CATO TOWNSHIP
ORDINANCE NO. 2022- August 1
AN ORDINANCE TO AMEND THE TOWNSHIP'S ZONING ORDINANCE TO PERMIT AND REGULATE WIND ENERGY TURBINES

The Township of Cato ordains:

Section 1. Amend Section 3.40

Section 3.40 of the Township's Zoning Ordinance regarding Wind Energy Turbines is hereby amended to read, in its entirety, as follows:

SECTION 3.40
WIND ENERGY TURBINES

1. Purpose and Intent

The purpose of this Ordinance is to establish guidelines for siting Wind Energy Turbines (WETs). The goals are as follows:

A. To promote the safe, effective, and efficient use of a WET in order to reduce the consumption of fossil fuels in producing electricity.

B. Preserve and protect public health, safety, welfare, and quality of life by minimizing the potential adverse impacts of a WET.

C. To establish standards and procedures by which the siting, design, engineering, installation, operation, maintenance and decommissioning of a WET shall be governed.

2. Definitions

- **Aircraft Detection Lighting System (ADLS)** is a system by which lights are controlled by sensor-base systems designed to detect aircraft approaching a single obstacle or group of obstacles and automatically activates the appropriate obstruction lights until the aircraft has departed the area and the lights are no longer needed. This technology reduces the impact of nighttime lighting on nearby communities and migratory birds, as well as extends the life expectance of obstruction lights.
- **Ambient Sound Level** is the sound pressure level exceeded 90% of the time over a 96-hour measurement period

- **Anemometer (MET)** is a temporary wind speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. This includes the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, date logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
- **ANSI is the American National Standards Institute.**
- **Applicant** is defined as the Owner or Operator that seek to secure a special land use permit for LWET under the Ordinance. In the case of a Small Structure Mounted Wind Energy Turbine or Small Tower Mounted Wind Energy Turbine the applicant is defined as the landowner.
- **Condominium Development** is defined as a development that is created under the Condominium Act.
- **dB(A)** is the sound pressure level in decibels. Refers to the "A" weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.
- **dB(C)** is the sound pressure level in decibels of frequencies below 1k Hz. Refers to the "c" weighted scale as defined by ANSI.
- **Decibel** is defined as a unit of measure used to express the magnitude of sound pressure and sound intensity. Decibels shall be measured on the dB(A) **or dB(C)** weighted scale as defined by the American National Standards Institute **(ANSI)**.
- **Decommissioning** is the process of terminating operation and completely removing a WET(s) and all related buildings, structures, foundations, access roads, and equipment.
- **Infrasound or Low Frequency Sound** is low-frequency of sound that may not be heard by humans but are felt by humans and/or animals, usually found in the frequency range of 0-20 Hertz.
- **Large Wind Energy Turbine (LWET)** is a tower-mounted wind energy system designed and built to convert wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system to the electric utility grid for resale to consumers. The LWET has a nameplate capacity that identifies the maximum kilowatts.
- **Nacelle** refers to the encasement which houses all of the generating components, gear box, drive tram, and other equipment.

- **Net-Metering** is a special metering and billing agreement between utility companies and their customers, which facilitates the connection of renewable energy generating systems to the power grid.
- **Non-participating Parcel** is a parcel of land that is not subject to a wind turbine lease or easement or other contractual agreement at the time an application is submitted for a special land use permit for the purpose of developing and constructing a LWET.
- **Occupied Building** is a residence, school, hospital, church, public library, business, or other building used for public gatherings.
- **Operator** is the entity responsible for the day-to-day operation and maintenance of a WET.
- **Owner** is the individual entity, including their respective successors and assigns, that have an equity interest or own the WET in accordance with this ordinance.
- **Participating Parcel** is a parcel of land that is subject to a wind turbine lease, easement or other contractual agreement at the time an application is submitted for a special land use permit for the purpose of developing and constructing a LWET. A participating parcel may or may not have a wind turbine on the premises.
- **Rotor Diameter** is the cross-sectional dimension of the circle swept by the rotating blades of a WET.
- **SCADA (supervisory control and data acquisition)** is a computer system that monitors and controls WET units and data.
- **Shadow Flicker** is the shadow, created by the sun shining through the rotating blades of a WET. The amount of shadow flicker created by a WET is calculated by a computer model that takes into consideration turbine location, elevation, tree cover, location of all structures, wind activities, and sunlight.
- **Small Tower-Mounted Wind Energy Turbine (STMWET)** is a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. STMWETs supply energy to a structure on the parcel on which it is located and that does not primarily involve the sale of electricity or communication services off the parcel (including to an electric grid).
- **Stray Voltage refers** to small voltage differences that can exist between two surfaces that are accessible to animals (stanchion, waterer, floor, etc.).

- **Small Structure-Mounted Wind Energy Turbine (SSMWET)** converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. A SSMWET is attached to a structure's roof, walls or other elevated surface. SSMWETs supply energy to a structure on the parcel on which it is located and that does not primarily involve the sale of electricity or communication services off the parcel (including to an electric grid).
- **Total Height** is the vertical distance measured from the ground level at the base of the tower to the uppermost vertical extension of any blade, or the maximum height reached by any part of the WET.
- **Tower** is a freestanding monopole that supports a WET.
- **Wind Energy Turbine (WET)** is any structure-mounted, small or large wind energy conversion system that converts wind energy into electricity through the use of a Wind Generator and includes the nacelle, rotor, tower, and pad transformer, if any, as well all related electrical equipment, building or other structures, including wiring to interconnect the wind energy system to the electrical transmission grid.

3. Applicability

- This Ordinance applies to all WETs proposed to be constructed after the effective date of this Ordinance.
- All WETS must conform to the provisions of this Ordinance; all county, state, and federal regulations and safety requirements; all applicable building codes, county codes, and airport area zoning ordinances; and all applicable industry standards, including those of the American National Standards Institute (ANSI).
- The Township may revoke any approvals for, and require the removal of, any WETS that does not comply with this Ordinance.

4. Temporary Uses

The following is permitted in all zoning districts as a temporary use, in compliance with the provisions contained herein, and the applicable WET regulations.

A. Anemometers

1. The construction, installation, or modification of an anemometer tower shall require a special land use permit and shall conform to all

applicable local, state, and federal applicable safety, construction, environmental, electrical, communications, and FAA requirements.

2. An anemometer shall be subject to the minimum requirements for height, setback, separation; location, safety requirements, noise, vibration, site plan, signal interference, maintenance, liability insurance and decommissioning that correspond to the size of the WET that is proposed to be constructed on the site.

3. An anemometer shall be permitted for no more than thirteen (13) months for a SSMWET or STMWET and no more than three (3) years for a LWET.

5. Permitted Uses

A SSMWET and a STMWET shall be considered a permitted use in all zoning districts and shall not be erected, constructed, installed, or modified as provided in this Ordinance unless a building permit has been issued to the Owner(s) or Operator(s).

All SSMWETs and STMWETs are subject to the following minimum requirements.

A. Siting and Design Requirements

1. Visual Appearance

a) SSMWET or STMWET, including accessory buildings and related structures shall be a non-reflective, non-obtrusive color (e.g. white, gray) The appearance of the turbine, towers, and any ancillary facility shall be maintained throughout the life of the SSMWET or STMWET.

b) SSMWET or STMWET shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof.

c) SSMWET or STMWET shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for identification of turbine manufacturer.

2. Ground Clearance: The lowest extension of any blade or other exposed moving component of a SSMWET or STMWET shall be at least twenty (20) feet above the ground (at the highest point of the natural grade level within thirty (30) feet of the base of the tower) and, in addition, at least twenty (20) feet above any structure or tree.

3. Noise: SSMWET and STMWETs must comply with the noise limits set forth for LWETs in this Ordinance.

4. Vibration and Infrasound: Vibrations and Infrasound shall not be produced which are humanly perceptible beyond the property on which a SSMWET or STMWET is located.

5. Guy Wires: Guy wires shall not exceed half the tower height and shall be visibly marked.

6. In addition to the Siting and Design Requirements listed previously, the SSMWET shall also be subject to the following:

a) Height: The height of a SSMWET shall not exceed fifteen (15) feet as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances.

b) Setback: The setback of the SSMWET shall be a minimum of two and a half times (2.5x) the total height of the unit from any property line, public right-of-way, public easement, or overhead utility lines if mounted directly on a roof or other elevated surfaces of a structure. If the SSMWET is affixed by any extensions to the side, roof, or other elevated surfaces, then the setback from the property line or public right-of-way shall be a minimum of fifteen (15) feet. The setback shall be measured from the furthest outward extension (i.e. with the SSMWET blade at its highest point).

c) Location: The SSMWET shall not be affixed to the wall on the side of a structure facing a road.

d) Quantity: No more than three (3) SSMWETs shall be installed on any parcel of property.

e) Separation: If more than one SSMWET is installed, a distance equal to the height of the highest SSMWET must be maintained between the base of each SSMWET.

7. In addition to the Siting and Design Requirements listed previously, the STMWET shall also be subject to the following:

a) Height: The Total Height of a STMWET shall not exceed one hundred fifty (150) feet

b) Location: The STMWET shall only be located in a rear yard of a property that has a building.

c) The minimum setback of a STMWET shall be the same as those setbacks set forth for LWETs in this Ordinance.

d) Quantity: No more than one (1) STMWET shall be installed on any parcel (2.5 acres) or two (2) per 5 acres of property.

e) Electrical System: All electrical controls, control wiring, grounding wires, power lines, and system components shall be placed underground within the boundary of each parcel at a depth of at least 2 feet below grade. Wires necessary to connect the wind generator to the tower wiring are exempt from this requirement.

B.) Permit Application Requirements:

1. Name of property owner(s), address, ~~and~~ parcel number, zoning classification and legal description.

2. A site plan shall include maps (drawn to scale) showing the proposed location of all components and ancillary equipment of the SSMWET(s) or STMWET, property lines, physical dimensions of property, existing building(s), setback lines, right-of-way lines, public easements, utility lines, sidewalks, non-motorized pathways, roads and contours. The site plan must also include adjoining properties as well as the location and use of all structures.

3. The proposed type, quantity and height of the SSMWET or STMWET to be constructed; including the manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated generating capacity, dimensions, rotor diameter, and a description of ancillary facilities.

4. Documented compliance with the noise and vibration requirements set forth in this Ordinance.

5. Documented compliance with applicable local, state and federal regulations including, but not limited to, all applicable safety, construction, environmental, electrical, communications, and FAA requirements.

6. Proof of applicant's liability insurance in an amount deemed acceptable by the Cato Township Planning Commission and Board.

7. Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.

8. Other relevant information as the Township may reasonably request.

9. Signature of the Applicant.

10. In addition to the Permit Application Requirements previously listed, the SSMWET Application shall also include the following:

a) Total proposed number of SSMWETs.

11. In addition to the Permit Application Requirements previously listed, the STMWET Application shall also include the following:

- Total proposed number of STMWETs.

Large Wind Energy Turbines (LWET) shall be considered a special land use in the agriculture, industrial and commercial zoning districts and shall not be erected, constructed, installed or modified as provided in this Ordinance unless a special land use permit and site plan approval has been issued to the applicant.

All LWETs are subject to the following minimum requirements.

- **<u>Siting and Design Requirements</u>**

1. The design of a LWET shall conform to all applicable industry standards.

2. Visual Appearance:

a) Each LWET, including accessory buildings and other related structures shall be mounted on a tubular tower and a non-reflective, non-obtrusive color (e.g. white, gray). The appearance of turbines, towers and buildings shall be maintained throughout the life of the LWET.

b) Each LWET shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for reasonable identification of the turbine manufacturer or operator(s).

3. Vibration and infrasound: LWETs shall not produce vibrations or infrasound humanly perceptible from any non-participating property.

4. Shadow Flicker: LWETs must not produce any shadow flicker on non-participating properties unless the record owners of all non-participating properties have signed a release, which must be recorded with the Montcalm County Register of Deeds.

5. Guy Wires: Guy Wires shall not be permitted as part of the LWET, excluding MET Towers.

6. Electrical System All electrical controls, control wiring, grounding wires, power lines, and all other electrical system components of the LWET shall be placed underground within the boundary of each parcel at a depth no less than ten (10) feet below grade.

7. In addition to the Siting and Design Requirements listed previously, the LWET shall also be subject to following:

a) Height: The Total Height of a LWET shall not exceed five hundred (500) feet.

- Ground Clearance: The lowest extension of any blade or other exposed moving component of an LWET shall be at least seventy five (75) feet above the ground (at highest point of the grade level within one hundred fifty [150] feet of the base of the tower).

c) Noise: Noise levels produced by the LWET must not exceed 50 dB(A) Leq 10 minutes as measured at the property line of any non-participating property and 45 dB(A) Leq 10 minutes as measured from any occupied building. The Township may, in its sole discretion, allow a higher noise level only if the owner of the non-participating property signs a waiver consenting to a specific higher noise level and the waiver is recorded with the County Register of Deeds.

Noise Compliance. The Township may, from time to time, measure whether the LWET is complying with the maximum noise levels under this Ordinance. Compliance measurements are the financial responsibility of the applicant or operator and must be independently performed by a qualified professional selected by the Township.

Noise Measurement. The measurements require an observer to be present. All noise measurements will exclude contributions from wind on microphone, tree/leaf rustle, flowing water, and natural sounds such as tree frogs and insects. The wind velocity at the sound measurement microphone must be between 2m/s (4.5 mph) and 4.5m/s (9 mph) during measurements. During testing of elevated sources, including LWETs, the atmospheric profile must be relatively calm, Pasquill Stability Class D or calmer during the day and Class E or calmer during the Night.

Noise measurements will be conducted consistent with ANSI S12.18 Procedures for Outdoor Measurement of Sound Pressure Level ANSI S12.9 Part 3 (Quantities and Procedures for Description and Measurement of Environmental Sound – Part 3: Short-term Measurements with an Observer Present), using Type 1 meter, A-weighting, Fast Response.

Tonal noise will be assessed using unweighted (linear) 1/3 octave band noise measurements with time-series, level-versus-time data acquisition. A measurement constitutes prima facie evidence of a tonal noise condition if at any time (single sample or time interval) the noise spectrum of the noise source under investigation shows a 1/3 octave band exceeding the average of the two adjacent bands by 15 dB in low one-third octave bands (10–125 Hz), 8 dB in middle-frequency bands (160–400 Hz), or 5 dB in high-frequency bands (500–10,000 Hz).

Post-Construction Sound Survey. At least two months after the LWET is operational, the Township may select a third-party qualified professional to survey the sound pressure levels of the LWET. The applicant and operator must cooperate with the survey. All costs of the survey, including the professional's fees, will be paid by the applicant or operator. The Township will determine the locations at which sound levels are to be measured. To the extent possible, the study will follow the procedures for Type 1 Sound Level Testing and ANSI S12.9 Part 3 (with an observer present) and ANSI S12.18. All sound pressure levels will be measured with instruments that meet ANSI or IEC Type 1 Precision integrating sound level meter performance specifications.

d) Quantity: The number of LWETs shall be determined based on setbacks and separation.

e) Setbacks: The minimum setback from all non-participating property lines, shall be four times (4x) the Total Height of the LWET or 1,640 feet, whichever is greater. The setback from all roads and other infrastructure shall be one and one-half times (1.5x) the Total Height of the LWET. The Township may, in its sole discretion, allow a lesser setback only if the owner of the non-

participating property signs a waiver consenting to a lesser setback and the waiver is recorded with the County Register of Deeds, but in no case shall the setback be less than two and a half times (2.5x) the Total Height of the LWET.

The minimum setback from all 7 lakes named and mapped in the Township's Master Plan, Tamarack Creek and all wetlands over 10 acres designated by the Department of Environment, Great Lakes and Energy (EGLE) shall be 1.5 miles as measured from the ordinary high water mark. The minimum setbacks from all other bodies of water shall be ¼ mile as measured from the ordinary high water mark.

The minimum setback from all airports shall be three miles or as otherwise required by the Federal Aviation Administration and/or the Michigan Department of Transportation Aeronautics Division, whichever is greater.

f) Access Driveway: Each LWET shall require the construction of a private road to offer an adequate means by which emergency vehicles may readily access the site in the event of an emergency. All private roads shall be constructed to the CATO township's private road standards. Access driveways must be located at least 300 feet from any non-participating parcel, unless the owner of the non-participating parcel has signed a waiver that is recorded with the County Register of Deeds.

B. **Safety Requirements:**

1. If the LWET is connected to a public system for net-metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.

2. The LWET shall be equipped with an automatic braking or governing system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades and other wind energy components.

3. Security measures need to be in place to prevent unauthorized trespass and access. Each LWET shall not be climbable up to fifteen (15) feet above ground surfaces. All access doors to LWETs and electrical equipment shall be locked and/or fenced as appropriate, to prevent entry by non-authorized person(s).

4. All spent lubricants, cooling fluids, and any other hazardous materials shall be properly and safely removed in a timely manner. If the LWET experiences

a failure, fire, blade detachment, ice throw, leakage of hazardous materials, vandalism, property damage, personal injury, or other extraordinary or catastrophic event, the applicant or operator must notify the Township within 24 hours.

5. Each LWET shall have one sign, not to exceed two (2) square feet in area, posted at the base of each tower and near the entryways of all access driveways. The signs shall contain at least the following:

a) Warning high Voltage
b) Manufacturer's and Owner/Operators name
c) Emergency contact numbers (list more than one number)
d) Unique Turbine Identifier Number

6. The structural integrity of the LWET shall conform to the design standards of the International Electrotechnical Commission, specifically IEC 61400-1 "Wind Turbine Safety and Design" IEC 61400-22 "Wind Turbine Certification," and IEC 61400-23 "Blade Structural Testing," or any similar successor standards.

7. Each LWET shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof. All tower and non-tower lighting required must be shielded to reduce glare and visibility from the ground. When illumination is required by the FAA, LWETs are required to use Aircraft Detection Lighting Systems (ADLS).

8. All turbines must be equipped with technology that detects ice on the blades and automatically shuts off the turbine when ice is detected.

C. Signal Interference

1. The LWET shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems. If the Township or the applicant or operator of the LWET receive a complaint about communication interference, the applicant or operator must resolve the interference immediately and provide proof that the interference has been resolved within 90 days.

D. Decommissioning:

1. The LWET Owner(s) or Operator(s) shall complete decommissioning within twelve (12) months after the end of the useful life. Upon request of the owner(s) or the assigned of the LWET, and for a good cause, the CATO township

board may grant a reasonable extension of time. Each LWET will presume to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months. All decommissioning expenses are the responsibility of the owner(s) or operator(s).

2. Decommissioning shall include the removal of each LWET, buildings, electrical components, and roads to a depth of eight (8) feet, as well as any other associated facilities. Any foundation shall be removed to a minimum depth of eight (8) feet below grade, or to the level of the bedrock if less than eight (8) feet below grade. The land shall be restored with topsoil upon decommissioning. Following removal, the location of any remaining wind turbine foundation shall be identified on a map as such and recorded with the deed to the property with the County Registration of Deeds.

3. All access roads to the LWET shall be removed, cleared, and graded by the LWET Owner(s), unless the property owner(s) request, in writing, a desire to maintain the access road. CATO township will not be assumed to take ownership of any access road unless through official action of the CATO township board.

4. The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the owner(s) of the LWET or its assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion.

5. The applicant, operator, or owner must obtain all permits necessary for the removal of a decommissioned turbine or component, including any necessary demolition permits.

6. In addition to the Decommissioning Requirements previously listed, the LWET shall also be subject to the following:

a) An independent and certified professional engineer shall be retained to estimate the total cost of decommissioning ("Decommissioning Costs") with no regard to the salvage of the equipment, and the cost of decommissioning net salvage value of the equipment ("Net Decommissioning Costs"). When determining this amount, the CATO township may also require an annual escalator or increase based on the Federal Consumer Price Index (or equivalent or its successor). Said estimates shall be submitted to the CATO township zoning administrator, Planning Commission and Township Board after the first year of operation and every third year thereafter.

b) The LWET Owner(s) or Operator(s) shall post and maintain Decommissioning Funds in an amount equal to Net Decommissioning Costs, but not less than $800,000 per turbine; provided, that at no point shall Decommissioning Funds be less than one hundred percent (100%) of Decommissioning Costs. The Decommissioning Funds shall be posted and maintained with a bonding company or Federal or state chartered lending institution chosen by the Owner(s) and Operator(s) and participating landowner(s) authorized to conduct such business and is approved by the CATO township. The security must be deposited no later than 10 business days after a special land use permit has been approved.

c) Decommissioning Funds shall be in the form of a performance bond made out to the CATO township.

d) A condition of the bond shall be notification by the bond company to the CATO township zoning administrator, Planning Commission and Township Board when the bond is about to expire or be terminated.

e) Failure to keep the bond in effect while an LWET is in place will be a violation of the special land use permit. If a lapse in the bond occurs, CATO township may take action up to and include requiring ceasing operation of the LWET until the bond is reposted and/or revocation of the special land use permit.

f) The escrow agent shall release the Decommissioning Funds when the Owner(s) has demonstrated and CATO township concurs that decommissioning has been satisfactorily completed, or upon written approval of the CATO township in order to implement the decommissioning plan.

g) If neither the Owner(s) or Operator(s), nor the landowner(s) complete decommissioning within the periods addressed previously (Decommissioning Requirements 1 and 2), then the CATO township may take such measures as necessary to complete decommissioning at the expense of the applicant or operator, drawing first from the financial security under this section. If the financial security is insufficient to fully fund removal and restoration, then the applicant, operator, and real property owner are jointly and severally liable for the remaining costs. The entry into and submission of evidence of a Participating Landowner agreement to the CATO township shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the CATO township may take such action as necessary to implement the decommissioning plan. In addition to the Township's costs of removal and restoration, the Township is also entitled to recover from the application, operator, and real property owner all fees and expenses of the Township's attorneys, engineers, consultants, and other professionals whose services are used in connection with removal and restoration.

E. Application Requirements:

1. Application fee in an amount set by resolution of the Township Board.

2. Escrow Account: The applicant must establish an escrow account in the Township's name when it submits its application for a LWET. The amount must equal an estimate of the total costs of (1) reviewing and processing the special use permit application and site plan, including publication and administrative costs and costs of the Township Attorney, Township Planner, and Township engineer; and (2) any professional studies or report prepared by the Township or on the Township's behalf to assist with its evaluation of the application. The account shall be not less than $15,000.

The Township may draw from the escrow account to reimburse any of its costs or expenses incurred in reviewing, processing, and evaluating the application. The Township may require the applicant to replenish the escrow account at any time to ensure a sufficient balance.

If the Township instructs the applicant to replenish the escrow account and the applicant fails to do so within 14 days after receiving notice, then the Township has no further obligation to process the applicant's application until the escrow account is replenished.

Any funds in the escrow account that exceed the Township's actual costs after the application is approved or denied (and after any and all appeals have been exhausted) will be returned to the applicant. The Township will provide an itemized statement to the applicant upon applicant's request.

3. Site Plan Drawing: All applications for LWET special land use permit shall be accompanied by a detailed site plan map that is drawn to scale and dimensioned, displaying the following information:

a) Existing property features to include the following: property lines, physical dimensions of the property, land use, zoning districts, contours, setback lines, right-of-ways, public and utility easements, public roads, access roads (including width), sidewalks, non-motorized pathways, large trees, bodies of water and all buildings. The site plan must also include the adjoining properties as well as the location and use of all structures and utilities within three hundred (300) feet of the property.

b) Location and height of all proposed LWETs, buildings, structures, ancillary equipment, underground utilities and their depths, towers, security fencing, access roads (including width, composition, and

maintenance plans), electrical sub-stations, and other above-ground structures and utilities associated with the proposed LWET. The site plan shall depict how the LWET will be connected to the power grid.

c) Identification and location of the properties on which the proposed LWET will be located including a list of all parcel numbers, documentation of ownership of each parcel and any lease agreements, land contracts, licenses, easements or purchase agreements for the parcels.

d) In the case of a Condominium Development, a copy of the Condominium Development's Master Deed and Bylaws addressing the legal arrangement for the LWET.

e) The proposed number, representative types and heights of each LWET to be constructed; including their manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated capacity, rotor diameter, and a description of ancillary facilities.

f) Documents shall be submitted by the developer/manufacturer confirming specification for LWET tower separation

g) Documented compliance with the noise, and shadow flicker requirements set forth in the Ordinance.

h) Engineering data concerning construction of the LWET and its base or foundation, which may include, but not limited to, soil boring data.

i) A certified registered engineer shall certify that the LWET meets or exceeds the manufacturer's construction and installation standards.

j) Anticipated construction schedule.

k) A copy of the maintenance and operation plan, including anticipated regular and unscheduled maintenance including a plan for maintaining and inspecting drain tiles and addressing stormwater management. