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Official Elkland Township

2012 Zoning Ordinance

As

Approved by Elkland Township Board of  
Commissioners

March 12, 2012

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## ARTICLE 1: MISCELLANEOUS PROVISIONS

### **Section 101 – Short Title**

This Ordinance shall be known and cited as the “Elkland Township Zoning Ordinance” pursuant to the “Michigan Zoning Enabling Act 110 of 2006, as amended.” It may be referred to as simply “the Ordinance” herein.

### **Section 102 - Preamble**

This Zoning Ordinance regulates the land development in Elkland Township to control the use of land and structures to meet the needs of citizens for producing or distributing food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, to provide adequate light and air, to lessen congestion on transportation systems and other public facilities, to reduce hazards to life and property, to facilitate adequate and efficient provision for transportation systems, sewage disposal, safe and adequate water supply, energy, education, recreation, and other public service and facility requirements, and to promote public health, safety, and welfare.

This Zoning Ordinance is based upon a plan to meet those needs and to conserve the expenditure of funds for public improvements and services to conform to the most advantageous uses of land, resources, and properties.

### **Section 103 – Primacy of Law**

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

### **Section 104 – Severability**

It is the legislative intent that this Ordinance is liberally construed and any provision or section of the Ordinance be held unconstitutional or invalid, such ruling shall not be construed as affecting the validity of remaining portions of the Ordinance; it being the intent that this Ordinance shall stand notwithstanding the invalidity of any provision or section therein.

### **Section 105 – Repeal**

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The 2005 Elkland Township Zoning Ordinance, including zone district classifications enacted and amended is hereby repealed, and all Ordinances or parts of Ordinance inconsistent, or in conflict herewith, are also hereby repealed; provided, however, said repeal shall not abate any action now pending under, or by virtue of, the Ordinance herein repealed, nor shall said repeal discontinue, abate, modify, or alter any penalty accrued to or to occur, or affect the rights of any person, firm, or corporation or waive any right of Elkland Township under any section or provision of the Ordinance herein repealed at the time of the passage of this ordinance.

### **Section 106 – Enacting Clause**

Now, therefore, on March 12, 2012, Elkland Township, Tuscola County, MI Hereby Ordains:

## ARTICLE 2: DEFINITIONS

### **Section 201 - Rules Applying to the Definitions**

For the purposes of this Ordinance, certain rules of construction apply to the text as follows:

1. The particular shall control the general.
  2. In the case of any difference of meaning and implication between the text of this Ordinance and any caption, preamble or illustration, the text shall control.
  3. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
  4. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural shall include the singular, unless the context clearly indicates the contrary.
  5. The word "lot" includes the words "plot," "tract," or "parcel."
  6. A "building" or "structure" includes any part thereof.
  7. A "dwelling" includes the word "residence."
  8. The phrase "used for" may include "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
  9. The word "person" includes an "individual," a "corporation," a "partnership," an incorporated "association," or any other similar entity.
  10. Unless the context clearly indicates the contrary, where regulation involves two or more items, conditions, provisions, or events connected by the conjunctions, "and," "or," "either...or," the conjunction shall be interpreted as follows:
    - a. "and" indicates that all the connected items, conditions, provisions, or events shall apply.
    - b. "or" indicates that the connected items, conditions, provisions, or events may apply singly or in combination.
    - c. "either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
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11. Any word or term not herein defined shall be used with a meaning of common, standard use.

### **Section 202 - Definitions**

**Accessory Use:** Any accessory use includes a building or structure and is a use clearly incidental to, customarily found in connection with, and located on the same lot as the principal use to which it is related.

**Alley:** Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

**Agriculture:** Agricultural land means substantially undeveloped land devoted to the production of plants and animals useful to humans, including but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.

**Agricultural Animals:** Farm animals are those animals that are commonly used for utilitarian or productive purposes. Such animals typically include beef cattle, dairy cattle, horses, ponies, goats, sheep, swine, donkeys, mules, oxen, rabbits, or any animal to be raised for resale or to be sold for a profit.

**Agricultural Fowl:** Chickens, ducks, turkeys, geese, peacocks, and guinea hens, or any fowl to be raised for resale or to be sold for profit.

**Airport:** means an airport licensed by the Michigan Department of Transportation, Bureau of Aeronautics under Section 86 of the Aeronautics Code of the State of Michigan, 1945 PA 327, MCL 259.86.

**Airport Approach Plan and Airport Layout Plan:** mean a plan, or amendment to a plan, filed with the Tuscola County Planning Commission under Section 151 of the Aeronautics Code of the State of Michigan, 1945 PA 327, MCL 259.86.

**Airport Manager:** is that term as defined in Section 10 of the Aeronautics Code of the State of Michigan, 1945 PA 327, MCL 25910.

**Alterations:** Any change, addition, or modification to a structure of type of occupancy, any change in the structural members of a building, such as walls, or partitions, columns, beams, or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed."

**Anatomical Areas:** Incomplete or non-opaque covering of genitals, pubic region, female breast, or human genitals in an aroused state even if opaquely covered.

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**Anemometer:** A device to measure and record the speed of wind for at least a one year period to ascertain the potential performance of a utility energy grid.

**Animals:** See "Pets" and "Farm Animals."

**Antenna:** Any accessory or principal use whose primary purpose is to transmit or receive electronic radio signals, microwaves or other impulses for the purpose of audio or television transmission, data or communications for a tower, building or high topography.

**Apartments:** A residential structure containing three (3) or more attached single-family dwellings for rental purposes.

**Auto Race Track:** A site with the intended purpose of competition amongst participants operating automobiles, motorcycles, three or four wheeled all-terrain vehicles, snow mobiles, and/or go-karts.

**Automotive Uses:** Uses which include automobile service and gas stations, auto repair, vehicle washing establishments, automotive sales, and like automotive related activities, excluding part sales.

**Bed and Breakfast Inn:** Any dwelling used or designed in such a manner that certain rooms in excess of those used by the family, and occupied as a dwelling unit are rented to the public for compensation and shall cater primarily to the public traveling by motor vehicle.

**Billboard or Outdoor Advertising:** A billboard shall mean any structure or portion thereof designed or intended to be used for posting, painting, or otherwise affixing any advertising sign, which advertising sign does not pertain to the premises or to the use of the premises on which the billboard is located or to goods or services rendered or activities conducted on such premises.

**Building:** Any structure, either temporary or permanent, which has a roof supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattels, or property of any kind. This shall include tents, awnings, or vehicles situated on private property and used for such purposes.

**Building, Height:** The vertical distance measured from the established grade of the center of the front of the building to the highest point of the roof surface of flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs; and to the average height between the lowest point and the

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highest point on a shed roof. Where a building is located on a sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

**Building Line:** The line formed by the face of the building, and for the purpose of this Ordinance, a building line is the same as a front setback line.

**Clinic:** An establishment where human patients, who are not lodged overnight, are admitted for examination and treatment by a group of physicians, dentists, or other health care workers.

**Club:** An organization of persons for social purposes or for the promulgation of sports, arts, science, literature, politics, or the like, but not for profit.

**Conservation Easement:** An interest in land that provides limitation on the use of land or a body of water or requires or prohibits certain acts on or with respect to the land or body of water, whether or not the interest is stated in the form of a restriction, easement, covenant, or condition in a deed, will, or other instrument executed by or on behalf of the owner of the land or body of water or in an order of taking, which interest is appropriate to retaining or maintaining the land or body of water, including improvements on the land or body of water, predominantly in its natural, scenic, or open condition, or in an agricultural, farming, open space, or forest use, or similar use or condition.

**Coordinating Zoning Committee:** A coordinating committee is described for a county zoning review in lieu of a county planning commission.

**Development Rights:** The right to develop land to the maximum intensity of development authorized by law.

**Development Rights Ordinance:** An ordinance, which comprises part of this zoning ordinance.

**Dish Antenna:** An earth-based station whose purpose is to receive communications or other signals from orbiting satellites or other extraterrestrial sources together with such other equipment related to such purpose. Generally such facility shall include the dish antenna, low-noise amplifier and coaxial cable.

**District:** A portion of the unincorporated part of the Township within which certain regulations and requirements, or various combinations thereof, apply under the provisions of this Ordinance.

**Drive-In Restaurant:** A business establishment, for the serving of food and/or beverages, with driveways and approaches so developed and designed so as to serve

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patrons while in the motor vehicle, or permit patron self-service so that consumption within motor vehicles may be facilitated.

**Drive-In or Drive-Thru:** A business establishment so developed that its retail or service character is dependent on providing a drive-way approach to a pick-up window or parking space for motor vehicles so as to serve patrons while in the motor vehicle, or within a building on the same premises and devoted to the same purpose as the drive-in or drive thru service. Drive-thru facilities of financial institutions are not subject to limitations on drive-thru business due to their lower frequency and intensity of business

**Dwelling Unit:** A building or portion thereof, designed for occupancy by one (1) family for residential purposes and having cooking facilities.

**Dwelling Types:** For the purpose of this Ordinance dwellings are separated into the following categories and herewith defined accordingly:

- a. **Single family, modular or pre-manufactured dwelling:** A detached, residential dwelling unit designed for and occupied by one family on a residential lot with a minimum exterior width for any side elevation of sixteen (16) feet at initial construction or placement of the dwelling.
- b. **Single family, mobile home dwelling:** A detached, residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or on flatbed or other trailers, and arriving at a licensed mobile home park as established by this ordinance and state laws, where it is to be occupied as a dwelling complete and ready for occupancy except for minor or incidental unpacking and assembly operations, located on jacks or other temporary or permanent foundations, connection to utilities and the like. A travel trailer or recreational vehicle is not to be considered a mobile home.
- c. **Two-family dwelling:** A detached residential building containing two dwelling units, designed for occupancy by not more than two families. These may also be known as duplexes.
- d. **Multiple family dwelling:** A residential building designed for and occupied by three or more families with the number of families in residence not exceeding the number of dwelling units provided.

**Erected:** Includes fully or partially built, constructed, reconstructed, moved upon or any physical operation on the premises intended or required for a building or structure.

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Excavation, fill, drainage, land-clearing, and general property improvements shall not be considered an erection.

**Essential Services:** The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electric, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessories in connection therewith (reasonably necessary for adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare) but not including buildings other than such buildings as are primarily enclosures or shelters of the above essential service equipment.

**Family:** An individual or two or more persons related by blood, marriage or adoption, living together as a housekeeping unit in a dwelling unit, or a group of not more than four persons, who need not be related, living together as a single housekeeping unit.

**Family Day Care Home and Group Day Care Home:** Are equal to the terms as defined in Section 1 of 1973 PA 116, MCL 722.111, and only apply to the bona fide residence of the operator of the family or group day care home.

**Farm:** A tract of land, being at least ten (10) acres in area, which is directly devoted to agricultural purposes such as: growing of cash crops, greenhouses, plant nurseries, orchards, aviaries, and raising farm animals or farm fowl. Keeping or operating game, fish hatcheries, dog kennels, fur-bearing animals, stock yards, slaughter houses, stone quarries, commercial sand and gravel pits, fertilizer works, bone yards, or establishments for reduction of animal matter or for the disposal of garbage, sewage, rubbish, offal, or junk shall not constitute a farm.

**Fence:** A structure built of customary fencing material of definite height and location to serve as an enclosure in carrying out the requirements of this ordinance.

**Fence, Obscuring:** A structure built of customary fencing material of definite height and location to serve as an obscuring screen in carrying out the requirements of this ordinance.

**Floor Area, Gross:** The floor area of a residential dwelling unit is the sum of the horizontal living areas of each story of the building as measured from the exterior walls; exclusive of the basements, unfinished attics, attached garages, breezeways and enclosed and unenclosed porches.

**Floor Area, Useable:** For the purposes of computing parking requirements, all ground and non-ground floor area used for or intended to be used for, the sale of merchandise or services or for use to serve patrons, clients, or customers. Such floor area which is used

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or intended to be used principally for the storage or processing of merchandise, or for utilities, shall be excluded from this computation. For the purpose of computing parking for those use not enclosed within a building, the area used for the sale of merchandise, display of merchandise, and/or area used to serve patrons or clients shall be measured to determine necessary parking spaces.

**Grade:** The highest part of the ground contacting any portion of the basement or foundation of a dwelling.

**Greenbelt:** A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen, buffer strip, or decorative treatment in carrying out the requirements of the Ordinance.

**Greenway:** A contiguous or linear open space, including habitats, wildlife corridors, and trails that link parks. Nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.

**Home-based Businesses:** Any business that allows limited commercial or industrial use of the principal building, accessory buildings, or specified outdoor storage. These small-scale uses are permitted in rural areas restricted to employees and on-site activities as specified in Article 7.

**Home Occupation:** Businesses conducted incidental to the residential use of a property, generally within a dwelling by resident occupants, e.g. beauty salons, strictly online businesses, and home offices.

**Improvements:** Features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or health, safety, and Welfare of residents of Elkland Township and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening and drainage improvements but do not include the entire project that is the subject of zoning approval.

**Intensity of Development:** The height, bulk, area, density, setback, use and other similar characteristics of development.

**Junk:** Any discarded personal or scrapped property, including any property which may or may not be salvaged for reuse, resale, reduction or similar disposition, or which is processed, transported, accumulated, dismantled, or sorted for any such reason. The term shall include used and salvaged metals, paper, glass, rubber, rope, machinery, or any

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motor vehicle which is intended for dismantling or salvaging. One or more vehicles that are inoperative or unlicensed shall be construed as a junk yard.

**Kennel, Private or Commercial:** Any lot or premises on which three (3) or more dogs or cats are either permanently or temporarily boarded.

**Legislative Body:** Refers to the Elkland Township Board of Trustees.

**Loading Space:** An off-street space on the same lot as a building, or group of buildings, for temporary parking of commercial vehicle(s) while loading or unloading merchandise or materials.

**Local Unit of Government:** Elkland Township, Tuscola County, MI.

**Lot:** A parcel of land occupied, or which could be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such open spaces as are required under the provisions of this Ordinance. A lot normally shall have its frontage located upon a public right-of-way or thoroughfare. In the event that a parcel does not front on a road right-of-way, it shall meet all minimum lot requirements as if it were fronting on the road and shall have a minimum thirty feet (30') wide frontage on a road right-of-way for access through fee simple owner ship, easement or long-term (40 years or more) leases on a fronting lot.

**Lot of Record:** A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by Municipal or County officials and which actually exists as so shown, or any part of such parcel held in recorded ownership separate from that of the remainder thereof.

**Lot Area:** The total horizontal area within which the lot lines of the lot as measured from the right-of-way line and not from the centerline of the right-of-way.

**Lot, Corner:** A lot where the interior angle of two adjacent sides at the intersection of the two streets is less than one hundred thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this ordinance if the arc is a radius of less than one hundred fifty feet (150') and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than one hundred thirty-five (135) degrees.

**Lot, Interior:** Any lot other than a corner lot.

**Lot Lines:** The lines bounding a lot as defined herein are defined as:

- a. **Front lot line:** In the case of an interior lot, the line separating said lot from the street or road right-of-way or from a thirty foot (30') wide access to a street or road right-of-way. In the case of a corner lot, the front lot line is that line
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separating said lot from the right-of-way designated as the front street in the plat or in the application for a building or zoning permit. In the case of a double frontage lot, both lot lines abutting on streets shall be treated as front lot lines.

- b. Rear lot line:** The lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet (10') long lying farthest from the front lot line and wholly within the lot.
- c. Side lot line:** Any lot lines other than the front lot line or the rear lot line shall be side lot lines. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior lot line.

**Lot Coverage:** The part or percent of the lot occupied by buildings and structures including accessory buildings.

**Lot Depth:** The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines. The front lot line shall be measured from the road right-of-way to determine depth and area.

**Lot, Double Frontage (Through Lot):** Is any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lot adjacent to streets shall be considered frontage, and front yards shall be provided as required.

**Lot Width:** The horizontal distance between the side lot lines measured at the two points where the building line or setback intersects the side lot lines.

**Master Plan:** A comprehensive plan including graphic and written proposals indicating the general location for streets, parks, schools, public buildings, and all physical development of the community and includes any unit or part of such plan, and any amendment to such plan or parts thereof. Such plan may or may not be adopted.

**Mobile Home:** Any vehicle designed, used, or so constructed as to permit its transportation from point of manufacture along to a dwelling site on streets or rights-of-way, and constructed in such a manner as will permit occupancy thereof as a dwelling unit for a person or family.

**Mobile Home Park:** A parcel of land twenty acres or more in area intended and designed to accommodate twenty or more mobile homes for residential use, which is offered to the public for that purpose regardless of whether a charge is made therefore,

together with any building, structure, enclosure, street, equipment or facility used or intended for use as a temporary or recreational trailer park.

**Motel:** A series of attached, semi-detached or detached rental units containing bedroom, bathroom, and closet space. Units shall provide overnight lodging and are offered to the public for compensation and shall cater primarily to the traveling public with motor vehicles as a facility for temporary residence.

**Nonconforming Building:** A building or portion thereof, existing at the effective date of this Ordinance, or amendments thereto, that does not conform to the use provisions of the Ordinance nor to the used regulations of the district in which it is located.

**Nonconforming Use:** A use which lawfully occupied a building at the effective date of this Ordinance, or amendments thereto, that does not conform to the use regulations of the district in which it is located.

**Occupied:** Includes the meaning of intent, design, or arrangement for occupancy.

**Off-Street Parking:** A facility or lot providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of automobiles.

**Other eligible land:** Land that has a common property line with agricultural land from which the development rights have been purchased and is not divided from that agricultural land by a state or federal limited access highway.

**Parking Space:** Hereby designated to be an area of definite length and width and shall be exclusive of drives, driveways, aisles, or entrances giving access thereto, and shall be fully accessible for the storage or parking of permitted vehicles.

**Pet:** A domesticated animal kept for amusement and/or companionship rather than for utilitarian or productive purposes. Animals shall be considered pets only if they are commonly considered as such, including cats, dogs, rabbits, and similar animals that can be demonstrated as having characteristics, temperament, and domestic qualities of animals commonly considered to be pets.

**Pond:** Any open and substantially earthen artificial, manmade, or natural impoundment of water created, altered, or enhanced by, any excavation, cutting, stripping, grading, digging, filling, removal, or movement of any soil matter or earth material, or by the installation of any damn, levy, or other retention device or structure which diverts the natural flow of water to or from an area thus creating, altering, or enhancing an impounded body of water. A pond shall not include a swimming pool, landscape pool or fountain comprised of an assemblage of materials (i.e., concrete, wood, plastic, vinyl,

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and/or masonry), whether permanent or temporary, portable or non-portable, above or below grade.

**Population:** The population according to the most recent decennial census or according to a special census conducted under Section 7 of the Glen Stiel State Revenue Sharing Act of 1971, 1971 PA 140, MCL 141.907, whichever is the more recent.

**Public Service:** Public service facilities in the context of this Ordinance shall include such uses and services as voting booths, pumping stations, fire halls, police stations, temporary quarters for welfare agencies, public health activities, and similar uses including essential services.

**Public Utility:** Any person, firm, or corporation, municipal department, board, or commission duly authorized by law to furnish and furnishing - under federal, state, or local regulations to the public: gas, steam, electricity, sewage disposal, communications, telegraph, or transportation or water.

**Roadside Stand:** A structure erected on a farm adjacent to a public road for the sale of produce grown chiefly on the farm, provided such use shall be seasonal with operation less than six months a year and is otherwise constructed in accordance with other provisions of this ordinance.

**Setback:** The distance required to obtain the front, side, or rear yard open space provisions of this ordinance.

**Sexual Activities:** Sexually stimulated genitals, sexual intercourse, masturbation, sodomy, fondling of genitals, fellatio, cunnilingus, and bestiality.

**Signs:** The use of any words, numerals, figures, devices, designs, or other trademarks by which anything is made known (other than billboards, defined separately herein) such as are used to show an individual, firm, profession, or business, and are visible to the general public. Accessory signs pertain to uses or activities conducted on the premises where located.

**Site Plan:** Includes the documents and drawings required by the zoning ordinance to insure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

**Special Land Use:** The term applied to a use which may be permitted by the application for and issuance of a Special Land Use Permit by the Planning Commission. Specified procedures and requirements as outlined elsewhere in this ordinance must be complied with prior to the issuance of said permit. A Special Land Use Permit may be issued only for those areas specifically cited in this ordinance or as interpreted by the Zoning Board of Appeals.

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**State Licensed Residential Facility:** A structure constructed for residential purposes that is licensed by the State of Michigan under the adult foster care facility licensing act, 1973 PA 116, MCL 722.111 to 722.128, and provides residence for 6 or fewer persons under 24-hour supervision or care.

**Story:** The part of a building included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above.

**Street:** A public thoroughfare which affords the principal means of access to abutting property or to the easement, parcel or leased parcel that serves the property.

**Structure:** Anything constructed or erected, the use of which requires location on the ground or attachment of something having permanent location on the ground except driveways and pavement. This shall include towers, sheds, mobile homes, advertising devices and similar uses.

**Temporary Building or Use:** A structure or use permitted by the Zoning Board of Appeals to exist during periods of construction of the main building or use or for special events.

**Thoroughfares:** A system of functional classifications of high traffic volume streets according to the character of transportation service they provide. The basic categories are:

- a. **Major arterial:** An arterial street which is intended to serve as a large volume traffic way for both the immediate Village area and the region beyond, and may be designated as a major thoroughfare, parkway, freeway, expressway, or equivalent term.
- b. **Secondary arterial:** An arterial street which is intended to serve as a trafficway serving primarily the immediate Village area and serving to connect with major thoroughfares.

**Undeveloped State:** A natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

**Use:** The purpose for which land or building is designed, arranged, or intended to be used, or for which land or building is or may be occupied.

**Use, Accessory:** A use subordinate to the main use of a lot and used for purposes clearly incidental to the main use.

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**Wind Turbine:** A wind vane, or series of wind vanes or blades or other devices intended to convert wind into electrical or mechanical energy.

**Yards:** The open spaces on the same lot with a main building or main use, unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance and as defined herein:

- a. **Front yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between front lot line and nearest line of the main building.
- b. **Rear yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and nearest line of the main building.
- c. **Side yard:** An open space between a main building and side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the main building.

**Zoning Administrator:** The official charged with administering this ordinance, appointed by the Township Board of Trustees with the advice of the planning commission. The zoning administrator may be compensated at a rate or amount determined by the Township Board of Trustees.

**Zoning Board or Zoning Commission:** Synonymous with Elkland Township Planning Commission.

**Zoning Variance:** An agreed upon modification of the literal provisions of this Zoning Ordinance. Granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the property on which the variance is granted. A zoning variance may only be granted by the Zoning Board of Appeals.

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### **ARTICLE 3: GENERAL REGULATIONS**

#### **Section 301 - Non-conforming Uses**

It is the intent of this Ordinance to permit lawful use of a dwelling, building, or structure and of land or a premise as existing and lawful at the time of enactment of this Ordinance, or of amendments to this Ordinance, although the use does not conform to the Ordinance or amendment.

Such non-conforming lots, uses of land, structures, and uses of structures and premises are declared by this Ordinance to be incompatible permitted uses in the areas involved. It is further the intent of this Ordinance that non-conforming uses and structures not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

#### **1. Non-conforming Lots**

- a. In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, any single family dwelling and customary accessory buildings may be erected on a single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet requirements for area and/or width. In all other respects the lot shall conform to regulations for the district in which such lot is located. Yard requirement variances may be obtained through appeals to Zoning Board of Appeals.
- b. If two or more lots, or combinations of lots, any portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance the lands involved shall be considered an undivided parcel for the purposes of this Ordinance. No portion of said parcel shall be used or occupied which does not meet lot width and area division for parcels in the zoning district in which it is located.

#### **2. Non-Conforming Uses**

Where at the effective date of adoption or amendment of this ordinance, or amendment of this ordinance, lawful uses of land becomes non-conforming under the

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## Elkland Township, Tuscola County, Michigan

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terms of this Ordinance, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions.

- a. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
- b. No such non-conforming use shall be moved in whole, or in part, to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.

### **3. Non-conforming Structures**

When a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No such structure may be enlarged or altered in a way which increases its non-conformity; for example, existing residences on lots of width less than required herein may add a rear porch provided that other requirements relative to yard space and land coverage are met.
- b. Should such structure be destroyed by any means to an extent of more than sixty percent (60%) of its replacement cost, exclusive of the foundation at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.
- c. Should such structures be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the area in which it is located after it is moved.

### **4. Non-conforming Uses of Structures and Land**

If a lawful use of a structure, or of structures and land in combination, exists at the effective date of adoption or amendment of this Ordinance, and that use would not be allowed in the area under the terms of this Ordinance, that use may be continued so long as it remains otherwise lawful, subject to the following provisions.

- a. 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,
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- reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- b. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed in that condition at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside of such building.
  - c. In any district, if no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use of the same or a more restricted classification provided that the Zoning Board of Appeals either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the area than the existing non-conforming use.

In permitting such change, the Zoning Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Ordinance. Where a non-conforming use of a structure, land, or land with structure is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less restrictive classification.

- d. Any structure, or structure and land in combination in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the area in which the structure is located, and the non-conforming use may not thereafter be resumed.
- e. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or ceased to exist for six (6) consecutive months or for a total of eighteen (18) months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the area in which it is located. Structures occupied by seasonal uses shall be accepted from this provision.
- f. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

### **5. Repair and Replacement of Non-conforming Structures**

On any building devoted in whole or in part to any non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing to an extent not to exceed fifty percent (50%) of the assessed value of the building provided that the cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased. Nothing in this Ordinance shall be deemed to

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## Elkland Township, Tuscola County, Michigan

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prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

### **6. Uses Allowed as Special Land Uses are Not Non-conforming Uses**

Any use which is permitted as a special land use as provided in this Ordinance shall not be deemed a non-conforming use but shall, without further action, be deemed a conforming use in such area.

### **7. Change of Tenancy or Ownership**

There may be a change of tenancy, ownership or management of any existing non-conforming uses of land, structures, and premises provided there is no change in the nature and/or character of such non-conforming uses.

### **Section 302 - Zoning Ordinance or Decision; Effect as Prohibiting Establishment of Land Use**

This Zoning Ordinance or any decision thereto shall not have the effect of totally prohibiting the establishment of a land use within Elkland Township in the presence of a demonstrated need for that land use in Elkland Township or the surrounding area, unless a location within Elkland Township does not exist where the use may be appropriately located or the use is unlawful.

### **Section 303 - Ordinance as Controlling**

Except as otherwise provided under Act 110 of 2006, as amended, an ordinance adopted under this act shall be controlling in the case of any inconsistencies between the ordinance and an ordinance adopted under any other law.

### **Section 304 - Township Ordinance not subject to County Ordinance**

Except as otherwise provided under this act, Elkland Township's Zoning Ordinance under Act 110 of 2006, as amended, is not subject to an ordinance, rule or regulation adopted by Tuscola County under this act.

### **Section 305 - Accessory Buildings**

Accessory buildings, except as otherwise permitted in this ordinance shall be subject to the following regulations:

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- a. Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to, all regulations of this Ordinance applicable to the main building.
- b. Buildings accessory to residential buildings shall not be erected in any required yard except the rear yard.
- c. Buildings accessory to residential buildings not exceeding one (1) story or fourteen feet (14') in height at the eaves, may occupy not more than twenty-five percent (25%) of a required yard in any residential (R) zoning district, plus forty percent (40%) of any non-required rear, providing that in no instance shall the accessory building exceed the ground floor area of the main building. Agricultural accessory buildings are excluded from these provisions.
- d. No detached building accessory to a residential Zoning District (R-1) building shall be located closer than ten (10) feet to any main building nor shall it be located closer than three feet (3') to any side or rear lot line.

In those instances where the rear lot line is coterminous with an Alley right-of-way, the accessory building shall not be closer than one foot (1') to the rear lot line. In no instance shall an accessory building be located within any dedicated easement or public right-of-way.

- e. No detached accessory buildings in residential zones shall exceed one (1) story or fourteen feet (14') in height at the eaves, except in lieu of agricultural accessory buildings which are exempt from the requirements thereof.
- f. When a building accessory to a residential building is located on a corner lot, the side lot line is substantially a continuation of the front lot line of the lot to its rear; said building shall not project beyond the front yard setback required on the lot to the rear of such corner lot. A building accessory to a residential building shall, in no case, be nearer than ten (10) feet to a street right-of-way line.
- g. When an accessory building in any Residence or Business area is intended for other than the storage of private motor vehicles that accessory use shall be subject to the approval of the Zoning Board of Appeals.

### **Section 306 - Performance Standards**

Standards of use, occupancy, and operation are hereby established as the minimum requirements to be maintained for all land uses:

#### **1. Open Storage**

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## **Elkland Township, Tuscola County, Michigan**

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The open storage of industrial equipment, vehicles, and all materials - including wastes - shall be screened from public view, from a public street, and from adjoining properties by an enclosure consisting of a wall not less than the height of the equipment, vehicles and all materials to be stored. Whenever such storage is adjacent to a residential zone in a front, side or rear lot line, whether abutting or across a right-of-way from such zone, there shall be provided an obscuring masonry wall or wood fence of at least six (6) feet in height.

### **2. Noise and Vibration**

Objectionable noise and vibration, including those of an intermittent nature, are prohibited from adversely affecting adjacent properties. Noise levels shall be of not more than 80 dBA, an equivalent of heavy city traffic [25-50 feet], alarm clock at two feet, factory noise, vacuum cleaner, heavy truck, loud-radio music, or garbage disposal, ( between 7 p.m. to 6 a.m., construction or agricultural equipment is exempt from this limitation. Michigan Department of Transportation standards shall be used to determining excessive noise levels.

### **3. Odor and Gaseous Discharges**

Smoke, odor, and/or gaseous discharges, toxic or corrosive fumes, or other odorous materials are not permitted so as to be offensive at or beyond any boundary of the parcel on which it originates.

### **4. Waste and Rubbish Dumping**

No garbage, sewage, filth, refuse, waste, trash, debris, or rubbish - including cans, bottles, waste paper, cartons, boxes and crates, or other offensive or obnoxious matter - shall be kept in open containers, or piled, placed, stored, or dumped on any land within the community in such a manner as to not constitute a nuisance, a hazard to health, safety, or morals, or general welfare of the community or its residents. All waste material, trash, and rubbish must be disposed of at least once in each month in accordance with the laws and ordinances of the community and provided further that nothing contained in this ordinance shall prevent the reasonable use of garbage, fertilizers, manure, or similar material for the improvement of land situated within a zone which is being utilized for agricultural purposes as long as such use does not constitute a menace to the health or welfare of the public or nuisance to the surrounding area. Any such use for agricultural purposes that includes the storing, piling, placing, or dumping of the above mentioned materials from other than one household or business shall be deemed to be a commercial operation whether or not such operations are carried on for a profit, and in such cases shall adhere to the requirements of Act 641 of 1978, the Solid Waste Management Act, as amended, and to other public statutes of the State of Michigan.

### **Section 307 - Regulation of Oil or Gas Wells Prohibited**

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Elkland Township shall not regulate or control the drilling, completion, or operation of oil or gas wells or other wells drilled for oil and gas exploration purposes and shall not have jurisdiction with reference to the issuance of permits for the location, drilling, completion, or abandonment of such wells.

All activities or uses related to Oil or Gas Wells shall fall under the jurisdiction of Michigan Department of Environmental Quality and the Natural Resources and Environmental Protection Act. Act No. 451 of the Public Acts of 1994, as amended.

This Zoning Ordinance is also subject to the electric transmission line certification act, 195 PA 30, as amended.

### **Section 308 - Use Restriction**

No portion of a lot or parcel used once in complying with the provisions of this ordinance for yards, lot area, density, or percentage of lot occupancy shall again be used as part of the lot or parcel required in connection with any other structure existing or intended to exist at the same time.

### **Section 309 - Corner Clearance**

No fence, wall, shrubbery, signs, or other visual obstruction shall be permitted above a height of thirty (30) inches from the established street grades in any district with a triangular area formed by the intersection of any street right-of-way lines at a distance along each such line of twenty-five (25) feet from their point of intersection.

### **Section 310 - Residential Entranceway**

In residentially zoned areas, so-called entranceway structures, including but not limited to walls, columns and gates, marking entrances to single family subdivisions or multiple housing projects may be permitted and may be located in a required yard, except as provided in Section 305, Corner Clearance, provided that such entranceway structures shall comply with all codes and ordinances of the township and shall be approved by the building inspector and a permit issued.

### **Section 311 - Instruction in Craft or Fine Art as Home Occupation**

This Zoning Ordinance provides for the use of a single-family residence by an occupant of that residence for an R-1 zoning district as a home occupation to give instruction in a craft or fine art within the residence. This section does not prohibit the regulation of noise, advertising, traffic, hours of operation, or other conditions that may accompany the use of the residence.

### **Section 312 - Residential Use of Property; Adult Foster Care Facilities; Family or**

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### Group Day-care Homes

A residential facility with a State of Michigan license shall be considered a residential use of property for the purpose of this Zoning Ordinance and is a permitted use in all residential zoning districts and is not subject to a Special Land Use Permit or procedure different from those for other dwellings of similar density in the same zoning district.

The prior statement, does not apply to adult foster care licensed by a state agency for care and treatment of persons released from or assigned to an adult correctional institution.

A group day care home shall be issued a Special Land Use Permit or similar permit if the group home meets all of the following standards:

1. Is not located closer than 1,500 feet to any of the following:
    - a. Another licensed group day care home.
    - b. Another adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 2979 PA 218.
    - c. A facility offering substance abuse treatment and rehabilitation services to 7 or more people licensed under Article 6 of the public health code, 1978 PA 368, as amended.
    - d. A community correction center, resident home, halfway house, or similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
  2. Has appropriate fencing for the safety of children in the group day care home as determined by Elkland Township.
  3. Maintains the property consistent with visible characteristics of the neighborhood.
  4. Does not exceed 16 hours of operation during a 24 hour period. Elkland Township also limits such operation between the hours of 10:00 p.m. and 6:00 a.m. to indoor activities.
  5. Signs are limited to those acceptable in the zoning district it is located in.
  6. Parking is limited to those acceptable in the zoning district in which it is located.
  7. A licensed or registered family or group day-care home that operated before March 30, 1989 is not required to comply with this section.
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8. Elkland Township may inspect and enforce a family or group home for compliance with the Zoning Ordinance, but the ordinance may not be more restrictive than state requirements.
9. The township may hold back a Special Land Use Permit if the home does not meet the standards of this Section.
10. The distances required under Subsection 1 shall be measured along a road, street, or place maintained by the Tuscola County Road Commission or Michigan Department of Transportation and generally open to the public as a matter of right for the purpose of vehicular traffic but shall not include an Alley.

### **Section 313 - Submission and Approval of a Site Plan: Procedures and Requirements**

Elkland Township requires the submission and approval of a Site Plan before authorization of a land use or activity requiring a site plan. The Planning Commission is responsible for reviewing site plans and granting approval.

#### **1. Conditions for Submission of a Site Plan**

A site plan shall be required and submitted to the Planning Commission for the following developments:

- a. Any use or development for which the submission of a site plan is otherwise required by this Ordinance.
- b. Any use other than single family, two-family residential or agricultural development which lies contiguous to a major or minor thoroughfare or a collector street or road.
- c. All non-residential developments in residential areas including - but not limited to - churches, schools, and public facilities.
- d. All business and industrial developments other than home occupation.
- e. For all projects requiring a Special Land Use Permit.

#### **2. Requirements for Submission**

Every site plan submitted to the Planning Commission shall include the following information before it is accepted for review:

## Elkland Township, Tuscola County, Michigan

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- a. Be drawn at a scale of not less than one inch (1") equals fifty feet (50') if the subject parcel is less than three (3) acres or one inch (1") equals one hundred feet (100') if the subject parcel is three (3) acres or more.
- b. Date of last revision, north point, scale and legend.
- c. The dimensions of all lot and property lines showing the relationship of the subject property to all abutting properties.
- d. The location of existing and proposed structures on the subject property and all existing structures within fifty feet (50') of the property.
- e. The location of existing and proposed drives and parking areas.
- f. The location and right-of-way widths of abutting streets and Alleys.
- g. The names and addresses of the architect, planner, designer, and/or engineer responsible for preparation of the site plan.

### **3. Considerations during Review**

In the process of reviewing the site plan, the planning commission shall consider:

1. Single-family development on the basis of subdivision.
2. The location and design of driveways that provide vehicular ingress to and egress from the site shall be made in relation to the streets and roads giving access to the site and in relation to pedestrian traffic.
3. The on-site traffic circulation features, within the site and location of automobile parking areas; and may make such requirements with respect to any matter as will ensure:
  - a. Safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets.
  - b. Satisfactory and harmonious relationships between the development of contiguous land and adjacent neighborhoods.
4. The use of landscaping, fences, walls, and other features in pursuance of the above objectives.

### **Section 314 - General Exceptions as to Area, Height, and Use**

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The regulations of this Ordinance shall be subject to the following general interpretations and exceptions:

1. **Essential Services.**

Essential services shall be permitted as authorized and regulated by law and other ordinances of the Township, it being the intent to exempt such essential services from the application of this Ordinance.

2. **Voting Place.**

The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with any local, state, federal or other public election.

3. **Height Limit.**

The height limitations of this Ordinance shall not apply to farm buildings, chimneys, church spires, flag poles, public monuments, or wireless transmission towers, unless provided as a condition of a Site Plan Review or Special Land Use Permit.

An approved site plan shall become part of the record of approval, and the subsequent actions related to the activity authorized shall be consistent with the approved site plan, unless a change conforming to the Zoning Ordinance receives the mutual agreement of the land owner and the Planning Commission.

Site Plan submission, review, and approval shall be required for Special Land Uses and Planned Unit Developments. Decisions rejecting, approving, or conditionally approving a Site Plan shall be based upon requirements and standards contained in the Zoning Ordinance, other planning documents, other applicable ordinances, and state and federal statutes. A Site Plan shall be approved if it contains the information that is required by this Zoning Ordinance and is in compliance with the conditions imposed under the

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## Elkland Township, Tuscola County, Michigan

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Zoning Ordinance, other Elkland Township planning documents, other applicable ordinances, and state and federal statutes.

### **Section 315 - Multiple Dwelling Side Yard**

For the purpose of side yard regulations, a row house, townhouse, condominium, apartment, or other multiple dwelling shall be considered as one or more buildings occupying a single lot.

### **Section 316 - Residential Yard Fences**

Fences or walls of not more than six feet (6') in height may be constructed in residential zones within a required rear or side yard, but not more than thirty inches (30") within a required front yard, e.g. along the property line.

### **Section 317 - Access through Yards**

Access drives may be placed in the required front and/or side yards so as to provide access to rear yards and/or accessory to attached structures. These drives shall not be considered structural violations. Further, any walk, terrace, or other pavement servicing the like function, and not in excess of nine inches (9") above the grade upon which it is placed, shall not be considered a structure and shall be permitted in required yards.

### **Section 318 - Porches and Projections into Yards**

For the purposes of this Ordinance, an open, unenclosed porch or paved terrace may project into the front yard setback for a distance not exceeding ten feet (10'), but this shall not be interpreted to include or permit fixed canopies or roofs.

Architectural features, not including vertical projections, may extend or project into a required front or rear yard for not more than three feet.

### **Section 319 - Lot Area**

Any lot existing and of record at the approval date of this Zoning Ordinance of 2005 may be developed or built according to the applicable zoning district in which it is located without requiring the area, dimensional requirements or floor area of that district provided it is for development by the local health department.

### **Section 320 - Dish Antennas**

Television and internet dishes and/or antennas smaller than thirty-six (36) inches are permitted in all zoning districts. Dish antennas, amateur radio antennas, and other structures similar in size, shape, and/or function, larger than thirty-six (36) inches, are subject to the following conditions:

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1. Any such structure shall require a permit prior to erection. The zoning administrator may require construction drawings showing the proposed method of installations such as anchoring, fencing, and screening. Fees for such a permit shall be established by the Board of Trustees.
2. Any structure covered by this section is prohibited from the required front yard of any zone in which it is located, unless a practical difficulty of reception is demonstrated, in which case the zoning administrator may grant a variance that includes landscaping and screening techniques to reduce the visual impact in the front yard.
3. A dish antenna on the roof of any residential structure shall not extend more than three feet (3') above the peak of the highest point on the roof of that structure.
4. A dish antenna installed on the ground or on a tower in a residential zone shall not exceed fifteen feet (15') in height from the ground to the top of the structure.
5. Dish antennas, amateur radio antennas, and other structures similar in size, shape, and/or function shall be subject to all requirements for accessory structures per Section 305.

### **Section 321 - Swimming Pool Safety Requirements**

Because of the health and safety dangers, including drowning or water accidents the township hereby regulates swimming pools and manmade ponds as follows:

1. No swimming pools are permitted in the front yard of any residential property or development.
  2. Above ground pools that have a wall height of no less than forty-two inches (42") between the ground and the top of the wall or a surrounding fence shall not require any additional fence around the pool site. Fences shall have self-closing and locking gates or doors to prohibit casual access by small children. Said above-ground pools, however, must have a removable ladder that is to be taken from the pool whenever the pool is not in use under adult supervision. A ladder that is permanent, but has a restraint device that can be used to prohibit access and can be locked is an acceptable alternative to a removable ladder.
  3. In-Ground Pools
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## Elkland Township, Tuscola County, Michigan

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In-ground pools not meeting the above requirements and exceeding a depth of eighteen (18) inches and constructed in the Township of Elkland shall meet the following requirements:

- a. All such pools constructed shall be completely enclosed by a fence at least four feet in height and of a type not readily climbed by young children. The bottom of the fence shall be so constructed that children cannot readily crawl under the fence.
- b. The fence shall be constructed to surround the swimming pool providing that it is not closer than four feet (4') or further than twenty feet (20') from the pool's edge, or at the edge of the apron surrounding the pool. A dwelling house or accessory building may be used as part of the fence providing there is only one opening door or gate in the building to the swimming pool area.
- c. The fence shall have only one opening with a gate, which shall be equipped with a self-closing latch that is to be accessed only from the inside of the gate or by reaching over the gate.
- d. If lighting is to be provided in a residential area, the lighting shall be so arranged, shielded and operated so as to prevent disturbance or annoyance to neighboring premises.

### **Section 322 – Ponds**

The regulations set forth in this section are designed to outline the parameters under which ponds may be developed. The regulations are intended to protect the health, safety, and welfare of the township resident, as well as preserve ecological import features, and to prohibit development which, unregulated, may have an adverse impact on the existing character of the township.

#### 1. General Provisions

- a. It shall be unlawful for any person, firm, corporation, partnership, or other organization or entity to construct a pond within the township without first securing a site plan from the Planning Commission and a construction permit from the township Zoning Administrator.
  - b. The pond shall be located on a parcel at least two (2) acres in total size.
  - c. All ponds shall be considered accessory to the principal use.
  - d. Ponds shall not exceed ten (10) percent of the total lot area on which they are situated or five (5) acres, whichever is less.
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- e. The property owner will be required to excavate a test hole to determine the water table and appropriate depth of the pond. The property owner will contact the Zoning Administrator to inspect the test hole within 48 hours of the excavation to document the water table of the site.

### 2. Design requirements

- a. The submerged slopes of the body of water shall not exceed one (1) foot vertical drop to each four (4) feet horizontal to a depth of six (6) feet and shall not exceed a maximum depth of fifteen (15) feet.
- b. Ponds shall be a minimum of thirty (30) feet from property lines as measured from the property line to the beginning of the excavation.
- c. There shall be a distance of not less than twenty-five (25) feet between the outside edge of the excavation and any structure on the site.
- d. All areas disturbed during construction shall be seeded with grass and maintained in good condition to prevent erosion.

### 3. Application and Review Procedures

- a. Applications shall be made to the Zoning Administrator. Applications shall contain the name and address of the applicant and property owner, legal description of the property upon which the pond is to be located, and a site plan.
- b. All required permits shall be obtained prior to the approval by the Township, including, but not limited to the following:
  - i. Tuscola County Drain Commission regarding proximity to a ditch, stream, river, or floodplain.
  - ii. Tuscola County Health Department regarding proximity to site waste water systems.
  - iii. Tuscola County Road Commission regarding designated travel routes.
  - iv. Michigan Department of Environmental Quality regarding natural features such as wetlands.

### 4. Limitations

- a. The construction of the pond is to be completed within a twelve (12) month period. Extensions may be granted by the Planning Commission under extenuating circumstances.
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## Elkland Township, Tuscola County, Michigan

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- b. The property, as situated at the time of the application for a pond permit is made, shall not subsequently be split, divided and/or partitioned in a manner which would result in nonconformance with the requirements contained herein.
- c. No pond shall be located upon, across, or extended beyond an existing property line.
- d. Pond construction shall not commence earlier than 7:00 a.m., and shall not continue after dusk.
- e. The requirements contained herein shall not relieve the applicant from complying with other land development or environmental standards established by the Township or by other public agencies with jurisdiction.

### 5. Soil Removal Provisions

- a. Excavated soil intended for removal from the property shall be removed within one hundred-twenty (120) days after the excavation is complete.
  - b. Proof of liability insurance.
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### **ARTICLE 4: ZONING DISTRICTS**

#### **Section 401 - Intent**

This section divides Elkland Township outside of the Village of Cass City into separate zoning districts for regulation of land uses and the general dimensions that are required. It is a very fundamental part of a zoning ordinance.

#### **Section 402 - Division of the Township into Zoning Districts**

For the purposes of this Ordinance, Elkland Township, Tuscola County, Michigan, excepting streets, alleys and the incorporated Village of Cass City is divided into the following zoning districts:

A-1	Agricultural Zoning Districts
FC-1	Forestry/Conservation Districts
R-1	Residential Zoning Districts
MHP-1	Manufactured Home Park
B-1	Business Zoning Districts
M-1	Manufacturing Zoning Districts

#### **Section 403 - Official Zoning Map**

The boundaries of these zoning districts are hereby defined and established as shown on a map entitled, "Zoning District Map," located in Chapter 12. Said map, with all explanatory matter thereon, is hereby made a part of this Ordinance. The official Zoning District Map shall be kept and maintained by the Clerk of the Township.

#### **Section 404 - Interpretation of Boundaries**

If the boundaries of the Zoning Districts are difficult to read or otherwise defined properly, they may be interpreted by the Zoning Board of Appeals and/or by the following criteria:

1. Boundaries indicated as approximately following the streets or highways or the centerline of said streets or highways shall be construed as following such.
  2. Boundaries indicated as approximately following Township boundary lines, or as approximately following parcel or lot lines, shall be construed as following said lines.
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## Elkland Township, Tuscola County, Michigan

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3. Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance as indicated by a given distance or scaled dimension.

### **Section 405 - Scope of Regulations**

No building or structure, or part hereof, shall hereafter be erected, moved, constructed, or altered, and no new land use made or changed in use shall be made unless in conformity with the provisions of this Ordinance and with the regulations specified for the district in which it is located.

The regulations applying to such district include specific limitations on the use of land and structure, height and bulk of structures, density of population, lot area, yard dimensions, and area of lot that can be covered by each structure.

The Zoning Board of Appeals shall have the power to classify a use which is not specifically mentioned along with a comparable permitted or prohibited use for the purpose of clarifying the use regulations in any district.

### **Section 406 - District Regulations**

The following subsections identify the intent and purpose, use permitted by right, uses permitted by special land use permit, and the dimensional requirements for each zoning district within Elkland Township.

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### **Subsection 406a - A-1 Agricultural Zoning District**

**Purpose:** This district is intended to provide and protect areas of Elkland Township with high-quality agricultural land, to preserve the rural character of the district, and to provide for limited development of rural residential areas.

**Uses permitted by right:** The following is intended as permitted land uses within the A-1 Agricultural District.

- Farming for cash crops, livestock, and fiber purposes
- Public and private parks for the purpose of recreational use, recreational activities, and conservation
- Public assembly uses such as schools, churches, temples, synagogues, and cemeteries
- Towers for cellular and other radio uses
- Forest industries using locally acquired lumber for handcrafts, trinkets and similar products
- Single and double family dwellings
- Roadside stands – See other requirements

**Uses permitted by special land use permit:** The following land uses are permitted as long as the land use conforms to the processes and requirements outlined in Article 7.

- Agricultural storage, terminals, and processing facilities
- Sand, gravel, or clay mining pits with an area exceeding twenty (20) acres.
- Sanitary landfills
- Solid waste transfer stations
- Junkyards
- Sewage treatment and disposal plants
- Farm equipment sales and service facilities
- Airports and helicopter pads
- Veterinary clinics and kennels with animal runs or outdoor kennels
- Distribution facilities for processed agriculture products
- Home-based Business

### **Dimensional requirements:**

#### Area and Width

The minimum lot size for properties in the A-1 Agriculture District shall be restricted to at least one (1) acre, with a width of at least one hundred-fifty (150)

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## Elkland Township, Tuscola County, Michigan

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feet for single family dwelling units or two hundred-forty (240) feet for two-family dwelling units.

### Yard Dimensions

Front yard setbacks shall be restricted to a minimum of sixty (60) feet for residences and seventy-five (75) feet for non-residential uses. Single-family dwellings along with other residential and non-residential uses shall be built or located no closer than twenty-five (25) feet from the side property lines. All buildings shall be a minimum of twenty-five (25) feet from the rear property line.

### Floor Area and Height

The minimum floor area for single family dwellings in the A-1 Agriculture District shall not be less than nine hundred-fifty (950) square feet. Double-family dwelling units shall not be less than seven hundred (720) square feet per family unit. Maximum height for residential dwellings shall not exceed two (2) stories or thirty (30) feet; all non-residential structures shall not exceed fifty (50) feet. Ceiling to height distance for all buildings shall be not less than seven and one-half (7.5) feet.

### **Other requirements:**

- Lots for farm animals raised for commercial use shall have at least ten (10) acres.
  - Farm animals for personal or family use shall require all of the following:
    1. Buildings, pens, cages, and enclosures shall be at least two hundred (200) feet from any dwelling unit. Grazing and pastureland is exempt from this provision.
    2. Animals shall be kept with proper housekeeping to reduce odors, animal waste run-off, or other associated nuisances.
    3. The site shall be at least 100,000 square feet in area.
  - More than one single-family dwelling may be built on a farm if all dimensional requirements for residential uses are met.
  - If more than four (4) additional single-family dwellings are built on a farm, then any additional dwelling may be built only if a family member owns and occupies the dwelling and a new lot description is registered for the property.
  - Temporary dwellings are permitted as long as variances are approved via the Zoning Board of Appeals process outlined in Section 920 of this document
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and that they have a floor area of no less than seven hundred-twenty (720) square feet.

