single parcel of land. If a variance is granted for farm use or other reasons, all dwellings shall be placed on the parcel in such a manner that the property could be later divided with each dwelling being able to independently comply with all lot size and setback requirements.

Section 13.11. PROHIBITED STRUCTURES. No bus, camper, mobile home, manufactured home, semi-trailer, shipping container, railroad car, truck body or other motor vehicle body or similar item shall be placed on any property for use as a storage structure or other building purpose. This section shall not apply to manufactured homes which comply with Sections 13.05 or 13.09 and are used as single-family dwellings. This section shall also not apply to operable semi-trailers that are currently licensed for highway use and have a current Department of Transportation sticker.

Section 13.12. PUBLIC SERVICE FACILITIES, COMMUNICATION TOWERS, AND WIND ELECTRICAL GENERATION TOWERS.

- A. Public Utilities. 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 16. Any office, warehouse, manufacturing, or sales buildings must be located in the Commercial or Industrial zoning district.
- B. Exempt Antennas and Windmills. Communication antennas, wind generation towers, windmills, and related facilities belonging to farmers, homeowners, or business owners, and used for onsite purposes only shall be exempt from the requirements of this section and shall be allowed as a permitted use in all zoning districts, providing that the antenna, windmill or related facilities do not exceed one hundred (100) feet in height. Any towers, windmills, or related facilities shall be set back from any property lines, right of ways for power lines, or road right of ways no less than a distance equal to one hundred (100%) percent of the height of the structure. The height shall be measured from the ground level to the top of the tower, antenna, or windmill blade, whichever is taller.

C. Commercial Communication Towers. All communication towers, including transmission towers, relay or receiving antennas, and normal accessory facilities involved in telephone, television, radio, microwave, cable systems, cellular, and similar communication services, may be allowed as special land uses in the AR, C and I zoning districts, pursuant to Article 16, subject to the following requirements:

1. An applicant shall submit a site plan and a written application, which shall include an explanation of the design characteristics and the ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards. This information shall address the potential for the tower or other mounting structure and/or antennas to topple over or collapse, and what tower configuration should be expected in such an event. The application shall be reviewed by the Zoning Administrator, who shall notify the applicant within fourteen (14) days if there is any additional information needed to make the application complete. If no notice is sent to the applicant within the fourteen (14) day period, the application shall be deemed to be complete. The Planning Commission must act on an application for special approval for a communication tower which does not involve co-location within ninety (90) days of receipt of a completed application.
2. The minimum setback from any property line, road right-of-way, or right of way for power lines, shall be equal to one hundred (100%) percent of the height of the tower.
3. The tower or antenna shall not be unreasonably injurious to the safety or market value of nearby properties.
4. Any electrical, telephone or other utility lines to the tower site shall be placed underground.
5. All tower bases and related equipment shall be surrounded by a full perimeter fence to prevent unauthorized access. The fence shall have locked gates and shall be cyclone fence at least six (6) feet in height. The applicant may propose alternate means of access control which may be approved at the discretion of the Planning Commission. The site shall be maintained in a neat manner.
6. In order to maximize the efficiency of the provision of telecommunication services, while also minimizing the impact of such facilities on the Township, co-location, or the provision of more than one antenna and more than one user on a single tower at a single location, shall be strongly encouraged. Before approval is granted for a new facility, the applicant shall demonstrate that it is not feasible to co-locate at an existing site.
7. Co-location shall be deemed to be "feasible" for the purposes of this section, where all of the following are met:
 - (a) The site on which co-location is being considered, including reasonable modification or replacement of a facility, is able to provide structural support.
 - (b) The co-location being considered is technologically reasonable, i.e., the co-location will not result in unreasonable interference, given appropriate

physical and other adjustment in relation to the structure, antennas, and the like.

- (c) Existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
 - (d) The fees, costs or contractual provisions required in order to share an existing tower or structure or to adapt an existing tower or structure for co-location are not unreasonable. For the purposes of this paragraph, costs exceeding new tower development are presumed to be unreasonable.
- 8. Applicants receiving approval for a tower shall agree to allow co-location on the tower for reasonable market compensation as long as the conditions described in subsections C.7. (a)(b)(c) and (d) are met.
 - 9. The unit shall be painted a neutral color such as beige or gray. The actual color shall be approved by the Planning Commission.
 - 10. A condition of every approval shall be adequate provision for the removal of the structure whenever it ceases to be used for one year or more. Removal includes the proper receipt of a demolition permit from the Building Official and proper restoration of the site to the satisfaction of the Zoning Administrator. Removal of the tower and its accessory use facilities shall include removing the top six (6) feet of the caisson upon which the tower is located. This area shall then be filled and covered with top soil and restored to a state compatible with the surrounding vegetation.
 - 11. To ensure proper removal of the structure when it ceases to be used for a period of one (1) year or more, any application for a new tower shall include a description of the financial security guaranteeing removal of the tower which will be posted at the time of receiving a building permit for the facility. The security shall be a: 1) cash bond; 2) irrevocable bank letter of credit; or 3) performance bond in a form approved by the Township. The amount of such guarantee shall be no less than the estimated cost of removal and may include a provision for inflationary cost adjustments. The estimate shall be prepared by the engineer for the developer and shall be approved by the Township. The applicant shall be responsible for the payment of any costs or attorney fees incurred by the Township in securing removal.
- D. Commercial Windmills. Wind electrical generation towers and electrical generation windmills, other than those exempted under subsection B, are allowed as special land uses in all zoning districts, pursuant to Article 17 and the following requirements:
- 1. The applicant shall submit a written explanation of the design characteristics and the ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards. This information shall address the potential for the tower or other mounting structure and/or antennas to topple over or collapse, and what tower configuration should be expected in such an event.
 - 2. The minimum setback from any property line, road right-of-way, or right of way for power lines, shall be equal to the height of the windmill blades at the highest point.

3. The tower shall not be unreasonably injurious to the safety or market value of nearby properties.
4. All windmill bases and related equipment shall be surrounded by a full perimeter fence to prevent unauthorized access. The fence shall have locked gates and shall be cyclone fence at least six (6) feet in height. The applicant may propose alternate means of access control which may be approved at the discretion of the Planning Commission. The site shall be maintained in a neat manner.
5. The towers, windmills, and related equipment shall comply with all current guidelines published by the Energy Office of the State of Michigan or its successor agency.
6. The unit shall be painted a neutral color such as beige or gray. The actual color shall be approved by the Planning Commission.
7. The provisions of subsections 13.12 C.10 and C.11 shall also be complied with as to electrical generation windmills.

Section 13.13. YARD SALES. No person shall operate or permit to be operated on his property any yard sale, except in compliance with the following requirements:

- A. No yard sale shall be conducted for more than four (4) days.
- B. No more than four (4) yard sales may be held during any calendar year.
- C. All temporary signs advertising the yard sale shall be removed within twenty-four (24) hours after the completion of the yard sale.
- D. - For purposes of this Ordinance, the term "yard sale" shall mean any offering for sale of personal property in an area zoned for residential use. The term "yard sale" shall include sales commonly known as "garage sales," "porch sales," "basement sales," and similar operations. The offering for sale of a single item only, such as an automobile or a boat, shall not be considered a "yard sale." Any sales which are conducted as part of a permanent business enterprise on property zoned for industrial or commercial use shall not be considered to be "yard sales" covered by this Ordinance.

Section 13.14. MOVING OF BUILDINGS, MANUFACTURED HOMES, AND OTHER STRUCTURES.

- A. No building, manufactured home, or other structure in excess of two hundred (200) square feet in floor area shall be moved into or within the Township unless a Zoning Compliance Permit has been issued by the Zoning Administrator prior to the moving of the building, manufactured home, or structure.
- B. In the case of new manufactured homes, the Zoning Administrator shall be provided with verification that the manufactured home was constructed pursuant to current standards of the U.S. Department of Housing and Urban Development. In the case of new modular homes, the Zoning Administrator shall be provided with verification that the modular homes were constructed in compliance with the BOCA Code or the Michigan Construction Code.

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- C. In all other cases (buildings, structures, or used manufactured homes), the Zoning Administrator shall be provided with a Certificate of Code Compliance pursuant to an inspection conducted by a registered Building Inspector approved by the Township. Any Code deficiencies identified by the Inspector must either be corrected prior to the building, structure, or manufactured home being placed on the property or else the applicant must post a performance bond, bank letter of credit or a cash deposit with the Township Treasurer in an amount sufficient to cover all required repairs. Any repairs covered by a financial guarantee shall be completed within ninety (90) days of the date that the unit is brought into the Township.
- D. The applicant shall be responsible for compensating the registered Building Inspector for all required inspections.
- E. If any building, manufactured home or other structure is moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 13.15. OUTDOOR STORAGE OF RECREATIONAL VEHICLES.

- A. For purposes of this section, recreational vehicles shall be deemed to include motor homes, camping trailers, pickup campers, vans, buses, cargo trailers, or other units designed or used for human occupancy and which do not meet the single-family dwelling standards of Section 13.05. Mobile homes and manufactured homes are not included in the definition of recreational vehicles.
- B. Motor homes or campers may be stored outside on property containing an occupied single family dwelling, provided that there are not more than two(2) such units on the property. Any such recreational vehicle may be occupied for a maximum of one hundred eighty(180) days in any calendar year.
- C. On properties which do not have an occupied single family dwelling, a maximum of two (2) recreational vehicles may be stored or used. Such storage or use shall not exceed one hundred eighty (180) days during any calendar year.

Section 13.16. SOIL EROSION AND SEDIMENTATION CONTROL ACT. All land developed for which a Zoning Permit is required shall attempt to incorporate Low Impact Development solutions for storm water management before employing more aggressive engineering solutions.

Section 13.17. ACCUMULATION OF JUNK OR OTHER WASTE. No junk or other waste shall be accumulated, stored or placed outside of a building of any property except as specifically permitted under this Ordinance, or by any local ordinance.

Section 13.18. LIVESTOCK IN SFR AND RM. The keeping of livestock including but not limited to horses, cows and other split hooved farm animals for recreational purposes may be permitted in the SFR and RM zoning districts for the private and personal use of the owner or lessee of such land, for his family and friends and shall not constitute a commercial operation nor public stable and shall observe the following standards:

- A. For parcels up to two (2) acres: Five (5) livestock weighing up to 20 pounds with no one animal exceeding 20 pounds (example: 5 turkeys weighing 20 pounds each for a total of

100 pounds); and Two (2) livestock weighing 20 to 250 pounds with no one animal exceeding 250 pounds (example: 2 sheep weighing 250 pounds each). No animal weighing over 250 pounds shall be allowed without special approval from the Zoning Administrator (example: 0-2 acres 5 turkeys and 2 sheep). Additional animals will likewise require special approval by the Zoning Administrator.

- B. For parcels 2.1 to 4.9 acres: Five (5) livestock weighing up to 20 pounds per acre with no one animal exceeding 20 pounds (example: three acres could have 15 turkeys weighing 20 pounds each); and One (1) livestock weighing 20 pounds to 3000 pounds per acre with no one animal exceeding 3000 pounds (example: three acres 15 turkeys and 2 horses). Each additional animal will require special approval by the Zoning Administrator.
- C. For parcels 5 acres +: Five (5) livestock weighing up to 20 pounds per acre with no animal exceeding 20 pounds (example: 6 acre parcel could have 30 turkeys weighing 20 pounds each); and one animal weighing 20 to 250 pounds per acre with no one animal exceeding 250 pounds and one animal per acre weighing 250 pounds to 3000 pounds with no one animal exceeding 3000 pounds (example: a 6 acre parcel could have six 3000 pound horses or a 6 acre parcel could have 30 turkeys, 6 sheep and 6 horses). Additional animals will require special approval from the Zoning Administrator.
- D. Adequate fencing and housing for said livestock must meet Michigan Department of Agricultural standards for fencing and housing and shall be entirely constructed prior to the placement of any livestock on said parcel of land.
- E. Animals and their related housing must be clean and well maintained and must comply with general accepted Agricultural Practices and Management Practices. The Concentrated Animal Farm Operations laws and regulations must likewise be followed and applied regardless of size.
- F. For parcels up to five (5) acres, there shall be a 75 foot front setback and 50 foot side and rear setback for any animal housing.
- G. For parcels 5+ acres, there shall be a 100 foot front, side and rear setbacks for any animal housing structures.
- H. No livestock must come into contact with any streams, rivers, ponds, lakes, septic system and/or wells on the property.

Section 13.19. LAND DIVISION AND ACCESS REQUIREMENTS.

- A. All divisions/splits of land shall comply with the provisions of P.A. 288 of 1967 as amended by P.A. 591 of 1996 and P.A. 87 of 1997, being the Land Division Act, State of Michigan and the Township's Land Division Ordinance. Where land does not abut an existing public or private road easement, and a new access route is proposed, standards for the new access route(s) are noted below:
 - 1. The legal description of the access route shall be recorded with the description of the new parcel(s); and
 - 2. Where new access roads cross a watercourse, drainage way, channel, or stream, bridge(s) of other structures providing access over such watercourse(s) shall be designed and constructed so as to permit use and provide access to emergency vehicles, i.e., fire trucks, ambulances, tow trucks, road maintenance equipment, etc.

- B. All land divisions/splits of land will be reviewed to ensure that all new parcels and lots that are proposed to be created, meet the requirements of the Land Division Act, the Township Land Division Ordinance, and minimum Zoning Ordinance requirements not only for lot frontage, depth and area, but also have enough buildable area for erection of a structure outside a floodplain, wetland, and/or sensitive groundwater recharge area, where such lot is to be used for building purposes.
- C. There is adequate buildable area for erection of a structure if the land is within a State regulated floodplain, wetland, high risk erosion area, designated environmental area; unless the parcel is being split for purposes other than building development, in which case the same shall be indicated on a notice filed with the deed also indicating the parcel did not have adequate area for building under applicable regulation at the time it was approved.

Section 13.20. SETBACKS FROM SIGNIFICANT NATURAL FEATURES.

- A. A building setback of at least twenty-five feet (25') with the setback area planted with sod-forming vegetation or covered by retaining naturally occurring vegetation, including shrubs and trees, is encouraged to be maintained along all watercourses, drains, water bodies and wetlands.
- B. The building setback standard described above is required to be maintained by any land use receiving Site Plan approval. Vegetation within the buffer strip may not be clear cut, plowed or graded, except as part of an official drain cleaning project.

ARTICLE 14

Non-conforming Lots, Uses, and Structures

Section 14.01. NON-CONFORMING LOTS OF RECORD. A single-family dwelling and customary accessory buildings may be erected on any lot of record shown on the tax roll at the effective date of adoption of this Ordinance, provided that at least one-half the setback distances required by Section 11.02 can be maintained and provided that septic and well approvals are granted by the County Health Department. Permission to build on smaller recorded lots which lack adequate setbacks may be granted by the Board of Zoning Appeals as long as reasonable living standards can be provided.

Section 14.02. NON-CONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption of this Ordinance that could not be built under the terms of this Ordinance, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such non-conforming structure may be enlarged or altered in any way which increases its non-conformity.
- B. Should such non-conforming structure be destroyed by any means to an extent of more than sixty (60%) percent of the physical structure, 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 14.03. NON-CONFORMING USES OF LAND OR STRUCTURES. Where at the time of passage of this Ordinance lawful use of land or structures exists which would not be permitted by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful, provided:

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

ARTICLE 15

Planning Commission

Section 15.01. ESTABLISHED. The Marlette Township Planning Commission has been established as authorized by the Michigan Planning Enabling Act of 2008 and the Marlette Township Planning Commission Ordinance.

Section 15.02. POWERS. The Planning Commission shall have the power to review and approve site plans pursuant to Article 16 of this Ordinance, to hear and decide requests for special land uses pursuant to Article 17 of this Ordinance, and to hear and make recommendations on zoning amendment requests pursuant to Articles 19 and 20 of this Ordinance.

ARTICLE 16

Site Plan Review Requirements

Section 16.01. 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 16.02. PROCEDURE. All site plans shall be submitted first to the Zoning Administrator, who shall review the plans for compliance with the requirements of the Zoning Ordinance. The Zoning Administrator shall then refer the site plan to the Planning Commission for review and decision. Once a site plan is approved by the Planning Commission, it shall not be altered without the consent of the Planning Commission.

Section 16.03. CONTENT. Each site plan shall include the following:

- A. Area of the site.

- B. Date, north point, and scale of not less than one (1) inch equals one hundred (100) feet.
- C. Dimensions of all property lines.
- D. Location and dimensions of all existing and proposed structures on the property or on adjacent properties within one hundred (100) feet of the property lines.
- E. Location and dimensions of all existing and proposed roads (including rights-of-way), driveways, sidewalks, and parking areas.
- 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.
- H. Exterior drawings of proposed new buildings or existing buildings to which major additions are proposed.
- I. Location, dimensions, and drawings of existing and proposed signs.
- J. Name, address, and telephone number of the person who prepared the site plan.

Section 16.04. 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.
- F. Frequency of Groundwater Protection.
- J. The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains, groundwater and steep slopes. For facilities which use, store or generate hazardous substances in quantities greater than one hundred (100) kilograms per month (equal to about 25 gallons or 220 pounds), the following additional site plan review information is required:
 - a. Location and size of interior and exterior areas and structures to be used for storage, use, loading/unloading, recycling, or disposal of hazardous substances.
 - b. Location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste

storage, collection of contaminated storm water or wash water, and all similar uses.

- c. Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport stormwater or wastewater. The point of discharge for all drains and pipes shall be specified in the site plan.
 - d. Delineation of areas on the site which are known as suspected to be contaminated, together with a report on the status of the site cleanup.
2. Site Plan review standards for facilities which use, store, or generate hazardous substances:
- a. Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.
 - b. Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
 - c. General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a State of Michigan groundwater discharge permit.
 - d. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges shall be allowed without required permits and approvals.

Section 16.05. DEPOSIT. A cash deposit, performance bond, or bank letter of credit 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 deposit shall be released. The amount of the deposit shall be five (5%) percent of the project cost, but in no case less than One Thousand (\$1,000.00) Dollars.

Section 16.06. TIME FOR COMPLETION. Each site plan shall be fully complied with and 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 17

Procedures For Special Land Use Approval By Planning Commission

Section 17.01. 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 17.02. HEARING. Requests 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 the subject of the request, and to owners of property within a minimum of five hundred (500) 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 five hundred (500) 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 17.03. 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, lighting, or other causes.
- D. All specific requirements of the zoning district where the proposed use would be located shall be complied with.

