

ARTICLE XI GENERAL PROVISIONS

Section 11.01. CONFLICTING REGULATIONS. Whenever any provisions of this Ordinance impose more stringent requirements, regulations, restrictions, or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this Ordinance shall govern.

Section 11.02. ROAD FRONTAGE. Every dwelling or other building shall be located on a lot or parcel which shall front upon a public road or upon a private road constructed to the specifications of Section 11.20, Private Roads. Each lot or parcel to be used as a dwelling site shall not have less continuous road frontage than the minimum lot width required by Section 14.02 of this Ordinance. Private drives which comply with the specifications of Section 11.20, Private Roads the Township Private Road Ordinance may be utilized in lieu of road frontage.

Section 11.03. MOVING OF BUILDINGS OR STRUCTURES. Any building or structure shall not be moved upon any premises in the Township until a zoning compliance permit shall have been secured. Any such building or structure shall fully conform to all the provisions of this Ordinance in the same manner as a new building or structure. No building or structure shall be moved to any site within the Township until the owner has posted a cash deposit in an amount specified by resolution of the Township Board, guaranteeing full compliance with the Township ordinances. The site from which a building or structure has been moved shall be graded level and all debris shall be cleared away.

Section 11.04. PUBLIC UTILITIES. Facilities provided by any public utility company or by the Township government shall be permitted in all zoning districts. Facilities permitted by this Section shall include transmission lines, sewers, mains, pumping stations, substations, towers, poles, and related equipment. Any buildings erected shall be subject to the site plan review requirements. Any office, warehouse, manufacturing, or sales buildings must be located in a zoning district permitting that use.

Section 11.05. OCCUPANCY OF BUILDINGS OTHER THAN COMPLETED DWELLINGS. Garages, barns, pole barns, accessory buildings, and basements shall not be occupied either temporarily or permanently as dwellings. No commercial or industrial buildings shall be occupied for dwelling purposes.

Section 11.06. SINGLE-FAMILY DWELLING REQUIREMENTS. Any single-family dwelling shall comply with the following minimum standards:

- A. Minimum Size. Each dwelling shall contain the minimum number of square feet specified in Section 14.02, prior to any alterations or additions.
- B. Minimum Width. Each dwelling shall be at least twenty-four (24) feet in width for at least fifty (50) percent of its length.
- C. Foundation. Each dwelling must be provided with adequate foundation supports. Each dwelling shall be securely anchored to the foundation.
- D. Roof. Each dwelling shall have a roof with no less than a 3 – 12 pitch.

- E. Storage Facilities. Each dwelling shall have either a basement, garage, or storage building containing at least four hundred (400) square feet of storage area constructed at the same time as the dwelling.
- F. Construction Code. Each dwelling and dwelling addition shall comply with current construction code requirements.

Section 11.07. RECREATIONAL VEHICLE OCCUPANCY AND STORAGE. The owner or renter of any property may permit the temporary occupancy of not more than one recreational vehicle for a period not-to-exceed a total of three (3) months in any calendar year. No recreational vehicle shall be stored on any property for more than three (3) months in any calendar year unless the parcel contains a permanent residence.

Section 11.08. SWIMMING POOLS. No swimming pool shall be placed within any side or rear yard setback, except on nonconforming lots. Any swimming pool placed within a side or rear yard setback on a nonconforming lot shall be shielded from view by a solid fence at least six (6) feet in height. No swimming pool shall be placed within any front yard setback. A building permit shall be required for any pool in excess of twenty-four (24) inches in depth.

Section 11.09. PONDS. Ponds may be excavated in the Agricultural Residential, Single-Family Residential, Multiple-Family Residential, or Mobile Home Park Districts for non-commercial purposes in compliance with the following requirements:

- A. The issuance of a zoning permit by the Zoning Administrator after review and approval of a plot plan.
- B. There shall be a minimum setback of at least fifty (50) feet from the edge of the pond excavation line (see definition) to all property lines and sewage disposal systems; eighty-three (83) feet from center of the roadway. Setbacks from property lines may be reduced by the Planning Commission with the written consent of the adjacent property owner.
(Ord. No. 103 eff. 02-19-97)
- C. All approved ponds shall be completed within six (6) months of issuance of a permit. The Zoning Administrator may grant a six (6) month extension of the permit for just cause.

Section 11.10. GREENBELTS.

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

- E. All greenbelts required by this Ordinance or by any approved site plan shall be continuously maintained. Any part of a greenbelt which dies or is otherwise damaged shall be replaced within six (6) months. (Ord. No. 101 eff. 1-19-94)
- F. Any greenbelt required by this Ordinance or by any site plan shall be fully planted and completed within eighteen (18) months of the date on which the building permit for the project is issued. If no building permit is required, the completion shall be done within eighteen (18) months of the date on which the site plan is approved. (Ord. No. 101 eff. 01-19-94)

Section 11.11. TEMPORARY MOBILE HOMES.

- A. The Planning Commission may grant approval for a temporary mobile home, which does not comply with the single-family dwelling requirements of Section 11.06, to be occupied during the time that a permanent dwelling is being constructed. A site drawing showing all existing and proposed structures and driveways on the property and on adjoining properties within two hundred (200) feet of the property lines must be submitted to the Planning Commission. A temporary mobile home permit may be issued or renewed for a one (1) year period if the following requirements are complied with:
 - 1. A building permit for the temporary mobile home and for the permanent dwelling must be acquired before the temporary mobile home is placed on the premises.
 - 2. A water well and septic tank shall be installed prior to placement of the mobile home as approved by the Health Department.
 - 3. A smoke detector shall be installed in the temporary mobile home.
 - 4. The temporary mobile home shall pass a Township safety inspection.
 - 5. The permanent dwelling must be completed, and the temporary mobile home removed from the property before the expiration of the temporary mobile home permit.
 - 6. The applicant must post a cash deposit of one thousand (1,000) dollars with the Township Treasurer and execute an affidavit guaranteeing that the temporary mobile home will be removed from the premises at the expiration of the permit period. The affidavit shall be filed with the Township Clerk.
 - 7. A temporary mobile home permit may be renewed only if reasonable progress has been made on the construction of the permanent dwelling.
- B. Variances to permit the occupancy of temporary mobile homes within the Township may also be granted by the Board of Zoning Appeals. Such variances for temporary mobile home occupancy may only be granted for the purpose of housing farm labor or for the purpose of the housing of family members who are unable to reside elsewhere due to age, poor health, or indigence. Any temporary mobile home approved pursuant to this Section shall be placed on a reinforced concrete pad or concrete piers and provided with adequate tie downs and skirting. The temporary mobile home must be removed from the premises once the purpose for which it was granted has ceased to exist.
- C. The Zoning Administrator may grant emergency approval for a temporary mobile home in case of fire, flood, or other disaster destroying a residence and necessitating an immediate replacement. Such emergency approval shall only be valid until such time as

the Board of Appeals can take action on a variance pursuant to Section 11.11.B or the Planning Commission pursuant to Section 11.11.A.

Section 11.12. ONE SINGLE-FAMILY DWELLING PER MINIMUM SITE SIZE. No more than one (1), single-family dwelling may be placed on a parcel of land unless each dwelling is situated in such a manner that all setback, frontage, and size requirements could be met if the dwellings were to be sold separately. (Ord. No. 103 eff. 02-19-97)

Section 11.13. MINIMUM OPEN AREAS. No space, yard, setback, or other open area which has been calculated to comply with the minimum requirements for any single-family dwelling or other main structure on a parcel of land shall be reduced by subsequent division of the property or construction of additional dwellings or main structures.

Section 11.14. ACCESSORY BUILDINGS. In districts zoned AR, R-1, RM, or RMH, no residential accessory building shall be constructed within any required front yard setback. No detached accessory building shall be closer than ten (10) feet to the dwelling or any side or rear property line. No accessory building within the R-1, RM, and RMH zoning districts shall exceed fourteen (14) feet in height.

Section 11.15. FILLING OPERATIONS. No land shall be filled, and no material shall be deposited upon any land unless approval has been obtained from the Township Board. This restriction shall not apply to agricultural operations or any filling with dirt which is in its natural state.

Section 11.16. LIVESTOCK.

- A. No large livestock, such as cattle and horses, shall be maintained on any parcel of land containing less than three (3) contiguous acres. One (1) head of large livestock shall be permitted on the first three (3) acres and one (1) additional head per each additional contiguous acre. (Ord. No. 103 eff. 02-19-97)
- B. In the case of small livestock such as sheep or goats, two (2) head shall be permitted on the first two (2) acres and one (1) additional acre shall be required for each additional two (2) head.
- C. The above limitations shall not apply to contiguous parcels of land containing at least forty (40) acres.
- D. Livestock used for 4-H or FFA projects may be permitted by the Planning Commission on parcels smaller than those required by this section, providing that proof of compliance with the following conditions is provided:
 - 1. The applicant must be an active member of 4-H or FFA.
 - 2. The livestock to be placed on the property must be part of a current 4-H or FFA project.
 - 3. Written notice of the Planning Commission meeting to consider the request shall be provided to the occupants of any residences located on property adjacent to the land on which the livestock is to be kept.
 - 4. Manure shall be stored and disposed of in a sanitary manner.
 - 5. Authorization to keep livestock pursuant to this section shall be valid for one (1) year from the date the Planning Commission determines that these requirements

have been complied with. Approval may be renewed in subsequent years providing all conditions are complied with for each such additional year.

(Ord. No. 101 eff. 01-19-94)

Section 11.17. REGULATION OF CONDOMINIUM DEVELOPMENTS.

The following regulations shall apply to all condominium developments within Arcadia Township. Condominium developments may be permitted in any zoning district but may include only those uses permitted within that zoning district. The intent of these requirements is to ensure that all condominium projects are developed in compliance with standards applicable to similar forms of development under Township ordinances.

- A. Review Process for New Projects. Prior to recording of the Master Deed required by Section 72 of Public Act 59 of 1978, as amended, the condominium development shall undergo site plan review and approval pursuant to Article XV of this Ordinance. In addition, the Township shall require appropriate engineering plans and inspections prior to the issuance of any Certificates of Occupancy.
- B. Review Process for Expandable or Convertible Projects. Prior to expansion or conversion of a condominium development to additional land, the new phase of the project shall undergo site plan review and approval pursuant to Article XV of this Ordinance.
- C. Submission Requirements. Concurrently with notice required to be given Arcadia Township pursuant to Section 71 of Public Act 59 of 1978, as amended (the Condominium Act), a person, firm, or corporation intending to develop a condominium development shall provide the following information:
 - 1. The name, address, and telephone number of:
 - a) All persons, firms, or corporations with an ownership interest in the land on which the condominium development will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, or land contract vendee).
 - b) All professional consultants associated with the project, including engineers, attorneys, architects, and registered land surveyors.
 - c) The developer or property owner of the condominium development.
 - 2. The legal description of the land on which the condominium will be developed together with appropriate tax identification numbers.
 - 3. A survey of the condominium site in addition to the acreage content of the land.
 - 4. A plan delineating all-natural features on the site including, but not limited to, ponds, streams, lakes, drains, floodplains, wetlands, and woodland areas.
 - 5. The location, size, shape, area and width of all condominium units, and the location of all proposed streets.
 - 6. The use of the development (for example, residential, commercial, industrial, etc.).

7. Approximate number of condominium units to be developed on the subject parcel.
 8. A utility plan showing all sanitary sewer, water, and storm drainage improvements, plus any easements granted for installation, repair, and maintenance of utilities.
 9. A storm drainage and storm water management plan, including all swales, drains, basins, and other facilities.
 10. A street construction, paving, and maintenance plan for all streets within the proposed condominium development plan in accordance with Section 11.20, Private Roads.
- D. Information to be Kept Current. The information shall be furnished to the Township Clerk and shall be kept updated until such time as a Certificate of Occupancy has been issued.
- E. District Requirements. The development of all condominium projects shall observe the applicable yard setback and minimum floor area requirements for structures within the zoning district where such project is located. The dwelling unit density of the project shall be no greater and spacing no less than would be permitted if the parcel were subdivided into individual lots.
- F. Master Deed, Restrictive Covenants, and "As Built" Survey to be Furnished. The condominium developer or property owner shall furnish the Township Clerk with the following: One (1) copy of the recorded Master Deed, one (1) copy of all restrictive covenants, and two (2) copies of an "as built survey." The Master Deed and all restrictive covenants shall be reviewed by the Township Attorney and the "as built survey" shall be reviewed by the Township Engineer for compliance with Township Ordinances. Fees for these reviews shall be established by resolution of the Township Board of Trustees.
- G. Monuments Required. All condominium developments which consist in whole or in part of condominium units which are building sites, mobile home sites, or recreational sites, shall be marked with monuments as provided in this subsection.
1. All monuments used shall be made of solid iron or steel bars at least one-half (1/2) inch in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
 2. Monuments shall be located in the ground at all angles in the boundaries of the condominium development; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium development and at the intersection of alleys with the boundaries of the condominium development; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys and at all angles of an intermediate traverse line. It is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium development if the angle points can be readily re-established by reference to monuments along the sidelines of the streets.

3. If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof shall be clearly indicated on the plans and referenced to the true point.
 4. If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one-half (1/2) inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.
 5. All required monuments shall be placed flush with the ground where practicable.
 6. All unit corners and the intersection of all limited common elements and all common elements shall be monumented in the field by iron or steel bars or iron pipe at least eighteen (18) inches long and one-half (1/2) inch in diameter, or other approved markers.
 7. The Township Board of Trustees may waive the placing of any of the required monuments and markers for a reasonable time, not-to-exceed one (1) year, on the condition that the property owner deposits with the Township Treasurer cash or a certified check, or irrevocable bank letter of credit to the Township of Arcadia, whichever the property owner selects in an amount to be established by the Township Board of Trustees, by resolution. Such cash, certified check, or irrevocable bank letter of credit shall be returned to the property owner upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.
- H. Compliance with Federal, State, and Local Law. All condominium developments shall comply with federal and state statutes and local Township ordinances.
- I. Condominium Design. The design of condominium projects shall be subject to the design layout and engineering standards, as provided below, except as may otherwise be provided by this Ordinance:
1. Location, Arrangement, and Design of Streets.
 - a) Whenever possible, the street layout shall provide for the continuation of collector streets in the adjoining subdivisions or of the proper projection of streets when adjoining property is not subdivided.
 - b) The street layout shall include minor streets so laid out that their use by through traffic shall be discouraged.
 - c) Should a proposed development border on or contain an existing or proposed major thoroughfare, the Planning Commission may require marginal access streets, reverse frontage, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation and reduction of traffic hazards.
 - d) The minimum street grade shall not be less than 0.5 percent. The maximum street grade shall be 5.0 percent, except that the Planning Commission may modify this standard on the recommendation of the Township Engineer.
 - e) Streets shall be laid out so as to intersect as nearly as possible to ninety (90) degrees.

- f) Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.
- g) The maximum length for residential cul-de-sac streets shall generally be five hundred (500) feet; however, the Planning Commission may approve a distance of up to one thousand (1,000) feet.
- h) All private drives shall meet the requirements of Section 11.20, Private Roads.

2. Condominium Units.

- a) Condominium units situated on corners in residential developments shall be at least fifteen (15) feet wider than the minimum width permitted by the Zoning Ordinance.
- b) Excessive condominium unit depth in relation to width shall be avoided. A depth-to-width ratio of 3 to 1 shall be considered a maximum.
- c) Every condominium unit shall front or abut on a private drive and in no case shall access to public rights-of-way be granted to individual lots within the development.
- d) Side condominium unit lines shall be at right angles or radial to the street lines.
- e) Condominium units abutting major thoroughfares or collector streets, where marginal access streets are not desirable or possible to attain, shall be situated with reverse frontage, or with side condominium unit lines parallel to the major traffic streets.
- f) Condominium units shall have a front-to-front relationship across all streets where possible.
- g) Where condominium units' border upon bodies of water, the Planning Commission may allow the front yard to be designated as the waterfront side of such condominium unit provided the building envelope has sufficient depth to provide adequate setback on the street side to maintain a setback for all structures equal to the front setback on the street side as well as on the waterfront side.
- h) The area, depth, and width of condominium units shall conform to at least the minimum requirements of the Zoning Ordinance for the district in which the development is proposed.
- i) Building setback lines shall conform to at least the minimum requirements of the Zoning Ordinance for the district in which the development is proposed. Minimum setbacks shall be measured from the boundary lines of the limited common elements or general common elements as designated for each building site on the Condominium Subdivision Plan.

3. Natural Features.

The natural features and character of lands must be preserved unless waived by the Planning Commission upon site plan approval. Due regard must be shown

for all-natural features such as large trees, natural groves, water courses, and similar community assets that will add attractiveness and value to the property, if preserved. The preservation of drainage and natural stream channels must be considered by the property owner and the dedication and provision of adequate barriers, where appropriate, shall be required.

4. Sidewalks.

Sidewalks shall be installed in condominium developments within the R-1, RM, and RMH Districts. Such sidewalks shall be a minimum of four (4) feet in width along both sides of internal private drive and five (5) feet in width along any public rights-of-way.

Access to general common areas shall be provided. Upon review of the site plan, the Planning Commission may approve alternate locations for the sidewalks or may waive this requirement if it would not serve the purpose of providing adequate pedestrian circulation.

5. Landscaping.

- a) All unimproved surface area of the site shall be planted with grass, ground cover, shrubbery, or other suitable landscape materials, except that patios, terraces, decks, and similar site features may be allowed.
- b) Street trees shall be provided in the ratio of at least one (1) per dwelling unit, shall be placed along the right-of-way, and shall not be less than six (6) feet in height.
- c) For reverse frontage lots a uniform screening device along the yard fronting the public right-of-way shall be required. The Planning Commission shall determine the most appropriate screening device based on the proposed development and the existing land uses in the area. Screening devices may include a solid decorative fence, a landscape screen, berm, or other such device or combination thereof.

6. Utilities.

- a) An adequate storm drainage system including any necessary storm sewers, catch basins, manholes, culverts, etc., shall be required in all developments per the requirements of the Lapeer County Drain Commission.
- b) A sanitary sewer and water supply system shall be required as regulated by the Lapeer County Health Department and the State of Michigan.
- c) The applicant shall make arrangements for all lines for telephone, electric, television and other similar services distributed by wire or cable to be placed underground entirely throughout the development area, and such conduits or cable shall be placed within private easements provided to such service companies by the developer or within dedicated public ways.
- d) All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission.

- e) All drainage and underground utility installations which traverse privately held property shall be protected by easements granted by the property owner. Such utility easements must be shown on the condominium development plan.

7. Other Improvements.

All other improvements including, but not limited to, street signs and fire hydrants shall be provided by the applicant as required by the governing body of the Township and in accordance with all applicable local, county and state standards and specifications.

J. Single-Family Attached Condominiums. The Planning Commission may permit attached dwelling units subject to the following limitations:

- 1. Attached condominium developments shall only be permitted within the RM District.
- 2. Design of a single-family attached condominium project shall meet the requirements of Section 14.02 for the RM District.
- 3. The maximum number of dwelling units which can be attached shall not exceed four (4).
- 4. The minimum distance between any dwelling unit structures shall be at least twenty-five (25) feet, measured between the nearest point of the structures.

K. Final Documents to be Provided. After submittal of the condominium plan and by-laws as part of the Master Deed, the applicant shall furnish to the Township a copy of the site plan on a mylar sheet of at least 13" x 16" with an image not to exceed 10-12" x 14".
(Ord. No. 113 eff. 04-18-06)

Section 11.18 FENCES AND WALLS. Any fences or walls erected in the Township shall comply with the following requirements for the zoning districts indicated:

- A. In all zoning districts, no fence or wall which obstructs traffic visibility shall be erected on any corner lot for a distance twenty-five (25) feet back, along the right-of-way lines, from the point at which the right-of-way lines of the two streets intersect.
- B. In the R-1 Single-family Residential District and the R-M Multiple-Family Residential District, as well as on parcels of less than three (3) acres, located in the AR Agricultural Residential District, no fence or wall in excess of six (6) feet in height shall be erected.
- C. No solid or other completely obscuring fence over three (3) feet in height shall be placed in any required front yard.
- D. No barbed wire or electric fences shall be erected in the R-1 Single-Family Residential District or the RM Multiple-Family Residential District. In the AR Agricultural Residential District, barbed wire or electric fences may only be erected on parcels of land at least two (2) acres in size and only for the purpose of livestock containment.

- E. For any land use for which a site plan is required, any proposed fencing or wall shall be shown on the site plan. The Planning Commission may determine the type and height of fence or wall permissible as part of such site plans.
- F. Any masonry walls shall be erected on a concrete foundation in compliance with the Building Code.
(Ord. No. 102 eff. 12-21-94, Ord. No. 108 eff. 5-26-02)

Section 11.19. COMMUNICATION TOWERS. Communication antennas and related facilities belonging to homeowners and used for personal communication shall be exempt from the requirements of this section and shall be allowed as a permitted use in all residential zoning districts. All other communication towers, which shall include transmission towers, relay, or receiving antennas, and normal accessory facilities involved in television, radio, microwave, cable systems, cellular, and similar communication services, may be allowed as special land uses in all zoning districts, pursuant to Article 16, subject to the following requirements:

- A. The applicant shall submit a written statement regarding the nature of any transmissions, electromagnetic fields, or any other radiation emitted from the facility, and any potential hazards to humans, animals, vegetation, or property in the area. The applicant shall also submit a written explanation of the design characteristics and ability of the tower and attendant facilities to withstand winds, ice, and other naturally occurring hazards. This information shall address the potential for the tower or other mounting structure and/or antennas to topple over or collapse, and what tower configuration should be expected in such an event. Technical documentation of any information required by this subsection A shall be provided upon request of the Township.
- B. The minimum setback from any property line or road right-of-way shall be equal to the height of the tower.
- C. The tower or antenna shall not be unreasonably injurious to the safety, aesthetics, or market value of nearby properties.
- D. All towers and related equipment shall be designed to be compatible and harmonious in terms of style and building materials to the surrounding area.
- E. Monopole antenna structures shall be encouraged in all areas where technologically feasible. "Web" or "lattice" type towers are not allowed, unless absolutely necessary for structural reasons.
- F. All tower bases and related equipment shall be screened from view and shall be surrounded by a full perimeter fence to prevent unauthorized access. The fence shall have locked gates and shall be cyclone fence at least six (6) feet in height.
- G. No tower shall be located within three (3) miles of any existing tower.
- H. In order to maximize the efficiency of the provision of telecommunication services, while also minimizing the impact of such facilities on the Township, co-location, or the provision of more than one antenna and more than one user on a single tower at a single location, shall be strongly encouraged. Before approval is granted for a new facility, the applicant shall demonstrate that it is not feasible to co-locate at an existing site.
- I. Co-location shall be deemed to be "feasible" for the purposes of this Section, where all of the following are met:

1. The site on which co-location is being considered, including reasonable modification or replacement of a facility, is able to provide structural support.
 2. The co-location being considered is technologically reasonable, i.e., the co-location will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
 3. Existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
 4. The fees, costs, or contractual provisions required in order to share an existing tower or structure or to adapt an existing tower or structure for co-location are not unreasonable. For the purposes of this paragraph, costs exceeding new tower development are presumed to be unreasonable.
- J. Applicants receiving approval for a tower shall agree to allow co-location on the tower for reasonable market compensation as long as the conditions described in subsections I (1), (2), and (3) are met.
- K. A condition of every approval of a communication tower shall be adequate provision for the removal of the facility whenever it ceases to be used for one hundred eighty (180) days or more. Removal includes the proper receipt of a demolition permit from the Building Official and proper restoration of the site to the satisfaction of the Building Official.
- L. To ensure proper removal of the tower when it is abandoned, any application for a new tower shall include a description of security to be posted at the time of receiving a building permit for the facility. In this regard, the security shall, at the election of the applicant, be in the form of: 1) cash bond; 2) irrevocable bank letter of credit for the term of lease; or, 3) an agreement in a form approved by the Township Attorney and recordable at the office of the Register of Deeds, establishing the obligation of the applicant and the owner of the property to remove the facility in a timely manner, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorney fees incurred by the Township in securing removal.
- (Ord. No. 106 eff. 02-21-01)

Section 11.20. PRIVATE ROADS.

A. PRIVATE ROADS AND PRIVATE DRIVES.

1. This Ordinance regulates the review, approval, design, construction, inspection, and maintenance of private roads within Arcadia Township.
2. Within Arcadia Township, no lot or parcel of property may be sold that does not front upon a public road, an approved private road, will be combined with a parcel that has such frontage, or is on a private drive as permitted in Subsection C below.
3. A private drive may be utilized in lieu of frontage on a public or private road, for residential parcels of five (5) or more acres provided the following conditions are met:
 - a) The private drive connects directly onto a public road.

- b) The private drive is located on a legally valid and recorded easement which is attached to the residential lot or parcel.
 - c) The width of the easement on which the private drive is located is at least sixty-six (66) feet.
 - d) The private drive does not serve more than two dwellings which do not have frontage on a public road or approved private road. One dwelling which does have such road frontage may also utilize the private drive.
 - e) A maintenance agreement shall be provided to the Township for approval and shall be recorded prior to issuing a private drive permit.
 - f) No more than one driveway easement shall be allowed per three hundred (300) feet of public road frontage.
 - g) The private drive shall be constructed to the standards specified in the Driveway Ordinance No. 405.
4. No lot or parcel of property served by a private road or private drive may be sold and building permits shall not be issued for any structure located on any private road until there is full compliance with the provisions of this Ordinance, the actual road construction has been inspected and approved by the Township, and a maintenance agreement for the private road has been recorded.

B. DEFINITIONS

Private Driveway shall mean any piece of privately owned and maintained property which is used for access by vehicular traffic to a single parcel of private property but is not open or normally used by the public.

Private Road, shall mean a privately owned and maintained road, allowing access to more than one residence or place of business, which is normally open to the public and upon which persons other than the owners located thereon may also travel. The erection of such signs as "Residents Only," or the like shall not be deemed to remove any roadway from the requirements of this Ordinance where said roadway is deemed to come within this Ordinance by the Arcadia Township Zoning Administrator or his designee.

Road, shall mean a thoroughfare which affords vehicular traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, street, and other thoroughfare, except an alley or private driveway.

C. PROHIBITIONS

- 1. Construction of Private Roads. No persons shall construct a private road within the Township of Arcadia except in accordance with the requirements and standards of this Ordinance.
- 2. Sale of Parcels of Land. No person shall divide or sell any parcel of land within the Township of Arcadia unless said parcel of land fronts upon a public street which is dedicated to the public, unless said parcel of land fronts upon a private road which meets the standards as herein set forth, unless said parcel of land is serviced by a private drive which meets the standards as herein set forth, or

unless said contract, deed or other conveyance of sale contains the following language:

“This parcel is not a buildable site for the reason that said parcel does not front on an acceptable ingress and egress in accordance with the standards as set forth by the Zoning Ordinance and Private Road Ordinance of the Township of Arcadia.”

3. Building Permits. No building permit shall be issued by the authorized agent of Arcadia Township or any official therein, or any other official of the Township of Arcadia for any structure unless said structure fronts on a public street or highway which is dedicated to the public, unless said structure fronts on a private road which meets the standards as herein set forth, or unless said parcel of land is serviced by a private drive which meets the standards as herein set forth. Nothing in this section shall be deemed to waive any of the frontage, depth, or like requirements as set forth in the Arcadia Township Zoning Ordinance.

D. CONVEYANCE OF INTEREST IN LAND ABUTTING PRIVATE ROAD

At the time of the conveyance of any interest in any parcel that abuts a private road, which conveyance shall be deemed to include the acceptance of an offer to purchase, the grantor of such interest shall advise the grantee that said parcel abuts a private road, and that the maintenance, care, and other responsibilities concerning said private road rest with the abutting land owners and are not the responsibility of the Township of Arcadia, the County of Lapeer, or the State of Michigan.

E. PERMIT REQUIRED

No construction shall begin on any private road until a permit has been issued by the authorized agent of Arcadia Township following compliance with such requirements as set forth in this Ordinance.

F. APPLICATION REQUIREMENTS

Application for the construction of new, extended or upgraded private roads shall include the following:

1. A completed Private Road Application form.
2. A true accurate survey, including both a drawing to scale and full legal description of the parent parcel, all parcels which would result from the proposed division of the parent parcel, and the private road easement for ingress, egress, road drainage and public utility purposes. The survey shall include the following:
 - a) All adjoining property within one hundred (100) feet of the parent parcel or parent tract including features.
 - b) All dimensions of existing and proposed property lines and easements.
 - c) Location of all existing buildings, wetlands, lakes, streams, ponds, drives, public and private roads, easements, wells and septic fields, including setbacks from all property lines.
 - d) Wetland delineation shall not be required unless said private road shall infringe on existing wetland boundaries.

- e) The size (in square feet and acres) of each resulting parcel.
 - f) The proposed location and type of access to each resulting parcel.
 - g) Setbacks from property lines to all proposed buildings, drives, easements, wells and septic systems.
3. Engineering plans of the proposed roadway construction.
 4. A copy of the roadway maintenance agreement that will be recorded with the deed or land contract for each lot or parcel to be served by the private road.
 5. Application fee and Township Engineer review fee, as established by resolution of the Township Board.

G. ROADWAY DESCRIPTION AND MAINTENANCE AGREEMENT

1. All private roads shall have a minimum right-of-way easement of sixty-six (66) feet in width for ingress-egress, drainage, and public utilities.
2. All private roads shall have a minimum private easement for public utilities of twelve (12) feet adjacent to said ingress-egress easement.
3. All private roads shall have appropriate width easements for drainage purposes.
4. The legal description of the roadway easement shall be recorded as a part of the deed or land contract for every parcel of property to which it provides access.
5. A legal description describing the land being served by and having access to said private road shall be included with the maintenance agreement.
6. A Private Road Maintenance Agreement, in a form approved by the Arcadia Township Board, shall be recorded as part of the deed or land contract for every parcel of property to which the road provides access. The Maintenance Agreement shall be binding on all parties and shall guarantee a financial mechanism for and actual, regular maintenance of the private road by all benefiting property owners. Neither Arcadia Township nor the Lapeer County Road Commission have any responsibility or legal authority to maintain private roads.

H. STANDARDS FOR CONSTRUCTION PLANS

The design and construction of all private roads shall be in conformance with the following design standards. Overall site plan drawn to a minimum scale of 1" = 100' and plan and profile of proposed private road drawn to a minimum scale of 1" = 50' and prepared by a Professional Civil Engineer or Professional Land Surveyor shall be submitted to the Township which demonstrate conformance with the specifications of this Ordinance, and shall include the following:

1. A legal description of the entire parcel(s), all proposed divisions (splits), all proposed utility easements, and the proposed road easement.
2. A minimum private road easement width of sixty-six (66) feet.

3. All dead-end roads shall terminate in a cul-de-sac turn-around with a minimum diameter of one hundred fifty (150) feet with a minimum radius of fifty-four (54) feet for the roadway surface.
4. Soil borings shall be taken by an independent testing laboratory or qualified professional at intervals not to exceed five hundred (500) feet. Additional borings may be required where the USDA Soil Survey of Lapeer County or on-site inspection indicates unstable soil may be present.
5. The applicant shall remove all unsuitable soil including muck, peat and marl, as well as brush, trees, tree stumps, and similar materials from the area between the ditch centerlines. These areas shall then be backfilled with suitable material to provide a stable subgrade for the roadway construction.
6. A cross-section of the road showing the proposed aggregate surfacing, granular subbase, and the shoulder and swale profile in conformance with the attached Arcadia Township Private Road Typical Cross Section minimum standards.
7. The plans shall show existing and proposed grades and the location of all existing and proposed drainage facilities and structures. Elevations shall be based on USGS datum.
8. The intersection of roads shall be as close to ninety (90) degrees as possible with a variation of no more than ten (10) degrees.
9. Road grades shall not exceed six percent (6%) or be less than four-tenths percent (0.4%) unless a waiver is approved by the Township Board upon the review and recommendation of the Township's consulting engineers. At the intersection of two roadways, however, the maximum grade shall be three percent (3%) for a distance of one hundred (100) feet from the point of intersection.
10. The minimum centerline radius for all private roads shall be designed in accordance with AASHTO design requirements for thirty-five (35) mph.
11. Sight distances at intersections shall equal current Lapeer County Road Commission guidelines.
12. The applicant shall obtain a soil erosion control permit from Lapeer County and shall install and maintain all erosion devices throughout the construction period. All soil erosion control measures shall be shown on the construction plans.
13. The Township's consulting Engineer shall review the plans and the consulting Engineer shall inspect construction of all private roads. The cost of the plan review and construction inspections shall be paid for by the applicant.
14. Construction permits from the Lapeer County Road Commission are required for connections to county roads.
15. All private roads created hereunder shall be named, with said name to be approved by the Lapeer County Road Commission. All required name signs and signposts shall be erected in accordance with standards and specifications of the Lapeer County Road Commission at the expense of the applicant.

16. Private road signing shall be provided in accordance with the Michigan Manual of Uniform Traffic Control Devices (MMUTCD) and maintenance of said signs shall be the responsibility of the association.
17. All required permits and inspection fees shall be provided to the Township prior to construction.
18. There shall be a minimum of one hundred twenty (120) feet of road frontage measured along the right-of-way for all parcels of property to be located on a private road cul-de-sac.
19. The private road engineering plans shall include a schedule showing driveway culvert sizes and the method used to determine driveway culvert sizes for each proposed lot, in conformance with applicable standards of the Lapeer County Road Commission. In no instance shall any driveway culvert be smaller than twelve (12) inches in diameter and twenty-four (24) feet in length.
20. All parcels abutting the private road shall access the private road exclusively.
21. The proposed site shall be limited to a storm water discharge rate equal to the pre-developed discharge rate. Whenever the fully developed storm discharge rate exceeds the pre-developed discharge rate, a detention system designed to accommodate runoff from a 10-year storm event, or a retention system designed to accommodate runoff from a 100-year event shall be provided on-site. Storm water run-off calculations shall be shown on the construction plans.

I. REVIEW AND APPROVAL PROCEDURES

Ten (10) copies of the complete application, plans, proposed maintenance agreement and the layout of all proposed lots or parcels to be served by the private road, shall be submitted to the Township Clerk. The complete application, including all necessary submittals and attachments, must be submitted at least thirty (30) days prior to a regular meeting of the Planning Commission in order to be placed on the agenda. The Township Clerk shall forward the complete application packet to the Planning Commission and Township Engineer. The Planning Commission shall review the application at their next regularly scheduled meeting following submittal of a complete application.

J. INSPECTIONS AND APPROVAL

1. All construction shall conform to the plans approved by the Township. All inspections will be based upon the approved plan. Construction not according to the approved plan and/or not inspected according to the Township's requirements may not be approved.
2. At least one week prior to the start of construction, the applicant shall schedule a pre-job meeting between the owner/contractor and the Township Engineer to discuss the scheduling, inspections and conduct of the work.
3. Inspections shall be made:
 - a) Upon completion of stripping operations.
 - b) Upon completion of clay grade and ditch excavation.
 - c) Upon completion of the sand sub-base.

- d) Upon completion of the aggregate base.
- e) During and following completion of each course of paving.
- f) After completion of fine grading, topsoil, seeding and mulching. Seeding and mulching shall be done in accordance with MDOT roadside specifications.

The contractor shall notify the Township Engineer forty-eight (48) hours before the conclusion of each step in the road construction so that the required inspections can be completed without delay to the contractor. The applicant is responsible for ensuring that all required inspections are requested and scheduled.

- 4. The applicant shall provide weigh slips which certify the weight and class of material used for subbase and aggregate used for the road and shoulder surfaces.
- 5. Inspections will be certified by the Township Engineer so that a complete record of the private road construction can be made available to the Lapeer County Road Commission in the event that the private road owners choose to upgrade and/or dedicate the road to the County as a public road, if possible.

K. PERFORMANCE BOND

The applicant shall file with the Township Treasurer prior to any construction a cash deposit, certified check or irrevocable bank letter of credit to the Township sufficient to cover twenty-five percent (25%) of the total cost of the required improvements. A total project cost estimate signed and sealed by a Professional Surveyor or Professional Engineer shall be submitted with the performance bond prior to any construction. When the work is completed, inspected, and approved by the Township, the entire bond will be released to the applicant.

L. EXTENDING EXISTING PRIVATE ROADS

In those cases where the applicant wishes to extend an existing private road, such extension shall be granted only if the existing private road is brought into compliance with the standards in this Ordinance. All standards in this Ordinance shall apply to both the proposed extension and the existing private road. Further, such applicant shall obtain consents from all those persons who own any interest in the existing right of way or have the right of access to their property therefrom, which consent shall be in writing and shall be filed with the Township along with the filing of the application for permit hereunder. Such consent shall provide:

- 1. That the consenting party consents to the extension of the roadway pursuant to the application, and
- 2. That the consenting party consents to the upgrading of their existing roadway to the standards as set forth herein, and where applicable, will agree to deed such easements or right-of-way as are necessary to the requirements of this Ordinance. The Township Board shall not vary this requirement as it concerns consents.

M. EXISTING PRIVATE ROADS NOT MEETING STANDARDS OF ORDINANCE

1. In those instances where a property division is being sought for a lot or parcel which has access to an existing private road, which does not meet the standards of this Ordinance, said private road shall be improved in conformance with the standards of this Ordinance prior to approval of property divisions or issuance of any building permits.
2. The applicant may request a waiver of this requirement from the Township Board who may, after review and recommendation by the Township engineering and planning consultants, and findings of unique circumstances and practical difficulties, grant a partial or complete waiver of this requirement. The Township Board shall not grant any waivers from this provision where the applicant is creating new lots or parcels by division of one or more of the existing lots or parcels of record.

N. DEDICATION

All rights-of-way shall be dedicated to the adjoining property owner who gains access of said right-of-way. If a parcel adjoining said right-of-way is not to be served by said right-of-way, then the landowner dedicating such right-of-way shall specifically provide for that exclusion and said adjoining property owner shall not share in the ownership of the right-of-way.

O. VALIDITY

This Ordinance and the various parts, sections, subsections, sentences, phrases, and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence, and clause thereof irrespective of the fact that any one or more part, sections, subsections, phrases, sentences, or clauses be declared invalid.

P. RELATIONSHIP TO OTHER LAWS AND ORDINANCES

Whenever regulations or restrictions imposed by this Ordinance are either more or less restrictive than regulations or restrictions imposed by governmental authority through legislation, rule, or regulation, the more restrictive regulations or those which impose higher standards shall govern.

Q. REPEAL OF CONFLICTING ORDINANCES

The previous Private Road Ordinances 401 and 402 are hereby repealed in its entirety.

(Ord. No. 113 eff. April 18, 2006)

Section 11.21 WIND TURBINE ORDINANCE

A. DEFINITIONS

1. Ambient Noise is defined as the sound pressure level exceeded 90% of the time or L90. It is primarily the result of human activity and wind.
2. ANSI: American National Standards Institute.
3. dB(A): The sound pressure level in decibels. Refers to the “A” weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the response of the human ear.
4. International Electro technical Commission (IEC). The IEC is the leading global organization that prepares and publishes international standards for all electrical, electronic, and related technologies.
5. International Organization for Standardization (ISO): ISO is a network of the national standards institutes of 156 countries.
6. Rotor: An element of a wind energy conversion system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.
7. SCADA Tower: A freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system.
8. Shadow Flicker: Alternating changes in light intensity caused by the moving blade of a wind energy conversion system casting shadows, e.g., on a dwelling window.
9. Sound Pressure Level: The sound pressure mapped to a logarithmic scale (\log_{10}) and reported in decibels (dB).
10. Wind Energy Conversion System, Grid-Linked: A wind energy conversion system that has a rated capacity of more than 100 kilowatts (kW) that is intended to produce utility power for sale over the commercial power grid.
11. Wind Energy Conversion System, On-Site: A wind energy conversion system that has a rated capacity of equal to or less than 100 kilowatts (kW) that is intended to produce utility power primarily for use on the site where the system is located.

B. ON-SITE WIND ENERGY CONVERSION SYSTEMS

On-site Wind Energy Conversion Systems, as defined in this ordinance, may be allowed as an accessory use in all Districts, subject to the following.

1. This section applies only to on-site wind energy conversion systems, as defined in Article XIX of this Ordinance. Unless otherwise provided, all accessory uses are subject to the same regulations as the sponsoring primary use.

2. The minimum lot size for an on-site WECS in any zoning district shall be one (1) acre. Building mounted systems may be permitted on any size lot, provided the setbacks of section 11.21 are met.
3. No more than one (1) on-site WECS shall be located on any property in the R-1, RM, or RMH zoning districts.
4. Property Setbacks: The distance between an on-site WECS tower and any property line, public or private road right-of-way, or overhead utility right-of-way shall be not less than 150% of the total height of the WECS with the blade in its vertical position.
5. Temporary Anemometer Towers can be constructed for the purpose of evaluating a location for possible installation of a WECS. Such towers must be removed within 18 months of their construction. Construction techniques may include the use of guyed structures provided that the tower meets the requirements of section 2 above and the guy anchors are all 50 feet or more from property lines.

Failure to remove the temporary anemometer tower and all related facilities within eighteen (18) months shall be grounds to remove the temporary anemometer tower at the owner's expense. The Township may place a lien on the property to cover costs for the removal of the temporary anemometer tower. A lien on the property shall be superior to all other liens except taxes.

6. On-Site Wind Energy Conversion System Construction:
 - (a) Building mounted WECS must comply with all related building codes for the structures on which they are attached.
 - (b) Only towers of the monopole or monotube design are allowed. Use of lattice towers as well as guy wires or similar secondary support is prohibited.
 - (c) No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades. Appropriate warning signs and owner identification may be allowed on buildings or other structures associated with an on-site WECS.
 - (d) The WECS shall be finished in a single, non-obtrusive, non-reflective matte color.
 - (e) No illumination of the turbine or tower shall be allowed.
 - (f) Any climbing foot pegs or rungs below twelve (12) feet of a freestanding tower shall be removed to prevent unauthorized climbing.
 - (g) Maximum height: On-site WECSs shall be limited to a height of one hundred (100) feet.
 - (h) An on-site WECS shall not be so tall that it requires collision avoidance lighting or any other lighting. The WECS shall comply with Federal Aviation Administration (FAA) requirements, the Michigan Airport Zoning Act (PA 23 of 1950); the Michigan Tall Structures Act (PA 259 of 1959); and any other State or Federal

Regulations.

7. Safety Standards:
 - (a) An on-site WECS shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over-speeding.
 - (b) An on-site WECS shall be equipped with lightning protection.
 - (c) The minimum vertical blade tip clearance from grade shall be thirty (30) feet for an on-site WECS employing a horizontal axis rotor.
8. Sound Pressure Level Standard: An on-site WECS shall not exceed 40 dBA Leq over any ten (10) minute period at the property line closest to the on-site WECS or any occupied structure. Methods in IEC 61400-11 shall be used for all sound measurements.
9. Construction Codes and Interconnection Standards
 - (a) An on-site WECS shall comply with all applicable state construction and electrical codes and local building permit requirements.
 - (b) WECS equipment and installation specifications must be approved/certified by the American Wind Energy Association (AWEA) and/or the U.S. Department of Energy.
 - (c) If the on-site WECS will be connected to the local utility distribution system, the interconnection and operation shall meet the requirements of the local electric utility in addition to the Michigan Public Service Commission and Federal Energy Regulatory Commission standards.
10. Abandonment: An on-site WECS that has not been operated for a continuous period exceeding twenty-four (24) months shall be considered abandoned.
 - (a) The property owner or lessee shall remove the on-site WECS tower and all related facilities no later than six (6) months of it being abandoned or being notified by the Township that it has been deemed abandoned.
 - (b) Failure to remove the WECS tower and all related facilities within six (6) months shall be grounds for the Township to remove the WECS at the owner's expense. The Township may place a lien on the property in an amount equal to the costs and expenses that the Township incurs for removal of the on-site WECS. A lien on the property shall be superior to all other liens except taxes.
11. An on-site WECS found by the Township to be unsafe shall:
 - (a) Be repaired by the owner to meet local, state, and federal safety standards within one-hundred eighty (180) days of being notified by the Township of such need for repair.
 - (b) Failure to repair the on-site WECS within one-hundred eighty (180) days of receipt of notice from the Township shall be grounds for the Township to remove the on-site WECS at the owner's expense as

provided in subsection 10 above.

12. Systems shall comply with all applicable State construction and electrical codes and Township building permit requirements. Building and electrical permit applications for WECS shall, at a minimum, be accompanied by the following:
 - (a) Standard drawings of the wind turbine structure, including the support structure, base and footings. An engineering analysis of the support structure showing compliance with the Michigan Building Code and certified by a licensed Professional Engineer (PE) shall be submitted.
 - (b) A line drawing of the electrical components in sufficient detail to allow for a determination that the manner of the installation conforms to the National Electrical Code.
 - (c) Scale drawing showing the location of proposed turbine towers, underground and overhead wiring, access roads, proposed structures, and all new infrastructure related to the project.

Section 11.22 GRID-LINKED WIND ENERGY CONVERSION SYSTEM

Grid-Linked wind energy conversion systems are allowed only in the Agricultural/Residential (AR) zoning district following application and approval of a Special Land Use Permit by the Arcadia Township Planning Commission. The application must include:

- A. Application form for special land use.
 1. The following site plan and operational requirements must be addressed for approval:
 - (a) Copy of the property lease if the property owner is not the applicant.
 - (b) Proof of the applicant's public liability insurance.
 - (c) The site plan shall include scaled drawings/maps showing the physical features and land uses of the project area, both before and after construction of the proposed project.
 - (d) Monopole/monotube towers are the only type of construction allowed.
 - 1) No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades. Appropriate warning signs and owner identification may be allowed on buildings or other structures associated with a grid linked WECS.
 - 2) The WECS shall be finished in a single, non-obtrusive, non-reflective matte color.
 - 3) No illumination of the turbine or tower shall be allowed.

- (e) **Property Set-back:** The distance between a tower in a grid-linked wind energy conversion system and the owner/lessee' property lines, public or private road rights-of-way, or an occupied building shall be at least 1640 feet for turbines less than 500 feet in height including the top of the blade in its vertical position. The set-back shall be 3.28 horizontal feet for each vertical foot for turbines taller than 500 feet.
- (f) The distance between an anemometer tower and the owner's property lines shall be at least 1 ½ times the height of the tower. No part of the wind energy system structure may extend closer than fifty feet to the owner/lessee's property lines.
- (g) The minimum separation between wind energy conversion system towers shall be 1000 feet and consistent with subsection (2)(e) above.
- (h) Unredacted operation and safety manuals for all equipment that may be installed on the site.
- (i) A decommissioning plan for the wind energy conversion system that includes an assessment of the cost of complete removal of the system including all infrastructure components, including wiring, and restoration to the virgin condition of the land. This signed assessment will be prepared by a licensed professional engineer (PE) from the State of Michigan and submitted under his/her seal. This assessment must be updated every five years or whenever modifications are made to the generation system.
- (j) An irrevocable financial instrument acceptable to Arcadia Township and equal to the amount of the professional assessment in subsection (2)(i) above shall be provided upon approval of the site plan and prior to any construction activity.
- (k) This irrevocable financial instrument must be adjusted to match the assessment in subsection (2)(i) any time changes are made.
- (l) **Complaint resolution process:** This shall include the process, timeline, and method of documenting the resolution of all complaints. Binding arbitration processes are not to be used in reaching a resolution. Copies of all complaints shall be provided to Arcadia Township within thirty days of their receipt and documents evidencing the ultimate resolution of all complaints shall be provided to Arcadia Township in a timely manner.

The complaint resolution process shall not preclude Arcadia Township from acting on a complaint. During construction the applicant shall maintain and make available to nearby residents a telephone number where a project representative can be reached during normal business hours.
- (m) **Sound Pressure Level:** On Site wind energy systems shall not exceed 40 dB(A) Leq over any 10-minute period at the property line closest to the wind energy system or any occupied structure.

Measurements shall be made using the latest ASTM and IEC guidance.

- (n) Documentation that sounds pressure levels, construction code, tower, interconnection, and all safety requirements have been met shall be provided in writing to Arcadia Township prior to the commencement of commercial operation.
- (o) All aircraft anti-collision lighting shall be in compliance with the latest FAA requirements for Aircraft Detection Lighting Systems (ADLS). Continuously on or flashing lighting of any type is prohibited unless required by law. Grid-linked wind energy conversion systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and any local jurisdiction airport overlay zone regulations.
- (p) Construction Codes, Towers, & Interconnection Standards: Grid-linked wind energy conversion systems, including towers, shall comply with all applicable state construction and electrical codes and local building permit requirements. An interconnected grid-linked wind energy conversion system shall comply with Michigan Public Service Commission and Federal Energy Regulatory Commission standards.
- (q) Safety: A grid-linked wind energy conversion system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lightning protection. The minimum vertical blade tip clearance from grade shall be one hundred (100) feet for a grid-linked wind energy conversion system employing a horizontal axis rotor.
- (r) Certifications: Certification that the applicant has complied with all applicable state and federal laws and regulations.
- (s) Shadow Flicker: Copy of the Shadow Flicker analysis showing no shadow flicker at the property line or on occupied structures.
- (t) Manufacturers' Safety Data Sheets: Documentation shall be maintained at the Arcadia Township Offices that includes the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
- (u) An applicant shall remit an application fee in the amount specified in the fee schedule adopted by the Township. This schedule shall be based on the cost of the application review and may be adjusted from time to time. This fee will include the cost of planners, essential consultants, and attorneys.
- (v) As part of the application and prior to installation, the applicant shall provide modeling and analysis that will confirm that the Grid-Linked wind energy system will not exceed the maximum permitted sound pressure levels. Modeling and analysis shall conform to IEC 61400 and ISO 9613. After installation of the Grid-Linked wind

energy system, sound pressure level measurements shall be conducted by a third party, qualified professional according to the procedures in the most current version of ANSI S12.18 and IEC 61400. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter. Documentation of the sound pressure level measurements shall be provided to Arcadia Township within 60 days of the commercial operation of the project.

- (w) A sign shall be posted near the tower or Operations and Maintenance Office building that will contain emergency contact information. Signage placed at the road access shall be used to warn visitors about the potential danger of falling ice.
 - (x) Environmental Impact: The applicant shall have a third party, qualified professional conduct an analysis to identify and assess any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. This analysis will also assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures, acceptable to Arcadia Township, to minimize, eliminate or mitigate adverse impacts identified in the analysis.
 - (y) The applicant shall be responsible for establishing a secure staging area for construction with commercial driveway entrance(s) and for making repairs to any public roads damaged by the construction of the grid-linked wind energy conversion system. Assessment of road damage shall be determined by the Lapeer County Road Engineer.
 - (z) Electromagnetic Interference: No grid-linked wind energy conversion system shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system.
3. Special land use granted on leased property will expire with the expiration of the land lease.
 4. Expiration or other nullification of a lease will require decommissioning as described in subsection (2)(i) above to begin within six (6) months and to be completed within twenty-four (24) months of expiration or nullification of the lease.
 5. All requirements for granting the special land use permit must be maintained during operation of the Grid-Linked WECS.
 6. Special land use approval shall terminate, without notice, (i) upon the institution by or against the applicant or owner of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of the applicant or

owner's debts, (ii) upon the applicant or owner making an assignment for the benefit of creditors, (iii) upon the applicant or owner's dissolution or ceasing to do business, or (iv) upon any sale, transfer, or assignment of the applicant or owner's rights and responsibilities hereunder to any third party without the Township's written consent.

(Ord. No. 100, eff. 08-12-2019)

Section 11.23 SOLAR ENERGY SYSTEMS (SES)

PURPOSE.

The township desires to promote the effective and efficient use of solar energy systems (SES) subject to reasonable regulations. It is the intent of the township to permit these systems under certain circumstances by regulating the siting, design and installation of such systems to protect the public health, safety, and welfare, and to ensure compatibility of land uses in the vicinity of solar energy systems.

DEFINITIONS.

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ARRAY. Any number of electrically connected photovoltaic (PV) modules providing a single electrical output.

BUILDING INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS. A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof, wall or the facade, and which does not alter the relief of the roof.

GROUND-MOUNTED SOLAR ENERGY SYSTEM. A solar energy system that is installed directly in the ground and is not attached or affixed to an existing building or similar structure.

ONSITE SOLAR SYSTEM. A solar energy system mounted on a building or on the ground and located on a parcel containing a principal use. An onsite solar system is considered an accessory use of the parcel and provides its electricity or heat only to uses on the parcel.

PHOTOVOLTAIC (TV) SYSTEMS. A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, which generate electricity whenever sunlight strikes them.

ROOFTOP SOLAR SYSTEM. A solar energy system in which solar panels are mounted on top of a roof, either as a flush-mounted system or as modules fixed to frames which can be tilted.

SOLAR ACCESS. The right of a property owner to have sunlight shine onto the property owner's land.

SOLAR COLLECTOR. A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR ENERGY SYSTEM (SES). Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation, and distributed. Solar systems include solar thermal, photovoltaic, and concentrated solar. This definition does not include small devices or equipment such as solar

powered lawn or building lights which house both the solar energy generation system and the system which uses that energy to operate.

SOLAR FARM. A solar energy system which is the principal use of a parcel and which is designed and constructed to produce electrical energy for sale back into an electrical energy grid system and not consumed on site.

SOLAR PANEL. A device for the direct conversion of solar energy into electricity.

SOLAR-THERMAL SYSTEMS. A system, which through the use of sunlight, heats water or other liquids for such purposes as space heating and cooling, domestic hot water or heating pool water.

WALL-MOUNTED SOLAR ENERGY SYSTEM. A solar energy system that is installed flush to the surface of the wall of a permanent building.

GENERAL REQUIREMENTS FOR SOLAR ENERGY SYSTEMS.

(A) This section applies to solar energy systems to be installed and constructed after the effective date of this section.

(B) Lawful solar energy systems constructed prior to the effective date of this section shall not be required to meet the requirements of this section; provided that any structural change, upgrade or modification to an existing solar energy system that materially alters the size, location or placement of such system shall comply with the provisions of this section.

(C) The granting of any permit for a solar energy system does not constitute solar access rights.

(D) A solar energy system shall be constructed and placed so it does not create a glare for persons off site.

(E) A solar energy system shall be properly maintained at all times. Such maintenance shall include measures to maintain the original appearance of each structure, ensuring that the solar panels do not leak and that the ground cover beneath the panels does not become a visual nuisance.

(F) Solar energy systems shall be installed, maintained, and used only in accordance with the manufacturer's directions. A copy of such directions shall be submitted to the township prior to installation.

(G) Solar energy systems, and the installation and use thereof, shall comply with the state and township Building Codes and the landowner shall obtain all applicable county, state and federal permits.

(H) Any SES that is not operated for a continuous period of six months as determined by the township shall be considered abandoned or non-functional and subject for removal. Upon a determination by the township that a SES should be decommissioned and within 90 days of receipt of written notification from the township, the owner/operator shall begin to remove the

SES from the site and proceed promptly toward completion in accordance with the approved decommissioning plan.

REQUIREMENTS FOR ROOFTOP AND WALL MOUNTED SES.

(A) Roof and wall mounted SES are a permitted use in all zoning districts and are subject to review and approval by the Zoning Administrator. Applicants shall submit an accurate sketch plan to the Zoning Administrator providing the location of the building, location of the SES, the height of the SES including a data sheet and installation instructions from the equipment manufacturer and other information as requested by the Zoning Administrator. The applicant shall provide information on the type of solar panel to be used and any hazardous chemicals contained in the solar panels and measures to prevent leakage.

(B) A roof mounted SES shall not project more than five feet above the highest point of the roof, and in any case, shall not exceed the maximum building height limitation for the zoning district in which it is located, and shall not project beyond the eaves of the roof.

(C) Each roof and wall mounted SES shall be securely and safely attached to a building or structure. Proof of the safety and reliability of the means of such attachment shall be submitted to the Zoning Administrator prior to installation along with information that the roof is capable of supporting the equipment. Such proof shall be subject to the Zoning Administrator's approval.

(D) Each wall-mounted SES shall not exceed the height of the building wall to which it is attached.

(E) Each wall-mounted SES shall not be mounted on a building wall that faces upon a public or private street.

LEVEL 1 ONSITE GROUND MOUNTED SES.

A Level 1 Onsite Ground Mounted Solar Energy System is allowed in all zoning districts as a permitted accessory use subject to review and approval by the Zoning Administrator according to the following requirements.

(A) *Occupancy.* A Level 1 Onsite Ground Mounted Solar Energy System shall not occupy an area greater than 5,000 square feet in size for the entire parcel.

(B) *Sketch plan.*

(1) Applicants shall submit an accurate sketch plan to the Zoning Administrator illustrating property lines of the parcel, buildings on the parcel, the proposed setbacks and height of the SES including a data sheet from the equipment manufacturer and other information as requested by the Zoning Administrator. Information on the visual impact of the proposed solar unit using photos or computer-generated images of the project on the site to demonstrate the appearance of the project from off site.

(2) The applicant shall also provide information on the type of solar panel to be used and any hazardous chemicals contained in the solar panels and measures to prevent leakage.

(C) *Setbacks.* A ground mounted solar energy system shall only be located in the side and rear yards and shall meet set backs set forth by section 14.02 and fifteen feet from any structure.

(D) *Height.* The height of a SES shall not exceed ten feet above natural grade at the time of project approval, as depicted on the sketch plan. The height shall be measured from the highest point of the panel when oriented at its maximum tilt to the ground immediately below the panel.

(E) Applicant must provide approval from the appropriate utility company.

LEVEL 2 ONSITE GROUND MOUNTED SES.

A Level 2 Onsite Ground Mounted Solar Energy System (SES) occupies an area greater than a Level 1 Onsite Solar Energy System and is allowed in all zoning districts as an accessory use subject to review and approval of a Special Use Permit by the Planning Commission and the following requirements.

(A) *Occupancy.* A Level 2 Ground Mounted SES shall not occupy an area greater than one acre in size for the entire parcel.

(B) *Setbacks.* A ground mounted solar energy system shall only be located in the side and rear yards and shall comply with the setback requirements for principal buildings for the zoning district in which the SES is located and shall be fifteen feet from any structure. On a corner lot, the SES shall comply with the setback requirements for accessory buildings and shall be fifteen feet from any structure.

(C) *Height.* A ground mounted SES shall not exceed a height of 14 feet above natural grade at the time of project approval, as depicted on the site plan. The height shall be measured from the highest point of the panel when oriented at its maximum tilt to the ground immediately below the panel.

(D) *Visual impact.* Information on the visual impact of the proposed solar farm using photos or computer-generated images of the project on the site to demonstrate the appearance of the project from off site.

(E) *Electrical interconnections.* All electrical interconnection or distribution lines shall comply with all applicable codes. The applicant shall provide evidence to the township of approval from the applicable utility company.

(F) *Pavement.* The portion of the premises on which the array of collector panel structures is located shall not be paved with asphalt or any other surface material that is impervious to rainwater.

(G) *Plantings.* Plantings shall be installed around the perimeter of the parcel or parcels containing the SES. One deciduous or conifer tree for every 20 feet of property line length is required. The Planning Commission may modify the landscaping requirement depending upon the location of existing plant material on the site or if additional plantings are needed to buffer existing land uses. Trees shall be a minimum of eight feet tall when planted and remain in good condition for the life of the project.

(H) *Above ground transmission lines.* Use of above ground transmission lines for the SES shall be prohibited within the site.

(I) *Type of panel.* The applicant shall provide information on the type of solar panel to be used and any hazardous chemicals contained in the solar panels and measures to prevent leakage.

(J) *Decommissioning plan.* A decommissioning plan shall be provided as required by subsection.

(K) *Kept and maintained in good repair and condition.* Every SES must be kept and maintained in good repair and condition at all times and shall not pose a potential safety hazard. The applicant shall provide a written description of the maintenance program to be used to maintain the SES. For Level 2 SES, the applicant shall keep a record of all maintenance performed and repairs made to and replacement of equipment and parts. On or about the anniversary date of the approval by the Planning Commission of the Special Land Use permit, the applicant shall provide a summary of this maintenance record to the township's Zoning Administrator.

(L) *Special Land Use Renewal.* Special land use permits for level 2 SES expire five years from the anniversary of special use approval. It is the responsibility of the land owner to renew the special land use or decommission the SES.

(M) *Removal cost guarantee.* The cost of removal and site restoration is the full responsibility of the landowner and the applicant and/or owner/operator. In order to provide the greatest possible financial assurance that there will be sufficient funds to remove the solar energy system and to restore the site, the following steps shall be followed for Level 2 SES:

(1) For each solar energy system, the applicant/owner/operator shall determine an amount of money equal to the estimated removal and restoration cost. The Planning Commission may require independent verification of the adequacy of this amount;

(2) Such removal and site restoration obligation shall be secured by the land owner and/or the applicant filing with the township a surety bond, letter of credit, or cash deposit with language and terms acceptable to the township; and

(3) The removal cost guarantee amount shall be valid throughout the lifetime of the system, and it shall be adjusted by the applicant/land owner every five years. The Planning Commission may require independent verification of the adequacy of this amount. Bonds and letters of credit shall be extended on a regular basis with expiration dates never less than two years from the annual anniversary of special use approval.

(N) *Transfer of ownership.* Prior to a change in the ownership or operation of a solar energy system, including but not limited to the sale or lease of that system or the underlying property, the current land owner or operator shall provide written notice to the township at least sixty days prior to that change becoming effective. This notice shall inform the township of the intended transfer of control of the solar energy system or the underlying property, and shall include a copy of the instrument or agreement effectuating that transfer. Such an instrument or agreement shall include an express statement that the new owner or operator of the solar energy collector system or the underlying property shall not be permitted to operate that system until compliance with the

terms of this chapter, including requirements for continuing security and escrow funds, has been established.

(O) Applicant must provide approval from appropriate utility company.

SOLAR FARMS.

(A) Solar farms are only allowed in the AR and industrial zoning districts subject to review and approval of a special use permit by the Planning Commission and the following requirements.

(B) *Lot size.* The minimum lot size for a solar farm shall be 20 acres. A parcel containing a solar farm shall not require frontage on a public street.

(C) *Application Requirements.* In addition to the site plan required by, the applicant shall provide all of the following information to the township:

(1) Proof of a lease, deed or purchase agreement for the parcel for the proposed solar farm;

(2) Type of solar panel to be used and any hazardous chemicals contained in the solar panels and measures to prevent leakage;

(3) Name and address of the manufacturer, and model of the solar panels;

(4) Expected energy output and anticipated useful life of the system, development phases, likely markets for the generated energy, and possible future expansions;

(5) Information on the visual impact of the proposed solar farm using photos or computer-generated images of the project on the site to demonstrate the appearance of the project from off site.

(6) *Maintenance and construction schedule.* The applicant shall provide a written description of the maintenance program to be used to maintain the SES, and the anticipated construction schedule;

(7) Digital versions of all planning and construction documents required pursuant to the Site Plan Review. Digital submittals are in addition to paper plans and do not replace any current submission requirements. Digital versions shall be submitted in PDF (Adobe Acrobat/Portable Document File) format;

(8) A decommissioning plan as required by division (D) of this section;

(9) Distance from the proposed solar farm to the nearest habitable dwelling unit on a parcel which does not contain the solar farm;

(10) A security plan detailing on-site security provisions which may include fencing, security guards, video surveillance, and similar measures;

(11) A landscaping plan illustrating the number, size, type and spacing of trees proposed to screen the solar farm from nearby roadways;

(12) Additional information as required by this section, or as may be required by the Planning Commission; and

(13) The Planning Commission may waive or modify some of the above requirements at the request of the applicant if the Commission determines that those items would not be needed to properly review the project.

(D) *Decommissioning*: The applicant shall submit a decommissioning plan to the township which shall address all of the following:

(1) Defined conditions upon which decommissioning will be initiated (such as, end of land lease, no power production for nine months, obsolete equipment and similar circumstances);

(2) A description as to how the useful life of the system will be determined and who will make this determination;

(3) Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and building foundations to a depth of three feet below grade;

(4) Restoration of property to the condition prior to development of the solar farm including measures to ensure that soils are not contaminated during decommissioning;

(5) The timeframe for completion of decommissioning activities;

(6) An engineer's cost estimate for all aspects of the decommissioning plan;

(7) Description of any agreement with the landowner regarding decommissioning;

(8) Provisions for updating the decommissioning plan;

(9) A statement signed by the owner or operator that they take full responsibility for reclaiming the site in accordance with the decommissioning plan and the special land use permit upon cessation of use; and

(10) The Planning Commission will require that the owner or operator provide a financial guarantee to cover the costs of decommissioning the site in accordance with division (G) of this section.

(E) *Additional requirements for solar farms.*

(1) *Safety/access.* A security fence shall be placed around the perimeter of the solar farm with a locked gate. Knox boxes and keys shall be provided at locked entrances for emergency personnel access. An eight foot fence shall be installed with the material of the fence being approved by the Planning Commission depending upon the location of the facility.

(2) The facility shall be designed for interconnection to a public utility electrical power grid, and shall be operated with such interconnection. All electrical interconnection or distribution lines shall comply with all applicable codes. The applicant shall provide evidence to the township of approval from the applicable utility company. Use of above-ground transmission lines for the SES shall be prohibited within the site.

(3) The portion of the premises on which the array of collector panel structures is located shall not be paved with asphalt or any other surface material that is impervious to rainwater.

(4) Plantings shall be installed around the perimeter of the parcel or parcels containing the solar farm. One deciduous or conifer tree for every 20 feet of property line length is required. The Planning Commission may modify the landscaping requirement depending upon the location of existing plant material on the site or if additional plantings or berms are needed to buffer existing land uses. Trees shall be a minimum of eight feet tall when planted and remain in good condition for the life of the project.

(5) *Setbacks.* Solar panels shall be setback a minimum of 100 feet from all right of way lines and 75 feet from all other lot lines except solar panels shall not be placed closer than 100 feet from the lot line of another parcel. There shall be fifteen feet between any separate structures that comprise a solar farm.

(6) *Height.* A ground mounted SES shall not exceed a height of twelve feet above natural grade at the time of project approval, as depicted on the site plan. The height shall be measured from the highest point of the panel when oriented at its maximum tilt to the ground immediately below the panel.

(7) *Electrical Interconnections.* All electrical interconnection or distribution lines shall comply with all applicable codes. The applicant shall provide evidence to the township of approval of connection from the applicable utility company.

(8) Use of above-ground transmission lines for the SES shall be prohibited within the site.

(9) *Maintenance and annual summary report.* Every solar farm must be kept and maintained in good repair and condition at all times and shall not pose a potential safety hazard. The applicant shall keep a record of all maintenance performed and repairs made to and replacement of equipment and parts. On or about the anniversary date of the approval by the Planning Commission of the special land use permit, the applicant shall provide a summary of this maintenance record to the Township Planning Commission.

(F) *Administration costs initial application and ongoing.*

(1) For each solar energy system application, the applicant/owner/operator shall deposit into an escrow account with the township the amount of \$5,000. The purpose of this escrow account is:

(a) To reimburse the township for its costs incurred to hire consultants and experts as the township, at its sole discretion, deems desirable to examine, evaluate and verify the data and statements presented by the applicant/owner/operator; and

(b) For the life of each solar energy system, to cover the administrative and legal costs incurred by the township in monitoring and enforcing the owner/operator's ongoing compliance with this section.

(2) The account shall be managed as follows:

(a) Funds can be withdrawn from this account only by the signature of a township designee;

(b) If at any time the balance of this account shall fall below \$1,000, the applicant/owner/operator shall deposit additional funds to restore the account to a \$5,000 balance;

(c) If at any time the balance of this fund shall fall below \$1,000 for a continuous period of thirty days, the application shall be considered to have been withdrawn, or the Permit for the solar energy system may be terminated by the township; and

(d) A township designee shall be charged with monitoring the escrow account and giving quarterly reports to the Planning Commission. After the solar energy system has been removed and site restoration has been completed, as defined in this section, any balance remaining in this account shall be returned to the applicant.

(3) *Special Land Use Renewal.* Special land use permits for Solar farms expire five years from the anniversary of special use approval. It is the responsibility of the land owner to renew the special land use or decommission the SES.

(G) *Removal cost guarantee.* The cost of removal and site restoration is the full responsibility of the landowner and also the applicant and/or owner/operator. In order to provide the greatest possible financial assurance that there will be sufficient funds to remove the solar energy system and to restore the site, the following steps shall be followed:

(1) For each solar energy system, the applicant/owner/operator shall determine an amount of money equal to the estimated removal and restoration cost. The Planning Commission may require independent verification of the adequacy of this amount;

(2) Such removal and site restoration obligation shall be secured by the land owner and/or the applicant filing with the township a surety bond, letter of credit, or cash deposit with language and terms acceptable to the township; and

(3) The removal cost guarantee amount shall be valid throughout the lifetime of the system, and it shall be adjusted by the applicant/land owner every five years. The Planning Commission may require independent verification of the adequacy of this amount. Bonds and letters of credit shall be extended on a regular basis with expiration dates never less than two years from the annual anniversary of special use approval.

(H) *Transfer of ownership.* Prior to a change in the ownership or operation of a solar energy system, including but not limited to the sale or lease of that system or the underlying property, the current land owner or operator shall provide written notice to the township at least 60 days prior to that change becoming effective. This notice shall inform the township of the intended transfer of control of the solar energy system or the underlying property, and shall include a copy of the instrument or agreement effectuating that transfer. Such an instrument or agreement shall include an express statement that the new owner or operator of the solar energy collector system or the underlying property shall not be permitted to operate that system until compliance with the terms of this subchapter, including requirements for continuing security and escrow funds, has been established.