- Recreational vehicles shall conform to the same requirements outlined in the FC-1 Forestry and Conservation Zoning District, Subsection 406b.

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### Subsection 406b – FC-1 Forestry and Conservation Zoning District

**Purpose:** This district is intended to promote appropriate use of wooded, floodplain, wetlands and natural areas to provide a rural and attractive environment for area plants and animals. It is also intended to provide suitable open space for residents, visitors and tourists. Residential development is intended to be primarily single family dwelling units of very-low density.

**Uses permitted by right:** The following is intended as permitted land uses within the FC-1 Forestry and Conservation District.

- All uses permitted by right in the A-1, Agriculture District
- Seasonal homes and cabins
- Recreational vehicles as long as they meet the regulations within the other requirements
- Public and private parks, including recreation and conservation uses
- Farm animals
- Forest industries using locally acquired lumber for handcrafts, trinkets, and similar products
- Golf and country clubs, shooting clubs, and riding stables

**Uses permitted by special land use permit:** The following land uses are permitted as long as the land use conforms to the processes and requirements outlined in Article 7.

- All uses permitted by Special Land Use in A-1, Agriculture District
- Public and private campgrounds
- Sanitary landfills
- Solid waste transfer stations
- Junkyards
- Processing and disposal areas
- Retail businesses intended primarily for visitors and tourists
- Resorts, motels, lodges, bed and breakfast inns, and dining establishments
- Rural highway commercial businesses
- Hydro-electric generating plants
- Home-based Business

### **Dimensional requirements:**

#### Area and Width

The minimum lot size for properties in the FC-1 Forestry and Conservation District shall be restricted to at least one (1) acre, with a width of at least one

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hundred-fifty (150) feet for single family dwelling units or two hundred-forty (240) feet for two-family dwelling units.

### Yard Dimensions

Front yard setbacks shall be restricted to a minimum of sixty (60) feet for residences and seventy-five (75) feet for non-residential uses. Single-family dwellings along with other residential and non-residential uses shall be built or located no closer than twenty-five (25) feet from the side property lines. All buildings shall be a minimum of twenty-five (25) feet from the rear property line.

### Floor Area and Height

The minimum floor area for single family dwellings in the FC-1 Forestry and Conservation District shall not be less than nine hundred-fifty (950) square feet. Double-family dwelling units shall not be less than seven hundred (720) square feet per family unit. Maximum height for residential dwellings shall not exceed two (2) stories or thirty (30) feet; all non-residential structures shall not exceed fifty (50) feet. Ceiling to height distance for all buildings shall be no less than seven and one-half (7.5) feet.

### **Other requirements:**

- Lots for farm animals raised for commercial use shall have at least ten (10) acres.
  - Farm animals for personal or family use shall require all of the following:
    1. Buildings, pens, cages, and enclosures shall be at least two hundred (200) feet from any dwelling unit. Grazing and pastureland is exempt from this provision.
    2. Animals shall be kept with proper housekeeping to reduce odors, animal waste run-off, or other associated nuisances.
    3. The site shall be at least 100,000 square feet in area.
  - More than one single-family dwelling may be built on a farm if all dimensional requirements for residential uses are met.
  - If more than four (4) additional single-family dwellings are built on a farm, then any additional dwelling may be built only if a family member owns and occupies the dwelling and a new lot description is registered for the property.
  - Temporary dwellings are permitted as long as variances are approved via the Zoning Board of Appeals process outlined in Section 920 of this document and that they have a floor area of no less than seven hundred-twenty (720) square feet.
  - Any permitted recreational vehicle shall have a permit from the Zoning Administrator at a fee determined by the Board of Trustees. Such vehicle shall
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be removed from the parcel for at least one month after four months of being located on the parcel.

### **Subsection 406c – R-1 Residential Zoning District**

**Purpose:** This district is intended for more intensive residential development clustered in a specific area such as near the Village of Cass City so that future provision of public utilities may be available and efficiently added. Multiple family units are discouraged unless they are already able to be connected to public water supply and sanitary sewer service.

**Uses permitted by right:** The following is intended as permitted land uses within the R-1 Residential District.

- Single-family residential dwellings
- Public assembly buildings
- Public and private cemeteries
- Public and private parks and recreational uses
- Recreation and conservation uses
- Home occupation uses
- Farm and agricultural activities not being hazardous to health or nuisance to surrounding residences
- Accessory uses and structures

**Uses permitted by special land use permit:** The following land uses are permitted as long as the land use conforms to the processes and requirements outlined in Article 7.

- Institutional uses for human care, social, educational, cultural and religious purposes
- Two-family residential uses
- Multiple family residential uses

### **Dimensional requirements:**

#### Area and Width

The minimum lot size for properties in the R-1 Residential District shall be restricted to at least fifteen thousand (15,000) square feet, with a width of at least eighty (80) feet. If public sanitary sewer and public water supply are available, then the Village of Cass City zoning district requirements shall be used.

#### Yard Dimensions

Front yard setbacks shall be restricted to a minimum of thirty-five (35) feet for residential uses. Buildings shall be built or located no closer than ten (10) feet from the side property lines. All buildings shall be a minimum of thirty-five (35) feet from the rear property line.

#### Floor Area and Height

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The minimum floor area for single family dwellings in the R-1 Residential District shall not be less than nine hundred-fifty (950) square feet. Double-family dwelling units shall not be less than seven hundred (720) square feet per family unit. Maximum height for residential dwellings shall not exceed two (2) stories or thirty (30) feet. Ceiling to height distance for all buildings shall be no less than seven and one-half (7.5) feet.

### **Other requirements:**

- Temporary dwellings, as defined in Article 2, are permitted as long as variances are approved via the Zoning Board of Appeals process outlined in Section 920 of this document and that they have a floor area of no less than seven hundred-twenty (720) square feet.

### **Subsection 406d – MHP-1 Manufactured Home Park Zoning District**

**Purpose:** This district is intended for Manufactured Home Parks and related medium density residential developments. Sites for Manufactured Home Parks are anticipated in non-prime agricultural areas with private utilities for the site or in proximity to connection of public water supply and sewer service made through extensions granted by the Village of Cass City.

**Uses permitted by right:** The following is intended as permitted land uses within the MHP-1 Manufactured Home Park District.

- Mobile and/or modular home parks
- Double-Family residential uses
- Medium-density residential uses such as townhouses and condominiums
- Public and private parks and recreational uses
- Recreation and conservation uses
- Home occupation uses
- Farm and agricultural activities not being hazardous to health or nuisance to surrounding residences
- Accessory uses and structures

**Uses permitted by special land use permit:** The following land uses are permitted as long as the land use conforms to the processes and requirements outlined in Article 7.

- Apartments or high-density condominiums when appropriate water supply and sanitary sewage and treatment is available

### **Dimensional requirements:**

#### Area and Width

Manufactured Home Parks shall not be smaller than at least twenty (20) acres. The minimum lot size for properties in the MHP-1 Manufactured Home Park District shall be restricted to at least fifteen thousand (15,000) square feet, with a width of at least eighty (80) feet. If public sanitary sewer and public water supply are available, then the Village of Cass City zoning district requirements shall be used.

#### Yard Dimensions

Front yard setbacks shall be restricted to a minimum of thirty-five (35) feet for residential uses. Buildings shall be built or located no closer than ten (10) feet from the side property lines. All buildings shall be a minimum of thirty-five (35) feet from the rear property line.

#### Floor Area and Height

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The minimum floor area for single family dwellings in the MHP-1 Manufactured Home Park District shall not be less than nine hundred-fifty (950) square feet. Double-family dwelling units shall not be less than seven hundred (720) square feet per family unit. Maximum height for residential dwellings shall not exceed two (2) stories or thirty (30) feet. Ceiling to height distance for all buildings shall be no less than seven and one-half (7.5) feet.

### **Other requirements:**

- Temporary dwellings, as defined in Article 2, are permitted as long as variances are approved via the Zoning Board of Appeals process outlined in Section 920 of this document and that they have a floor area of no less than seven hundred-twenty (720) square feet.
- Manufactured home parks shall meet the requirements of the State of Michigan Mobile Home Commission.

### **Subsection 406e – B-1 Business Zoning District**

**Purpose:** This district is intended for area retail shopping, professional offices, personal service establishments, consumer convenience, related small-scale wholesale and small-scale ware house establishments. The district is intended for business on M-81 east and west of Cass City and for Cemetery Road immediately north of Cass City.

**Uses permitted by right:** The following is intended as permitted land uses within the B-1 Business District.

- Single and two family residential dwelling above ground floor business space
- Retail food establishments such as food markets and grocery stores
- Convenience, commodity or other stores selling finished products in clothing, hardware, housewares, and other products
- Office buildings for finance, real estate, insurance, law, medicine and similar professional and administrative functions
- Non drive-in or drive-thru restaurants
- Hotels, motels and related lodging facilities
- Accessory uses

**Uses permitted by special land use permit:** The following land uses are permitted as long as the land use conforms to the processes and requirements outlined in Article 7.

- Institutional uses for human care, social, educational, cultural and religious purposes
- Drive-in or drive-thru restaurants
- Automotive service stations, repair, body shops or washing facilities
- Building suppliers
- Warehouses
- Wholesale Businesses
- Truck terminals
- Commercial recreation uses such as bowling Alleys, roller rinks, pool halls, and similar activities
- Auto Dealerships
- Assembly buildings of less than six-thousand (6,000) square feet with no more than twelve (12) employees and no hazardous or noxious materials

### **Dimensional requirements:**

#### Area and Width

The minimum lot size for properties in the B-1 Business District shall be restricted to at least fifteen thousand (15,000) square feet, with a width of at least

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one hundred (100) feet. If public sanitary sewer and public water supply are available, then the Village of Cass City zoning district requirements shall be used.

### Yard Dimensions

Front yard setbacks shall be restricted to a minimum of sixty (60) feet for residential uses, seventy-five (75) feet for all other uses. Buildings shall be built or located no closer than ten (10) feet from the side property lines unless the building is attached to an adjacent building with a firewall, in which case a side yard shall not be required. All buildings shall be a minimum of forty (40) feet from the rear property line. If the rear or side lot line adjoins a residential lot, then proper landscaping shall be required to buffer the dwelling from the business use.

### Floor Area and Height

The minimum floor area for single family dwelling units in the B-1 Business District shall not be less than nine hundred-fifty (950) square feet. Two-family dwelling units shall not be less than seven hundred (720) square feet per family unit. The minimum floor area for buildings in the B-1 Business District shall be no less than four hundred (400) square feet. Maximum height for buildings in the B-1 Business District shall not exceed three (3) stories or forty (40) feet. Ceiling to height distance for all buildings shall be no less than seven and one-half (7.5) feet.



### **Subsection 406f – M-1 Manufacturing Zoning District**

**Purpose:** This district is intended for employment-oriented manufacturing and other intensive industrial or semi-industrial uses. It specifically excludes any dwelling units or temporary homes. It is anticipated to be south of the Village of Cass City and along the east end of M-81 at Greenland Road.

**Uses permitted by right:** The following is intended as permitted land uses within the M-1 Manufacturing District.

- All uses permitted by right in B-1 Business District except any dwelling units and all lodging facilities
- Manufacturing, processing, assembling, packaging, treatment or use of previously prepared materials
- Motor freight terminals
- Building supply and wholesale material either indoors or outside
- Open air facilities for growing, warehousing, displaying, and selling products
- Agricultural processing, packaging, and warehousing
- Accessory uses

**Uses permitted by special land use permit:** The following land uses are permitted as long as the land use conforms to the processes and requirements outlined in Article 7.

- Drive-in or drive-thru restaurants
- Automotive service stations, repair, body shops or washing facilities
- Petroleum refining and chemical production
- Large scale primary metal industries

### **Dimensional requirements:**

#### Area and Width

The minimum lot size for properties in the M-1 Manufacturing District shall be restricted to at least one (1) acre, with a width of at least two hundred (200) feet. If public sanitary sewer and public water supply are available, then the Village of Cass City zoning district requirements shall be used.

#### Yard Dimensions

Front yard setbacks shall be restricted to a minimum of seventy-five (75) feet for all uses. Buildings shall be built or located no closer than fifty (50) feet from the side property lines unless the building is attached to an adjacent building with a firewall, in which case a side yard shall not be required. If the rear lot line adjoins a residential lot, then proper landscaping shall be required to buffer the dwelling from the M-1 Manufacturing District use and all buildings shall be a minimum of forty (40) feet from the rear property line. If the rear lot line adjoins another M-1

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Manufacturing use or similar use, then any buildings shall be no less than twenty (20) feet from the rear lot line.

### Floor Area and Height

The minimum floor area for buildings in the M-1 Manufacturing District shall be no less than four hundred (400) square feet. Maximum height for buildings in the M-1 Manufacturing District shall not exceed three (3) stories or forty (40) feet. Ceiling to height distance for all buildings shall be no less than seven and one-half (7.5) feet.

### **ARTICLE 5: OFF-STREET PARKING**

#### **Section 501 - Application of Off-Street Parking Requirements**

Any time a primary building or structure is erected, enlarged or changed in use, the Zoning Administrator shall examine the need for off-street parking and loading. The number of off-street parking spaces, in conjunction with all land and building uses, shall be provided prior to the issuance of a certificate of occupancy. Off-street parking for other than a residential use shall be on either the same lot within three hundred (300) feet of the building it is intended to serve, as measured from the nearest point of the building to the nearest point of the off-street parking lot. Any area once required to meet minimum off-street parking shall not be changed to any other use unless equal facilities are provided elsewhere within three hundred (300) feet. Elkland Township Zoning Board of Appeals may grant a variance to the application of these requirements upon a showing of reasonableness related to property or use conditions.

#### **Section 502 - Handicap Parking Requirements**

Any applicant for a building permit is required to meet the provisions for vehicles parking in a space for handicapped persons in conformance with the requirements of the State of Michigan and the United States of America and consistent with the standards then in effect.

#### **Section 503 - Size of Parking Spaces for Automobile and Light Truck Vehicles**

Each parking space for a passenger automobile or light truck such as a pick-up truck or van shall be a minimum of twelve (12) feet wide and twenty-two (22) feet long. In angle parking the shortest side of the space shall have at least a twenty-two (22) foot dimension in length.

#### **Section 504 - Minimum and Maximum Parking Space Requirements**

The minimum and maximum number of off-street parking spaces required by specific land uses shall be determined in accordance with the schedule of land uses as follows:

##### **1. Residential Land Uses**

- a. Dwelling units
  - i. Minimum: 2 per unit
  - ii. Maximum: 2.5 per unit

##### **2. Institutional Land Uses**

- a. Churches, temples, and synagogues
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- i. Minimum: 1 for every 3 seats or each six feet of pews in the main worship area
  - ii. Maximum: 1 for every 2.5 seats or each five feet of pews in the main worship area
- b. Hospitals
  - i. Minimum: 1 for every hospital bed
  - ii. Maximum: 1.25 for every hospital bed plus 1 for every employee during the busiest shift
- c. Nursing Homes
  - i. Minimum: 1 for every 2 beds
  - ii. Maximum: 1 for every 1.75 beds plus 1 for every employee during the busiest shift
- d. Elementary/Junior High Schools
  - i. Minimum: 1 for every staff member
  - ii. Maximum: 1 for every staff member plus 1.5 for every classroom
- e. Senior High Schools
  - i. Minimum: 1 for every staff member plus 1 for every ten (10) students
  - ii. Maximum: 1 for every staff member and 1 for every ten (10) students plus the legal capacity of the gymnasium divided by three
- f. Clubs and Social Organizations
  - i. Minimum: 1 for every 3 members
  - ii. Maximum: 1 for every 2 members
- g. Stadiums, Theaters, and Auditoriums
  - i. Minimum: 1 for every 3 seats
  - ii. Maximum: 80% of the legal capacity of the facility

### **3. Business and Commercial Land Uses**

- a. Retail Commercial or Shopping Center
    - i. Minimum: 1 for every 100 square feet of useable floor space
    - ii. Maximum: 1.5 for every 100 square feet of useable floor space
  - b. Beauty or Barber Shop
    - i. Minimum: 3 spaces for every barber/beautician and 1.5 for each additional chair
    - ii. Maximum: 3 spaces for every barber/beautician and 2 for each additional chair
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- c. Bowling Alleys
    - i. Minimum: 5 for every bowling lane
    - ii. Maximum: 60% of the legal capacity of the facility
  - d. Dance Halls, Pool Halls, Skating Rinks, and Assembly Halls without Fixed Seats
    - i. Minimum: 30% of the legal capacity of the facility
    - ii. Maximum: 50% of the legal capacity of the facility
  - e. Restaurants
    - i. Minimum: 1 for every 50 square feet of useable floor area
    - ii. Maximum: 1 for every 50 square feet of useable floor area plus 1 for every employee during the busiest shift
  - f. Furniture and Appliance or Household Equipment Stores, Repair Shops, Trade Shops, Clothing and Shoe Repair, or other Similar Uses
    - i. Minimum: 1 for every 100 square feet of useable floor area
    - ii. Maximum: 1 for every 100 square feet and one for every fulltime shop employee
  - g. Gasoline and Service Stations
    - i. Minimum: 2 plus 1 for every vehicle rack, stall, or pit
    - ii. Maximum: 2 plus 1 for every vehicle rack, stall, or pit, plus 1 for every 2 fulltime employees
  - h. Mortuary Establishments
    - i. Minimum: 1 for every 50 square feet of assembly room or parlor
    - ii. Maximum: 65% of the legal capacity of the facility
  - i. Motel, Hotel, Bed and Breakfast Inn, or Commercial Lodging
    - i. Minimum: 1.5 for every unit plus 1 for every full-time employee
    - ii. Maximum: 2 for every unit plus 1.25 for every full-time employee
  - j. Car Dealerships and Service Centers
    - i. Minimum: 1 for every 400 square feet of useable floor space and 1 for every auto service stall
    - ii. Maximum: 2 for every 400 square feet of useable floor space and 1 for every auto service stall
  - k. Retail Stores not otherwise specified
    - i. Minimum: 1 for every 150 square feet of useable floor area
    - ii. Maximum: 1 for every 225 square feet of useable floor area
  - l. Banks and Financial Institutions
    - i. Minimum: 1 for every 100 square feet of useable floor area
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- ii. Maximum: 1 for every 175 square feet of useable floor area
- m. Business or Professional Offices
  - i. Minimum: 1 for every 100 square feet of useable floor area
  - ii. Maximum: 1 for every 175 square feet of useable floor area

### 4. Industrial Land Uses

- a. Industrial or Research Establishments
    - i. Minimum: An initial 5 spaces plus 1 added space for every 1.5 employees on the shift with the most employees, or 1 space for every 550 square feet of useable floor space, whichever is greatest
    - ii. Maximum: An initial 5 spaces plus 1 added space for every 1.25 employees on the shift with the most employees, or 1 space for every 475 square feet of useable floor space, whichever is greatest
  - b. Wholesale Establishments
    - i. Minimum: An initial 5 spaces plus 1 added space for every 1.5 employees on the shift with the most employees, or 1 space for every 1,700 square feet of useable floor space, whichever is greatest
    - ii. Maximum: An initial 5 spaces plus 1 added space for every 1.25 employees on the shift with the most employees, or 1 space for every 1,500 square feet of useable floor space, whichever is greatest
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### **ARTICLE 6: SIGN REGULATIONS**

#### **Section 601 - Purpose of Sign Regulations**

The sign regulations as set forth herein are intended to control the size, location, character, height, other pertinent physical features, and the operating characteristic for all exterior signs.

The purpose is to regulate such signs as to protect health, safety and public welfare and reduce visual congestion along thoroughfares. This is accomplished by preventing traffic hazards and visual disturbances; reflecting the community standards for aesthetic and design qualities.

#### **Section 602 - Billboards and Outdoor Advertising Signs**

1. Billboards and outdoor advertising signs along state trunk lines designated by the Michigan Department of Transportation are not regulated by this ordinance, but are regulated by the Department of Transportation with such signs permitted only in areas zoned business or industrial.
2. Billboards and outdoor advertising signs in Elkland Township are permitted only on major arterials as designated by this ordinance; only in business and industrial districts and not closer than three hundred (300) feet to any residential zoning district.
3. Billboards shall not exceed three hundred (300) square feet anywhere in Elkland Township.

#### **Section 603 - Permit**

Prior to construction, placement or establishment of any permanent sign in a B-1 Business or M-1 Manufacturing Zoning District or on a County Primary Road, a permit shall be obtained from the Zoning Administrator. Said permit shall be valid for a period of six months after issuance. If the sign installation has not been completed within six months, the permit is null and void unless the Planning Commission grants a three (3) month extension.

#### **Section 604 - District Regulations**

Regulations for signs are divided into two broad land uses: residential and business/manufacturing.

**Residential Districts:** Specific sign regulations for R-1 Residential, MHP-1 Manufactured Housing, A-1 Agricultural, and FC-1 Forestry Conservation Zoning Districts are as follows:

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**General Sign Requirements:** Portable signs may be displayed in residential zones to identify a personal event providing:

1. The sign does not have a blinking, flashing, or moving light(s) or other part(s)
2. The sign does not exceed forty (40) square feet in area on either of the two back-to-back sides
3. The sign is not displayed for more than three (3) days in a row nor more than ten (10) days total per year

**Mounting, location, and placement of signs:** Signs may be flat wall signs anywhere on the principal dwelling, garage or on a post. Signs in R-1 Residential and FC-1 Forestry and Conservation District must be eight (8) square feet or less in area and are limited to one (1) sign per lot, except in the case of a multiple family complexes. Multiple family complex signs may be up to forty (40) square feet in area (excluding architectural mounting) providing only one (1) sign is permitted at the principal point of ingress and egress.

**Number of signs permitted:** One (1) sign is permitted on each dwelling. For multiple family units, if the lot exceeds 36,000 square feet in area and more than eight dwelling units are involved, then one (1) sign is permitted for each street frontage of more than one hundred (100) feet.

**Content restrictions:** A sign shall not advertise a product, service, or business which is not located in the home as a legal home occupation use. No sign or part thereof shall have lights, size, shape, design or appearance so as to be construed as a traffic control sign or device. No sign may contain obscene, immoral, lewd, or otherwise offensive morals or decency. Signs shall not move in any way or have any major moving parts. Signs that contain or consist of banners, lighted bulbs, posters or similar moving parts are prohibited.

**Exempt signs and temporary signs:** The following signs are permitted anywhere in the township as provided:

1. Construction signs limited to one sign not more than fifty (50) square feet in area
  2. Real estate and political campaign signs not larger than sixteen (16) square feet in area. Such signs shall be removed within ten days of sale, lease, or election.
  3. Show windows
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4. Street banners approved by the Township Board of Trustees
5. The following signs are exempt from control within this ordinance:
  - a. Public and institutional signs
  - b. Private traffic control signs
  - c. No more than one (1) unlit, flat-mounted sign, with less than eight (8) square feet of area on a building
  - d. Rental signs less than four (4) square feet in area
  - e. Signs architecturally integrated into the building

**Business/Manufacturing Districts:** Specific sign regulations for B-1 Business and M-1 Manufacturing Zoning Districts are as follows:

**General Sign Requirements:** Business/Manufacturing District signs may not exceed forty (40) feet in area. Maintenance of signs is required to keep them safe, neat, clean, and attractive. Permanent joint signs for a business/manufacturing complex may be used for multiple tenants and may have up to one hundred-twenty (120) square feet in area on each side.

**Mounting, location, and placement of signs:** Signs may be flat wall signs anywhere on the principal building. Projecting or free-standing signs shall have a minimum clearance of eight (8) feet above any sidewalk and fifteen (15) feet above driveways, Alleys and parking lots. Freestanding or ground mounted signs may be located within the yard of the parcel. Freestanding signs may extend twenty (20) feet in height above the average ground surface of the parcel. Ground mounted signs may extend to a height of five (5) feet in height above the average ground surface of the parcel. Marquee signs must be eight (8) feet above the sidewalk at any point. Signs attached to the building shall not project above the roof line.

**Number of signs permitted:** One (1) sign is permitted for each business/building except as noted in this ordinance. If a lot exceeds 25,000 square feet in area, one (1) sign for each street frontage of more than fifty (50) feet is permitted. An additional sign is permitted if the lot's street frontage is greater than six hundred (600) feet in length. One (1) added wall mounted sign is permitted if the building is set back more than one hundred-fifty (150) feet from the right-of-way line.

**Illumination:** All direct or reflected light shall be shaded, shielded or directed so that the light is not objectionable on adjacent properties or constitute a traffic hazard on nearby roads. No transparent, incandescent or strobe lights that exceed 15 watts shall be used on the exterior surface of any sign.

**Content restrictions:** No sign or part thereof shall have lights, size, shape, design or appearance so as to be construed as a traffic control sign or device. No sign

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may contain obscene, immoral, lewd, or otherwise offensive morals or decency. No sign shall advertise a business not on the parcel without the approval of the planning commission. Signs shall not move in any way or have any major moving parts. Signs that contain or consist of banners, lighted bulbs, posters or similar moving parts are prohibited.

**Exempt signs and temporary signs:** The following signs are permitted anywhere in the township as provided:

1. Construction signs limited to one sign not more than fifty (50) square feet in area
2. Real estate and political campaign signs not larger than sixteen (16) square feet in area. Such signs shall be removed within ten days of sale, lease, or election.
3. Show windows
4. Street banners approved by the Township Board of Trustees
5. The following signs are exempt from control within this ordinance:
  - a. Public and institutional signs
  - b. Private traffic control signs
  - c. No more than one (1) unlit, flat-mounted sign, with less than eight (8) square feet of area on a building
  - d. Rental signs less than four (4) square feet in area
  - e. Signs architecturally integrated into the building

### **ARTICLE 7: SPECIAL LAND USES**

#### **Section 701 - Intent and purpose**

It is the intent of this article to provide for special land uses which have unique characteristics and shall be permitted in only specific zoning districts after review of compliance with specified standards and approval by the Planning Commission. The purpose is to recognize the special requirements of these land uses and to maintain the standards and procedures for review to ensure they conform with this ordinance. This ordinance allows only discretionary land uses to ensure there is a public participation in the review process.

#### **Section 702 - Special land uses eligible**

In order to be considered for a special land use permit, the proposed use must either be specifically identified as a special land use in the Zoning District desired or must be interpreted as consistent with similar uses allowed in that district by the Zoning Board of Appeals. The specific land uses permitted in various districts are the following:

- Agricultural storage, terminals and processing facilities
  - Farm equipment sales and service facilities
  - Airports and aviation landing strips
  - Junk, salvage, and recycling yards
  - Sand, gravel, clay, or other open mineral extraction
  - Veterinary clinics and kennels
  - Two family dwelling units
  - Multiple family dwelling units
  - Drive-in or drive-thru restaurants
  - Automotive uses
  - Building supply, warehouses and truck terminals
  - Institutions for human care, education, social, cultural or religious establishments
  - Bed and breakfast inns
  - Resorts, motels, lodges and other tourist lodging
  - Public and private campgrounds
  - Retail business intended for tourists or visitors
  - Rural highway commercial
  - Sexually-oriented businesses
  - Home-based business
  - Wind energy generators
  - Outdoor theater
  - Television, radio, and wireless communication towers
  - Horse riding academies and stables
  - Auto race track for small vehicles
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### **Section 703 - Review and issuance of Special Land Use Permits**

The Elkland Township Planning Commission shall be responsible for reviewing applications for special land uses then granting approval, disapproval or approval with conditions. The Planning Commission may designate the Zoning Administrator, a Community Planner, or a Township official to be responsible for processing the special land use permit. Such a designation shall be by a formal resolution for a specific tenure.

### **Section 704 - Materials to be submitted for application review**

An application for a special land use permit shall be submitted and processed under the following procedure:

1. An Application Form shall be provided by the Zoning Administrator or other authorized official to be filled out by the applicant
2. A fee paid for processing the special land use permit, shall allow compensation to be paid to necessary consultants for review. The fee may be required by the Township Board of Trustees prior to official review.
3. A site plan shall be submitted in accordance of Article 8 of the Zoning Ordinance.
4. A description shall be provided on how the specific requirements for the special land use permit are to be met. This description may include narrative text, charts, tables and/or maps.

### **Section 705 - Procedures for review**

1. All applications will be accepted as “discretionary” to ensure that neighbors know of it and a public hearing is held. Therefore the requirements for a “non-discretionary” hearing will not be applicable.
  2. A proposed discretionary permit requires the following requirements:
    - a. One notice regarding information consistent with Article 3, Section 313 shall be published in a newspaper of general circulation and a notice shall be sent by mail or personal delivery to owners of property to whom real property is assessed within 300 feet of the proposed site.
    - b. The property and nature of the special land use shall be described in the written notice or letters along with the time and location the Planning Commission will formally consider the special land use permit.
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- c. Written comments shall be received until the Planning Commission decides their determination of action of the request. The determination may be at the same meeting of the presentation or after determination at an alternative meeting.
- d. The Planning Commission may approve, approve with conditions or disapprove the proposed special land use permit. The decision shall be incorporated in a statement containing the conclusions relative to the special land use under consideration, which specifies the basis for the decision.

### **Section 706 – Findings of fact and purpose of non-discretionary special land uses**

The Township of Elkland has determined that certain classes of land use represent specialized community development needs that should be permitted only with certain specific controlling provisions. The findings of fact are:

- Some extensive uses of land based on recreational or green open space uses require large acreages and special attention to the location of the facilities, structures, and activities. Such uses can include golf courses, shooting clubs, stables, auction yards, and similar uses.
- Certain higher density uses require special consideration because of the size or character of activities that can introduce traffic, noise, visual obstructions, or otherwise have a different scale, appearance, or function than most land uses in a district. These uses can include cemeteries, churches, veterinary clinics, institutional uses for health and education, and funeral homes, among others.
- Other uses have a higher density than normally expected in a particular district that brings specialized needs for traffic design, lot size, and building controls. Such uses include multiple-family uses or certain business and commercial uses.
- Some businesses will generate more traffic movements in and around their location than can normally be handled effectively by normal district standards and thus deserve special controls. These can include service stations, motels, and drive-in or drive-thru business establishments.
- Another class of land uses can cause unusual visual impact, noise, dust, or specialized market impacts. These uses may include repair businesses, junk yards, landfills, solid waste facilities, open air outdoor storage or processing, outdoor movie theaters, racing tracks, and other unusual businesses.

In order to address these special needs, “non-discretionary” special land uses have been identified to provide the unique standards and criteria for their placement in the

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appropriate zoning district. The purpose is to identify what requirements must be met in order to provide a basis for permitting the use.

### **Section 707 – Standards and requirements for discretionary special land use permits**

Elkland Township finds that some particularly intensive, large-scale, unusual, or potentially intrusive land uses not only require special standards and requirements in terms of location, placement, and design criteria, but also require additional discretionary consideration in terms of aesthetic concerns, land use compatibility, relationship to public health, safety, or welfare. Furthermore, specific projects may therefore require site-specific conditions for the proposed special land use even though such conditions cannot be defined in broad classification for all potential sites.

The types of land uses developing highly specialized needs include mineral extraction, sanitary landfills, institutions for incarceration or correction, solid waste processing, chemical uses, and varying dimensional requirements.

It is the purpose of this section to provide the standards, criteria, and range of discretionary considerations that can be brought to bear on each use. In addition to the conditions defined in Section 708, the general set of conditions that may be considered by the planning commission for discretionary special land uses include:

- Conditions designed to protect natural resources, health, safety, welfare, social, or economic conditions of the land, landowners, of those who will use the land or activities thereon, residents, and adjacent land uses, or to the community as a whole.
- Conditions related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- Conditions necessary to meet the intent and purpose of this zoning ordinance are related to the standards and criteria established in the ordinance for the land use or activity under consideration, and may be necessary to insure compliance with those standards.
- The condition imposed with respect to the approval of a land use or activity shall be recorded in the minutes of the approval action, and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The Planning Commission shall maintain the record of these actions.

### **Section 708 - Standards, requirements, and conditions for discretionary special land use permits**

The standards, requirements, and conditions for special land use permits are identified in this section. Permits may only be approved if the special land use is authorized in the

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listed uses for the particular zoning district in which it would be located and only if the standards, requirements, dimensions and conditions identified are addressed in the application for the project. The special land uses and their requirements are as follows:

- Agricultural storage, terminal and processing facilities
    1. Site shall not permit odor, dust, animal waste, or intrusive environmental condition on adjacent property.
    2. At least five (5) acres of land shall be available for the use.
    3. No building or structure shall be closer than fifty (50) feet to any adjacent agricultural lot or closer than seventy-five (75) feet to any residential district.
    4. Fencing of at least four (4) feet high shall be required for any hazardous mechanical, electrical, chemical, or storage site.
    5. The use shall meet all applicable state, federal and local laws and legal standards
    6. The township planning commission may require larger dimensional requirements if conditions demonstrate a need.
  
  - Farm equipment sales and service facilities
    1. Site shall not permit odor, dust, animal waste, or intrusive environmental condition on adjacent property.
    2. At least two (2) acres of land shall be available for the use.
    3. No building or structure shall be closer than fifty (50) feet to any adjacent agricultural lot.
    4. Fencing of at least four (4) feet high shall be required for any hazardous mechanical, electrical, chemical, or storage site.
    5. The use shall meet all applicable state, federal and local laws and legal standards.
    6. The township planning commission may require larger dimensional requirements if conditions demonstrate a need.
  
  - Airports and related uses
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1. The planning commission shall take into high consideration the resolution or mitigation of noise, safety, and ground support regarding this land use.
  2. Public and private airports are intended for areas of large open space and level elevation similar to agricultural.
  3. At least sixty (60) acres of land shall be available for the use.
  4. The end of the runway shall be at least one thousand (1,000) feet from any dwellings or human activity.
  5. Runways shall be setback at least two hundred (200) feet from any adjacent property line.
  6. The Federal Aviation Administration (FAA) shall review facility plans and provide added comments and requirements that shall be integrated into the facility plan prior to Elkland Township review. The plan shall also include the FAA's requirements for buffer or clear zones.
- Junk and salvage yards
    1. At least ten (10) acres of land shall be available for the use.
    2. No storage shall be closer than fifty (50) feet to any R-1 Zoning District or residence.
    3. No fixed machinery shall be located closer than one hundred fifty (150) feet of any R-1 Zoning District or any residence.
    4. The site shall be located on a paved road.
    5. By definition, one or more vehicles on a lot that are inoperative or unlicensed shall be construed as a junk yard.
  - Sand, gravel, clay, or other open mineral extraction
    1. Site shall be located on a rural site along a paved road.
    2. Minimum site area shall be at least twenty (20) acres.
    3. Any cuts, excavation, access, fixed machinery, or storage facilities shall not be located closer than seventy-five (75) feet to any property line.
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4. If needed, Elkland Township Planning Commission shall determine the need, location, and height of fencing, berms, and landscape to mitigate noise, visual disturbance, or dust.
  5. The site plan shall show sequenced rehabilitation of the site for alternative land uses after excavation, fill, or other surface movement.
  6. No finished slope shall be greater than a 3:1 (horizontal:vertical).
  7. Slopes shall conform to Michigan Act 347 of 1972, as amended.
- Veterinary clinics and kennels
    1. The planning commission shall take into high consideration the resolution or mitigation of noise, odor, and pollution of watercourses or drains.
    2. The site shall include facilities and housekeeping for proper control of animal waste, odor, and noise.
    3. Minimum site area for animals permanently housed in a building shall be at least one (1) acre.
    4. Minimum site area to allow animals to have outdoor exercise shall be at least five (5) acres.
    5. No building, outdoor fence, or wall shall be closer than fifty (50) feet to any street or property line.
    6. Outdoor exercise areas shall be surrounded by solid masonry, brick walls, or chain link fencing having obscuring evergreen plantings at least four (4) feet in height.
  - Two family dwelling units
    1. Site shall have all approvals for water and wastewater treatment from the local health department.
    2. Minimum site area to shall be at least fifteen thousand (15,000) square feet.
    3. Minimum lot width shall be at least one hundred (100) feet.
    4. The site and plan shall meet the other requirements for two-family dwelling units as identified in the R-1 Residential Zoning District.
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- Multiple family dwelling units
    1. Site shall have public sanitary sewer service or approval of suitable project-wide services by the local health department.
    2. Site shall be in the vicinity of existing residential development, on a paved road, or on a state highway.
    3. Minimum site area to shall be at least one (1) acre.
    4. Structure(s) shall not be located closer than fifty (50) feet to any property or right-of-way line.
    5. Project shall not exceed a density of ten (10) units per acre of gross area
  
  - Drive-in or drive-thru restaurants
    1. Site shall have at least one (1) property line abutting a county primary road or a state highway.
    2. Site shall meet the B-1 Business District area requirements.
    3. Minimum setback shall be forty (40) feet from street right-of-way to provide adequate vision and stacking requirements for exiting vehicles.
    4. Ingress and egress shall be separate drives at least sixty (60) feet apart from nearest edges.
    5. Drive-up windows shall have a thirty (30) inch high fence or barrier for six (6) feet beyond the window to any recessed wall or door.
    6. Property lines adjacent to R-1 Zoning Districts or dwellings shall have a decorative fence, berm, or plant hedge with fifteen (15) feet of landscape buffer.
  
  - Automotive uses
    1. Site shall have at least one (1) property line abutting a county primary road or a state highway.
    2. Site shall meet the B-1 Business District area requirements.
    3. Minimum setback shall be forty (40) feet from street right-of-way to provide adequate vision.
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4. Ingress and egress shall be separate drives at least sixty (60) feet apart from nearest edges.
  5. Property lines adjacent to R-1 Zoning Districts or dwellings shall have a decorative fence, berm, or plant hedge with fifteen (15) feet of landscape buffer.
- Building supply, warehouses and truck terminals
    1. Site shall have direct access to a county primary road or a state highway.
    2. Site shall be at least two (2) acres in area.
    3. Buildings or truck traffic shall not be closer than fifty (50) feet to any R-1 Zoning District.
    4. Property lines adjacent to R-1 Zoning Districts or dwellings shall have a decorative fence, berm, or plant hedge with fifteen (15) feet of landscape buffer.
  - Institutions for human care, education, social, cultural or religious establishments
    1. Site shall have its principal access to a county primary road or a state highway.
    2. Minimum area for the use shall be four (4) acres unless the building is less than twenty thousand (20,000) square feet, in which case it may be one (1) acre.
    3. No building shall be closer than fifty (50) feet to any property or right-of-way line. Structures over twenty-eight (28) feet in height shall be set back one (1) more foot for each foot of added height.
  - Bed and breakfast inns
    1. Lot dimensions shall conform to the R-1 Residential Zoning District
    2. Minimum area for the use shall be twenty thousand (20,000) square feet plus an added five hundred (500) square feet for each room over five (5).
    3. Maximum lot coverage by principal and accessory buildings shall be forty (40) percent of total lot area.
  - Resorts, motels, lodges and other tourist lodging
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1. Site shall have at least (1) property line on a county primary road or a state highway.
  2. Minimum site size shall be two (2) acres plus four hundred (400) feet for each guest unit over twenty-five (25) units.
  3. No building shall be closer than fifty (50) feet to any property or right-of-way line.
  4. Each guest room shall have a minimum floor area of two hundred fifty (250) square feet.
  5. Maximum lot coverage by principal and accessory buildings shall be forty (40) percent of total lot area.
- Public and private campgrounds
    1. Minimum area shall be five (5) acres.
    2. No camping site shall be closer than seventy-five (75) feet from any property or right-of-way line.
    3. Each campsite shall have an area of five hundred (500) square feet exclusive of campground circulation.
    4. If needed, Elkland Township Planning Commission shall require fences, berms, or landscaping to make the use more compatible with adjacent lands.
  - Retail business intended for tourists or visitors
    1. Business shall have access to a road serving tourists.
    2. The principal structure shall not exceed twenty-five hundred (2,500) square feet and twenty-five (25) feet in height.
    3. At least sixty (60) percent of the goods sold shall be intended primarily for tourists and visitors.
    4. Signage is restricted to one (1) sign of no more than forty (40) feet.
  - Rural highway commercial
    1. Use shall be located on or directly accessible to a public right-of-way.
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2. Land use shall not allow consumer retail traffic that attracts more than two hundred (200) vehicles per day.
  3. Minimum site size shall be at least one (1) acre; five (5) acres or more may be required if the use demands extensive property.
  4. The structure shall not be located closer than thirty-five (35) feet to any property or right-of-way line.
  5. Fencing shall be required for any unsafe mechanical, electrical, or storage units.
  6. The Planning Commission may require larger dimensions if site conditions or proposed use demonstrate such a need.
  7. If one or more residences is located within three hundred (300) feet of the property, the Planning Commission may impose limited hours, operation times, or similar conditions.
- Sexually-oriented businesses
    1. The proposed use shall not have a detrimental effect on any residential or general consumer retail or services such as neighborhood, community, or regional shopping and service areas. A detrimental effect may include general congregation of individuals outside of the use, prostitution, drug sales, or similar activities.
    2. Site area shall conform to the minimum size as required by the Zoning District in which the special land use is located.
    3. The specified use may not be within fifteen hundred (1,500) feet of any place of worship, public or private school, youth center, or senior center.
    4. The use shall not be within one thousand (1,000) feet of any residential district or use.
    5. Sexually-oriented uses, activities, or events, detailed below, are prohibited within one thousand (1,000) feet of each other.
      - a. Adult bookstore with items primarily selling literature, pictures, or videos of specified sexual activities or anatomical areas.
      - b. Adult motion picture theaters showing or primarily presenting specified sexual activities or anatomical areas.
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- c. Exotic cabaret featuring strippers, topless, or naked performers of any sex.
  - d. Massage parlors that provide erotic or nontherapeutic massages or touching of breasts or genitals.
  - e. Public baths with common bathing facilities or hot tubs for display of specified anatomical areas for a fee.
- Home-based business
    1. A home-based business is intended for provision of small business employment in a rural area with control of the accessory building equipment, supplies, and materials. The work is to be done entirely in the accessory building.
    2. A home-based business shall not result in the alteration of the dwelling or the construction of an accessory building, which is not customary to structures in that Zoning District.
    3. Minimum site size shall be at least five (5) acres.
    4. An approved accessory may be used in the business but shall not exceed one thousand, two hundred (1,200) square feet for five (5) to ten (10) acres; two thousand, four hundred (2,400) square feet for over ten (10) acres; and four thousand, eight hundred (4,800) feet for a parcel in excess of forty (40) acres.
    5. The accessory building shall be located in the rear yard and not closer than one hundred (100) feet from any property line.
    6. Outside storage is permitted in a fenced or otherwise opaquely screened area of not more than one thousand (1,000) square feet in area. The outdoor storage area fence shall be at least four (4) feet in height.
    7. The home-based business shall be owned and operated by the owner and resident of the dwelling.
    8. Not more than four (4) persons who are not residents of the dwelling should be employed on the premises.
    9. Parking must be provided off-street for all employees on the premises
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10. Buildings must meet building code requirements for fire suppression, explosion proof construction, paint booths, hazardous waste management and such other standards as appropriate.

- Wind energy generators

Regulations affect three types and size of wind turbines because the issues vary in impact among the differing types. The three types are 1) the largest and most numerous Commercial wind turbines, 2) moderate-sized Semi-commercial wind turbines, and 3) Small Personal wind turbines.

### **Commercial wind turbines**

The commercial wind turbine regulations for a special land use permit are intended for multi-site facilities across large portions of the township and multiple properties within the township and possibly within one or more counties. However, the special land use permit regulations apply only to this township and regulations may differ in each township. The special land use permit shall contain a signature of approval by the property owner and the leasing public utility. Township approval will result from authorized approval of the special land use permit application. In the case of a private company owning and installing the wind turbines for direct sale to a public utility they shall be considered the representative for a public utility by these requirements.

1. The wind turbines are intended for public or private electricity utilities and shall not be intended for a specific tower to service the property owner. If both type of wind turbines are planned for the parcel an Individual Wind Turbine Application and a Commercial Wind Turbine Application shall be required. Lease arrangements for a commercial wind tower shall require the property owner and the utility and does not require a copy of the lease agreements for properties in the township. However, a typical lease agreement between the utility and the property owner must be filed with the Township Clerk. Special consideration shall be required for any property crossed by underground wires but without a wind tower on that property.
  2. The Public utility or its representative firm shall be responsible for meeting the requirements of the application and for any damage to the property owner's property or facilities during construction or operation. An access road of twelve (12) feet wide shall be authorized to the wind turbine for maintenance and operation requirements.
  3. The general purposes are to require performance that regulates construction and operation of an electrical service grid that protects health, safety and welfare of the residents and visitors to Elkland Township. It also seeks to prevent damage to all private property from any failure of a wind turbine.
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4. Any parcel proposed for a Commercial Wind Tower shall be open or non-turbulent land such as agricultural or vacant land, undeveloped land or similar property.
5. The size of a parcel of property on which a wind turbine is requested shall be at least forty (40) acres. The specific parcel to be clear for the public utility or leasing firm shall be no less than ten thousand (10,000) square feet as measured to be 100 square feet on a side. The lessee may allow agricultural land uses be developed on non-necessary parts of that property.
6. The setbacks shall be at least twelve hundred (1,200) feet from any existing dwelling or business. The commercial wind turbine shall be at least six hundred and thirty (630) feet from any right-of-way, side property line, or any non-leased property. The rear setback line shall be at least one hundred (100) feet from the rear property line.
7. The height of the largest blades shall have a height clearance of at least fifty (50) feet from the ground level. The total height of the wind turbine and highest extension of the blade shall be no higher than six hundred (600) feet.
8. Shadow flicker shall be eliminated or reduced its impact on high use residential areas and homes. The Planning Commission shall intervene with insufficient developer to reduce flicker.
9. All construction, maintenance and operations shadow flicker reduction by identifying and approving efforts by the wind turbine shall be done in complete compliance for basic codes such as electrical, plumbing, structural strength and others under the jurisdiction of the State of Michigan, County of Tuscola and/or Elkland Township. In addition specific requirements of the State of Michigan shall also be met by that developer.
10. Noise shall be limited to fifty-five (55) dBa; equivalent to conversational speech.
11. Vibration limitations shall be presented by the developer as part of the special use permit application. In general vibrations shall not be perceptible by human beings in adjacent properties.

### **Semi-commercial wind turbines**

Individual wind turbines are intended for personal property of a land owner to generate electrical power for such uses as a home and accessory buildings related to land use and business activities. Excess energy, but less than forty (40) percent of it may be sold to a public utility.

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1. The site shall be primarily open land with wind having an average annual wind of at least ten (10) miles per hour. It is intended primarily for open areas such as vacant land or agriculture.
  2. Wind turbine sites shall have an access route of at least twelve (12) feet in width.
  3. Semi-commercial wind turbines shall be limited to parcels of land no smaller than forty (40) acres.
  4. Site leased or used for a wind turbine shall be at least ten thousand (10,000) square feet except for agriculture uses.
  5. Towers shall be least four hundred (400) feet from any dwelling or property line.
  6. Tower & blade shall not exceed three hundred (300) feet.
  7. Be equipped with manual & automatic over speed controls to limit rotation of the speed of turbine blades to safe, designed limits of the system.
  8. Certified speed, design & technological sufficiency by a registered engineer.
  9. A "High Voltage" warning sign shall be placed at the base with a minimum of six (6) inch letters with 3/4 stroke and & emergency phone numbers.
  10. All towers or poles shall have anti-climbing devices.
  11. The application and site plan shall show a plan for removal to the wind turbine and tower and restores the soil to its original condition to a depth of four feet.
  12. The wind turbine needs to have a constant velocity or comparable control system to ensure safe operation.
  13. Not more than six (6) Semi-commercial wind turbines shall be permitted per sq. mile.
  14. Advertising of any kind shall not be permitted on wind structures or accessories.
  15. All electrical facilities, components and connections shall be built to the most stringent of federal, state or local codes. All underground wiring shall also meet such code requirements and be at a depth of four (4) feet or more unless conditions warrant a safe alternative.
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16. Documentation shall be available to demonstrate that no endangered or threatened species, nests, or bird flyways are within three hundred (300) feet.
  17. Lowest point of a wind turbine blade shall be at least thirty feet of above ground.
  18. No residence shall have a reading of over fifty-five (55) decibel at two hundred fifty (250) lineal feet.
  19. A registered professional engineer(s) shall certify the wind turbine structure has been built, installed and operates to meet or exceed the manufacturer's standards.
  20. Maintenance and operation of a wind turbine shall meet or exceed the following requirements:
    - a. The wind turbine shall be generating electricity in conformance with these requirements. If the wind turbine is not used for electricity generation or has not generated electricity for more than one ( 1) year it shall be deemed to be abandoned and, after notice to the owner, shall be removed according to the application and site plan as it may be amended.
    - b. A bond or other financial device may be required for removal for removal by the Township Planning Commission with notification to the owner that removal is about to take place.
    - c. The Planning Commission may require the owner(s) to provide an annual copy of maintenance inspection.
    - d. If it is determined that the construction, installation, maintenance or operation is not in conformance with these regulations, the special land use permit shall be deemed violated and the Township shall remedy the violation with enforcement action or revoke the special land use permit.
  21. The applicant shall submit data that demonstrates the wind turbine meets or is less than prescribed noise levels below:
    - a. A wind chart with twelve months data for direction, duration, and intensity of the wind for the proposed site
    - b. The site plan shall include all dwellings within one thousand (1,000) feet of the semi-commercial wind turbine site for future dba's
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- c. A sound chart showing noise levels in decibels at the base of the turbine tower and at the nacelle

### **Personal wind turbines**

Personal wind turbines are intended for personal property of a land owner to generate electrical power for such uses as a home and accessory buildings related to land use and business activities. There shall be no allowance of sale of excess electricity (unlikely) to any electrical utility.

1. The site shall have an average annual wind speed of at least ten (10) miles per hour. It is intended for semi-rural areas or fringe areas of urban development. The wind may be more turbulent with its small cage-like system of blades.
  2. Personal wind turbines shall be limited to parcels of land no smaller than one (1) acre.
  3. Site used for personal wind turbines shall be at least one hundred (100) square feet except for landscaping.
  4. Towers shall be at least thirty (30) feet from any neighboring dwelling or property line.
  5. Tower & basket shall not exceed thirty (30) feet in height.
  6. Be equipped with manual or automatic overspeed controls to limit rotation of for removal by the Township Planning Commission with the speed of turbine basket to safe, designed limits of the system.
  7. Certified speed, design & technological sufficiency by a registered engineer.
  8. A "High Voltage" warning sign shall be placed at the base with emergency phone numbers.
  9. All towers or poles shall have anti-climbing devices.
  10. The application and site plan shall show a plan for removal to the wind turbine and tower and restores the soil to its original condition to a depth of four feet.
  11. The wind turbine needs to have a constant velocity or comparable control system to ensure safe operation.
  12. Not more than ten (10) Personal Wind Turbines shall be permitted per square mile.
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13. Advertising of any kind shall not be permitted on wind structures or accessories.
  14. All electrical facilities, components and connections shall be built to the most stringent of federal, state or local codes. All underground wiring shall also meet such code requirements and be at a depth of four (4) feet or more unless conditions warrant a safe alternative.
  15. Documentation shall be available to demonstrate that no endangered or threatened species, nests, or bird flyways are within thirty (30) feet.
  16. Lowest point of a wind blade shall be at least twenty feet of above ground
  17. Maintenance and operation of a wind turbine shall meet or exceed the following requirements:
    - a. The wind turbine shall be generating electricity in conformance with these requirements. If the wind turbine is not used for electricity generation or has not generated electricity for more than one year it shall be deemed to be abandoned & after notice to the owner, shall be removed according to the application & site plan as may be amended.
    - b. A bond or other financial device may be required for removal notification to the owner that removal is about to take place.
    - c. The Planning Commission may require the owner(s) to provide an annual copy of maintenance inspection.
    - d. If it is determined that the construction, installation, maintenance or operation is not in conformance with these regulations, the special land use permit shall be deemed violated and the Township shall remedy the violation with enforcement action or revoke the special land use permit.
  18. The applicant may be required to submit data that wind energy turbine meets or has less noise than is submitted with the application and site plan.
- Outdoor theater
    1. All ingress and egress shall be from a state highway or a county primary road. No traffic to or from a residential area is permitted.
    2. The road(s) of ingress and egress shall have a right-of-way no less than one hundred twenty (120) feet in width and shall be designed with turning lanes.
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3. The proposed design shall be approved by the Planning Commission as to adequacy of drainage, lighting, or other technical aspects. The Planning Commission may require supporting data from competent technicians such as engineers or specialists.
  4. All vehicles waiting to enter the facility shall be on the property and shall not be permitted on public right-of-way. A minimum of one waiting space shall be required for every ten (10) viewer spaces.
- Television, radio, and wireless communication towers
    1. Towers may be held up by guy wires, tubular steel, or framed steel.
    2. Towers shall be shared when possible.
    3. Property lines for transmission towers shall have a distance equal to or greater than the height of the tower.
    4. Property for transmission towers shall be maintained consistent with Planning Commission requirements and in similar respect as adjacent properties.
  - Auto race track
    1. All ingress and egress shall be from a state highway or a paved, county primary road.
    2. Concentrated traffic and high noise levels shall be accommodated by landscaping and turn lanes approved by the Tuscola County Road Commission.
    3. No parking is permitted off the private property.
    4. Minimum site size shall be at least forty (40) acres and minimum width shall be six hundred-sixty (660) feet.
    5. All sides of the property abutting a public road or a property with a residence within three hundred (300) feet shall have a forty (40) feet deep greenbelt approved by the planning commission including an opaque and solid fence or wall at least five (5) feet in height running to a property corner or at least one hundred (100) feet past a front or rear wall of any residence or public road within the three hundred (300) feet.
  - Horse riding academies and stables
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1. The planning commission shall take into high consideration the resolution or mitigation of noise and infrequent odor associated with this use.
2. The use shall include horseback corrals, cleared trails, and stables for no more than twenty (20) horses.
3. Minimum area for riding trails shall be a parcel of not less than twenty (20) acres and is intended by the Planning Commission to include significant woodland.
4. Riding trails or animal enclosures shall be at least two hundred-fifty (250) feet from any R-1 Residential Zoning District property line.
5. On a temporary basis the Zoning Board of Appeals may permit trail extension into B-1 and A-1 Zoning Districts for a specified time period.

### ARTICLE 8: SITE PLAN REVIEW AND APPROVAL

#### **Section 801 – Review and approval of site plans**

**Land uses or changes requiring a site plan:** Prior to the establishment of a new use, change of use, addition to existing use or erection of any building or structure in an authorized zoning district a site plan shall be submitted for review and be approved, approved with conditions or disapproved by the Elkland Township Planning Commission in accordance with the ordinance requirements of this article.

1. Site plan reviews are required for all permitted uses and structures in all zoning districts except for the single family detached and two-family dwellings and accessory uses, and any agricultural uses. The site plan shall be part of the record of approval and shall be so filed.
  2. When proposed new construction or remodeling is an addition to an existing building or use, site plan review procedures may be modified, at the discretion of the Planning Commission, to provide for review by the Zoning Administrator in lieu of a more formal review by the Planning Commission. The Zoning Administrator may conduct an administrative review provided both of the following conditions are satisfied:
    - a. No Zoning Ordinance variances are required and approval shall coincide with intent & purpose of Elkland Township Zoning Ordinance and Master Plan.
    - b. The proposed new construction would not increase the total square feet of the building more than twenty-five (25) percent or one thousand (1,000) square feet, whichever is less.
  3. For cases requiring site plan review solely as a result of building re-occupancy, site plan review procedures may be modified at the discretion of the Planning Commission, to provide for an administrative review by the Zoning Administrator in lieu of a formal review by the Planning Commission provided the following conditions are met.
    - a. Such use is conducted within a completely enclosed building.
    - b. Re-occupancy does not create additional parking demands beyond twenty-five (25) percent of that which exists.
    - c. Re-occupancy does not substantially alter site character.
  4. Every site plan submitted for review shall be in accordance with the requirements of this Zoning Ordinance. Administrative review procedures shall not modify any
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regulation or development standard or adversely affect the health, safety and welfare of Elkland Township residents.

### **Section 802 – Required documentation for a proposed site plan**

The site plan, all supplementary data, and minutes of any meeting and/or hearings related to the site plan shall become part of the official site plan file. Every site plan submitted shall have four (4) completed copies of site plans and supporting information that shall be filed.

The following information shall be included on the site plan:

1. The dimensions of all property lines showing the relationship of the property to abutting properties & buildings within one hundred (100) feet and a legal description of the parcel.
  2. The location and nature of streams, drains, swamps, marshes and/or unstable soils.
  3. A schedule of parking needs other factors for computing parking needs.
  4. The location of all existing and proposed structures on the subject property and all existing structures within one hundred (100) feet of the subject property. The setbacks to all existing structures to be retained or constructed on the site shall be portrayed. This will include buildings, signs, trash and storage areas, walls, fences, berms, parking areas, landscaping, etc. The height of all proposed structures shall also be indicated.
  5. The location and size of containment and storage areas if the use of hazardous substances is involved.
  6. The location of all existing and proposed drives and parking areas.
  7. The location and right-of-way widths of abutting streets.
  8. The location of all public and private utilities.
  9. In addition to the above information, the applicant shall submit the supplementary explanation:
    - a. Estimated number of employees, resident shoppers, and visitors.
    - b. Any changes expected in dust, odor, smoke, fumes, noise, lights or similar potentially adverse conditions.
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### Section 803 - Standards for approval of a site plan

Site plan decisions include (1) approving, (2) conditionally approving or (3) disapproving a site plan based on requirements and standards herein, state and federal statutes.

In the process of reviewing the site plan, the Planning Commission shall consider:

- Specific development requirements of set forth in this zoning ordinance
- The location and design of driveways for vehicular access and egress from the site and their relation to the street traffic
- The arrangement of land uses to functional, efficient, and compatible arrangements on the site and to adjacent land uses
- The Planning Commission may require landscaping, fences, and walls as provided in this Zoning Ordinance and maintained as a condition of construction or placement and continued operation as appurtenant
- The Planning Commission may require turn lanes, marginal access roads and specific location of ingress and egress drives.
- The Planning Commission and Zoning Administrator may seek input from Public Safety officials as part of site plan review prior to approving, disapproving, or approving with conditions.

### Section 804 - Planning commission actions

The planning commission shall take one of the following actions for the recommended site plan:

**Approval** - If the site plan meets all zoning ordinance requirements and standards the site plan shall be approved and the Chairman shall sign three (3) copies of the site plan to file one in the official site plan file, forwarding one to the Zoning Administrator and to the applicant.

**Disapproval** - If the site plan does not meet all zoning ordinance requirements and standards, the Planning Commission shall record disapproval and site the reasons for denial. The applicant may then file a corrected site plan under the same procedures as followed for the initial submission.

**Conditional Approval** - If the site plan can be clearly changed, then the Planning Commission shall note such changes as necessary and the Planning Commission

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Chairman shall sign three (3) copies of the site plan to file one in the official site plan file, forwarding one to the Zoning Administrator and to the applicant.

**Table** - If the site plan is found to be in violation of the zoning ordinance requirement or incomplete, the Planning Commission may table action on the site plan until ordinance compliance is shown or required additional information is provided.

Any proposed site plan meeting all of the required data, layout, and activity in this Article shall get site plan approval for the proposed project. If it lacks some data or layout, it can only be given approval under the condition that the site plan is revised to meet those changes. Disapproval is appropriate when the data or layout has too many deficiencies to warrant any approval.

### **Section 805 - Period for completion**

An approved site plan shall remain valid for a period of one (1) year from the date of approval. In the event all improvements are not installed, the remaining improvements shall be completed no later than July 1 of the following construction season except that the Planning Commission may, at its discretion and upon application of the owner and/or developer, provide for up to two (2) successive six (6) month extensions.

### **ARTICLE 9: ADMINISTRATION**

#### **Section 901- Enforcement Officer**

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator or by such deputies of that department as the Zoning Administrator may delegate to enforce the provisions of this Ordinance.

#### **Section 902 - Duties of the Zoning Administrator**

The Zoning Administrator shall have the power to grant zoning compliance and zoning occupancy permits, to make inspections of buildings or premises necessary to carry out the duties of enforcement of this ordinance. The Zoning Administrator shall inspect the plans or construction as is necessary prior to its determination that provisions of this ordinance are satisfied and the permit or certificate may be properly issued.

The Zoning Administrator shall record all nonconforming uses existing at the effective date of this Ordinance.

Under no circumstance is the Zoning Administrator permitted to either make changes to this Ordinance or to vary the terms of this Ordinance, except as may otherwise be provided therein, in carrying out prescribed duties as Zoning Administrator.

The Zoning Administrator shall not refuse to issue a permit when the conditions imposed by this Ordinance are accepted by the applicant despite violations of contracts, such as private covenants or other private agreements which may occur upon the granting of said permit.

#### **Section 903 – Plot area for land use**

The Zoning Administrator shall require that all applications for zoning permits shall be accompanied by plans and specifications including a plot plan, drawn to scale and showing the following:

1. The actual shape, location, and dimensions of the lot.
  2. The shape, size and location of all buildings or other structures to be erected, altered, or moved and of any building or other structures already on the lot.
  3. The existing and intended use of the lot and of all structures on it, including, the number of dwelling units in the building(s).
  4. The location of existing and proposed public and private utilities and access drives.
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5. Such other information concerning the lot or adjoining lots as may be reasonably necessary for determining whether the provisions of this Ordinance are being observed.

### **Section 904 – Permits**

The following shall apply in consideration of the issuance of any permit:

#### **Permits not to be issued**

No Zoning Permit shall be issued for the erection, alteration or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all the provisions of this Zoning Ordinance.

#### **Permits for new use of land**

No vacant land shall be used for an existing use, or land be changed to a use of a different class or type unless a certificate of zoning compliance is first obtained for the new or different use.

#### **Permits for new use of buildings**

No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a certificate of zoning compliance is first obtained for the new or different use.

#### **Permits required**

No building or structure, or part thereof, shall hereafter be erected, altered, moved or repaired unless a Zoning Permit shall have been first issued for such work. The terms “altered” and “repaired” shall include any changes in structural parts, stairways, types of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the county or township building code, housing law, or this ordinance, except for minor repairs or changes not involving any of the aforesaid features.

### **Section 905 - Certificates**

No land, building, or part thereof, shall be occupied by or for any use unless and until a zoning compliance permit has been issued for such use. The following shall apply in the issuance of any certificate:

#### **Certificate not to be issued**

No certificates of zoning compliance shall be issued for any buildings, structure or part thereof, or for the use of any land, which is not in accordance with all the provisions of this Ordinance.

#### **Certificates required**

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No building or structure, or parts thereof, which is hereafter erected, or altered, shall be occupied or used or caused to be done, unless and until a zoning compliance certificate has been issued for such building or structure.

### **Certificates including zoning certificates**

If occupancy as required by the building code for new buildings or structures, or parts, thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this ordinance. This subsection shall apply if the County of Tuscola has undertaken the enforcing of construction codes and the issuance of construction building permits.

### **Certificates for existing buildings**

Zoning compliance certificates shall be issued for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, are found that such buildings, structures or parts thereof, or such use of land, are in conformity with the provisions of this ordinance. If the certificate is conditioned upon such factors as a permitted nonconforming use, such shall be noted.

### **Record of certificates**

A record of all certificates issued shall be kept on file by the Zoning Administrator, and copies shall be furnished when requested.

### **Certificates for dwelling accessory buildings**

Buildings or structures accessory to dwellings shall not require separate zoning compliance permits but may be included when shown on the plot plan and when completed at the same time as the dwelling.

### **Application for certificates**

An application for zoning compliance shall be made in writing to the Zoning Administrator on forms furnished by that department, and such certificates shall be issued within ten (10) days after receipt of such application if it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this ordinance. If such certificate is refused for cause, the applicant shall be notified of such refusal and cause thereof, within the aforesaid ten (10) day period.

### **Revoked certificates**

The Zoning Administrator may revoke a zoning permit or zoning compliance certificate in the following instances:

- A mutual mistake of fact, including but not limited to the zoning classification of premises or a use.
  - Misrepresentation, whether innocent or intentional, of information provided to the Zoning Administrator during the application (including any site or plot plan), which information is reasonably necessary for a determination to issue a zoning
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permit or certificate of a zoning compliance. Misrepresentation shall also include the failure of information to be provided to the Zoning Administrator. Illustrative of such information may be boundaries, setbacks, grades, or the like.

If the Zoning Administrator shall revoke a zoning permit or zoning certificate of compliance, then all work on or about the premises shall immediately cease, or in the alternative, the Zoning Administrator may require that only a portion of the work cease. The Zoning Administrator shall promptly offer an informal conference with the applicant, usually within forty-eight (48) hours, to discuss the steps necessary for the revocation to be reversed, and if the steps are complied with, the Zoning Administrator may re-instate the zoning permit or zoning certificate of compliance. The revocation and needed changes may be prepared in writing.

Determinations of the Zoning Administrator to revoke a zoning permit or a zoning certificate of compliance shall be reviewed by appeal to the Zoning Board of Appeals, which may consider in its decision whether it would be inequitable for the revocation to continue due to substantial delay in discovery of the zoning violation, unless the violation was due to active and intentional misrepresentation by the applicant or landowner.

### **Section 906 - Performance guarantees**

To ensure compliance with this zoning ordinance and any condition imposed there under, the Planning Commission may require that cash, a certified check, irrevocable bank letter of credit or surety bond acceptable to the Elkland Township covering the estimated cost of improvements associated with a project for which site plan approval is sought, be deposited with the Clerk of the Township to ensure faithful completion of the improvements and also be subject to the following:

- The performance guarantee shall be deposited prior to the issuance of a temporary certificate of occupancy. Elkland Township shall establish procedures whereby a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements will be made as work progresses. A minimum of ten (10) percent of the performance guarantee shall be retained until all work has been completed and subsequently inspected and approved by the Zoning Administrator. This does not relieve the applicant from satisfying all applicable maintenance warranties and/or guarantees necessary to ensure the proper functioning said public improvements.
  - This section shall not be applicable to the improvements for which a cash deposit, certified check, irrevocable bank letter of credit or a surety bond has been deposited pursuant to Michigan Zoning Enabling Act 110 of 2006, as amended.
  - As used in this section, “improvements” mean those features and actions (including roadways, lighting, utilities, sidewalks, screening, landscaping, surface
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drainage and other improvements that are part of the project and are necessary by the Planning Commission or Zoning Administrator to protect natural resources or the health, safety and welfare of the residents and future users or inhabitants of the proposed project or project area.

### **Section 907 – Planning Commission**

The Elkland Township Board of Trustees created the Elkland Township Planning Commission. The Planning Commission has the authority to recommend a new Zoning Ordinance, examine and recommend requested amendments in the text and create/or amend the zoning districts for the Zoning Ordinance Map. Their recommendations for changes go to the Board of Trustees which has ultimate responsibility for making those recommendations for an ordinance of Elkland Township.

### **Section 908 - Membership**

The following requirements for membership of the Elkland Township Planning Commission have been established by the Michigan Zoning Enabling Act 110 of 2006, as amended:

1. There shall be five (5) members of the Planning Commission.
  2. The members of the Planning Commission shall be appointed by the Supervisor with Board of Trustees consent and be based on the member's qualifications. This shall include reasonable geographic dispersion of the township, representation of community employment categories and representation of the sexes, social groups and housing types.
  3. The Planning Commission is divided into groups of two or three, each of which is subject to three year terms prior to reappointment or replacement. Subsequent members serve the same three year appointments as the Planning Commissioner they replace. Planning Commissioners shall serve until they are replaced.
  4. Vacancies on the Planning Commission shall be filled in the same manner as provided for the remaining duration of the unexpired term.
  5. An elected officer or employee of Elkland Township shall not serve simultaneously as a member or employee of the Planning Commission, except that one member of the Planning Commission may be a member of the Board of Trustees.
  6. The Board of Trustees can remove a member of the Planning Commission for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing.
  7. The Planning Commission shall elect from its members a Chairperson, a Secretary and such other officers or establish such committees it consider necessary and may engage any employees, including for technical assistance it may require. The election of officers shall be held not less than every two (2) years.
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### **Section 909 – Expenses and Compensation**

Members of the Planning Commission may be reimbursed for reasonable expenses actually incurred in discharge of their duties and may receive compensation as fixed by the Elkland Township Board of Trustees.

### **Section 910 – Planning expert and compensation**

With approval of the Board of Trustees, the Planning Commission may engage the services of a planning expert. Compensation for the planning expert shall be paid by the clerk. The Planning Commission shall furnish information and also consider any information and recommendations furnished by public officials, departments, agencies or consultants.

### **Section 911 – Regular meetings, notice and activity subject to the open meetings act**

The Planning Commission shall hold a minimum of two (2) meetings per year and give notice of time and place by publication in newspaper of general circulation in Elkland Township of Tuscola County. Notice shall not be less than fifteen (15) days before the meeting. As part of a government, the planning commission is subject to the Open Meetings Act 267 of 1976, as amended.

### **Section 912 – Recommendations of the planning commission regarding adoption and filing**

The Planning Commission shall adopt and file with the Elkland Township Board of Trustees the following recommendations:

1. A Zoning Plan for the areas subject to Zoning of the township.
2. The establishment of Zoning Districts, including the boundaries of those districts.
3. The text of the Zoning Ordinance with the necessary maps and zoning regulations to be adopted for a zoning district or Elkland Township in its entirety.
4. The manner of administering and enforcing the ordinance.

### **Section 913 – Recommendations of the planning commission; submission to the board of trustees, examination of proposed text and maps**

The following requirements shall apply to the Planning Commission and submitted to the Board of Trustees:

1. Before submitting its recommendations for a proposed zoning ordinance to the Board of Trustees, the Planning Commission shall hold at least one (1) public hearing. Notice and time and place of the public hearing shall be given in the same manner as required by Article 11 of this ordinance.
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2. Notice of time and place of the public hearing shall be given by mail to each gas, electric and pipeline utility company, each telecommunications service provider, each railroad operating in Elkland Township and the Airport Manager of any Airport, that registers its name and mailing address with the clerk of the township for the purpose of receiving such notice.
3. The notices required under this section shall include the places and times proposed text and any map changes of the Zoning Ordinance may be examined. The Township Hall and the Library shall be minimal locations.

### **Subsection 914 – Summary of public hearing comments; transmission to the Board of Trustees by the Planning Commission and a report**

1. Following the required public hearing, the Planning Commission shall transmit a summary of the comments received at the hearing and its proposed ordinance, including any zoning maps and recommendations to the Elkland Township Board of Trustees.
2. Following the enactment of the Zoning Ordinance, the Planning Commission shall, at least once per year, prepare for the Board a report on the administration and enforcement of the Zoning Ordinance and recommendations for amendments or supplements to the ordinance.

### **Section 915 – Board of Trustees**

The Board of Trustees is the locally elected officials responsible for the leadership of Elkland Township. Section 916-919 cover their responsibilities in regard to zoning law and policy making.

**Section 916 - Initial review of the ordinance** - The Elkland Township Board of Trustees is a partner in the land use and zoning process. Because the Board of Trustees has the sole responsibility for approving ordinances for Elkland Township, including the zoning ordinances, amendments to the ordinance and related material for which they are responsible. Their initial review of a revised ordinance as submitted by the Planning Commission includes the following responsibilities of the Elkland Township Board of Trustees as part of the process of land use zoning:

1. After receiving a complete new Zoning Ordinance or any amendment to an existing zoning ordinance with any relevant maps with a recommendation for approval and adoption as an ordinance of the Board of Trustees, the Board of Trustees may choose to hold a public hearing if the Board determines it is desirable.
  2. If an additional public hearing is deemed necessary a notice of the public hearing shall be given in the same manner as required under Article 11 of this Zoning Ordinance for reviewing or amending the text or maps.
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3. The Board of Trustees may also refer any proposed new ordinance or amendments to the Planning Commission for additional consideration and comments within a time frame specified by the Board of Trustees.
  4. The Board shall also grant a hearing on a proposed ordinance or provision to a property owner who requests a hearing by certified mail addressed to the Elkland Clerk.
  5. After the public hearing is held as allowed under this section, the Board of Trustees shall consider and vote upon the adoption of the Zoning Ordinance or amendment with or without further amendments.
  6. A Zoning Ordinance shall take effect upon expiration of seven (7) days after publication as required by this section or at such later date after publication as may be specified by the Board.
  7. Following adoption of the Zoning Ordinance and any subsequent amendments by the Board of Trustees, the Zoning Ordinance or subsequent amendments shall be filed with Township Clerk, and a notice of ordinance adoption shall be published in a newspaper of general circulation in the Elkland Township within fifteen (15) days after adoption.
  8. A copy of the notice under subsection seven (7) shall be mailed to the airport manager.
  9. The action under this Section shall include all of the following information:
    - a. In the case of a newly adopted Zoning Ordinance, the following statement should be included, "A Zoning Ordinance regulating the development of and use of land has been adopted by the Elkland Township Board of Trustees.
    - b. In the case of an amendment to an existing Zoning Ordinance, either a summary of the regulatory effect of the amendment, or the text of the amendment shall be included.
    - c. The effective date of the ordinance or amendment.
    - d. The place where and the time when a copy of the Zoning Ordinance or amendment may be purchased or inspected.
  10. The filing and publication requirements under this section supercede any other statutory requirements relating to the filing and publication of the Zoning Ordinance.
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### **Section 917 – Use and redevelopment of land as condition to rezoning**

1. An owner of land may voluntarily offer in writing, and the Township of Elkland, may approve, certain use and development of the land as a condition to rezoning of the land or an amendment to the zoning map.
2. In approving the conditions under subsection one (1), the Township may establish a time period during which the conditions apply to the land. Except for an extension under subsection four (4), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.
3. Elkland Township shall not add to or alter the conditions approved under subsection one (1) during the time period specified under subsection two (2) of this section.
4. The time period specified under subsection two (2) may be extended upon application of the land owner and approval by Elkland Township.
5. Elkland Township requires a land owner to offer conditions as a requirement for rezoning. The lack of an offer under subsection one (1) shall not otherwise affect a landowner's rights under this act, the ordinances of Elkland Township, or any other laws of the State of Michigan.

### **Section 918 – Zoning permits and fees**

The Board of Trustees may require payment of reasonable fees for zoning permits as a condition to granting authority to use, erect, alter, or locate dwellings, buildings and structures including tents and recreational vehicles, within a zoning district established under this act.

### **Section 919 – Certain violations as a nuisance per se**

Except as otherwise provided by law, a use of land or a dwelling, or structure, including a tent or recreational vehicle used, erected, altered, razed or converted in violation of this Zoning Ordinance or a regulation adopted under Michigan Zoning Enabling Act 110 of 2006, as amended is a nuisance per se. The court shall order the nuisance abated, and the owner or agent in charge of the dwelling, building, structure, tent, recreational vehicle, or land is liable for maintaining a nuisance per se. The Elkland Township Board of Trustees hereby designates the Zoning Administrator, who shall administer and enforce the Zoning Ordinance, to do either of the following for each violation of the Zoning Ordinance.

1. Impose a penalty for the violation.
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2. Designate the violation as a municipal infraction and impose a civil fine for the violation.

### **Section 920 - Zoning Board of Appeals**

The remainder of this Article outlines the duties and responsibilities of the Zoning Board of Appeals.

### **Section 921 – Intent of appeals**

An appeals procedure is herein established in order that the objectives of this Ordinance may be fully and equitably achieved, that a means shall be provided for competent interpretation of this Ordinance, that adequate but controlled flexibility be provided in the application of this Ordinance, that the health, safety, and welfare of the public is secured, and that justice be done.

The appeal is an appeal from a decision by the Zoning Administrator regarding the requirements of the Zoning Ordinance. Thus it is referred to the Board of Appeals for them to make a non-compliant decision as authorized by the Zoning Ordinance. The appeal is not based on any decision by the Elkland Township Commission or the Board of Trustees. The appeal is also limited solely to the size, dimensions of the lot, or on the character of the specific property. There is no appeal permitted on economic conditions, personal preferences, health or any non-property related issue. Similarly nothing related to individual people such as owner, developer, or occupant. Zoning is only about the use of property and its qualities.

### **Section 922 – Membership of the Zoning Board of Appeals**

There is hereby established a Board of Zoning Appeals, which shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act 110 of 2006, as amended. Elkland Township ordains the Zoning Board of Appeals and has chosen a separate Zoning Board of Appeals to meet the state enabling legislation, which requires that the Zoning Board of Appeals shall not consist of less than three (3) members and may have up to five (5) members (together with two alternates as are allowed by statute) appointed by the Supervisor, as approved by the Board of Trustees insofar as all are residents of the Elkland Township. Appointments shall be proportionate as follows: one (1) member appointed for a period of one (1) year; two (2) members appointed for a period of two (2) years; and two (2) members appointed for a period of three (3) years, respectively; thereafter each member to hold office for the full three (3) year term. Any vacancies in the Board shall be filled by appointment by the Board of Trustees for the remainder of the un-expired term. The Zoning Board of Appeals shall annually elect its own Chairman, Vice Chairman, and Secretary. One trustee may be a member of the Board of Trustees but not as chairman. And one member must be a member of the Planning Commission. The members of the board should represent the population distribution and interests as near as possible.

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### **Section 923 Meetings of the Zoning Board of Appeals**

All meetings of the Board of Appeals shall be held at the call of the Chairman and at such times as the Zoning Board of Appeals in its rules of procedure may specify. All hearings conducted shall be open to the public, and operated in accordance with Act 267 of 1976, as amended, the Open Meetings Act. The Board of Zoning Appeals shall keep minutes of its proceedings showing the vote of each member in question, or if absent, or failing to vote, indicating such fact; and shall also keep records of its hearings and other official actions in the office with the Township Clerk, and shall be a public record.

The Board of Zoning Appeals shall not conduct business unless at least three (3) of the members (or alternates) are present. The concurring vote of at least three (3) of said Board (or alternates) shall be necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which they are required to pass under an ordinance, but, if to effect a variation in an ordinance, at least a 2/3 majority, necessary in order to approve the same.

### **Section 924 – Appeal and notice requirements**

#### **Appeal**

An appeal may be taken to the Zoning Board of Appeals by any person, firm or corporation, or by any officer, department, board, or bureau affected by a decision of the Zoning Administrator. Such appeal shall be taken within such time as shall be prescribed by the Zoning Board of Appeals by general rule, by filing with the Zoning Administrator a Notice of Appeal, specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Zoning Board of Appeals, all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Zoning Board of Appeals, after notice of appeal has been filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case, the proceedings shall not be stayed, otherwise than by a restraining order which may be granted by a court of record.

#### **Notification**

The Zoning Board of Appeals shall select a reasonable time and place for the hearing of the appeal and give due notice of the appeal to the parties invoking the appeal. The notification by publication, mail or personal delivery in Article IIB, Section 103, Notice; Publication; Mail or Personal Delivery. as required by Act 110 of the Public Acts of 2006, and by publication in a newspaper of general circulation in Elkland Township fifteen (15) days prior to said hearing date. Such notice shall contain the address, if available, and the location of the property for which the ruling of the Zoning Board of Appeals is sought, as well as a brief description of the nature of the appeal. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney, or by certified letter addressed to and received by the Zoning Administrator no

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later than noon the day of the public hearing. The Zoning Board of Appeals shall decide the appeal within a reasonable time, which time shall be prescribed by the Zoning Board of Appeals within the Rules of Procedure under which it conducts the business brought before it.

No appeal shall be taken to the Zoning Board of Appeals in connection with an approved site plan. The Chairperson in his or her absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses. The Zoning Board of Appeals shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk.

Application for special uses and all other special use provisions of this Zoning Ordinance shall be reviewed and decided upon under conditions established by the Planning Commission. However, the Board of Appeals, upon application by the Owner, may grant a variance as provided by other sections of this Article.

### **Section 925 - Jurisdiction**

The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision of determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance, the Zoning Board of Appeals shall have the power in passing upon appeals to vary or modify any of its rules, regulations or provisions so that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done. Nothing herein contained shall be construed to give or grant to the Zoning Board of Appeals the authority to make changes in the Zoning Ordinance or the Zoning Map, other than is necessary for to fulfill its duties under this article. The power and authority to rezone is reserved to the Elkland Township Board of Trustees in the manner provided by Section 603 of P.A. 110 of 2006.207 of 1921, as amended.

The Zoning Board of Appeals shall have the following specified powers:

1. To administer oaths, compel testimony, and the production of books, papers, files, and other evidence pertinent to the matters before it.
  2. Subpoena and require the attendance of witnesses.
  3. Interpretation of the Zoning Map
  4. Adopt rules to govern its procedures. Hear and decide matters referred to the Zoning Board of Appeals or upon which the Zoning Board of Appeals is required to pass under a Zoning Ordinance adopted under this act.
-

5. Hear and decide on appeals from and review any administrative order, requirement or Determination made by an administrative official or body charged with enforcement of this zoning Ordinance.
6. The concurring vote of a majority of the members of the Zoning Board of Appeals is required to pass on an issue, or grant a variance in the Zoning Ordinance.
7. An appeal to the Zoning Board of Appeals stays all proceedings of the action appealed unless it is found that a stay would, in the opinion of Zoning Administrator or Planning Commission, would cause imminent peril to life or property, in which case proceeding may be stayed by a restraining order issued by The Zoning Board of Appeals or a Circuit Court.
8. Administrative Review

The Zoning Board of Appeals shall have the power to hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator or any other administrative official in carrying out, or enforcing, any provisions of this Ordinance.

It also has the power to determine the precise location of the boundary lines between the zoning districts as they are displayed on the Zoning Map, when there is dissatisfaction with the administrative decision on such subject.

9. Variances

The Zoning Board of Appeals shall have the power to authorize, upon appeal, specific variances from such dimensional requirements as lot area and width regulations, building height and square foot regulations, yard width and depth regulations, such requirements as off-street parking and loading space, and sign regulations, and other similar requirements as specified in the Ordinance. To obtain a variance, the applicant must show "practical difficulty," by demonstrating:

- a. 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 the conformity unnecessarily burdensome; or,
  - b. That a variance would do substantial justice to the applicant, as well as to other property owners in the district; and,
  - c. That the plight of the owner is due to the unique circumstances of the property
  - d. That the problem is in no way self-created.
-

### **Section 926 – Attachment of conditions**

The Zoning Board of Appeals may impose conditions upon an affirmative decision. The conditions may include those conditions reasonably necessary:

1. To ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity
2. To protect the natural environment and conserve natural resources and energy
3. To ensure compatibility with adjacent uses of land
4. To promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all the following:
  - a. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well being of those who will use the land use or activity under consideration, including 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 regulations; 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.
  - d. The conditions imposed shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of changes granted in conditions. The Zoning Administrator shall be empowered to enforce such conditions imposed.

### **Section 927 – Fee for Zoning Board of Appeals**

The Board of Trustees may, from time-to-time, prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeal proceedings. At the time an application is filed, said fee shall be paid to the Township Clerk.

### **Section 928 – Rehearing by the Circuit Court**

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The decision of the Zoning Board of Appeals shall be final. However, a person having an interest affected by the Zoning Ordinance may appeal to circuit court, having first exhausted all available local administrative remedies, including an appeal to the Board of Zoning Appeals.

The Zoning Board of Appeals is without general authority to reconsider a matter it has decided and from reversing its previous decision unless the facts and circumstances upon which the decision was predicated have changed so as to invalidate or materially affect the reasons which produced and supported it, and no vested rights have intervened.

**ARTICLE 10: INCOMPATIBILITIES**

**Section 1001** - Uses not expressly permitted by Township Ordinances is prohibited unless required by the Michigan Zoning Enabling Act 110 of 2006. Uses for enterprises or purposes that are contrary to federal, state or other local laws or ordinances are prohibited unless it is reviewed and findings submitted by the Elkland Township Planning Commission and approved by the Elkland Township Board of Trustees.

**Section 1002** - All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

**Section 1003** – Should any portion of this ordinance be held invalid for any reason, such holding shall not be construed as affecting the validity of any of the remaining portions of this zoning ordinance.

**ARTICLE 11: PUBLIC HEARING NOTICES**

**Section 1101 - Notices; Publication or Personal Delivery; Requirements**

- A. Except as otherwise provided under this act, if Elkland Township is required to provide notice and hearing under this act, Elkland Township shall publish notice of the request in a newspaper of general circulation in Elkland Township.
- B. The notice shall also be sent by mail or personal delivery to the owners of the property in question for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to occupants of all structures within 300 feet of the property regardless of whether the property or the occupant is located in Elkland Township.
- C. The notice shall be given not less than 15 days before the application will be considered for approval. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection. The notice shall do all of the following:
  - a. Describe the nature of the request.
  - b. Describe the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not have to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
  - c. State when and where the request will be considered.
  - d. State when and where written comments will be received concerning the request.

**Section 1102 - Amendments or Supplements; Notice of Proposed Rezoning**

- 1. If an individual property or ten (10) or fewer properties are proposed for rezoning, the Planning Commission shall give notice of rezoning in the same manner as required under Section 1101 above.
  - 2. If eleven (11) or more adjacent properties are proposed for rezoning, the Planning Commission shall give a notice of the proposed rezoning in the same manner as required under Section 1101, except that no individual addresses of properties are required to be listed under Section 1101(B).
-

## **Elkland Township, Tuscola County, Michigan**

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3. An amendment for the purpose of conforming to a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the Elkland Township Board of Trustees and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for under this act.

### **ARTICLE 12: FORMS AND MAPS**

The maps in this section include a township wide scope of zoning districts titled “Elkland Township Zoning Districts” and a zoomed in scope showing the variety of districts surrounding the village entitled “Cass City & Elkland Township Zoning Districts.” These maps are intended as a visual aid and may, in some cases, be inaccurate.

For the sake of interpretation, the following shall apply:

1. Business Zoning District (B-1) along M-81 extend five hundred (500) feet deep from the right-of-way, with two exceptions:
    - a. The A-1 District in the northeast corner of Section 31 is two hundred-forty (240) feet deep, leaving a two hundred-sixty (260) feet B-1 District to its south.
    - b. The B-1 District in Sections 28 and 33, directly west of the village, extend three hundred-fifty (350) feet from the right-of-way.
  2. Business Zoning District (B-1) along Cemetery Rd. is three hundred-fifty (350) feet deep, extending five hundred (500) feet of frontage north of Milligan Rd.
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## **Elkland Township, Tuscola County, Michigan**

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### **ARTICLE 13 - FLOODPLAIN MANAGEMENT PROVISIONS OF THE STATE CONSTRUCTION CODE**

An ordinance to designate an enforcing agency to discharge the responsibility of Elkland Township located in Tuscola County, and to designate regulated flood hazard areas under the provisions of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended.

Elkland Township ordains:

#### **Section 1301 - AGENCY DESIGNATED**

Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Zoning Administrator of Elkland Township is hereby designated as the enforcing agency to discharge the responsibility of the Elkland Township under Act 230, of the Public Acts of 1972, as amended, State of Michigan. Elkland Township assumes responsibility for the administration and enforcement of said Act throughout the corporate limits of the community adopting this ordinance.

#### **Section 1302 - CODE APPENDIX ENFORCED**

Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within Elkland Township.

#### **Section 1303 - DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS**

The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled "Tuscola County, Michigan (All Jurisdictions)" and dated 4/13/12 and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of 26031C; 0253E, 0254E, 0257E, 0258E, 0259E, and 0278E dated 4/13/12 are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code.

#### **Section 1304 - REPEALS**

All ordinances inconsistent with the provisions of this ordinance are hereby repealed.

#### **Section 1305 – PUBLICATION**

This ordinance shall be effective after legal publication and in accordance with the provisions of the Act governing same.

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## 2012 Zoning Ordinance

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Adopted this twelfth day of March, 2012.

This ordinance duly adopted on 03/12/2012 at a regular meeting of the Elkland Township Board of Trustees and will become effective 03/12/2012.

Signed on 03/12/2012 by Edward J LaBelle, Ed LaBelle, Clerk of Elkland Township.

Attested on 03/12/2012 by Daniel J Erla, Daniel Erla, Supervisor of Elkland Township.

**ARTICLE 14 - ADDITIONS, AMENDMENTS, AND REPEALS**

**Sec 1401 – Purpose**

The zoning ordinance is an ever changing document. The purpose of this Article and the Sections within is to update the Code of Ordinances as with new laws, corrections, and removals. New sections will be added as the Township Board of Trustees brings them into law.

**Section 1402 – Management**

It will be the responsibility of the Zoning Administrator to upkeep the most current edition of the Zoning Ordinance. The Zoning Administrator shall also be responsible for giving copies of the updates, as they are published, to each of member of the following boards: Elkland Township Board of Trustees, Elkland Township Planning Commission, and the Elkland Township Zoning Board of Appeals. All changes in the 2012 Codified Ordinance of Elkland Township shall be recorded in this Article under section 1404.

**Section 1403 - Repeals**

When any newly adopted ordinance is added to Article 14, the most recently adopted ordinance will supersede prior ordinance.

**Section 1404 – Changes to the 2012 Codified Ordinance of Elkland Township**

**(INSERTED TO THE FOLLOWING PAGES)**

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AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, ELKLAND TOWNSHIP, MICHIGAN, BY ADDING A NEW ARTICLE, ARTICLE 14, WHICH THE NEW ARTICLE SHALL BE DESIGNATED AS “ARTICLE 14 – ADDITIONS, AMENDMENTS, AND REPEALS” OF THE 2012 CODIFIED ORDINANCE OF ELKLAND TOWNSHIP MICHIGAN, THEREOF.

Elkland Township ordains...

**SECTION 1:** In accordance with the 2012 Codified Ordinance of Elkland Township, this Article of the Code of Ordinances is hereby enacted which is entitled "ADDITIONS, AMENDMENTS, AND REPEALS", and read as follows:

### **ARTICLE 14 - ADDITIONS, AMENDMENTS, AND REPEALS**

#### **Sec 1401 – Purpose**

The zoning ordinance is an ever changing document. The purpose of this Article and the Sections within is to update the Code of Ordinances as with new laws, corrections, and removals. New sections will be added as the Township Board of Trustees brings them into law.

#### **Section 1402 – Management**

It will be the responsibility of the Zoning Administrator to upkeep the most current edition of the Zoning Ordinance. The Zoning Administrator shall also be responsible for giving copies of the updates, as they are published, to each of member of the following boards: Elkland Township Board of Trustees, Elkland Township Planning Commission, and the Elkland Township Zoning Board of Appeals. All changes in the 2012 Codified Ordinance of Elkland Township shall be recorded in this Article under section 1404.

#### **Section 1403 - Repeals**

When any newly adopted ordinance is added to Article 14, the most recently adopted ordinance will supersede prior ordinance.

#### **Section 1404 – Changes to the 2012 Codified Ordinance of Elkland Township**

**(INSERTED TO THE FOLLOWING PAGES)**

**SECTION 2:** If any clause, sentence, section, paragraph, or part of this ordinance, or the application thereof to any person, firm, corporation, legal entity, or circumstances, shall be for any reason adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not effect, impair, or invalidate the remainder of this

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## Elkland Township, Tuscola County, Michigan

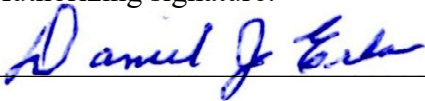
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Ordinance and the application of such provision to other persons, firms, corporations, legal entities, or circumstances by such judgment shall be confined in its operation to the clause, sentence, section, paragraph, or part of this Ordinance thereof directly involved in the case or controversy in which such judgment shall have been rendered and to the person, firm, corporation, legal entity, or circumstances then and there involved. It is hereby declared to be the legislative intent of this body that the Ordinance would have been adopted had such invalid or unconstitutional provisions not have been included in this Ordinance.

**SECTION 3:** If any provision of this Chapter differs from a provisions of any other applicable law, ordinance, rule or regulation, both the provision of this Chapter and the differing provision shall apply if possible. If the two (2) provisions are in conflict, then the provision establishing the higher or stricter standard shall apply.

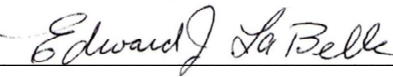
**SECTION 4:** After publication, this ordinance shall be effective immediately.

Authorizing signature:

  
\_\_\_\_\_

Daniel J. Erla, Supervisor, Elkland Township

Attested by:

  
\_\_\_\_\_

Edward LaBelle, Clerk, Elkland Township

The foregoing Ordinance was offered by TRUSTEE C. Kruse and supported by TRUSTEE D. Erla.

Ayes: 3      Nays: 0      Absent: 2

Adopted: December 9, 2013    Effective Date: December 9, 2013

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AN ORDINANCE ENACTING A CODE OF ORDINANCE FOR ELKLAND TOWNSHIP, MICHIGAN, WITHIN ARTICLE 3, GENERAL REGULATIONS, TO BE KNOWN AS SECTION 323 OF THE 2012 CODIFIED ORDINANCE OF ELKLAND TOWNSHIP, ENTITLED "SALE, POSSESSION OR USE OF FIREWORKS", AS FOLLOWS.

Elkland Township ordains...

**SECTION 1:** In accordance with Article 3 of the 2012 Codified Ordinance of Elkland Township, this Section of the Code of Ordinances is hereby enacted which is entitled "SALE, POSSESSION OR USE OF FIREWORKS", and read as follows:

### **SECTION 323 - SALE, POSSESSION OR USE OF FIREWORKS**

#### **Sec. 323.1 - Definitions**

For the purposes of this Section, the following words shall be defined as hereafter stated:

CONSUMER FIREWORKS means fireworks devices that are designed to produce visible effects by combustion that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, 01 3.5. Consumer fireworks do not include low-impact fireworks.

DISPLAY FIREWORKS means large fireworks devices that are explosive material intended for use in fireworks displays and designed to produce visual or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1, 4.1.

FIREWORK or FIREWORKS means any composition or device, except for a starting pistol, a flare gun, or flare, designated for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.

LOW-IMPACT FIREWORKS means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

NOVELTIES or NOVELTY means that term as defined under APA standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:

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## Elkland Township, Tuscola County, Michigan

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- a. Toy plastic or paper caps for toy pistol in sheets, strips, rolls, or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.
- b. Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph 1 are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.
- c. Flitter sparklers in paper tubes not exceeding 1/8th inch in diameter.

### **Sec. 323.2 - Prohibition on Use of All Fireworks Except as Allowed; Exception**

No person shall ignite, discharge, or use any fireworks within the township except as allowed by this chapter.

### **Sec. 323.3 - Prohibition on Use of Display Fireworks; Exception**

No person shall ignite, discharge, or use display fireworks within the Township at any time, unless the following are true:

1. It is a professional, licensed fireworks company; AND
2. The Board of Trustees of Elkland Township approves the issuance of a license or permit.

A permit shall not be issued under this act to a non-resident person, firm, or corporation for ignition of articles pyrotechnic or display fireworks in this state until the person, firm, or corporation has appointed in writing a resident member of the bar of this state or a resident agent to be the legal representative upon whom all process in an action or proceeding against the person, firm, or corporation may be served.

### **Sec. 323.4 - Prohibition on Use of Consumer Fireworks; Exception**

No person shall ignite, discharge, or use consumer fireworks within the township, except this prohibition shall not preclude any person from the ignition, discharge and use of consumer fireworks on the preceding, the day of, or the day after a national holiday consistent with Sec. 7 (2) of Michigan Public Act 256 of 2011. Consumer fireworks ignited, discharged, or used on the dates allowed by this section shall strictly conform to the definition of consumer fireworks as stated in this chapter and state statute by only creating visual but not audible effects by their combustion and if not so conforming shall be prohibited on said dates as well as all other times.

### **Sec. 323.5 - Use of Consumer Fireworks**

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Low-impact fireworks shall be ignited, discharged, or used so as to not cause injury or damage to any person or property but shall not be ignited, discharged, or used inside any building or structure at any time without a license or permit issued by the Elkland Township Board of Trustees. Novelty fireworks may be ignited, discharged, or used without restriction but such shall only occur in a manner so as to not cause injury or damage to any person or property.

### **Sec. 323.6 - Limitations on the Use of Low-Impact or Novelty Fireworks**

Consumer fireworks use in the Elkland Township is limited to the day before, the day of, and the day after, a federal holiday, contingent on the following:

- a. Fireworks shall not be sold to a minor.
- b. No person under the age of 18 years shall use, possess, explode or cause to explode any fireworks, as defined herein, with the township.
- c. No person under the age of 18 years shall buy, purchase, acquire or obtain any fireworks, as defined herein, within the township.
- d. A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or a person's express permission.
- e. For purposes of this ordinance, Federal Holidays are: New Year's Day, Birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day.

### **Sec. 323.7 – Penalty**

*Whosoever violates any of the provisions of this Section shall be guilty of a municipal infraction and shall be subject to a \$100 fine.*

**SECTION 2:** If any clause, sentence, section, paragraph, or part of this ordinance, or the application thereof to any person, firm, corporation, legal entity, or circumstances, shall be for any reason adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not effect, impair, or invalidate the remainder of this Ordinance and the application of such provision to other persons, firms, corporations, legal entities, or circumstances by such judgment shall be confined in its operation to the clause, sentence, section, paragraph, or part of this Ordinance thereof directly involved in the case or controversy in which such judgment shall have been rendered and to the person, firm, corporation, legal entity, or circumstances then and there involved. It is hereby declared to be the legislative intent of this body that the Ordinance would have been adopted had such invalid or unconstitutional provisions not have been included in this Ordinance.

**SECTION 3:** If any provision of this Chapter differs from a provisions of any other applicable law, ordinance, rule or regulation, both the provision of this Chapter and the

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## Elkland Township, Tuscola County, Michigan

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differing provision shall apply if possible. If the two (2) provisions are in conflict, then the provision establishing the higher or stricter standard shall apply.

**SECTION 4:** After publication, this ordinance shall be effective immediately.


Authorizing signature:



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Daniel J. Erla, Supervisor, Elkland Township

Attested by:



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Edward LaBelle, Clerk, Elkland Township

The foregoing Ordinance was offered by TRUSTEE C. Kruse and supported by TRUSTEE D. Erla.

Ayes: 3      Nays: 0      Absent: 2

Adopted: December 9, 2013    Effective Date: December 9, 2013

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AN ORDINANCE TO AMEND THE CODE OF ORDINANCE FOR ELKLAND TOWNSHIP, MICHIGAN, BY AMENDING ARTICLE 4, ZONING DISTRICTS, OF SECTIONS 406A AND 406B OF THE 2012 CODIFIED ORDINANCE OF ELKLAND TOWNSHIP, ENTITLED “A-1 AGRICULTURAL ZONING DISTRICT” AND “FC-1 FORESTRY AND CONSERVATION ZONING DISTRICT” THERE OF.

Elkland Township ordains...

**SECTION 1:** In accordance with Article 4 of the 2012 Codified Ordinance of Elkland Township, sections 406a and 406b of the Code of Ordinances is hereby amended. The yard dimensions within the dimensional requirements located within the each ordinance shall be amended from:

Front yard setbacks shall be restricted to a minimum of sixty (60) feet for residences and seventy-five (75) feet for non-residential uses. Single-family dwellings along with other residential and non-residential uses shall be built or located no closer than seventy-five (75) feet from the side property lines. All buildings shall be a minimum of twenty-five (25) feet from the rear property line.

To, and read as follows:

Front yard setbacks shall be restricted to a minimum of sixty (60) feet for residences and seventy-five (75) feet for non-residential uses. Single-family dwellings along with other residential and non-residential uses shall be built or located no closer than twenty-five (25) feet from the side property lines. All buildings shall be a minimum of twenty-five (25) feet from the rear property line.

**SECTION 2:** If any clause, sentence, section, paragraph, or part of this ordinance, or the application thereof to any person, firm, corporation, legal entity, or circumstances, shall be for any reason adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not effect, impair, or invalidate the remainder of this Ordinance and the application of such provision to other persons, firms, corporations, legal entities, or circumstances by such judgment shall be confined in its operation to the clause, sentence, section, paragraph, or part of this Ordinance thereof directly involved in the case or controversy in which such judgment shall have been rendered and to the person, firm, corporation, legal entity, or circumstances then and there involved. It is hereby declared to be the legislative intent of this body that the Ordinance would have been adopted had such invalid or unconstitutional provisions not have been included in this Ordinance.

**SECTION 3:** If any provision of this Chapter differs from a provisions of any other applicable law, ordinance, rule or regulation, both the provision of this Chapter and the differing provision shall apply if possible. If the two (2) provisions are in conflict, then the provision establishing the higher or stricter standard shall apply.


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## Elkland Township, Tuscola County, Michigan

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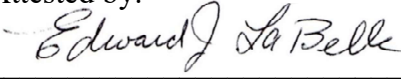
**SECTION 4:** After publication, this ordinance shall be effective immediately.

Authorizing signature:

  
\_\_\_\_\_

Daniel J. Erla, Supervisor, Elkland Township

Attested by:

  
\_\_\_\_\_

Edward LaBelle, Clerk, Elkland Township

The foregoing Ordinance was offered by TRUSTEE C. Kruse and supported by TRUSTEE D. Erla.

Ayes: 3      Nays: 0      Absent: 2

Adopted: December 9, 2013    Effective Date: December 9, 2013

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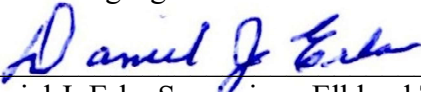


AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, ELKLAND TOWNSHIP, MICHIGAN, BY REPEALING ALL SECTIONS, UNDER ARTICLE 13, AND ARTICLE 13, ENTITLED "FLOODPLAIN MANAGEMENT PROVISIONS OF THE STATE CONSTRUCTION CODE" OF SAID CODE.


Elkland Township ordains...

"Article 13 – Floodplain Management Provisions of the state construction code" is to be repealed in its entirety, including sections and subsections from the 2012 codified ordinance of Elkland Township.

Authorizing signature:

  
\_\_\_\_\_  
Daniel J. Erla, Supervisor, Elkland Township

Attested by:

  
\_\_\_\_\_  
Edward LaBelle, Clerk, Elkland Township

The foregoing Ordinance was offered by TRUSTEE C. Kruse and supported by TRUSTEE D. Erla.

Ayes: 3      Nays: 0      Absent: 2

Adopted: December 9, 2013 Effective Date: December 9, 2013

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## Elkland Township, Tuscola County, Michigan

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AN ORDINANCE TO AMEND THE CODE OF ORDINANCE FOR ELKLAND TOWNSHIP, MICHIGAN, BY AMENDING ARTICLE 3, GENERAL REGULATIONS, OF SECTION 322 OF THE 2012 CODIFIED ORDINANCE OF ELKLAND TOWNSHIP, ENTITLED “PONDS – SPECIAL LAND USE” THERE OF.

Elkland Township ordains...

**SECTION 1:** In accordance with Article 3 of the 2012 Codified Ordinance of Elkland Township, all of Section 322 – Ponds of the Code of Ordinances is hereby amended to read as follows:

### **Section 322 – Ponds – Special Land Use**

The regulations set forth in this section are designed to outline the parameters under which ponds may be developed. The regulations are intended to protect the health, safety, and welfare of township resident, as well as preserve ecological import features, and to prohibit development which, unregulated, may have an adverse impact on the existing character of the township.

#### 1. General Provisions

- a. It shall be unlawful for any person, firm, corporation, partnership, or other organization or entity to construct a pond within the township without first securing a site plan from the township Zoning Administrator.
- b. The pond shall be located on a parcel at least two (2) acres in total size.
- c. All ponds shall be considered accessory to the principal use.
- d. Ponds shall not exceed ten (10) percent of the total lot area on which they are situated or five (5) acres, whichever is less.
- e. The property owner will be required to excavate a test hole to determine the water table and appropriate depth of the pond. The property owner will contact the Zoning Administrator to inspect the test hole within 48 hours of the excavation to document the water table of the site.

#### 2. Design requirements

- a. The submerged slopes of the body of water shall not exceed one (1) foot vertical drop to each four (4) feet horizontal to a depth of six (6) feet and shall not exceed a maximum depth of fifteen (15) feet.
  - b. Ponds shall be a minimum of thirty (30) feet from property lines as measured from the property line to the beginning of the excavation.
  - c. There shall be a distance of not less than twenty-five (25) feet between the outside edge of the excavation and any structure on the site.
  - d. All areas disturbed during construction shall be seeded with grass and maintained in good condition to prevent erosion.
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### 3. Application and Review Procedures

- a. Applications shall be made to the Zoning Administrator. Applications shall contain the name and address of the application and property owner, legal description of the property upon which the pond is to be located, and a site plan.
- b. The proposed site plan shall be designed and sealed by a surveyor and to scale showing existing topography extending fifty (50) feet past the site boundaries, including all existing and proposed improvements. Elevation contours shall be at a minimum of two-foot intervals. A sealed design drawing may not be required and is subject to administration review.
- c. Soil erosion control and tree protection measures shall be shown on the proposed site plan.
- d. Review fee shall be paid by the applicant. The cost will be based on the amount of time invested to review the project. A refundable construction bond will be required for all pond projects and will be calculated at the cost to restore and/or to obtain a minimal grade standard that complies with the Townships ordinance.
- e. All required permits shall be obtained prior to the approval by the Township, including , but not limited to the following:
  - i. Tuscola County Drain Commission regarding proximity to a ditch, stream, river, or floodplain.
  - ii. Tuscola County Health Department regarding proximity to site waste water systems.
  - iii. Tuscola County Road Commission regarding designated travel routes.
  - iv. Michigan Department of Environmental Quality regarding natural features such as wetlands.
  - v. Soil erosion permit must be obtained by Tuscola County.

### 4. Limitations

- a. The construction of the pond is to be complete within a twelve (12) month period. Extensions may be granted by the Planning Commission under extenuating circumstances. When extensions are requested they shall be in written form and a review fee shall be paid by the applicant. The cost will be based on the amount of time invested to review the extension request. An administration review of the construction bond shall be re-reviewed and evaluated. The amount of the bond may require to be adjusted and will be based on the value of cost to restore and/or to obtain a minimal grade standard that complies with the Townships ordinance.
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## Elkland Township, Tuscola County, Michigan

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- b. The property, as situated at the time of the application for a pond permit is made, shall not subsequently be split, divided and/or partitioned in a manner which would result in nonconformance with the required contained herein.
- c. No pond shall be located upon, across, or extended beyond an existing property line.
- d. Pond construction shall not commence earlier than 7:00 a.m., and shall not continue after dusk.
- e. The requirements contained herein shall not relieve the applicant from complying with other land development or environmental standards established by the Township or by other public agencies with jurisdiction.


### 5. Soil Removal Provisions

- a. Excavated soil intended for removal from the property shall be removed within one hundred-twenty (120) days after the excavation is complete.
- b. Soil erosion control and tree protection measures shall be maintained and comply with the approved site plan.
- c. The ingress egress for the project shall be maintained and the street cleaned on a daily bases and/or as needed and is subject to administration inspection.
- d. Proof of liability insurance.

**SECTION 2:** If any clause, sentence, section, paragraph, or part of this ordinance, or the application thereof to any person, firm, corporation, legal entity, or circumstances, shall be for any reason adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not effect, impair, or invalidate the remainder of this Ordinance and the application of such provision to other persons, firms, corporations, legal entities, or circumstances by such judgment shall be confined in its operation to the clause, sentence, section, paragraph, or part of this Ordinance thereof directly involved in the case or controversy in which such judgment shall have been rendered and to the person, firm, corporation, legal entity, or circumstances then and there involved. It is hereby declared to be the legislative intent of this body that the Ordinance would have been adopted had such invalid or unconstitutional provisions not have been included in this Ordinance.

**SECTION 3:** If any provision of this Chapter differs from a provisions of any other applicable law, ordinance, rule or regulation, both the provision of this Chapter and the differing provision shall apply if possible. If the two (2) provisions are in conflict, then the provision establishing the higher or stricter standard shall apply.

Authorizing signature:



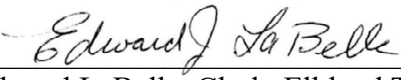
Daniel J. Erla, Supervisor, Elkland Township

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## 2012 Zoning Ordinance

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Attested by:

  
\_\_\_\_\_  
Edward LaBelle, Clerk, Elkland Township

The foregoing Ordinance was offered by TRUSTEE E. LaBelle and supported by TRUSTEE T. Muntz.

Ayes: 5      Nays: 0      Absent: 0

Adopted: November 9, 2015

Effective Date: November 25, 2015

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# Elkland Township, Tuscola County, Michigan

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## ELKLAND TOWNSHIP

### RESOLUTION TO ADOPT ORDINANCE TO AMEND SECTIONS 406f, 702 AND 919 OF THE CODE OF ORDINANCES FOR ELKLAND TOWNSHIP

At a meeting of the Township Board for the Township of Elkland, Michigan, held on the 9 day of April 2018.

PRESENT: Dan Erla, Ed LaBelle, Cindy Kruse, Terry Muntz, Tavis Osentoski

ABSENT: None

The following preamble and resolution were offered by Terry Muntz and seconded by Tavis Osentoski.

WHEREAS, the Michigan Zoning Enabling Act, 2006 P.A. 110, being MCL 125.3101 *et seq.*, authorizes Elkland Township (the "Township") to adopt and amend zoning ordinances regulating the use of land in the Township; and

WHEREAS, the Township Planning Commission held a public hearing to consider proposed amendments to the Township Zoning Ordinance; and

WHEREAS, the Planning Commission recommended that the Township Board approve the proposed amendments; and

WHEREAS, the Planning Commission thereafter transmitted a summary of the proposed amendments and comments to the Township Board and the Tuscola County Planning Commission for review; and

WHEREAS, the Township Board has considered the proposed amendments and comments and finds that adopting the proposed amendments is in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, the Township Board of the Township of Elkland resolves as follows:

- The Township adopts Ordinance No. 2018-3 Ordinance to Amend Section 406f, 702 and 919 of the Code of Ordinances for Elkland Township (the "Ordinance," attached as **Exhibit A**).
- The Ordinance shall be filed with the Township Clerk.
- The Township Clerk shall publish a summary of the Ordinance in a newspaper of general circulation in the Township within 15 days.
- Any resolution that conflicts with this Resolution is repealed upon the effective date of the Ordinance.

A vote on the Resolution was taken and was as follows:

ADOPTED:

YEAS: 5

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## 2012 Zoning Ordinance

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NAYS: 0

STATE OF MICHIGAN )

)ss.

COUNTY OF TUSCOLA )

I, the undersigned, the duly qualified and acting Township Clerk of the Township of Elkland, Michigan, CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Township Board at a meeting held on the 4<sup>th</sup> day of April, 2018.



Edward Labelle, Township Clerk

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# Elkland Township, Tuscola County, Michigan

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## TOWNSHIP OF ELKLAND

### AN ORDINANCE TO AMEND SECTIONS 406f, 702 AND 919 OF THE CODE OF ORDINANCES FOR ELKLAND TOWNSHIP

#### ELKLAND TOWNSHIP ORDAINS...

**SECTION 1:** In accordance with Article 14 of the 2012 Codified Ordinance of Elkland Township, Subsection 406f of the Code of Ordinances is hereby amended to include “Sexually oriented businesses” as a use permitted by special land use permit in the M-1 Manufacturing Zoning District.

**SECTION 2:** In accordance with Article 7 of the 2012 Codified Ordinance of Elkland Township, Section 702 of the Code of Ordinances is hereby amended to add “Ponds pursuant to Section 322” to the list of “special land uses eligible.”

**SECTION 3:** In accordance with Article 9 of the 2012 Codified Ordinance of Elkland Township, Section 919 of the Code of Ordinances is hereby amended to include the following divisions under subsection 2:

- The first offense shall be \$300, plus costs and sanctions.
- Any repeat offense shall be \$500, plus costs and sanctions.

In addition, the following subsections shall be added under Section 919:

3. In addition to ordering the responsible defendant to pay a civil fine, costs, damages and expenses, the Judge or Magistrate shall be authorized to issue any judgement, writ or order necessary to enforce or enjoin violation of this Ordinance.
4. Each act or violation, and each day upon which any such violation shall occur, shall constitute a separate offense.
5. In addition to any remedies provided for by the 2012 Codified Ordinance of Elkland Township, any equitable or other remedies available may be sought.
6. A municipal civil infraction shall not be a lesser-included offense of a criminal offense or of an ordinance violation which is not a civil infraction.

**SECTION 4:** If any clause, sentence, section, paragraph or part of this ordinance, or the application thereof to any person, firm, corporation, legal entity, or circumstances, shall be for any reason adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgement shall not effect, impair, or invalidate the remainder of this Ordinance and the application of such provision to other persons, firms, corporations, legal entity, or circumstances then and there involved. It is hereby declared to be the legislative intent of this body that the Ordinance would have been adopted had such invalid or unconstitutional provisions not have been included in this Ordinance.

**SECTION 5:** If any provision of this Ordinance differs form a provision of any other applicable law, ordinance, rule or regulation, both the provision of this Ordinance and the differing

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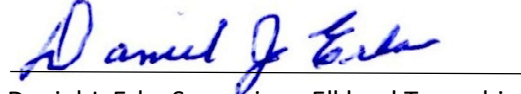
## 2012 Zoning Ordinance

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provision shall apply if possible. If the two (2) provision are in conflict, then the provision establishing the higher or stricter standard shall apply

**SECTION 6:** This ordinance shall be effective seven days after publication.

Authorizing signature:

A handwritten signature in blue ink, reading "Daniel J. Erla", is written over a horizontal line.

Daniel J. Erla, Supervisor, Elkland Township

## ELKLAND TOWNSHIP

### RESOLUTION TO ADOPT ORDINANCE TO AMEND ZONING ORDINANCE TO PROVIDE FOR WIND ENERGY CONVERSION SYSTEMS

At a meeting of the Township Board for the Township of Elkland, Michigan, held on the 12 day of November 2018, at 7:45 p.m.

PRESENT: Dan Erla, Ed LaBelle, Terry Muntz, Tavis Osentoski

ABSENT: Cindy Kruse

The following preamble and resolution were offered by Terry Muntz and seconded by Tavis Osentoski.

WHEREAS, the Michigan Zoning Enabling Act, 2006 P.A. 110, being MCL 125.3101 *et seq.*, authorizes Elkland Township (the "Township") to adopt reasonable regulations to control the establishment and use of Wind Energy Conversion Systems in the Township; and

WHEREAS, the Township wishes to consider amendments to its Zoning Ordinance to, among other things, address the procedures and standards for allowing Wind Energy Conversion Systems in the Township; and

WHEREAS, upon giving notice in accordance with MZEA, the Township Planning Commission ("Planning Commission") held a public hearing regarding the proposed zoning ordinance amendments on July 17, 2018; and

WHEREAS, following public hearing, the Planning Commission recommended that the proposed zoning ordinance amendments be approved; and

WHEREAS, the Township introduced an ordinance implementing these proposed amendments (the "Ordinance") attached as **Exhibit A**; and

WHEREAS, the Township desires to adopt the Ordinance as introduced for the public health, safety and welfare.

NOW, THEREFORE, the Township Board of the Township of Elkland resolves as follows:

1. The Township hereby adopts Ordinance No. Article 15, Ordinance to Amend Zoning Ordinance to Provide for Wind Energy Conversion Systems (the "Ordinance," attached as Exhibit A).
2. The Ordinance shall be filed with the Township Clerk
3. The Township Clerk shall publish a summary of the Ordinance in a newspaper of general circulation in the Township within 15 days.
4. Any and all resolutions that are in conflict with this Resolution are hereby repealed to the extent necessary to give this Resolution full force and effect.

A vote on the Resolution was taken and was as follows:

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## 2012 Zoning Ordinance

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ADOPTED:

YEAS: 4


NAYS: 0

STATE OF MICHIGAN )

)ss.

COUNTY OF TUSCOLA )

I, the undersigned, the duly qualified and acting Township Clerk of the Township of Elkland, Michigan, CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Township Board at a meeting held on the 12 day of November, 2018.



Edward Labelle, Township Clerk

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# Elkland Township, Tuscola County, Michigan

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## ELKLAND TOWNSHIP

### ORDINANCE TO AMEND ZONING ORDINANCE TO PROVIDE FOR WIND ENERGY CONVERSION SYSTEMS

#### ORD. NO. ARTICLE 15

#### THE TOWNSHIP OF ELKLAND ORDAINS:

##### Section 1. Purpose.

The most common and prevalent land use in Elkland Charter Township is agricultural, and its preservation has been an ongoing goal within the community for many years. This Ordinance is intended to protect the health, safety and welfare of the residents of the Township and to encourage the safe, effective, efficient and orderly development and operation of wind energy resources in the Township while preserving and protecting the character and the stability of residential, agricultural, recreational, commercial and other areas within the Township.

With advances in technology of “wind energy development” in general, specific locations within the Township may support the implementation of Utility Grid Wind Energy Systems. To prepare for potential “wind development projects” within the Township, this Ordinance will require such developments to obtain a Special Land Use Permit to ensure wind development sites are appropriately located so as to protect the character and stability of the Township’s residential, agricultural, recreational, commercial and/or industrial areas and character while simultaneously preserving and protecting the Township’s important and sensitive environmental and ecological assets and areas, open space, viewscales and aesthetics, wetlands, and other ecological and environmentally sensitive areas. Accordingly, regulations are necessary to further the above goals and, equally important, to minimize the potential adverse effects of this emerging land use on adjacent properties.

This Ordinance has been developed with the intention of obtaining an appropriate balance between the desire for renewable energy resources and the need to protect the public health, safety, and welfare of the community and the character and stability of the Township’s residential, agricultural, recreational, commercial and/or industrial areas and preserving and protecting the Township’s important and sensitive environmental and ecological assets and areas, open space, viewscales and aesthetics, wetlands, and other ecological and environmentally sensitive areas.

Based on evidence presented in this State and others concerning the adverse secondary effects of wind energy systems on communities, including, but not limited to, findings from the Wind Turbine Health Impact Study: Report of Independent Expert Panel, prepared for the Massachusetts Department of Environmental Protection (2012); Strategic Health Impact Assessment on Wind Energy Development in Oregon, prepared for the State of Oregon (2012); Potential impact on the Public’s Health from Sound Associated with Wind Turbine Facilities, prepared for the State of Vermont’s Department of Health (2010); Analysis of the Research on the Health Effects from Wind Turbines, Including Effects From Noise, prepared for the Maine

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Department of Health and Human Services (2012); Jeffrey et al, "Adverse Health Effects of Industrial Wind Turbines," 59 Can Fam Physician 473-475 (2013); Salt, A., and Kaltenbach, J, Infrasonic From Wind Turbines Could Affect Humans, 31(4) Bulletin Science, Technology and Society, 296-302 (2011), the following are among the potential harmful secondary effects of wind energy systems:

- a) Falling ice or "ice throws" is physically harmful and measures should be taken to protect the public from the risk of "ice throws."
  - b) Nighttime wind turbine noise can cause sleep disturbance. Generally, sleep disturbance can adversely affect mood, cognitive functioning and one's overall sense of health and well-being. Chronic stress and sleep disturbance could increase the risk for cardiovascular disease, decreased immune function, endocrine disorders, and mental illness. In addition, possible health effects include increased heart rate, insomnia, fatigue, accidents, reduction in performance and depression.
  - c) Sound from wind energy facilities could potentially impact people's health and well-being if it increases background sound levels by more than 10 dB(A) or results in long term outdoor community sound levels above 35-40 dB(A).
  - d) There is evidence that wind turbine sound is more noticeable, annoying and disturbing than other community industrial sounds at the same level of loudness.
  - e) People who live near wind turbines are more likely to be impacted by wind turbine than would those far away.
  - f) Alternating changes in light intensity caused by the moving blades of wind turbines on the ground and stationary objects, also known as shadow flicker, can cause health issues.
  - g) The Township desires to protect ecological and environmentally sensitive areas in the Township, which comprises part of the Saginaw Bay Area, including, but not limited to, habitats for endangered species or heavily used migration routes for species of waterfowl and other migratory birds (some of which are protected species), including tundra swans and sand hill cranes. Thus, the Township has determined that wind development sites can adversely impact wildlife and their habitats and makes evaluation of proposed wind development sites essential. The Township finds that any wind development sites should have the lowest potential for negative impacts on wildlife resources and avoid locations with higher concentrations of migratory birds. Further, any wind development sites that would fragment sensitive habitat areas, like rivers, streams, and wetlands, should be avoided.
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## Elkland Township, Tuscola County, Michigan

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- h) The general welfare, health, and safety of the citizens of the Township will be promoted by the enactment of this ordinance.

### Section 2. Amendment of Section 708.

Section 708 of the Zoning Ordinance is hereby amended to remove subparagraphs “Commercial wind turbines” and “Semi-commercial wind turbines” and replace the same as follows:

#### WIND ENERGY CONVERSION SYSTEMS (WECS)

- A. Exempt Towers and Wind Energy Conversion Systems (WECS). Communication towers, antennas, wind energy conversion systems (windmills, turbines) and related facilities located on the premises of a farm, home, or business and which do not primarily involve the sale of electricity or communication services off the premises shall be exempt from the requirements of subsections C. Such units shall be allowed as a permitted accessory use in all zoning districts, providing the electricity or communication services are primarily used on site for a farm, home or business. In the case of a WECS, the total height with the blade fully extended (Tip Height) shall not exceed one hundred thirty (130) feet and the minimum clearance from ground level to the blade at its lowest point shall be twenty (20) feet. The minimum set-back from property lines and road right of way lines shall be equal to 3 times the Tip Height of the unit (WECS blade at its highest point).
- B. Commercial Wind Energy Conversion Systems (WECS). Wind energy conversion systems and WECS testing facilities, other than those exempted under subsection B above, shall only be allowed as special land uses in the A-1 Agricultural, B-1 and FC-1 Forestry/Conservation Zoning Districts. An application for a special land use shall be filed with the Township. Supporting documentation must be submitted in their entirety at the time of application. Applicant shall provide to the Township updated documents throughout the lifespan of the WECS upon request by the Township Board or Planning Commission. Applicant shall also include the following:
1. **Permitting Costs:** An escrow account shall be set up when the Applicant applies for a Special Use Permit for a WECS and WECS Testing Facilities. The monetary amount filed by the Applicant with the Township shall be in an amount estimated by the Township Board to cover all reasonable costs and expenses associated with the special use zoning review and approval process, which costs can include, but are not limited to, fees of the Township Attorney, Township Planner, and Township Engineer, as well as any reports or studies which the Township anticipates it may have done related to the zoning review process for the particular application. Such escrow amount shall include regularly established fees. At any point during the zoning review process, the Township may require that the Applicant place additional monies into escrow with the Township should the existing escrow amount filed by the Applicant prove insufficient. If the escrow account needs replenishing and the Applicant refuses

to do so within fourteen (14) days after receiving notice, the zoning review and approval process shall cease until and unless the Applicant makes the required escrow deposit. Any escrow amounts which are in excess of actual costs shall be returned to the Applicant within 90 days of permitting process completion. An itemized billing of all expenses shall be provided to the Applicant. The Township shall hire qualified professionals for each and any of the technical fields associated with the Special Use Permit, such as but not limited to electrical, acoustics, environment, economics, wildlife, health, and land-use.

2. **Environmental Assessment:** The Applicant shall fund an environmental assessment or impact study and/or other relevant report(s) or studies (including, but not limited to, assessing the potential impact on endangered species, eagles, birds, and/or other wildlife) as required by the Township for review. Any study shall be limited to the area within the Township boundaries or areas within an adjacent three (3) miles. Each 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.
3. **Economic Impact:** The Applicant shall fund an economic impact study at least 90 days prior to Special Land Use Permit (SLUP) approval for review by the Township of the area affected by the WECS. Such a study shall include probable financial impact regarding jobs, tax revenue, lease payments and property values at a minimum and average set-backs distances. Business and residential growth potential shall be considered.
4. **Site Plan:** The Applicant shall submit a site plan in full compliance with Article 8 of this Ordinance. The Applicant shall also 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 as well as information regarding health, welfare and safety in areas including, but not limited to, noise, vibration, shadow flicker, and blade ice deposits. This information shall also address the potential for the WECS to structurally fail or collapse, and what results should be expected in such an event. Additional requirements for a WECS site plan are as follows:
  - i. **Building Siting:** GIS locations and height of all proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and other above ground structures associated with the WECS.
  - ii. **Nearby Building Siting:** GIS locations and height of all adjacent buildings, structures, and above ground utilities located within 3 times minimum set-back distance for NonParticipating Landowners where the proposed WECS and/or WECS Testing Facility will be located. The location of all

## Elkland Township, Tuscola County, Michigan

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existing and proposed overhead and underground electrical transmission or distribution lines shall be shown, whether to be utilized or not with the WECS or Testing Facility, located on the lot or parcel involved.

- iii. Access Driveways: GIS location of WECS and Testing Facility access driveways together with details regarding dimensions, composition, and maintenance of the proposed driveways. The site plan shall include traffic routes, time of the year use, staging areas, and any other physical sites related to WECS. Construction of the Access Driveway that serves a WECS or Testing Facility is required to protect the public health, safety, and welfare by offering an adequate means by which governmental agencies may readily access the site in the event of an emergency. All such roads shall be constructed to allow access at all times by any emergency service vehicles, such as fire, police, and repair. Access driveways shall be no closer than 300' to adjacent property unless Applicant provides documentation in the form of a signed approval by affected participating and Non-Participating Landowners. Such approval shall be recorded with Tuscola County Register of Deeds.
  - iv. Facility Security: Security measures shall be sufficient to prevent unauthorized trespass and to protect health, welfare and safety.
  - v. Maintenance Program and Resolution Program: The Applicant shall provide to the Township a written description of the problem and failure program to be used to resolve the WECS and WECS Testing Facility issue, including procedures and schedules for removal when determined to be obsolete or abandoned.
  - vi. Site Lighting: A lighting plan for each WECS and Testing Facility. Such plan must describe all lighting that will be utilized and documentation that FAA requirements are met. RADAR activated lighting shall be utilized if allowed by FAA. Such a plan shall include but is not limited to, the planned number and location of lights, light color, activation methods, effect on township residents and whether any lights blink. Due to complexity in describing lighting effects for health, welfare and safety, Applicant shall, if available, provide example locations, with product descriptions, where similar, or proposed, lighting solutions are currently deployed. Lighting shall be fully shielded from ground, FAA compliant and be of most current design, to minimize lighting blinking and brightness nuisance.
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- vii. Supplemental: Additional detail(s) and information as requested by the Planning Commission.
  
  - 5. Site Insurance: The Applicant shall insure each WECS at all times for at least \$2,000,000 for liability, property damage, livestock damage, and future earnings loss. Applicant shall provide yearly proof of insurance to Township, that confirms active coverage for the Applicant, Township, Participating Landowners, and Non-Participating Landowners. Aggregate policies are allowed if minimum coverage per WECS is satisfied and coverage is provided for every site where Applicant's equipment is located.
    - i. Voltage: The Applicant shall be responsible for compensation to residents for property, including livestock, health or other damaged by stray voltage caused by a WECS. Demonstrate WECS prohibits stray voltage, surge voltage, and power from entering ground.
  
  - 6. Removal Insurance (decommissioning): To ensure proper removal of the structure when it is abandoned or non-operational, application shall include a proof of the financial security in effect before permit is approved. The security shall be in the form of: 1) cash deposit or 2) performance (surety) bond selected by the Planning Commission and bonded by a top institution from the Department of the Treasury's Listing of Approved Sureties - Department Circular 570, T-list. The duration of the security shall be termed to the removal of each WECS as stated in the ordinance. Additionally, security is to be backed with parent company assets, and lease holder assets approved by the Planning Commission. The amount of such security guarantee (surety) shall be the average of at least two independent (of Applicant) demolition (removal) quotes, obtained by the Planning Commission and approved by the Board, plus 10%. The formula shall be  $(\text{quote1} + \text{quote2})/2 * 1.10$ . but no less than \$650,000 per WECS. Quotes shall be ordered and obtained by the Township from established demolitions companies. Quotes shall not include salvage values. Security guarantee will be updated every 5 years at the rate of 1.5 times CPI (consumer price index) for each year. Such financial guarantee shall be deposited or filed with the Township Clerk after a special use has been approved but before construction operations begin on the WECS project. Failure to keep such financial security in full force and effect at all times while the structure exists shall constitute a material and significant violation of a special use approval and this ordinance, and will subject the Applicant to all available remedies to the Township, including enforcement action, fines, revocation of the special use approval and WECS removal. The Applicant shall be responsible for the payment of all attorney fees and other costs incurred by the Township in the event that the structure is not voluntarily removed, and the Township has to enforce removal. In the event the WECW Owner or Operator defaults on any or all of
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the previously outlined decommissioning requirements, the Participating Landowner upon which each WECS is located shall be responsible and liable for the removal of each WECS. Failure of the Participating Landowner to comply with the removal and decommissioning guidelines shall result in the Township having the WECS removed at the expense of the Participating Landowner. If funding is not available to cover the costs of removal by the Participating Landowner, legal action to pursue the seizure of Participating Landowner property(ies) will take place to cover such costs.

7. Repair Policy Documentation: Applicant will provide a detailed policy and process book for the repair, replacement, and removal of malfunctioning, defective, worn, or noncompliant WECS. Sections of the process book should consider any ordinance requirement or WECS performance deficiency.
8. Noise: Applicant shall provide an initial sound modeling report and post-construction report for the project with a schedule and documentation which adhere to the following:
  - i. Chart outlining ordinance requirements and a description of compliance or noncompliance.
  - ii. Declaration whether submitted data is modeled or measured.
  - iii. Declaration of values, test methods, data sources, and similar for all modeled or measured data.
  - iv. Estimated timeline for project including ordinance requirements completed, construction, post construction, and validation testing.
  - v. Applicant measured data shall be accompanied by SCADA data confirming full power during testing. Unless otherwise requested, minimum SCADA data format shall be grouped in 24hr periods and 1 second intervals including wind vector, wind speed, temperature, humidity, time-of-day, WECS power output, WECS amps, WECS volts, WECS nacelle vector, WECS blade RPM, WECS blade pitch.
  - vi. Permitting data may be submitted based on WECS manufacturer data. However, measured data from active and similar WECS facilities shall be simultaneously submitted.
  - vii. It is acknowledged that WECS units sustain wear over time. Applicant is to submit data from existing and similar WECS installations showing aged sound measurements (to demonstrate compliance potential over

the life of WECS) in accordance with this ordinance for 5, 10, and 15-year-old units.

- viii. Modeling factors shall be set for the worst-case environment, such as high humidity, frozen ground (non-porous), atmospheric variances (atmospheric profile Pasquill Stability Class E or F preferred), elevated noise source and no ground cover. Use of modeling methods (standards) shall have deficiencies (limitations) fully disclosed and shall include known error margins. Non-disclosure of modeling method deficiencies shall require resubmission of SLUP in its entirety with complete modeling deficiencies disclosed.

C. Commercial Wind Energy Conversion Systems (WECS) – Standards and Requirements.

1. Set-Back: The minimum set-back from any property line of a Non-Participating Landowner shall be no less than 4 times Tip Height of WECS or WECS Testing Facility or 2000 feet, whatever is greater, unless Applicant provides documentation in the form of a signed approval by affected Participating and Non-Participating Landowners. Documents in full shall be recorded with Tuscola county register of deeds. For WECS, use turbine pole centerline as WECS measuring point.
    - i. The minimum setback from any “State” highway, public road right away, power lines, gas lines, or County drain or any other WECS shall be equal to three (3) times the height of any WECS or WECS testing facility, measured with the windmill blade at its highest point to the closes point at the base of the tower.
  2. Ground Clearance: The minimum clearance from ground level to the blade at its lowest point shall be seventy-five (75) feet.
  3. Applicant Compliance: The WECS and related equipment shall comply with any and all State, Federal, County and Township requirements.
  4. Blade Clearance: Blade arcs created by a WECS shall have a minimum of seventy-five (75') feet of clearance over and from any structure or adjoining property of a Participating Landowner.
  5. Braking: Each WECS shall be equipped with a braking, or equivalent device, capable of stopping the WECS operation in high winds with or without SCADA control. Braking system shall be effective during complete GRID power failure where WECS is unable to communicate with SCADA control or receive power.
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## Elkland Township, Tuscola County, Michigan

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6. Signage: Each WECS and Testing Facility shall have one sign per turbine, or tower, located at the roadside and one sign attached to base of each WECS, easily visible throughout 4 seasons. Signs shall be at least two square feet in area. Signs shall be the same and shall uniquely identify each WECS. Additional signage on and around the tower is recommended. The sign shall contain at least the following:
    - i. Warning high voltage.
    - ii. Participating Land owner's name, WECS owner's name and operator's name.
    - iii. Emergency telephone numbers and web address. (list more than one number).
    - iv. If WECS uses fencing, place signs on the perimeter fence at fence entrance door.
  7. Unique identification such as address of WECS. If more than one WECS on access drive units shall have further identification such that first responders can positively identify. An identification example is "123 Reed Rd, Cass City, MI Unit A." Communication interference: Each WECS and Testing Facilities shall be designed, constructed and operated so as not to cause radio and television or other communication interference. In the event that verified interference is experienced and confirmed by a licensed engineer, the Applicant must produce confirmation that said interference has been resolved to residents' satisfaction within ninety (90) days of receipt of the complaint. Any such complaints shall follow the process stated in Sections C.26 and C27.
  8. Infrastructure Wiring: All electrical connection systems and lines from the WECS to the electrical grid connection shall be located and maintained underground. Burial depth shall be at a depth that causes no known environmental, land use, or safety issues. Depth shall be a minimum of 5ft below grade, be deeper than drain tile, and be in compliance with NEC 2014 or newer Code standards. . The Planning Commission may waive the burial requirement and allow above-ground structures in limited circumstances, such as geography precludes, or a demonstrated benefit to the township. The waiver shall not be granted solely on cost savings to Applicant. Request for variation shall consider aesthetics, future use of land, and effect on nearby landowners.
  9. Road Damage: Any damages to a public road located within the Township resulting from the construction, maintenance, or operation of a WECS or Testing Facility shall be repaired at the Applicant's expense pursuant to Tuscola County
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Road Commission requirements within 90 days of project completion, but shall not exceed 365 days from project commencement.

10. Coating/Color: A WECS shall be painted a non-obtrusive (light environmental color such as beige, gray or off-white) color that is non-reflective. The wind turbine base and blades shall be of a color consistent with all other turbines in the area. No striping of color or advertisement shall be visible on the blades or tower.
  11. Strobe Effect: Under no circumstances shall a WECS or Testing Facility produce shadow flicker, or strobe-effect, on properties without a signed release from affected Participating and Non-Participating Landowners. Such releases shall be recorded with Tuscola County Register of Deeds.
  12. Protection of Adjoining Property: In addition to the other requirements and standards contained in this section, the Planning Commission shall not approve any WECS or Testing Facilities unless it finds that the WECS or Testing Facility will not pose a safety hazard or unreasonable risk of harm to the occupants of any adjoining properties or wildlife.
  13. Removal & Site Renovation: A condition of every approval shall be adequate provision for the removal of the structure whenever it ceases to be used for one hundred eighty (180) days or more. The Planning Commission can grant an extension of an additional one hundred eighty (180) days upon a showing by the WECS owner that the structure will be put back into use. Removal shall include the proper receipt of a demolition permit from the Building Official and proper restoration of the site to original condition. Removal of the structure, wiring, and its accessory use facilities shall include removing the caisson and all other components in their entirety. Participating Landowners may waive complete caisson removal if they can demonstrate that any and all remaining caisson will not negatively affect environment, such as but not limited to water quality, natural water flow, or wildlife health, Participating Landowner shall execute a waiver and record same in full with Tuscola County Register of Deeds. Restoration must be completed within 365 days of nonoperation.
    - i. Participating Landowners may waive complete underground wiring removal if they can demonstrate that any and all remaining underground wiring will not negatively affect environment, such as but not limited to water quality, natural water flow, or area wildlife. Participating Landowner shall execute a waiver and record the same with the Tuscola County Register of Deeds.
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## Elkland Township, Tuscola County, Michigan

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14. Aesthetic and scenic vista: The maximum Tip Height of any WECS or WECS Testing Facility shall not exceed 500ft.
  15. Operational, Maintenance, and Issue Resolution: Each WECS and Testing Facility must be kept and maintained in good repair and condition at all times. If a WECS is not maintained in operational and reasonable condition or poses a potential safety hazard, the Applicant shall take expeditious action to correct the situation, including WECS removal. The Applicant shall keep a maintenance log on each WECS and must provide to the Township within 30 days of request.
  16. Complaint Resolution: A complaint resolution process shall be established by the township. The form shall be, but not limited to:
    - i. Receiving and forwarding of complaints: a third party answering switchboard, website or equivalent, paid for by the Applicant or WECS or Testing Facility owner. The cost to maintain and support shall be funded in the amount of \$5000.00 and be replenished at least every 5 years by the Applicant or WECS owner. The Planning Commission will select a complaint resolution process that is independent of the facility operator and reports to the Township and operator simultaneously.
    - ii. Investigation of Complaints: Township shall initiate an investigation into a complaint within 60 days utilizing escrow funds to hire the appropriate expert (s).
    - iii. Hearing of Complaints: Township Board shall set a hearing date within 60 days of completion of Investigation of Complaints where experts, residents and/or Applicant may present information before the Township Board. Notice of hearing will be via certified mail.
    - iv. Decision of Complaints: Township Board shall issue a decision and corrective actions within 45 days from Hearing of Complaints.
    - v. Applicant shall be required as a condition of approval to fund an escrow account for investigation of complaints for, but not limited to, shadow flicker, stray voltage, noise, and signal interference to the amount of \$15000.00 to be used at the discretion of the Township Board. When escrow account balance is below \$5,000.00, Township will notify Applicant and Applicant shall replenish account in the amount of \$15,000.00.
  17. Complaints: If the Township Board confirms and issues a corrective action, SCADA data from any turbine shall be required and delivered to Township
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within 20 days of notification. SCADA data format will be determined by Township, Township licensed engineers, or Township professional acousticians. Fees for providing data are not to exceed \$200/request. Residents may also request SCADA data under same terms. Common SCADA formats shall include meteorological and performance data such as, but not limited to, temperature, humidity, power output, RPM, wind velocity, wind direction, and nacelle vector. Data format will be determined by Township and in file formats such as “csv” or “xlsx”.

18. Regulation of WECS Commercial and Industrial Noise: To preserve quality of life, peace and tranquility, and protect the natural quiet of the environment. This ordinance establishes the acoustic baseline, background sound levels for project design purposes, and limits the maximum noise level emissions for commercial and industrial developments. Residents shall be protected from exposure to noise emitted from commercial and industrial development by regulating said noise.
  19. The Township Board reserves the right to require WECS Applicant to shut down any WECS unit that does not meet ordinance requirements until such WECS unit meets ordinance requirements.
  20. NOISE:
    - i. No WECS shall generate or permit to be generated audible noise from commercial or industrial permitted facilities that exceeds 39 dBA or 49 dBC (dBC to dBA ratio of 10 dB per ANSI standard S12.9 Part 4 Annex D) during the night 10 pm to 7 am for any duration, at a property line or at any point within a property, unless Applicant provides documentation in the form of a signed agreement by the Participating or NonParticipating Landowner waiving these requirements. Said documents in full shall be recorded with the Tuscola county register of deeds. Leq 1-sec shall be used for all measurements and modeling.
    - ii. No WECS shall generate or permit to be generated plainly audible noise from commercial or industrial permitted facilities that exceeds 45 dBA or 55 dBC during the day 7 am to 10 pm for any duration, at a property line or at any point within a property, unless Applicant provides documentation in the form of a signed agreement by the Participating or Non-Participating Landowner waiving these requirements. Said documents in full shall be recorded with the Tuscola county register of deeds. Leq 1-sec shall be used for all measurements and modeling.
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## Elkland Township, Tuscola County, Michigan

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- iii. No WECS shall generate or permit to be generated from commercial or industrial permitted facilities any acoustic, vibratory, or barometric oscillations in the frequency range of 0.1 to 1 Hz that is detectable at any time and for any duration by human sensation confirmed or exceeds a sound pressure level from 0.1 to 20 Hz of 50 dB(unweighted) re 20uPA or exceeds an rms acceleration level of 50 dB(unweighted) re 1 micro-g by instrumentation at a Non-Participating Landowner's property line or at any point within a Non-Participating Landowner's property.
  - iv. No WECS shall generate or permit to be generated from commercial or industrial permitted facilities any vibration in the low frequency range of 0.1 to 20 Hz, including the 1, 2, 4, 8, and 16 Hertz octave bands that is perceivable by human sensation or exceeds an rms acceleration level of 50 dB(unweighted) re 1 micro-g at any time and for any duration either due to impulsive or periodic excitation of structure or any other mechanism at a Non-Participating Landowner's property line or at any point within a Non-Participating Landowner's property.
  - v. A tonal noise condition generated from commercial or industrial permitted facilities shall be assessed an upward noise penalty of 5 dBA (example 42 -> 47 dBA) for assessment to the nighttime and daytime noise limits.
  - vi. A noise level measurement made in accordance with methods in section "NOISE MEASUREMENTS" that is higher than 39 dBA or 49 dBC during the nighttime hours or 45 dBA or 55 dBC during the daytime hours, adjusted for the penalty assessed for a tonal noise condition, shall constitute prima facie evidence of a nuisance.
  - vii. An acoustic, vibratory or barometric measurement documenting oscillations associated to commercial or industrial permitted facilities with levels exceeding the limits in 31(c) or 31(d) shall constitute prima facie evidence of a nuisance.
  - viii. All commercial and industrial activity shall comply with limits and restrictions of section 28 anywhere at any time on another property unless Applicant provides documentation in the form of a signed approval by affected Participating and NonParticipating Landowners. Documents in full shall be recorded with Tuscola county register of deeds.
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- ix. Leq 1-sec shall be used for all measurements and modeling unless otherwise declared.

21. NOISE COMPLIANCE: Compliance noise measurements are the financial responsibility of the WECS owner of the facility and shall be independently performed by a qualified professional acoustician approved by the Planning Commission when directed by the Elkland Township Board or their designated agent. Compliance noise measurements shall not exceed the stipulated noise limits and shall assess for and apply tonal noise penalties when warranted.

22. NOISE MEASUREMENTS:

- i. QUALITY: Measurements shall be attended. All noise measurements shall (must) exclude contributions from wind on microphone, tree/leaf rustle, flowing water, and natural sounds such as tree frogs and insects. The latter two can be excluded by calculating the dBA noise level by excluding octave band measurements above the 1000 Hz band as in ANSI S12.100 3.11. The ANS-weighted sound level is obtained by eliminating values for octave bands above 1000 Hz, or one-third octave bands above 1250 Hz, and A-weighting and summing the remaining lower frequency bands. The wind velocity at the sound measurement microphone shall not exceed 3 m/s (7 mph, maximum) during measurements. A 7-inch or larger diameter windscreen shall be used. Instrumentation shall have an overall internal noise floor that is at least 5 dB lower than what is being measured. During testing of elevated sources including but not limited to wind turbines, the atmospheric profile shall be Pasquill Stability Class E or F preferred, Class D as alternate.
  - ii. NOISE LEVEL: Noise measurements shall be conducted consistent with ANSI S12.18 Procedures for Outdoor Measurement of Sound Pressure Level and ANSI S12.9 Part3 (Quantities and Procedures for Description and Measurement of Environmental Sound – Part 3: Short-term Measurements with an Observer Present), using Type 1 meter, Aweighting, Fast Response.
  - iii. TONAL NOISE: Tonal noise shall be assessed using unweighted (linear) 1/3 octave band noise measurements with time-series, level-versus-time data acquisition. A measurement shall constitute prima facie evidence of a tonal noise condition if at any time (single sample or time interval) the noise spectrum of the noise source under investigation shows a 1/3 octave band exceeding the average of the two adjacent bands for 15 dB in low one-third octave bands (10–125 Hz), 8 dB in
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## Elkland Township, Tuscola County, Michigan

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middle-frequency bands (160–400 Hz), or 5 dB in high-frequency bands (500–10,000 Hz).

- iv. **SAMPLE METRIC AND RATE:** Noise level measurements for essentially continuous non-time-varying noise sources shall be acquired using the Leq(Fast) metric at a sample rate of 1-per-second. For fluctuating or modulating noise sources including but not limited to wind turbines, a 10-per-second sample rate or faster shall be used. These sample rates shall apply to dBA, dBC and unweighted 1/3 octave band measurements.
- v. **REPORTING:** Measurements of time-varying dBA and dBC noise levels and 1/3 octave band levels shall be reported with time-series level-versus-time graphs and tables. Graphs shall show the sound levels graphed as level-vs-time over a period of time sufficient to characterize the noise signature of the noise source being measured. For 1-per-second sampling, a 5-minute-or-longer graph shall be produced. For 10-persecond sampling, a 30-second-or-longer graph shall be produced. Reporting shall identify, and graphs shall be clearly notated, identifying what was heard and when the noise source is dominating the measurement. Reporting shall furnish all noise data and information on weather conditions and, Pasquill Class occurring during testing.
- vi. Applicant measured data shall be accompanied by SCADA data confirming full power during testing and atmospheric profile Pasquill Stability Class E or F preferred.
- vii. Applicant shall provide a schedule or documentation that adheres to the following:
  - A. Chart outlining ordinance requirements and a description of compliance or noncompliance.
  - B. Declaration whether submitted data is modeled or measured.
  - C. Declaration of values, test methods, data sources, and similar for all modeled or measured data.
  - D. Estimated timeline for project including ordinance requirements completed, construction, post construction, and validation testing.

23. STANDARDS COMPLIANCE: All acoustic terminology, noise predictions, and sound measurements shall comply with recognized international standards (ANSI, IEC & ISO).

24. COMPLIANCE

- i. Non-compliance with ordinance requirements during SLUP process shall result in denial of the permit.
- ii. Non-compliance with post-construction ordinance requirements shall result in fines of \$1,000 per day and WECS decommissioning.
- iii. Nuisance compliance complaints shall be resolved within 90 days.
- iv. For non-nuisance compliance, and upon formal notice from Township or Resident to WECS permit holder, WECS permit holder shall respond within 30 days with resolution plan, and up to 180 days to resolve compliance breach. Failure to resolve any compliance breach shall result in permit loss. Unless otherwise stated, Applicant shall provide in advance and comply with ordinance requirements prior to Township granting the permit. Conditional permits shall not be allowed.
- v. In addition to any other remedies or complaint resolution procedures set forth in this Article, violations of this Article shall also constitute a municipal civil infraction in accordance with Article 9 of this Ordinance. Each day on which any violation of this Article continues shall constitute a separate offense. The Township may bring an action for an injunction to restrain, prevent or abate any violation of this Article.
- vi. Upon change of ownership, operator or parent company, the Township shall receive from the new owner, operator or parent company notification and updated documents within 90 days including, but not limited to, legal proof of change, corporate legal contact, security bond updates, emergency contact, and local contact.

Section 3. Amendment of Section 202.

Section 202 of the Township's Zoning Ordinance is hereby amended to add the following definitions:

**WECS Applicant.** The person, firm, corporation, company, limited liability corporation or other entity, as well as the Applicant's successors, assigns and/or transferees, which applies for Township approval (permit) to construct a WECS and WECS Testing Facility. An Applicant must have the legal authority to represent and bind the Participating Landowner, or lessee, who will

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## Elkland Township, Tuscola County, Michigan

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construct, own, and operate the WECS or Testing Facility. The duties and obligations regarding a zoning approval for any approved WECS or Testing Facility shall be with the WECS or Testing Facility owner, and jointly and severally with the owner and operator or lessee of the WECS or Testing Facility if different than the WECS owner.

**Wind Energy Conversion System (WECS):** Any combination of the following:

1. A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
2. A surface area such as a blade, rotor, or similar device, either variable or fixed, for utilizing the wind for electrical or mechanical power;
3. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device;
4. The generator, alternator, or another device to convert the mechanical energy of the surface area into electrical energy;
5. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.
6. Any other components not listed above but associated with the normal construction, operation, and maintenance of a wind energy conversion system.

**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.

**Participating Landowner:** An individual or business that has signed a lease with WECS Applicant to allow WECS on owned land. Participating Landowner denotes a landowner who has leased land to the WECS Applicant, received financial remuneration from the WECS Applicant, recorded with the Tuscola county register of deeds said agreement, and has a contract with the WECS Applicant. Can also be called a WECS contract leaseholder. A Participating Landowner may or may not have turbines or infrastructure located on their property.

**Non-Participating Landowner:** A landowner who has not signed a contract or any legal document with the WECS Applicant and has not given up rights to their owned land to the WECS Applicant.

**SCADA (supervisory control and data acquisition):** A computer system that monitors and controls WECS units.

**dBA:** The A-weighted sound level.

**dB(C):** The C-weighted sound level.

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**Pasquill Stability Class:** Reference, wikipedia.org “Outline of air pollution dispersion”

**Adverse Sound Character:** Sound that causes building rattle, is impulsive, tonal, or has low frequency bass rumble.

**ANSI:** The American National Standards Institute.

**Audible:** The varying degrees of sound perception as reported by affidavit, including but not limited to just perceptible, audible, clearly audible, and objectionable.

**Decibel (dB):** The practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 microPascals); abbreviated "dB."

**Emergency work:** Any work or action necessary to deliver essential services in an emergency situation, including but not limited to repairing water, gas, electricity, telephone and sewer facilities and public transportation, removing fallen trees on public rights-of-way and abating life-threatening conditions.

**Equivalent Sound Level (or Leq):** The sound level measured in decibels with an integrating sound level meter and averaged on an energy basis over a specific duration.

**Excessive noise:** Sound that is determined by ordinance to be too loud or unnecessary or create a noise disturbance.

**Noise:** A sound, especially one that is loud or unpleasant or that causes disturbance. Any airborne sounds of such level and duration as to be or tend to be injurious to human health or welfare (well-being) or that would unreasonably interfere with activities or the enjoyment of life or property.

**Quiet Rural or Residential property:** Any property where there is an inherent expectation of quiet, including but not limited to all residential, business, agricultural zoned properties, single family homes, and retirement homes.

**Sound level meter:** An instrument for the measurement of sound levels that meets the ANSI requirements of S1.4-1983 (or later revision) for Type 1 or 2 instruments. For frequency analysis, octave and 1/3 octave filters shall conform to ANSI S1.11-1986 (or later revision).

**GIS:** Geographic Information System and is comparable to GPS (global positioning system) coordinates.

**Tip Height:** Height of the turbine with blade at the highest vertical point.

### Section 4 – Validity and Severability

All other sections of Section 708, including “Personal wind turbines” not amended by this Ordinance shall remain unchanged. Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

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# **Elkland Township, Tuscola County, Michigan**

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## Section 5 – Repealer

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

## Section 6 – Effective Date

This Ordinance shall be published and take effect seven days after publication as provided by law.

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**ELKLAND TOWNSHIP, TUSCOLA COUNTY, MI**  
**POLICY CREDITS**

Board of Trustees

Daniel J. Erla, Supervisor  
Edward LaBelle, Clerk  
Dale McIntosh, Treasurer  
Terry Muntz, Trustee  
Cindy Kruse, Trustee

Planning Commission

Roger Root, Chairman  
Richard VanVliet, Secretary  
Linda Hanson  
Aaron Anthes  
Anton Peters

Elkland Township Hall  
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Cass City, MI 48726-1253  
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Elkland Township Zoning Administrator

Gary Jones, Zoning Administrator

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