Section 17.04. 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 17.05. 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 utilized for the use permitted or unless construction has been undertaken to prepare the premises for the use permitted within the one-year period.

ARTICLE 18

Zoning Board Of Appeals

Section 18.01. MEMBERSHIP. There is hereby established a Zoning Board Of Appeals. The Zoning Board Of Appeals shall consist of five (5) members appointed by the Township Board. One member may be a member of the Township Board. One member shall be a member of the Planning Commission. The remaining members shall be electors who are not employees or contractors of the Township. Each member shall be appointed for a term of three (3) years, except that the term of office of the members who are also members of the Township Board or Planning Commission shall terminate if their membership on the Township Board or Planning Commission terminates before the end of the three-year term. The Township Board may also appoint two (2) alternate members to three (3) year terms to serve whenever a regular member is unable to participate. The Zoning Board Of Appeals shall elect a Chairman, Vice-Chairman, and Secretary. A Township Board member may not serve as Chairman.

Section 18.02. APPEALS. An appeal may be taken to the Zoning Board Of Appeals by any person wishing to appeal for a variance from any ordinance provision or appeal any final decision of the Zoning Administrator or the Planning Commission. The Zoning Board Of Appeals shall also interpret the zoning map and rule on non-conforming uses and structures whenever the determination of the Zoning Administrator is appealed. All appeals must be applied for in writing on forms provided by the Township. The Zoning Board Of Appeals shall give notice of the hearing to the parties involved. The Zoning Board Of Appeals shall publish a notice of public hearing in a newspaper of general circulation and shall give notice to owners of property within a minimum of five hundred (500) feet from the property lines of the property which is the subject of the appeal. 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 five hundred (500) feet, if the occupants are different than the owners. All notices shall be published, mailed or personally delivered at least fifteen (15) days prior to the hearing date.

Section 18.03. AUTHORITY TO GRANT VARIANCES. The Zoning Board Of Appeals shall have the authority to grant only non-use variances. Non-use variances may be granted whenever there can be shown to be practical difficulties or unnecessary hardships imposed in carrying out the strict letter of the Ordinance. In considering variance requests, the ZBA shall make the following findings:

- A. That there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Ordinance. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
- B. That a practical difficulty exists because of unique circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that does not generally apply to other property or uses in the same zoning district.
- C. That the hardship or special conditions or circumstances do not result from actions of the applicant.
- D. That the variance will be in harmony with the general purpose and intent of this Ordinance and will not cause a substantial adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood or district. If a lesser variance would give substantial relief and be more consistent with justice to others, it shall be so decided.
- E. That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome.

F. That the variance requested is the minimum amount necessary to mitigate the hardship.

Section 18.04. DECISIONS. The Zoning Board of Appeals may require the appellant to provide such additional information as is necessary to make a decision. 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. The Zoning Board of Appeals shall decide appeals in such a manner that the spirit of the Ordinance is observed, public safety secured, and substantial justice done. The Zoning Board of Appeals shall state findings and the grounds for each decision. Any conditions imposed by the Zoning Board of Appeals shall meet 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 related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

Section 18.05. QUORUM REQUIREMENTS. The Zoning Board of Appeals may only conduct business if a majority of the regular members are present.

Section 18.06. EXPIRATION OF VARIANCE APPROVALS. Any variance shall expire one (1) year from the date it is granted unless use of the property has begun or construction has been undertaken pursuant to the variance.

· ARTICLE 19 ·

Amendments and Rezoning

Section 19.01. 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 requests a zoning amendment, he shall be the fee owner of the premises concerned or else have the fee 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 19.02. 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 five hundred (500) feet of the property proposed to be rezoned. Notice shall also be given to any occupants of structures within five hundred (500) feet, if the occupants are different than the owners. The notices shall be published, mailed or personally delivered no less than fifteen (15) days before the hearing date.

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Section 19.03. 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 19.04. 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.

ARTICLE 20

Voluntary Rezoning Agreements

Section 20.01. 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 the Michigan Zoning Enabling Act.

Section 20.02. 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.

Section 20.03. PLANNING COMMISSION HEARING AND RECOMMENDATION. After conducting a public hearing, the Township Planning Commission shall adopt recommendations as to the approval, approval with revisions, or denial of a proposed rezoning agreement. All procedural requirements for a rezoning, as contained in Article 19, shall be complied with.

Section 20.04. TOWNSHIP BOARD. 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. Any such agreement shall be recorded with the Register of Deeds and shall run with the land.

Section 20.05. 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:

- A. The terms of the offer must be reasonably related to the property covered in the agreement.
- B. The proposed land use must be designed in such a way as to be compatible with surrounding land uses.
- C. The proposed land use must be consistent with the goals and policies of the Township.

(Section 20.06. 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 proposed variations from district requirements such as density, permitted uses, or lot size, shall only be granted by the Board of Zoning Appeals pursuant to the variance standards contained in Article 17. Any agreement shall include a specific time period during which the terms of the agreement must be completed.

Section 20.07. ZONING REVERSION. 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 21

Violations

Section 21.01. ENFORCEMENT AND PENALTY. Any person, firm or corporation who violates any of the provisions of this Ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than Fifty (\$50.00) Dollars, plus costs and other sanctions, for each infraction. Repeat offenses under this Ordinance shall be subject to increased fines as provided for in the Marlette Township Civil Infraction Ordinance.

Section 21.02. NUISANCE PER SE. Any building or structure which is used, erected, altered, 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.

ARTICLE 22

Definitions

Section 22.01. DEFINITIONS. For the purpose of this Ordinance, certain terms are herewith defined. Terms not herein defined shall have the meanings customarily assigned to them.

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

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

ADULT BOOK OR NOVELTY STORES. An establishment having a substantial or significant portion of its stock in trade, books, magazines, and other items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," or an establishment with a segment or section devoted to the sale or display of such material or items.

ADULT MOTION PICTURE THEATRE. A building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" for observation by patrons.

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

BED AND BREAKFAST ESTABLISHMENTS. A structure which was constructed for single-family residential purposes but which may be used for the purpose of renting bedrooms on a nightly basis to tourists, including the provision of breakfast meals for overnight guests.

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

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

CABARET. An establishment which permits topless and/or bottomless dancers, strippers, exotic dancers, or similar entertainers.

CONDOMINIUM, SITE. A condominium development which includes only detached single-family residences located on individual sites.

CONDOMINIUM, UNIT. That portion of a condominium project which is designed and intended for separate ownership, as described in the Master Deed. A condominium unit may consist of either vacant land or space which is enclosed by a building. Any condominium unit consisting of vacant land shall be equivalent to the term "lot" for the purposes of determining compliance with minimum lot size or lot width.

DAY-CARE HOME, FAMILY. A private home in which the operator permanently resides as a member of the household in which at least one (1) but not more than six (6) minor children are received for care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day-care homes includes any home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

DAY-CARE HOME, GROUP. A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

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

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

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

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

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

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

FAMILY. One (1) adult or an adult couple, with their direct lineal descendants, adopted children or step-children, with not more than two (2) additional unrelated persons, living together as a single housekeeping unit.

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

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

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

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 (2) of the basement height is above the finished lot grade.

FORESTRY. Planting, cultivating, harvesting, sawing, curing, milling and storage of trees, logs or lumber, but not including manufacturing of wood products.

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

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

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

KENNEL. Any property on which five (5) or more dogs, or similar animals, four (4) months of age 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.

LOW IMPACT DEVELOPMENT (LID). An approach to land development that uses various land planning and design practices and technologies to simultaneously conserve and protect natural resource systems, water quality and reduce infrastructure costs.

MANUFACTURED HOME (includes house trailers, and mobile homes). 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.

MANUFACTURED HOUSING PARK. Any parcel of land which has been designed, improved or used for the placement of three or more manufactured homes or manufactured homes for dwelling purposes.

MEDICAL MARIJUANA. Marijuana, as defined in Section 7106 of the Michigan Public Health Code (MCL 333.7106), which complies with all requirements of the Michigan Medical Marijuana Act (Initiated Law 1 of 2008).

MEDICAL MARIJUANA CAREGIVER. A person authorized under the Michigan Medical Marijuana Act who is at least 21 years old and who has agreed to assist with a patient's medical use of marijuana and who has never been convicted of a felony involving illegal drugs.

MEDICAL MARIJUANA FACILITY. Any location at which medical marijuana is grown or distributed.

PARKING SPACE. An area of not less than ten (10) feet wide by twenty (20) feet long, designed for the parking of a motor vehicle, such space being exclusive of necessary drives, aisles, entrances, or exits and being fully accessible for the storage or parking of permitted vehicles,

PLANNING COMMISSION. The duly appointed Planning Commission of Marlette Township.

PLOT PLAN. A scale drawing showing property lines, driveways and roads, location and dimensions of all structures which exist on the property as well as any proposed structures, and water areas such as ponds, lakes, streams or drains. A plot plan may be prepared by the owner and need not be prepared by a surveyor or engineer.

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.

RECYCLING FACILITY. A facility which receives and processes items for the purpose of salvaging metals, paper products, or recyclable materials. A recycling facility does not include a junk yard or other facility for the resale of automobile parts or other machinery parts.

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

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

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

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

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

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

SIGNIFICANT NATURAL FEATURE. A natural area as designated by the Planning Commission, Township Board, or the Michigan Department of Environmental Quality which exhibits unique topographic, ecological, hydrological, or historical characteristics such as wetlands, flood plan, water features, or other unique natural features.

SPECIFIED ANATOMICAL AREAS:

- a. Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
- b. Human male genitals in a discernible turgid state, even if completely and opaquely covered,

SPECIFIED SEXUAL ACTIVITIES:

- a. Human genitals in a state of sexual stimulation or arousal.
- b. Acts of human masturbation, sexual intercourse or sodomy.
- c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

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, manufactured homes, pre-manufactured units, modular units, and similar items. Any structure located on the same premises for more than six months shall be deemed to be permanently located within the meaning of this definition.

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

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 pennit for travel.

TRAVEL TRAILER PARK. Any parcel of land designed, improved, or used for the placement of three (3) or more travel trailers used 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 or which allows for a variation of a requirement of the Zoning Ordinance not involving the uses permitted within the zoning district

VARIANCE, USE. Any variance which allows a land use which is not included in the principal uses permitted or the special land uses permitted within the zoning district.

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

ARTICLE23

Severability and Repeal

Section 23.01. 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 23.02. REPEAL. The former Marlette Township Zoning Ordinance, adopted on the 18th day of January, 1994, and all amendments thereto, are hereby repealed in their entirety.

ARTICLE24

Enactment

Section 24.01. ORDINANCE ENACTED. The provisions of this Zoning Ordinance No. 200 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 Marlette.

Section 24.02. EFFECTIVE DATE. This Ordinance is ordered to be given effect seven (7) days after the date of publication specified in Section 24.03, pursuant to the Michigan Zoning Enabling Act.

Section 24.03. CERTIFICATION. The undersigned Supervisor and Clerk of the Township of Marlette hereby certifies that this Ordinance is a true copy of the Ordinance which was duly adopted by the Marlette Township Board, at a meeting held on the 12th day of November, 2013 and further certifies that a notice of adoption of this Ordinance was duly published in the Marlette Leader on the J.7... day of November, 2013, pursuant to the Michigan Zoning Enabling Act.

Kirk F. Dale, Sr.
Marlette Township Supervisor

Marge Heussner
Marlette Township Clerk

adopted by the Marlette Township Board, at a meeting held on the 1th day of*ovember, 2013 and further certifies that a notice of adoption of this Ordinance was duly published *in* the Marlette Leader on the 27th day of November, 2013, pursuant to the Michigan Zoning Enabling Act.

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Kirk F. Dale, Sr.
Marlette Township Supervisor

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Marge Heussner
Marlette Township Clerk

TOWNSHIP OF MARLETTE

NOTICE OF ORDINANCE ADOPTION

ZONING ORDINANCE AMENDMENT NO. 01-2021

The Marlette Board has adopted Zoning Ordinance Amendment No. 01 to regulate the caregiver cultivation of marijuana for medical purposes and high amperage requests. This Ordinance Amendment takes effect seven (7) days after the date of publication of this Notice. The following summary of the provisions of this Ordinance Amendment is being published pursuant to Public Act 78 of the Michigan Public Acts of 1989:

- Section 3.02** **ZONING PERMITS.** To define a “change in use” for zoning permits and to create a presumption of “change in use” when electrical equipment having an ampacity of over 200 amperes is installed at residential properties. This presumption can be overcome by the filing of an “Accessory Use Affidavit”
- Section 5.02** **SPECIAL LAND USES.** This section repeals current subsection O of section 5.02 and adds changes pertaining to: Solar Energy Facilities; Commercial Communication Towers; Wind Energy Conversion Systems; Supervisory Control and Data Acquisition; Meteorological Towers; and Caregiver Cultivation of Marijuana for Medical Use as an accessory use to single or two-family dwellings.
- Section 6.02** **SPECIAL LAND USES.** Amends the section by adding Caregiver Cultivation of Marijuana for Medical Use as an accessory use to single or two-family dwellings.
- Section 7.02** **SPECIAL LAND USES.** Amends the section by adding Caregiver Cultivation of Marijuana for Medical Use as an accessory use to single or two-family dwellings.
- Section 8.02** **SPECIAL LAND USES.** Amends the section by adding Caregiver Cultivation of Marijuana for Medical Use as an accessory use to single or two-family dwellings.
- Section 13.22** **CAREGIVER CULTIVATION OF MARIJUANA FOR MEDICAL USE.** To provide restrictions and regulations for the Caregiver Cultivation of Marijuana for Medical use by: requiring caregiver(s) to provide proof of caregiver status, that caregivers must reside in dwelling where the marijuana is cultivated, caregiver cultivation must be an accessory use to a residential dwelling, no changes in outside appearance, no outdoor display, no additional traffic, cultivation must be conducted within the dwelling, parking must be in driveway or designated parking area, cultivation shall not give rise to nuisances, requiring a floor plan showing

hazardous materials as well as a list of those hazardous materials, and caregivers shall allow the township to inspect the property for compliance.

Section 13.23

ACCESSORY BUILDINGS. This section is amended to require the presence of a principal building before accessory buildings may be construction on lots. This excludes farming buildings and structures to be used in *bona fide* farming operations.

Section 22.01

DEFINITIONS. To add definitions for “Caregiver”, “Cultivation”, “Marijuana (Also known as Marihuana)”, “Medical Use (Marijuana)”, and “Reside”.

CERTIFICATION OF CLERK

The Clerk of the Township of Marlette hereby certifies that Zoning Ordinance Amendment No. 01, containing the above referenced amendments, was duly adopted by the Marlette Township Board at a meeting held on the 10th day of August 2021 and that this Ordinance Amendment summary was published in the Saginaw County News on the 25 day of August 2021. Copies of the complete Zoning Ordinance Amendment can be inspected or obtained during regular business hours by contacting the Marlette Township Clerk at 6725 Airport Road, Marlette, MI 48453 or by calling (989) 635-7772.

Cheryl Gould, Clerk

Drafted by:
Brian M. Garner
Attorney at Law
407 Clay Street
Lapeer, Michigan 48446

TOWNSHIP OF MARLETTE
ZONING ORDINANCE AMENDMENT
SOLAR ENERGY FACILITIES
ORDINANCE NO. 200.2

An ordinance to amend the Marlette Township Zoning Ordinance, being Ordinance No. 200, to provide regulation for the operation and maintenance of exempt solar panels and solar energy facilities in the Township.

THE TOWNSHIP OF MARLETTE ORDAINS:

The following Sections of the Marlette Township Zoning Ordinance are hereby amended to add following uses:

Section 5.01. PRINCIPAL USES PERMITTED.

J. Exempt Solar Energy (pursuant and subject to Section 13.21(A)).

Section 5.02. SPECIAL LAND USES.

O. Solar Energy Facilities (pursuant and subject to Section 13.21(B)).

Section 6.01. PRINCIPAL USES PERMITTED.

E. Exempt Solar Energy (pursuant and subject to Section 13.21(A)).

Section 7.01. PRINCIPAL USES PERMITTED.

J. Exempt Solar Energy (pursuant and subject to Section 13.21(A)).

Section 8.01. PRINCIPAL USES PERMITTED.

G. Exempt Solar Energy (pursuant and subject to Section 13.21(A)).

Section 9.01. PRINCIPAL USES PERMITTED.

O. Exempt Solar Energy (pursuant and subject to Section 13.21(A)).

Section 10.01. PRINCIPAL USES PERMITTED.

- K. Exempt Solar Energy (pursuant and subject to Section 13.21(A)).

Section 10.02. SPECIAL LAND USES.

- H. Solar Energy Facilities (pursuant and subject to Section 13.21(B)).

Article 13 of the Marlette Township Zoning Ordinance is hereby amended to add the following Section:

Section 13.21. SOLAR ENERGY.

- A. Exempt Solar Energy. Solar Energy panels located on the premises of a farm, home, or business and which do not primarily involve the sale of electricity off the premises shall be exempt from the requirements of subsection "B". Such units shall be allowed as a permitted accessory use in all zoning districts, providing the electricity is primarily used on site for a farm, home, or business, and these exempt solar energy panels shall comply with all other restrictions and regulations for structures in the relevant district where they are located.
- B. Solar Energy Facilities.
1. ADDITIONAL SPECIAL LAND USE REQUIREMENTS. Solar Energy Facilities shall only be allowed as a special land use in the AR Agricultural-Residential District and the I Industrial District, pursuant to Article 17 as to Special Land Use approvals and the following requirements:
 - (a) Applicant Identification. Applicant name and address in full, a statement that the applicant is the owner involved or is acting on the owner's behalf, the address of the property involved in the application (substitution may include a legal description or parcel identifications number(s)), and any additional contact information. Each application for a Solar Energy Facility shall also be dated to indicate the date the application is submitted to Marlette Township;
 - (b) Project Description. A general description of the proposed project including a legal description of the property or properties on which the project would be located and an anticipated construction schedule;

- (c) Procedure. The Planning Commission review of a Special Land Use Permit application for a solar energy facility is a two-step process. The first step is the public hearing and decision by the Planning Commission, per the procedures for review in Article 17. The second step, which may occur at a separate meeting for a solar energy system, is the site plan review process by the Planning Commission as described in Article 16. A decision on the Special Land Use Permit application by the Planning Commission is inclusive of all proposed solar energy facilities, underground electrical lines, sub-station(s), junction boxes, laydown yard(s), concrete batch plant(s), and any operations/maintenance building(s);
- (d) Insurance. Proof of the applicant's public liability insurance with at least \$3,000,000.00 to cover the Solar Energy Facility, the Township, and the landowner;
- (e) Certification. Certifications that applicant has complied or will comply with all applicable county, state, and federal laws, regulations, and ordinances. Copies of all such permits and approvals that have been obtained or applied for at the time of the application. Note: Land enrolled in Michigan Farmland Preservation Program through Part 361 of the Natural Resources and Environmental Protection Act, 1994 Act 451 as amended, more commonly known as PA 116, must receive approval from the Michigan Department of Agriculture to locate a Solar Energy Facility on the property prior to construction;
- (f) Manufacturers' Material Safety Data Sheet(s). Documentation shall include the type and quantity of all materials used in the operation of all equipment including;
- (g) Decommissioning. Copy of the decommissioning plans and a description of how any surety bond is applied to the decommissioning process;
- (h) Complaint Resolution. Description of the complaint resolution process;
- (i) Fire suppression plan. A plan describing the fire suppression process and procedure; and
- (j) An applicant shall remit an application fee and an escrow deposit, in the amount specified by the Planning Commission. This schedule shall be based on the cost of the application

review and may be adjusted from time to time. If professional review of plans is required those costs shall be borne by the applicant with his consent.

2. **ADDITIONAL SITE PLAN REQUIREMENTS.** The applicant shall submit a site plan in full compliance with Article 16 of this Ordinance for each Solar Energy Facility and other solar energy equipment. Additional requirements for a Solar Energy site plan are as follows:

- (a) the project area boundaries,
- (b) the location, height, and dimensions of all existing and proposed structures and fencing,
- (c) the location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest county or state maintained road,
- (d) existing topography,
- (e) water bodies, waterways, wetlands, drainage channels, and drain easements,
- (f) all new infrastructure, both above and below ground, related to the project, and
- (g) site plan must be prepared, signed, and sealed by a qualified State of Michigan licensed engineer.

3. **STANDARDS AND REQUIREMENTS.** Solar Energy Facilities shall meet the following standards and requirements:

- (a) Location of Solar Energy Facilities.
 - i. All solar energy facilities must comply with the requirements established in the Marlette Township Zoning Ordinance.
 - ii. All fences and improved areas located on the site shall comply with the applicable setback for the district in which it is located. Furthermore, any structures or other improved areas located within the fence shall be at located least 30 feet from a fence line.

- iii. Improved areas shall be located at least 130 feet from any residential dwellings, church, school, family or group child day-care homes, bed and breakfast establishments, residential facilities, and any other residence.
 - iv. All access roads and storage areas shall be established on a 30' minimum easement to a public right of way, which shall be paved or graveled in a manner sufficient to provide a solid base at all times of the year.
 - v. All solar energy facilities shall have a minimum landscape buffer of 20 feet. The buffer shall contain evergreen trees or bushes planted no more than 8 feet apart and at least 4' tall at time of planting. The buffer shall obtain a height of 10 feet within 3 growing seasons. The trees or bushes may be trimmed but no lower than a height of 10 feet.
 - vi. Each owner, operator or maintainer of a solar energy facility to which this Ordinance applies shall utilize good husbandry techniques with respect to said vegetation, including but not limited to, proper pruning, proper fertilizer, 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
- (b) Site Security. Solar energy facilities shall be surrounded by an eight (8) foot tall chain link fence. The fence shall be designed to restrict unauthorized access.
- (c) The manufacturers or installer's identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner; furthermore, an information sign shall be posted and maintained at the entrance(s), which shall, at minimum, list the name and phone number of the operator.
- (d) All electrical connection systems and lines from the Solar Energy Facility to the electrical grid connection shall be located and maintained at a minimum of five (5) feet

underground (both on the property where the Solar Energy Facility will be located and off-site). The Planning Commission may waive the requirement that distribution lines for the Solar Energy Facility which are located off-site (i.e., are not located on or above the property where the Solar Energy Facility will be located) be located and maintained underground if the Planning Commission determines that to install, place, or maintain such distribution lines underground would be impractical or unreasonably expensive.

- (e) 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.
- (f) If the solar energy facility consists of batteries or storage of batteries, adequate design must be provided to ensure all local, state and federal requirements regulating outdoor battery storage have been met.
- (g) The applicant must obtain a driveway permit from the Sanilac County Road Commission or MDOT, as applicable.
- (h) 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 as stated in section 3.2.2 of the 2011 AICUZ report.
- (i) The design and construction of solar energy facilities shall not produce electrical emissions that would interfere with aircraft communications systems or navigation equipment as stated in Section 3.2.2 of the 2011 AICUZ report.
- (j) A copy of the application to the utility company that will be purchasing electricity from the proposed site shall be provided to the Township Planning Commission.
- (k) 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 of the property owner to apply for the necessary permits for construction and operation of the solar energy facility.
- (l) Any other relevant studies, reports, certificates and approval as may be reasonably required by Planning Commission.

- (m) 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.

4. AVIATION NOTIFICATION.

- a. For consideration of potential impacts to civilian flight paths for airport operations located within five (5) nautical miles from an airport ***listed*** in the National Plan of Integrated Airport Systems, notification of intent to construct an Solar Energy Facility shall be sent to the airport manager or designated official and the Federal Aviation Administration's (FAA) office with oversight of the Michigan Department of Transportation (MDOT). Notification shall include location of Solar Energy Facility (i.e. map, coordinates, address, or parcel ID), technology (i.e. roof-mounted PV, ground-mounted fixed PV, tracked PV, solar thermal, etc.), and the area of system (e.g. 5 acres). Proof of delivery of notification and date of delivery shall be submitted with permit application. The airport must be given 30 days for review.
- b. For consideration of potential impacts to civilian flight paths for airport operations located within five (5) nautical miles from an airport ***not listed*** in the National Plan of Integrated Airport Systems, except military airports, notification of intent to construct a Solar Energy Facility shall be sent to the airport manager or designated official. Notification shall include location of Solar Energy Facility (i.e. map, coordinates, address, or parcel ID), technology (i.e. roof-mounted PV, ground-mounted fixed PV, tracked PV, solar thermal, etc.), and the area of system (e.g. 5 acres). Proof of delivery of notification and date of delivery shall be submitted with permit application. The airport must be given 30 days for review.
- c. After receiving notification of intent to construct a Solar Energy Facility as described above; if requested, the proponent of the Solar Energy Facility shall use the latest version of the Solar Glare Hazard Analysis Tool (SGHAT), per its user's manual to evaluate the solar glare aviation hazard, as indicated in c(i) and c(ii). The full report for each flight path and observation point, as well as the contact information for the zoning administrator, shall be sent to the authority indicated below at least 30 days prior to site plan approval.

Proof of delivery of notification and date of delivery shall be submitted with permit application.

- i. Airport operations at an airport ***in*** the National Plan of Integrated Airport Systems (NPIAS) within 5 nautical miles of the center of a proposed Solar Energy Facility: provide required SGHAT analysis information to the airport manager or designated official and the Federal Aviation Administration's (FAA).
 - ii. Airport operations at airport ***not in*** the NPIAS within 5 nautical miles of the center of proposed Solar Energy Facility: provide required SGHAT analysis information to the management of the airport for non-military airports.
- d. Any applicable Solar Energy Facility design changes (e.g. module tilt, module reflectivity, etc.) after initial submittal shall be rerun in the SGHAT tool and the new full report shall be sent without undue delay to the contact specified above for accurate records of the as-built system.

5. ABANDONMENT AND DECOMMISSIONING.

- a. **Abandonment:** A Solar Energy Facility that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the Solar Energy Facility provides substantial evidence (updated every 6 months after 12 months of no energy production) to the Planning Commission or its designee of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) to remove all equipment and facilities and completely restore the Parcel to its condition prior to development of the Solar Energy Facility.
 - i. Upon determination of abandonment, the Zoning Administrator shall notify the party (or parties) responsible that they must remove the Solar Energy Facility and restore the site to its condition prior to development of the Solar Energy Facility within six (6) months of notice by the Planning Commission or its designee.
 - ii. If the responsible party (or parties) fails to comply, the Planning Commission or its designee may remove the

Solar Energy Facility, sell any removed materials, and initiate judicial proceedings or take any other steps legally authorized against the responsible parties to recover the costs required to remove the Solar Energy Facility and restore the site to a nonhazardous pre-development condition.

- b. Decommissioning: A decommissioning plan signed by the party responsible for decommissioning and the landowner addressing the following shall be submitted prior to the issuance of the zoning permit, which shall include:
- i. the anticipated life of the project;
 - ii. the estimated decommissioning costs net of salvage value in current dollars;
 - iii. the method of ensuring that funds will be available for decommissioning and restoration, to include but not limited to:
 - Complete removal of all non-utility owned equipment, conduit, structures, fencing, roads, solar panels and foundations, and
 - Complete restoration of property to condition prior to development of the Solar Energy Facility;
 - iv. the anticipated manner in which the project will be decommissioned and the site restored;
 - v. A provision to give notice to the Township one year in advance of decommissioning. A surety bond to assure payment of the cost of decommissioning shall be required. To ensure proper removal of the structure when it ceases to be used for a period of one (1) year or more, any application for a new solar energy facility shall include a description of the financial security guaranteeing removal of the solar energy facility which will be posted at the time of receiving a building permit for the facility. The security shall be a: 1) cash bond; 2) irrevocable bank letter of credit; or 3) performance bond in a form approved by the Township. The amount of such guarantee shall be no less than the estimated cost of removal and may include a provision for inflationary

cost adjustments. The estimate shall be prepared by the engineer for the developer and shall be approved by the Township. Every five (5) years, the PC shall review and, if necessary, update the Decommissioning Bond. The applicant shall be responsible for the payment of any costs or attorney fees incurred by the Township in securing removal; and

- vi. The timeframe for completion of decommissioning activities.

6. COMPLAINT RESOLUTION.

- a. The Solar Energy Facility Applicant shall submit a detailed, written complaint resolution process developed by the Solar Energy Facility Applicant to resolve complaints from the Township Board or the Property owners or residents concerning the construction or operation of the Solar Energy Facility. The complaint resolution process must be approved by the Planning Commission **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 owner or resident and the Solar Energy Facility Applicant.
- 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 Facility Applicant 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 Board shall be kept apprised of all complaints and shall receive a report outlining the issues, the progress, and the resolution of each such complaint. Such report shall be presented monthly by the Complaint Resolution Committee.

6. **CONFLICTING PROVISIONS.** In the event of a conflict between any provision in this section and any other section of this Zoning Ordinance with regard to Solar Energy Facilities, the provisions of this section shall control.

Section 22.01 of Article 22, Definitions, of the Marlette Township Zoning Ordinance is hereby amended to add the following definitions:

DECOMMISSIONING PLAN. A document that details the planned shut down or removal of a solar energy facility or structure from operation or usage.

FENCE. A continuous barrier extending from the surface of the ground to a uniform height constructed of wood, stone, steel, or other metal, or any substance of a similar nature and strength.

IMPROVED AREA. Area containing solar panels, electrical inverters, storage buildings and access roads.

PUBLIC ROAD. Any road or highway which is now or hereafter designated and maintained by the Sanilac County Road Commission and/or the Michigan Department of Transportation (MDOT), whether primary or secondary, hard surfaced or other dependable roads.

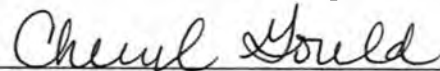
RESIDENCE. A building used as a dwelling for one or more families or persons.

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 primarily sell electricity to be used off site. (See Section 13.21(B))

The undersigned Supervisor and Clerk of the Township of Marlette hereby certify that this Zoning Ordinance Amendment was duly adopted by the Marlette Township Board on the 10th day of October, 2017 and was published in the Sanilac County News on the 28th day of June, 2017. This Zoning Ordinance Amendment was made effective seven (7) days after said date of publication.



Nathan Smith
Marlette Township Supervisor



Cheryl Gould
Marlette Township Clerk

TOWNSHIP OF MARLETTE

ZONING ORDINANCE AMENDMENT

EXCAVATION AND CONSTRUCTION BUSINESSES, PUBLIC SERVICE FACILITIES, COMMUNICATION TOWER, WIND ELECTRICAL GENERATION TOWERS, TEMPORARY DWELLINGS, AND OFF-SITE SIGNS

ORDINANCE NO. 200.1

An ordinance to amend the Marlette Township Zoning Ordinance, being Ordinance No. 200, adopted on the 12th day of November, 2013 to provide regulation for Off-site Signs, MET Towers and Wind Energy Conversion Systems and Temporary Dwellings.

THE TOWNSHIP OF MARLETTE ORDAINS:

The following Sections of the Marlette Township Zoning Ordinance are hereby amended to provide as follows:

Section 5.01. PRINCIPAL USES PERMITTED.

- J. Exempt Antennas and Windmills (pursuant and subject to Section 13.12(B)).

Section 5.02. SPECIAL LAND USES.

- O. Commercial Communications Towers, Wind Energy Conversion Systems, Supervisory Control and Data Acquisition (SCADA), and Meteorological (Met) Towers (subject to Section 13.12).

Section 6.01. PRINCIPAL USES PERMITTED.

- E. Exempt Antennas and Windmills (pursuant and subject to Section 13.12(B)).

Section 7.01. PRINCIPAL USES PERMITTED.

- J. Exempt Antennas and Windmills (pursuant and subject to Section 13.12(B)).

Section 8.01. PRINCIPAL USES PERMITTED.

- G. Exempt Antennas and Windmills (pursuant and subject to Section 13.12(B)).

Section 9.01. PRINCIPAL USES PERMITTED.

- N. Exempt Antennas and Windmills (pursuant and subject to Section 13.12(B)).
- O. Office, Warehouse, Manufacturing, and Sales Buildings related to Public Utilities.

Section 9.02. SPECIAL LAND USES.

- J. Commercial Communications Towers (subject to Section 13.12).
- K. Equipment Storage Facility for Excavation and Construction Businesses.

Section 10.01. PRINCIPAL USES PERMITTED.

- K. Exempt Antennas and Windmills (pursuant and subject to Section 13.12(B)).
- L. Office, Warehouse, Manufacturing, and Sales Buildings related to Public Utilities.
- M. Equipment Storage Facility for Excavation and Construction Businesses.

Section 10.02. SPECIAL LAND USES.

- H. Commercial Communications Towers (subject to Section 13.12).

Section 13.06. SIGNS.

- J. OFF-SITE SIGNS. No off-site signs, including billboards, shall be erected within the Township, except for signs that are thirty-two (32) square feet or less in sign area. Such signs shall not require site plan approval but shall require Zoning Administrator approval and shall be limited to no more than two (2) such signs for the same enterprise anywhere within the Township. Except that nonprofit, charitable organizations, to include, but not limited to, organizations such as the Lion's Club, Masonic Temple, Optimist Club, etc., shall be allowed to have up to four (4) signs advertising their organization within the Township as long as each of those signs is no more than three (3) square feet in size.

Section 13.12. PUBLIC SERVICE FACILITIES, COMMUNICATIONS TOWERS, AND WIND ENERGY CONVERSIONS SYSTEMS.

- A. Public Utilities. Certain facilities provided by public 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, equipment storage buildings or similar structures shall be subject to the site plan review requirements of Article 16. Any office, warehouse, manufacturing, or sales buildings must be located in the Commercial or Industrial zoning district.

- B. Exempt Antennas and Windmills. Communication antennas, windmills, and related facilities belonging to farmers, homeowners, or business owners, and used for onsite purposes only shall be exempt from the requirements of this section and shall be allowed as a permitted use in all zoning districts, provided that the antenna, windmill, or related facilities shall be set back from any property lines, right-of-ways for power lines, or road right-of-ways no less than a distance equal to one hundred twenty-five (125%) percent of the height of the structure. The height shall be measured from the ground level to the top of the tower, antenna, or windmill blade at its highest point, whichever is taller.
- C. Commercial Communication Towers. All communication towers, including transmission towers, relay or receiving antennas, and normal accessory facilities involved in telephone, television, radio, microwave, cable systems, cellular, and similar communication services, may be allowed as special land uses in the AR, C and I zoning districts, pursuant to Article 16, subject to the following requirements:
1. The applicant shall submit a site plan and a written application, which shall include an explanation of the design characteristics and the ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards. This information shall address the potential for the tower or other mounting structure and/or antennas to topple over or collapse, and what tower configuration should be expected in such an event.
 2. The minimum setback from any property line, road right-of-way, or right of way for power lines, shall be equal to one hundred twenty-five (125%) percent of the height of the tower.
 3. The tower or antenna shall not be unreasonably injurious to the safety or market value of nearby properties.
 4. Any electrical, telephone or other utility lines to the tower site shall be placed underground.
 5. All tower bases and related equipment shall be surrounded by a full perimeter fence to prevent unauthorized access. The fence shall have locked gates and shall be cyclone fence at least six (6) feet in height. The applicant may propose alternate means of access control which may be approved at the discretion of the Planning Commission. The site shall be maintained in a neat manner.
 6. In order to maximize the efficiency of the provision of telecommunication services, while also minimizing the impact of such facilities on the Township, co-location, or the provision of more than one antenna and more than one user on a single tower at a single location, shall be strongly encouraged. Before approval is

granted for a new facility, the applicant shall demonstrate that it is not feasible to co-locate at an existing site.

7. Co-location shall be deemed to be “feasible” for the purposes of this section, where all of the following are met:
 - (a) The site on which co-location is being considered, including reasonable modification or replacement of a facility, is able to provide structural support.
 - (b) The co-location being considered is technologically reasonable, i.e., the co-location will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
 - (c) Existing towers or structures are located within the geographic area which meet the applicant’s engineering requirements.
 - (d) The fees, costs or contractual provisions required in order to share an existing tower or structure or to adapt an existing tower or structure for co-location are not unreasonable. For the purposes of this paragraph, costs exceeding new tower development are presumed to be unreasonable.
8. Applicants receiving approval for a tower shall agree to allow co-location on the tower for reasonable market compensation as long as the conditions described in subsections C.7. (a)(b)(c) and (d) are met.
9. No communications tower shall be located within three (3) miles of an existing tower.
10. The unit shall be painted a neutral color such as beige or gray. The actual color shall be approved by the Planning Commission.
11. A condition of every approval shall be adequate provision for the removal of the structure whenever it ceases to be used for one year or more. Removal includes the proper receipt of a demolition permit from the Building Official and proper restoration of the site to the satisfaction of the Zoning Administrator. Removal of the tower and its accessory use facilities shall include removing the top six (6) feet of the caisson upon which the tower is located. This area shall then be filled and covered with top soil and restored to a state compatible with the surrounding vegetation.
12. To ensure proper removal of the structure when it ceases to be used for a period of one (1) year or more, any application for a new tower shall include a description of the financial security guaranteeing removal of the tower which will be posted at the time of receiving a building permit for the facility. The security shall be a: 1) cash bond; 2) irrevocable bank letter of credit; or 3) performance bond in a form approved by the Township. The amount of such guarantee shall be no less than the estimated cost of removal and may include a

provision for inflationary cost adjustments. The estimate shall be prepared by the engineer for the developer and shall be approved by the Township. The applicant shall be responsible for the payment of any costs or attorney fees incurred by the Township in securing removal.

D. Wind Energy Conversion Systems.

1. SCADA and Wind Energy System Site Assessment for Wind Energy Conversion Systems: Prior to construction of a wind energy conversion system, a wind site assessment is conducted to determine the wind speeds and the feasibility of using the site. Anemometer towers or "Met Towers," more than 65 feet in height used to conduct a wind site assessment for possible installation of a wind energy conversion system shall also be a Special Land Use.

(a) The distance from the center of a Met tower and the property lines between the participating property and the non-participating property shall be no less than a distance equal to 125% of the height of the Met tower. Participating property can include more than one piece of property and the requirement shall apply to the combined properties.

(b) Prior to the installation of the tower, an application for a Special Land Use permit shall be filed with the local government that will include:

- i. applicant identification,
- ii. a site plan,
- iii. a copy of that portion of the applicant's lease with the land owner granting authority to install the Met tower and requiring the applicant to remove all equipment and restore the site after completion of the wind site assessment, and
- iv. proof of the applicant's public liability insurance.

2. Commercial Wind Energy Conversion Systems (WECS) Special Use Permit Requirements. Wind energy conversion systems and WECS testing facilities, other than those exempted under subsection B above, shall only be allowed as a special land use in the AR Agricultural-Residential District, pursuant to Article 17 as to Special Land Use approvals and the following requirements:

(a) Applicant Identification: Applicant name and address in full, a statement that the applicant is the owner involved or is acting on the owner's behalf, the address of the property involved in the

application (substitution may include a legal description or parcel identifications number(s)), and any additional contact information. Each application for a commercial wind energy conversion system shall also be dated to indicate the date the application is submitted to Marlette Township

- (b) Project Description: A general description of the proposed project including a legal survey of the property or properties on which the project would be located and an anticipated construction schedule.
- (c) Procedure: The Planning Commission review of a Special Land Use Permit application for a wind energy conversion system is a two-step process. The first step is the public hearing and decision by the Planning Commission, per the procedures for review in Article 17. The second step, which may occur at a separate meeting for a wind energy conversion system, is the site plan review process by the Planning Commission as described in article 16. A decision on the Special Land Use Permit application by the Planning Commission is inclusive of all proposed wind turbine components, underground electrical lines, sub-station(s), junction boxes, laydown yard(s), concrete batch plant(s), and any operations/maintenance building(s).
- (d) Insurance: Proof of the applicant's public liability insurance for each WECS and Testing Facility at all times for at least \$3,000,000 for liability to cover the WECS Applicant, Township, and landowner.
- (e) Sound Pressure Level: Copy of the modeling and analysis report.
- (f) Certification: Certifications that applicant has complied or will comply with all applicable state and federal laws and regulations. Copies of all such permits and approvals that have been obtained or applied for at the time of the application. Note: Land enrolled in Michigan Farmland Preservation Program through Part 361 of the Natural Resources and Environmental Protection Act, 1994 Act 451 as amended, more commonly known as PA 116, must receive approval from the Michigan Department of Agriculture to locate a WECS on the property prior to construction.
- (g) Visual Impact: Visual simulations of how the completed project will look from four viewable angles.
- (h) Environmental Impact: Copy of the Environmental Impact analysis.

- (i) Avian and Wildlife Impact: Copy of the Avian and wildlife impact analysis.
- (j) Shadow Flicker: Copy of the Shadow Flicker analysis.
- (k) Manufacturers' Material Safety Data Sheet(s): Documentation shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
- (l) Decommissioning: Copy of the decommissioning plans and a description of how any surety bond is applied to the decommissioning process.
- (m) Fire suppression plan.
- (n) At the Township's request, the applicant shall fund an economic impact study for review by the Township of the area affected by the WECS. Such study or report shall be provided to the Township prior to the time when the Planning Commission makes its final decision regarding the Special Use request. Such a study shall include probable financial impact as to jobs, tax revenue, lease payments and property values.
- (o) An applicant shall remit an application fee and an escrow deposit, in the amount specified in the fee schedule adopted by the Board of Trustees. This schedule shall be based on the cost of the application review and may be adjusted from time to time. If the Planning Commission determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning Commission determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the Township such additional zoning fees in an amount determined by the Planning Commission equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this provision shall be deemed to make the application incomplete thereby justifying the denial of the application. Any unexpended

funds held in escrow shall be returned to the applicant following final action on the application. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit.

(p) Site Plan: The applicant shall submit a site plan in full compliance with Article 16 of this Ordinance for each turbine and other wind appurtenances. Additional requirements for a WECS site plan are as follows:

- i. the project area boundaries,
- ii. the location, height, and dimensions of all existing and proposed structures and fencing, and anti-climbing devices,
- iii. the location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest county or state maintained road,
- iv. existing topography,
- v. water bodies, waterways, wetlands, drainage channels, and drain easements, and
- vi. all new infrastructure above ground related to the project.

3. Commercial Wind Energy Conversion Systems (WECS) Standards and Requirements. The WECS project shall meet the following standards and requirements.

(a) Setbacks from Inhabited Structures: Each wind turbine, as measured from the centerline of its tower base shall be set back from the nearest wall of an inhabited structure by a distance of no less than 1,400 feet.

(b) Setbacks from Property Lines

- i. Non-Participating Parcel: The distance between a wind turbine and the property lines of adjacent non-participating properties shall be at least one hundred twenty-five (125%) percent its total structure height, measured with the windmill blade at its highest point.
- ii. Participating Parcel: A setback for a wind turbine from the property lines of adjacent participating property is not required.

- (c) Wind Turbines and Access Roads: Wind related facilities shall be located so as to minimize the disruption to agricultural activities, and therefore, the location of towers and access routes is encouraged along internal property lines.
- (d) Public roads: Each wind turbine shall be set back from the nearest public road a distance no less than one hundred twenty-five (125%) percent of the total height of the structure (measured with the windmill blade at its highest point) determined at the nearest centerline for such public road.
- (e) Other setbacks
 - i. An Operations and Maintenance Office building, a sub-station, or ancillary equipment shall comply with any property set-back requirement that may be applicable to that type of building or equipment.
 - ii. Overhead transmission lines and power poles shall comply with the set-back requirements applicable to public utilities.
- (f) Sound Pressure Level: The sound pressure level generated by a commercial wind energy conversion system shall not exceed 45 dB(A) as measured at any dwelling. This sound pressure level shall not be exceeded for more than 3 minutes in any hour of the day. If the ambient sound pressure level exceeds 45 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).
- (g) As part of the application and prior to installation, the Applicant shall provide modeling and analysis that will confirm that the wind energy conversion system will not exceed the maximum permitted sound pressure levels. Modeling and analysis shall conform to IEC 61400 and ISA 9613. After installation of the wind energy conversion system, sound pressure level measurements shall be done by a third party, qualified professional according to the procedures in the most current version of ANSI S12.18. All sound pressure levels shall be measured with a sound meter that meets to exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter. Documentation of the sound pressure level measurements shall be provided to the local government within 120 days of the commercial operation of the project.
- (h) Construction Codes, Towers, and Interconnection Standards: Commercial wind energy conversion systems including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. Commercial wind energy conversion systems including towers shall comply with

Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and local jurisdiction airport overlay zone regulations. The minimum FAA lighting standards shall not be exceeded. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA. Commercial wind energy conversion systems shall comply with applicable utility, Michigan Public Service Commission, and Federal Energy Regulatory Commission interconnection standards. In addition, the application shall include documentation that the applicant has contacted any local airport administrator to determine what is required by the local airport in terms of any required Airport Zoning Permits and how any proposed structures related to the commercial wind energy conversion system may be affected by any imposed height limitations as determined by the local airport.

- (i) All electrical connection systems and lines from the WECS and/or Testing Facility to the electrical grid connection shall be located and maintained at a minimum of five (5) feet underground (both on the property where the WECS and/or Testing Facility will be located and off-site). The Planning Commission may waive the requirement that distribution lines for the WECS and/or Testing Facility which are located off-site (i.e., are not located on or above the property where the WECS and/or Testing Facility will be located) be located and maintained underground if the Planning Commission determines that to install, place, or maintain such distribution lines underground would be impractical or unreasonably expensive.
- (j) Safety: All commercial wind energy conversion systems shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present. All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the wind energy system. A sign shall be posted near the tower or Operations and Maintenance Office building that will contain emergency contact information. Signage placed at the road access shall be used to warn visitors about the potential danger of falling ice. The minimum vertical blade tip clearance from grade shall be twenty (20) feet for a wind energy system employing a horizontal axis rotor.
- (k) Visual Impact: WECS shall use tubular towers and all WECS in a project shall be finished in a single, non-reflective matte finish

color. A project shall be constructed using wind energy systems of similar design, size, operation, and appearance throughout the project. No lettering, company insignia, advertising or graphics shall be on any parts of the tower, hub, or blades. Nacelles may have lettering that exhibits the manufacturer's and/or owner's identification. The applicant shall avoid state or federal scenic areas and significant visual resources listed in the local unit of government's comprehensive plan. There shall be no illumination other than that required by the FAA.

(l) Environmental Impact:

- i. The applicant shall have a third party, approved by the Township or their engineer, qualified professional conduct an analysis to identify and assess any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis.
- ii. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts. The applicant shall comply with applicable parts of the Michigan Natural Resources and Environmental Protection Act (Act 451 of 1994, MCL 324.101 et seq.) including but not limited to Part 31 Water Resources Protection (MCL 324.3101 et seq.), Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101 et seq.), Part 301 Inland Lakes and Streams (MCL 324.30101 et seq.), Part 303 Wetlands (MCL 324.30301 et seq.), Part 323 Shoreland Protection and Management (MCL 324.32301 et seq.), Part 325 Great Lakes Submerged Lands (MCL 324.32501 et seq.), and Part 353 Sand Dunes Protection and Management (MCL 324.35301 et seq.). The applicant shall be responsible for making repairs to any public roads, drains and infrastructure damaged by the construction of the commercial wind energy conversion system at the Applicant's expense pursuant to Sanilac County Road Commission requirements.

(m) Avian and Wildlife Impact:

- i. The applicant shall have a third party, approved by the Township or their engineer, qualified professional conduct an analysis to identify and assess any

potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

- ii. Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sites that are frequented by federally and/or state listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptors.
 - iii. At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, raptors, and general avian use should be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law.
 - iv. The analysis shall indicate whether a post construction wildlife mortality study will be conducted and, if not, the reasons why such a study does not need to be conducted. Power lines should be placed underground, when feasible, to prevent avian collisions and electrocutions. All above-ground lines, transformers, or conductors should follow any Avian Power Line Interaction Committee (APLIC, <http://www.aplic.org/>) guidelines to prevent avian mortality.
- (n) Electromagnetic Interference: No commercial wind energy conversion system shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for global positioning system correction systems (RTK), radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system. No commercial wind energy conversion systems shall be installed in any location within the line of sight of an existing microwave

communications link where operation of the wind energy system is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.

- (o) Shadow Flicker: The applicant shall conduct an analysis of potential shadow flicker created by each proposed wind turbine at all inhabitable structures with direct line-of-sight to a wind turbine. Such analysis shall be documented in a shadow flicker modeling report to be submitted as part of the Special Land Use Permit Application to the Planning Commission. The analysis shall identify the locations of shadow flicker created by each proposed wind turbine and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. Site plans shall depict a contour around each proposed wind turbine that represents the predicted thirty (30) hours per year shadow flicker generated by the modeling software used in the report. The analysis shall identify all areas where shadow flicker may affect the occupants of the inhabitable structures and describe measures that shall be taken to eliminate or mitigate the problems. A shadow flicker mitigation plan shall also be submitted with the shadow flicker modeling report. Any shadow flicker complaint shall be addressed by the applicant and be mitigated.
- (p) Decommissioning: The applicant shall submit a decommissioning plan which shall include:
- i. the anticipated life of the project,
 - ii. the estimated decommissioning costs net of salvage value in current dollars,
 - iii. the method of ensuring that funds will be available for decommissioning and restoration.
 - iv. the anticipated manner in which the project will be decommissioned and the site restored.
 - v. A provision to give notice to the Township one year in advance of decommissioning. A surety bond to assure payment of the cost of decommissioning shall be required. To ensure proper removal of the structure when it ceases to be used for a period of one (1) year or more, any application for a new tower shall include a description of the financial security guaranteeing removal of the tower which will be posted at the time of receiving a building permit for the facility. The security shall be a: 1) cash bond; 2) irrevocable bank letter of credit; or 3) performance bond in a form

approved by the Township. The amount of such guarantee shall be no less than the estimated cost of removal and may include a provision for inflationary cost adjustments. The estimate shall be prepared by the engineer for the developer and shall be approved by the Township. The applicant shall be responsible for the payment of any costs or attorney fees incurred by the Township in securing removal.

- vi. The standard for inactivity shall be twelve (12) months.

(q) Complaint Resolution:

- i. The WECS Applicant shall submit a detailed, written complaint resolution process developed by the WECS Applicant to resolve complaints from the Township Board or the Marlette Township Property owners or residents concerning the construction or operation of the WECS or Testing Facility. The complaint resolution process must be approved by the Township Board as a condition of approval of the special land use permit application.
- ii. The Township Board shall appoint a three-member Complaint Resolution Committee to oversee and participate in all complaint resolution discussions or meetings between the Township property owner or resident and the WECS Applicant.
- iii. 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.
- iv. The WECS Applicant 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.
- v. The Township Board shall be kept apprised of all complaints and shall receive a report outlining the issues, the progress, and the resolution of each such complaint. Such report shall be presented monthly by the Complaint Resolution Committee.

- (r) Conflicting Provisions: In the event of a conflict between any provision in this section and any other section of this Zoning Ordinance with regard to Wind Energy Conversion Systems, the provisions of this section shall control.

4. Definitions

Ambient: Ambient is defined as the sound pressure level exceeded 90% of the time or L90.

ANSI: American National Standards Institute.

Commercial Wind Energy Conversion System: A Wind Energy Conversion System is designed and built to provide electricity to the electric utility grid.

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

Decibel: The unit of measure used to express the magnitude of sound pressure and Sound intensity.

Decommission: To remove or retire from active service.

Height of Structure: The height of the structure is to the highest point on the tip of a fully vertical rotor blade.

Inhabited Structure: Any existing structure usable for living or non-agricultural commercial purposes, which includes but is not limited to working, sleeping, eating, cooking, recreation, office, office storage, or any combination thereof. An area used only for storage incidental to a residential use, including agricultural barns, is not included in this definition. If it is not clear by this definition, the Zoning Administrator shall make a determination of any structure regarding whether or not it is inhabited.

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

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

MET Tower or Meteorological Tower: A temporary tower used to measure wind speed and direction.

Non-Participating Parcel: A property that is not subject to a wind turbine lease or easement agreement at the time an application is submitted for a Special Land Use for the purposes of constructing a commercial wind energy conversion system.

On Site Use Wind Energy Systems: An On Site Use wind energy system is intended to primarily serve the needs of the consumer. An On Site Use Wind Energy System shall be considered a use by right in the Agricultural district and subject to setback restrictions from all property lines.

Participating Parcel: A property that participates in a lease or easement agreement, or other contractual agreement, with an entity submitting a Special Land Use Permit application for the purposes of developing of a commercial wind energy conversion system wind energy system.

Rotor: An element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

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

Shadow Flicker: Alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as a window at a dwelling.

Sound Pressure: Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

Sound Pressure Level: The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

Wind Site Assessment: An assessment to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

Wind Energy Conversion System (WECS). A wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid.

Wind Energy Conversion System (WECS) Testing Facility. A structure and equipment such as a meteorological tower for the collection of wind data and other meteorological data and transmission to a collection source, shall not be deemed to be a communication tower.

Wind Site Assessment. An assessment to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

Section 13.09 of the Marlette Township Zoning Ordinance is hereby amended to remove Subsection 13.09(B) in its entirety and that Section 13.09 shall now read as follows:

Section 13.09. TEMPORARY DWELLINGS.

- A. The Zoning Administrator may issue a permit for a manufactured home or other structure as a temporary dwelling to be occupied for up to one (1) year during the time that a permanent dwelling is being constructed. A temporary dwelling does not have to comply with the single family dwelling standards contained in Section 13.05. A temporary dwelling permit may be issued if the following requirements are complied with:
1. A building permit for the permanent dwelling must be acquired before the temporary dwelling is placed on the premises or occupied, except in the case of permanent dwellings which have been damaged by fire or other casualty.
 2. The permanent dwelling must be completed and any temporary manufactured home removed from the property before the expiration of the temporary dwelling permit. In the case of garages or other structures, the improvements which make the structure usable as a dwelling must be removed.
 3. The applicant must execute an affidavit guaranteeing that any temporary manufactured home will be removed from the premises at the expiration of the permit period. In the case of garages and other structures, the affidavit must guarantee that the improvements which make the structure usable as a dwelling unit will be removed.
 4. A temporary dwelling permit may be renewed one time by the Zoning Administrator for up to one (1) additional year for completion of the permanent dwelling, providing reasonable progress has been made on construction of the permanent dwelling during the first one (1) year permit period.
 5. A performance bond, letter of credit or cash deposit shall be posted with the Township Treasurer to guarantee removal of the temporary dwelling. The funds shall be released to the applicant upon verification of removal of the temporary dwelling. The Township Board may waive this requirement in hardship cases.

Section 16.03 of the Marlette Township Zoning Ordinance is hereby amended to add sub-Section K as follows:

Section 16.03. CONTENT.

- K. Upon the request of the Planning Commission, the site plan shall include a map of the Township illustrating any and all roads, streets, or highways which will be used by the applicant as the route for transporting supplies and other equipment to and from the site.

The undersigned Supervisor and Clerk of the Township of Marlette hereby certify that this Zoning Ordinance Amendment was duly adopted by the Marlette Township Board on the ____ day of _____, 2016 and was published in the _____ on the _____ day of _____, 2016. This Zoning Ordinance Amendment was made effective seven (7) days after said date of publication.

Kirk Dale, Supervisor

Cheryl Marks, Clerk

