

CHAPTER XXI SPECIAL USES

(Ord. 06-01; 02/26/06)
(Ord. 06-07; 08/24/06)
(Ord. No. 09-01; 3/31/09)

SECTION 21.01 DESCRIPTION AND PURPOSE

The purpose of this article is to provide regulations for uses which are not essentially incompatible with uses permitted by right in a given district but which should not be permitted without restrictions or conditions being imposed by reason of special problems presented by the use itself or its particular location in relation to neighboring properties. The special use permit procedure established herein is designed to provide the Planning Commission with an opportunity to review and act upon any application for a conditional use permit.

SECTION 21.02 PROCEDURE FOR ALL SPECIAL USES. Any special use shall meet and continuously follow and adhere to the approved site development plan conditions placed upon the use, and the requirements for approval and the requirements of the district in which they are located.

- (a) **APPLICATIONS**--The applicant shall submit to the Planning Commission, through the Township Clerk, an application which shall include a site plan per the requirements of Chapter 18, and written evidence and drawings showing that all requirements for the applicable special use are met.
- (b) **NOTICES** -- Upon receipt of such application, one (1) notice that a request for a special land use has been received shall be published within a newspaper which circulates within the township, an additional notice shall be sent by mail or by personal delivery to all owners of property to whom real property is assessed and to all occupants of structures within 300 feet of the boundary of the property that is the subject of the application and to the petitioner.
- (c) **NOTICE TIMING**-- Such notice must be given no less than five (5) days nor more than fifteen (15) days before the date the application will be considered.
- (d) **NOTIFICATION ITEMS** – The notice shall include the following:
 - (1) Describe the nature of the special land use requested.
 - (2) Indicate the property which is subject of the special land use request.

- (3) State when and where the special land use request will be considered.
 - (4) Indicate when and where written comments will be received concerning the request.
 - (5) Indicate that a public hearing on the special land use request may be requested by the property owner as the occupant of any structure within three hundred (300) feet of the boundary of the property being considered for a special use.
- (e) PUBLIC HEARING – Upon the initiative of the Planning Commission, Township Board, or Building Inspector, as the case may be, the applicant or the owner of the property or occupant of the structure within three hundred (300) feet of the boundary of the subject property, a public hearing will be held before a decision is made with notice given as stated in Sections 21.02 (c) and (d); however, a second notice is not required if initiated by the Planning Commission, Township Board, or Building Inspector, or the applicant and the notice specifies it is a public hearing and a prior notice was not given before such initiation by the Planning Commission, Township Board, or Building Inspector, or applicant.
- (f) CONDITIONS – Reasonable conditions may be required with the approval of a special land use, by the Planning Commission, Township Board, or Building Inspector, as the case may be. The conditions may include, but are not limited to, conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
- (1) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - (2) Be related to the valid exercise of the police power, and purposes which will be affected by the proposed use or activity.
 - (3) Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or

- activity under consideration, and be necessary to insure compliance with those standards.
- (g) RECORD OF CONDITIONS – The conditions imposed with respect to the approval of a special land use shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the Planning Commission, Township Board, or Building Inspector, as the case may be, and the landowner. The approving Planning Commission, Township Board, or Building Inspector, as the case may be, shall maintain a record of conditions which are changed.

 - (h) STANDARDS -- The following general standards shall serve as the basis for decisions by the Planning Commission involving special use permits. The Commission shall find that, in addition to specific standards listed herein for a particular use, the proposed use shall:
 - (1.) Be designed, constructed, operated and maintained so it will be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the area in which it is proposed.

 - (2.) Be adequately served by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, water and sewage facilities and schools.

 - (3.) Not create excessive additional requirements at public cost for public facilities and services.

 - (4.) Not involve uses, activities, processes, materials, and equipment, or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.

 - (5.) Be consistent with the intent and purpose of the zoning district in which such use will be located and not set precedents for development which could adversely affect the long term plans and policies of the Township.

- (6.) Be compatible and in accordance with the Alpine Township Master Plan. (Ord. No. 91-3; 8/26/91)

SECTION 21.03 REVOCATION OF PERMIT. If a violation of any of the above conditions, regulations, or special conditions is found to exist following inspection, the Zoning Administrator shall notify the owner of the premises of the special use, and the Planning Commission, Township Board, or Building Inspector (whichever allowed the special use) that such violation exists and that the permit will be revoked within fifteen (15) days of such notification. If said violation is not corrected within fifteen (15) days, the body or official who allowed the special use shall revoke the permit.

SECTION 21.04 HOUSING FOR SENIORS OR RETIRED PERSONS (Ord. 06-01; 02/26/06)

The following shall apply:

- (a) The facility may include independent living units, basic or intermediate nursing care, meal services, recreation and health facilities. Other uses may be included if deemed appropriate by the Planning Commission.
- (b) The minimum lot size for the development shall be two (2) acres and the housing density shall not exceed eight (8) dwelling units per acre unless the requirements of this subsection (b) are waived or varied by the Planning Commission using the standards in Section 21.02(h).
- (c) No part of the building or buildings so used is closer than 100 feet to an adjacent lot line; except that the Planning Commission may reduce this setback requirement to not less than 25 feet if it finds such reduction in the set back will not be injurious to the use or enjoyment of nearby properties; will not result in traffic or other safety hazards; will not result in visual blight, distraction, or clutter; and will not materially impair the intent and purpose of this Ordinance or the public's interest. In modifying such set back requirements, the Planning Commission may attach conditions regarding the location, character, landscaping, or treatment of the buildings or premises or other such matters as are reasonably necessary to the furtherance of the intent and spirit of this Ordinance and the public's interest.
- (d) Each dwelling unit shall contain a minimum of 400 square feet of finished floor area, exclusive of basement and attic space unless the Planning Commission waives or varies such requirement under the standards contained in Section 21.02(h).

SECTION 21.05 REMOVAL OF NATURAL RESOURCES. Special Use. The removal or extraction of sand, gravel, soil, rock, minerals, and similar natural resources or the reshaping, enlarging, straightening, damming or diminution of lakes, waterways, pond, or other bodies of water is only permitted with the intent and in such manner as to prepare or render the premises suitable for the primary intended uses of the district in which such premises is located. No such operation, change, removal, or extraction shall be permitted by the Planning Commission unless the following provisions are complied with:

- (a) EXCEPTIONS -- The provisions of this section shall not apply to the following:
 - (1) Where the removal or extraction of natural resources is more than five hundred (500) feet from any street or property line, occupies not more than one (1) acre in area, does not constitute an average intensity of use of more than five (5) yards of material per day and creates no area which fills with water other than a watering pond for farms.
 - (2) The control and regulation of oil or gas.

- (b) PROCEDURE FOR PERMIT—No building permit shall be issued to the owner of any parcel of land or body of water desiring to proceed with any undertaking set forth in Section 21.04 until application to the Planning Commission for a temporary occupancy permit has been approved. Said application shall include the following information and fees:
 - (1) A fee of five (\$5.00) dollars for each acre of land affected or from which the natural resources are to be removed.
 - (2) A map of the parcel to be so changed depicting all buildings, streets, drainage facilities, and natural features within two hundred (200) feet thereof, which map shall show contour elevation readings at five (5) foot intervals along the perimeter of the subject property or portion involved.
 - (3) A two-foot interval contour plan of proposed final elevations, the location of proposed temporary structures, drives, parking areas, loading equipment, drainage facilities, and the extent of the operating during the first year.
 - (4) A written statement describing the equipment to be used and the process involved, estimating the time such removal will require, describing the proposed use of the premises after such removal and an agreement to conform to the provisions of this section.

- (c) REQUIRED CONDITIONS – The following conditions shall be complied with:
- (1) Final grades shall be harmonious with surrounding grades and shall not be in excess of ten percent unless demonstrably necessary for future intended use of the land. Topsoil may be removed from the property, but in no case shall the amount of topsoil removed exceed that amount which would leave the premises with a minimum of four inches of topsoil for the entire site. Except as provided in (c) of this section, no final grades shall be as such to create any area which will fill with water after the removal operation. No removal shall be permitted below the grades of the proposed plan unless a surety bond satisfactory to the township board is posted with the township to insure that the final grades of the plan will be met by the expiration date of the building permit.
 - (2) No mechanical processing of natural resources shall be permitted in any R or C district where such operation would be detrimental to an adjacent conforming use of land. Storm or water run-off shall be led to existing drainage systems in a manner approved by the township and the county.
 - (3) The creation or enlargement of a lake shall only be permitted where the applicant can demonstrate from engineering and geological studies that such water will not become polluted or stagnant; submits a plan for future use of the lakeshore and lake; and shows that such lake has been approved by the Department of Natural Resources of the State of Michigan and the Kent County Drain Commission.
 - (4) The alteration, straightening, damming, widening, or diminuation of a waterway or body of water shall be approved by the said Department and Commission.
 - (5) No removal, storage area, structure, access drive or loading area shall be closer than one hundred fifty (150) feet to a principal structure on adjoining property unless across a public street therefrom.
 - (6) Truck routing shall be only on streets approved by the County Road Commission under such conditions and

securities as may be imposed by the Township or the County to protect or repair the roads and to insure the safety of the public.

- (7) All structures and stored material equipment shall be removed from the property within six (6) months of the discontinuance of the use for removal or extraction of natural resources. All land shall be graded to final elevations and re-seeded so as to avoid erosion following the expiration of activities.

(d) **DETERMINATION BY PLANNING COMMISSION –** Following public hearing, the Planning Commission shall determine the proper disposition of the application. In making its determination, the Planning Commission shall determine that the proposed change or removal will:

- (1) Prepare or render the premises for a permitted primary intended use for its district in a reasonable period of time.
- (2) Not adversely affect permitted uses in the district.
- (3) Conform to all provision of this section.
- (4) Not create any condition which will adversely affect the public health, safety, or general welfare.

(e) **AUTHORIZATION.** Upon approval of the application, the Planning Commission shall inform the Township Board of its action, of the amount of the bond required, and of special conditions imposed. Upon approval of a corporate surety bond by the Township Board, the Township Board shall direct the Building Inspector to issue any necessary building permit and a temporary occupancy permit for a one-year period. All approved plans, sureties, recommendations, reports and special conditions shall be filed by the Building Inspector for future reference.

(f) **PERMIT AND RENEWAL OF PERMIT.** An occupancy permit may be issued for three (3) years and may be renewed for up to three (3) years at a time or for the duration of an accepted surety bond, whichever is lesser, upon a finding by the Planning Commission that all conditions and plans are being complied with and no nuisance had been created by prior operations. Where any new area is to be

considered, or where any area not shown by the contour plan of Section 21.04(b)(3) is to be included, the procedures for a new application shall be followed.

- (g) **REVOCAION OF PERMIT.** The Building Inspector shall revoke an occupancy permit where operations do not conform to approved plans or special conditions. All operations shall cease 14 days following notification by the Building Inspector of such violations unless such conditions are corrected. Reinstatement of a revoked permit shall require a new application and approval therefor.

Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this chapter of this Ordinance shall be responsible for a municipal civil infraction and shall be punished by a civil fine of one hundred dollars (\$100.00) for a first violation and five hundred dollars (\$500.00) for a second or subsequent violation. In addition to the penalties set forth above, a person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this chapter shall be subject to the penalties and provisions contained in subsections (a-e) of Section 24.05. (Ord. No. 95-6; 7/17/95)

SECTION 21.06 UNPLATTED AND PLATTED PROJECTS IN THE R-A ZONE

- (a) **PURPOSE** – Single family detached dwelling units are considered to be a use which can, in most instances, be compatible with other permitted uses in the R-A Zone, principally farming uses, due to the larger lots required. Single family dwellings which are part of a condominium project or traditional plat, however, may not be compatible with farm operations and may, therefore, not be appropriate in all locations in the R-A Zone. Such projects are essentially subdivisions.

The construction of several non-farm residences, which would be built over a period of years in the vicinity of an active farm, are unlikely to adversely affect the farm operation. A subdivision, however, in the same location would be much more rapid in occurrence and of greater scale, and therefore poses more of a threat to the viability of the farming operation.

In order to protect the viability and integrity of farm operations, to guard against the premature loss of farmland, as well as to provide a measure of protection for non-farm residents from the nuisance characteristics of farming, subdivisions shall be subject to special approval by the Planning Commission. Such a procedure will enable the Commission to more effectively manage the location, size, and timing of subdivisions in the R-A Zone so they can be compatible with active farm operations in the same zone and to also preserve the long-term farming practices in the Agricultural Zone, as recommended in the Alpine Township Master Plan.

- (b) **SITE LOCATION STANDARDS** – Subdivisions in the R-A Zone shall be located according to the following criteria:
- (1) Subdivision shall have direct access to a paved roadway.
 - (2) Subdivisions shall be located such that they are part of a logical residential growth pattern extending outward from developed or developing residential areas so that such projects do not “leapfrog” into areas of active farms.
 - (3) Subdivision projects shall be located where public sanitary sewer is available or can be economically and efficiently provided for the long-term health and safety of project residents and where a potable source of water can be supplied.
 - (4) Subdivisions shall be located such that project residents and farm operations will not adversely affect each other.
 - (5) Such projects shall not be located on land that is classified as prime or unique by the United States Department of Agriculture.
- (c) **APPROVAL STANDARDS**—In addition to the Standards of Approval for all Special Uses as contained herein, the Planning Commission, before approval for subdivisions in the R-A Zone shall find:
- (1) That future residents of the proposed subdivision will not be adversely affected by nearby farming activities such as spraying of pesticides, spreading manure, operation of farm equipment in early morning or night, or other similar activities, or the Commission shall find

that measures can be implemented to mitigate the adverse affects of such activities.

- (2) That any nearby farming operations will not be hampered or economically threatened by the subdivision project due to an increase in traffic on adjacent roadways, complaints from nearby residents regarding farm operations, or the possibility of subdivision residents interfering with farm operations by trespassing on farm property or posing a hazard or nuisance to farm animals.
- (3) The proposed project will not have a detrimental impact on the natural features of the site such as steep slopes, wetlands, drainage, and mature woodlots, and that steps will be taken to protect nearby streams and drains during and after construction. (Ord. No. 91-3; 8/26/91)

SECTION 21.07 VALIDITY OF SPECIAL LAND USE PERMIT

- (a) In cases where actual physical construction of a substantial nature of the structures authorized by a special land use permit has not commenced within one year of issuance, and a written application for extension of the approval has not been filed as provided in Subsection (b) below, the permit shall automatically be terminated and all rights thereunder shall terminate. The one year period shall commence on the date when the site plan is signed for approval by the chairperson of the Planning Commission or Site Plan Review Committee as the case may be.
- (b) Upon written application filed prior to the termination of the one year period, the Planning Commission may authorize a single extension of the time limit for a further period of not more than one year. Such extension shall only be granted based on evidence from the applicant that the development has a reasonable likelihood of commencing construction within the one year extension.
- (c) An application for a special land use permit which has been denied wholly or in part shall not be resubmitted for a period of one year from the date of said order of denial, except on the grounds of new evidence or proof of changed conditions relating to all of the reasons noted for the denial found to be valid by the Planning Commission.

SECTION 21.08 ANTENNAS AND TOWERS ABOVE A CERTAIN HEIGHT OR EXCEEDING A CERTAIN DIMENSION. Freestanding radio, television, or microwave antennas or towers including cellular phone antennas, exceeding a height of 35 feet above grade, or exceeding a dimension of 35 feet in any other direction, including any mounting structure, may be approved by the Planning Commission as a special land use upon compliance with the following conditions:

- (a) Any such antenna or tower shall be permanently secured to a stable foundation. It shall be grounded to protect against damage from lightning as required by the Alpine Township Building Code.
- (b) No part of the antenna or tower shall display any name, symbol, words or letters, advertising message, graphic representation or other written or pictorial matter visible from adjacent or nearby lands.
- (c) An antenna or tower may not be located closer than its height to an existing building or structure (on any lot or parcel). An antenna or tower may not be located closer than its height to a property line unless the applicant (with the adjacent property owner's permission) records a building and use restriction, in a form satisfactory to the Township, prohibiting buildings or structures within the fall zone of the antenna or tower. (Ord. No. 06-07; 8/24/06) (Ord. No. 09-01; 3/31/09)
- (d) A commercial or public antenna or tower, including accessory buildings and guy wire supporting structures, shall be fully enclosed by a sturdy fence, securely gated, and shall have such height as reasonable determined by the Planning Commission. The fence may be fitted with barbed wire along the top of the fence if permitted by the Planning Commission.
- (e) The antenna or tower and the construction, installation, maintenance and operation thereof shall comply with all federal, state and local laws, ordinances and regulations.
- (f) The Planning Commission in its reasonable discretion may impose other terms and conditions regulating the construction, installation, use and maintenance of such antenna or tower. Such other terms and conditions may include, though need not be limited to, the following:

- (1) The screening or buffering of an antenna or tower and any accessory buildings or structures thereof.
 - (2) The timely removal of unused or unsafe antennas or towers or accessory buildings or structures thereof.
 - (3) The preservation of existing trees and other existing vegetation not required to be removed for installation of an antenna or tower; the reasonable restoration of trees or other vegetation removed or destroyed during the construction or installation of an antenna or tower or accessory buildings or structures thereof.
- (g) Where the effect of any of the provisions of Section 21.08 of this Ordinance would be to prevent or preclude the operation of amateur radio antennas (being antennas operating for the purpose of receiving or transmitting communications by a radio station described in Section 153(q) of Title 47 of the U.S. Code) and licensed by the Federal Communications Commission, such amateur radio antennas may still be approved by the Planning Commission as a special land use. (Ord. No. 90-01; 3/31/09)
- (h) Towers as permitted herein may be permitted to be on the same site as another principal use. In its consideration of this, the Planning Commission shall find that allowing the antenna or tower shall not pose a hazard to nearby buildings, properties and roadways and shall also comply with the Special Approval standards of this Ordinance.
- (i) The applicant shall establish that it has made a good faith effort to place the antenna on an existing structure suitable for such placement. For purposes of the subsection, a “good faith effort” could include, but is not limited to, a demonstration that the applicant contacted the owners of such suitable structures and which are located within the designated service area desired by the applicant for the proposed antenna and were denied reasonable access to those structures.
- (j) Co-Location: All approved towers shall reasonably accommodate other wireless communication facilities, both to increase the efficient use of approved towers and to avoid the construction of unnecessary infrastructure. Towers may allow for future rearrangement of attached wireless communication facilities to accept or attached facilities mounted at varying heights.

Co-location shall be deemed reasonable and feasible when all of the following are met:

1. The co-locator will pay market rent or other market compensation for the co-location rights.
2. The approved tower is able to provide structural support, considering reasonable modification or replacement of a facility.
3. The co-location being considered is technically reasonable and will not result in unreasonable interference, given appropriate technical and physical adjustments.
4. The height of the original tower will not be increased beyond maximum height limits.

The administrative processing of co-locations onto communication towers that have been approved as special land uses shall proceed as follows:

1. An application letter for co-location shall be submitted to Alpine Township. Copies of any co-location lease agreements shall also be provided in order to prove the legal right to use the property.
2. Two copies of engineered and professionally sealed site plans detailing the specific property location, legal description and survey, plus the design, placement, size, and scale of the proposed co-location units must accompany the application letter.
3. The site plans must also detail the placement, size, design and scale of any accessory buildings proposed to enable the co-location by housing new electronics and other infrastructure.
4. The application letter and accompanying site plans shall be reviewed by the Alpine Township Planning Director and Zoning Administrator for compliance with local laws and regulations.
5. An approval or denial letter shall be generated and forwarded to the applicant. If approved, one copy of the approved site plan will be signed by the Alpine Township Planning Director and Zoning Administrator

and sent to the applicant for their records. The other copy will be retained for Alpine Township records.

6. If approved, the applicant is then required to apply for building permits as required by federal, state, and local codes, rules, and regulations.(Ord. No. 02-02; 6/14/02)

SECTION 21.09 WIND ENERGY SYSTEM (WES) (Ord. No. 09-01: 3/31/09)

The purpose of this section is to establish standards and procedures by which the installation and operation of a WES shall be regulated within the Township, in order to promote the safe, effective, and efficient use of wind energy.

(a) Definitions

- (1) See Chapter 1 for the following definitions:
 - Ambient Sound Level or Ambient Noise
 - Anemometer (MET) Tower
 - Freestanding Wind Energy System
 - Interconnected Wind Energy System
 - Nacelle
 - On-Site Use Wind Energy System
 - Shadow Flicker
 - Structure-Mounted Wind Energy System
 - Utility Grid Wind Energy System
 - Wind Energy Systems (WES)
 - Wind Energy System Height
 - Wind Energy System Setback
- (2) Applicant. The person, firm, corporation, company, Limited Liability Corporation or other entity which applies for Township approval under this section, as well as the applicant's successor(s), assign(s), and/or transferee(s) to any approved WES. An applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own and operate the WES. The obligations regarding a zoning approval for any approved WES shall be with the owner of the WES and jointly and severally with the owner and operator or lessee of the WES if different than the owner.

(b) Standards For All Wind Energy Systems. All WES shall comply with the following:

- (1) Sound Pressure Level.

- (i) On-Site Use Wind Energy Systems shall not exceed 55 dB(A) at the property line closest to the WES. This sound pressure level may be exceeded during short-term events such as severe wind storms. If the ambient sound pressure level (i.e. the sound pressure level without the Wind Energy System in operation) exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A). In addition, the applicant shall provide modeling and analysis that will demonstrate that the On-Site Use Wind Energy System will not exceed the maximum permitted sound pressure.
 - (ii) Utility Grid Wind Energy Systems shall be subject to the requirements of Section 21.09(b)(1)(i) above but the sound pressure level shall be measured at the property line closest to the WES at the outside boundary of all property used for the Utility Grid Wind Energy System. In addition, the applicant shall provide modeling and analysis that will demonstrate that the Utility Grid Wind Energy System will not exceed the maximum permitted sound pressure.
- (2) Shadow Flicker. Any WES shall be designed, located and installed so that shadow flicker does not have a significant adverse effect upon affected property and any occupied building or residence. The Planning Commission, or Planning Director in the case of On-Site Use WES, may request that the applicant perform an analysis of potential shadow flicker. The analysis shall identify locations of shadow flicker that may occur, and shall describe measures such as screening that shall be taken to eliminate or minimize the shadow flicker.
- (3) Construction Codes and Interconnection Standards. MET Towers and WES shall comply with all of the following:
- (i) All applicable state construction and electrical codes and local building permit requirements;
 - (ii) Federal Aviation Administration requirements.
 - (iii) The Michigan Airport Zoning Act, Public Act 23 of 1950, as amended;
 - (iv) The Michigan Tall Structures Act, Public Act 259 of 1959, as amended;
 - (v) Local airport overlay zone regulations

- (vi) The Michigan Public Service Commission and Federal Energy Regulatory Commission standards if the WES is an Interconnected WES.
- (4) Safety.
- (i) Each WES shall be equipped with both a manual and automatic braking device capable of stopping the WES operation in high winds so that the rotational speed of the rotor blade does not exceed the design limits of the rotor.
 - (ii) To prevent unauthorized access, each WES must comply with at least one of the following provisions, and more than one if required by the Planning Commission:
 - (A) Tower climbing apparatus shall not be located within 12 feet of the ground.
 - (B) A locked anti-climb device shall be installed and maintained on the tower.
 - (C) A tower capable of being climbed shall be enclosed by a locked, protective fence at least ten feet high with barbed wire strands at the top.
 - (iii) All WES shall have lightning protection.
 - (iv) If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least 10 feet above the guy wire anchors.
- (5) Blade Clearance.
- (i) Blade arcs created by a horizontal axis Freestanding WES shall have a minimum clearance of 20 feet above the ground and 20 feet over and from any structure or tree within the full swept arc area created by any blades used in the system. The minimum clearance above the ground and over and from any structure or tree for blade arcs created by vertical axis WES shall be determined on a case by case basis based upon the design of the WES.
 - (ii) Blade arcs created by a horizontal axis WES mounted on an existing structure shall have a minimum clearance of eight feet. The minimum clearance height for blade arcs created by a vertical axis WES mounted on an existing structure shall be determined on a case by case basis based upon the design of the WES.

- (6) Signs.
- (i) Each WES shall have one sign not to exceed two square feet posted at the base of the tower, or on the fence if the structure is fenced. The sign shall include the following information:
 - (A) The words “Warning: High Voltage”
 - (B) Emergency phone numbers.
 - (ii) Utility Grid Wind Energy Systems shall have one sign not to exceed two square feet posted at the entrance of the access drive stating: “Warning falling ice”.
 - (iii) A WES shall not include any advertising of any kind, except the nacelle may have lettering that exhibits the manufacturer’s and/or owner’s identification.
- (7) Electromagnetic Interference. WES shall be designed, constructed and operated so as not to cause electromagnetic interference with radios and televisions.
- (8) Maintenance. WES must be kept and maintained in good repair and condition at all times and shall not pose a potential safety hazard.
- (9) Distribution Lines. All distribution lines from the WES to the local electrical grid connection shall be located and maintained underground, both on the property where the WES will be located and off-site. The Planning Commission, or Planning Director in the case of On-Site Use WES, may waive the requirement that distribution lines for the WES which are located off-site (i.e. are not located on or above the property where the WES will be located) be located and maintained underground if the Planning Commission or Planning Director determines that to install, place, or maintain such distribution lines underground would be impractical or unreasonably expensive.
- (c) **Met Towers and Wind Energy Systems Which Require A Special Use Permit.** Met Towers and any WES which is greater than 65 feet in height, including a Structure-Mounted WES, may be allowed as a Special Use only within the A, C-1, C-2, C-3, I-1 and I-2 Zoning Districts subject to the requirements of this Section, the general special land use review procedures and standards of Chapter 21, Special Land Uses, and the following regulations:

- (1) Site Plan Requirements. For Met Towers and those WES for which a Special Use is required the following items shall be included with or on the site plan:
- (i) All requirements for a site plan contained in Chapter 18, Site Plan Review.
 - (ii) A location map of the proposed Met Tower or WES sufficient to show the character of the surrounding area.
 - (iii) Land uses within 300 feet of the lot or parcel.
 - (iv) Location and height of all existing and proposed towers, guy wires, guy wire anchors, security fencing, buildings, structures, and any other above-ground structures proposed or existing for the lot(s) or parcel(s) proposed for the Met Tower or WES.
 - (v) Locations of all buildings and structures within 300 feet of the exterior boundaries of the lots(s) or parcel(s) where the MET Tower or WES is proposed to be located.
 - (vi) The distance of the tower(s) to all property lines.
 - (vi) Specific distances from the Met Tower or WES structures to all other buildings, structures, and above ground utilities on the lot(s) or parcel(s) upon which the Met Tower or WES is proposed to be located.
 - (vii) The distance to the closest building on adjacent property.
 - (viii) Location of all existing and proposed overhead and underground electrical transmission or distribution lines, located on the lot(s) or parcel(s) upon which the Met Tower or WES is proposed to be located, as well as within 300 feet of the boundaries of the lot(s) or parcel(s).
 - (ix) Contour elevations of all MET Tower and WES buildings and structures. For WES only: the elevations of all existing and proposed structures within 300 feet of the lot(s) or parcel(s) upon which the WES is proposed to be located.
 - (x) Access drive(s) to the MET Tower or WES including dimensions and composition, with a narrative describing proposed maintenance of the drive(s).

- (xi) All lighting proposed for the site, including diagrams of lighting fixtures proposed if requested by the Planning Commission.
 - (xii) Security measures proposed to prevent unauthorized trespass and access.
 - (xiii) Elevation drawings of the tower(s) and any buildings designed to serve the tower(s).
 - (xiv) Standard drawings of the structural components of the MET Tower or WES, including structures, towers, bases, and footings. A registered engineer shall certify drawings and any necessary calculations that show that the system complies with all applicable local, state, and federal building, structural and electrical codes.
 - (xv) Documentation that all requirements of Section 21.09, Wind Energy Systems have been complied with.
 - (xvi) Additional information as required by Chapter 21, Special Land Uses of this Ordinance, or as may be required by the Planning Commission.
- (2) Design Standards:
- (i) Height. The height of a MET Tower or WES for which a Special Use is required shall be determined by compliance with the requirements of this Section.
 - (ii) Setbacks for Towers from Lot Lines.
 - (A) The setback from lot lines for a MET Tower or WES shall be at least equal to the height of the MET Tower or WES. In the case of multiple parcels utilized for a Utility Grid Wind Energy System, the setbacks shall be taken from the outside boundary of the lots or parcels utilized for the WES project.
 - (B) In the case of multiple parcels utilized for a Utility Grid Wind Energy System, a WES shall be set back at least one rotor radius from the edge of public road right-of-way.

- (C) A reasonable setback shall be maintained from overhead electrical transmission lines. No portion of a MET Tower or WES, including guy wire anchors, shall be located within or above any required front, side, or rear yard setback.
- (D) For the purposes of determining whether a proposed WES or MET Tower complies with these setback requirements, the setbacks shall be measured from the lot or parcel lines regardless of whether the WES or MET Tower may be located on a smaller leased parcel or area within such lot or parcel.

Parcels of land leased for more than one year are deemed to be a land division per the state Land Division Act (P.A. 288 of 1967). Such leases of land for a WES or MET tower will be treated as a tax parcel division by the Township, but will not be deemed to create a lot for Township Zoning purposes. Therefore, lot area, width and frontage of the respective zoning district are not applicable.

- (iii) Setbacks for Towers from Dwellings. The distance between a Utility Grid WES and a dwelling on a non-leased property shall be at least 1,320 feet as measured from the base of the WES to the nearest edge of the dwelling.
- (iv) Setbacks for Accessory Structures. Other than WES themselves, accessory structures shall comply with any property setback requirements of the respective zoning district.
- (v) Lighting. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA, and the minimum FAA lighting standards shall not be exceeded.
- (vi) Siting Standards and Visual Impact.
 - (A) A WES shall be designed and placed in such a manner to minimize adverse visual and noise impacts on neighboring areas.

- (B) A WES project with more than one WES structure or tower shall utilize similar design, size, color, operation, and appearance throughout the project.
 - (C) All WES shall be finished in a single, non-reflective matte finished color
- (vii) Environmental Impact. The site plan and other documents shall show measures proposed to be used to minimize potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites. An environmental impact study may be required by the Planning Commission.
 - (viii) Wildlife Impact. The site plan and other documents shall show measures proposed to be used to minimize potential impacts on wildlife. An avian and/or wildlife impact study may be required by the Planning Commission.
- (3) For MET Towers:
- (i) The application should include a description of the number and type of MET Tower(s) to be installed and the expected length of time that the MET Tower(s) will be operable.
 - (ii) The application should include an explanation of the type, height and number of wind energy systems anticipated to be proposed for installation on the site or nearby.
 - (iii) MET Towers shall also comply with the provisions of Section 21.09(b)(3), Construction Codes and Interconnection Standards.
 - (iv) The Commission may approve a MET Tower for a specified period of time subject to renewal by the Planning Commission.
- (4) Maintenance Program Required. The applicant shall provide a written description of the maintenance program to be used to maintain the WES, including a maintenance schedule of types of maintenance tasks to be performed.
- (5) Decommissioning Plan Required. The applicant shall provide a written description of the anticipated life of the system and facility;

the estimated cost of decommissioning including inflation; the method of ensuring that funds will be available for decommissioning and restoration of the site; and removal and restoration procedures and schedules that will be employed if the WES or MET Tower becomes obsolete or abandoned.

(6) Removal.

- (i) A WES or any structure or equipment regulated under the terms of this section shall be removed by the applicant not later than when the device or equipment is no longer consistently operating or when it has been abandoned.
- (ii) For purposes of this section, a WES shall be deemed abandoned when it has not produced appreciable amounts of electrical energy for 12 consecutive months. Operation of the WES for less than 168 hours within 12 consecutive months shall not be considered production for purposes of this subsection.
- (iii) The failure to timely remove a WES or any structure or equipment regulated by the terms of this section shall be a violation of this Ordinance and may be abated as a nuisance per se.

(7) Insurance. The WES operator shall maintain a current insurance policy which will cover installation and operation of the WES. The amount of the policy shall be a condition of approval.

(8) Performance Guarantee. If a Special Use is approved pursuant to this section, the Planning Commission may require a security in the form of a cash deposit, surety bond, or irrevocable letter of credit in a form, amount, time duration and with a financial institution deemed acceptable to the Township, which will be furnished by the applicant to the Township in order to ensure full compliance with this section, including decommissioning, and any conditions of approval.

(9) Inspection. The Township shall have the right upon approving any MET Tower or WES to inspect the property on which the MET Tower or WES is located at all reasonable times. The Township may hire a consultant to assist with any such inspections at the applicant's cost.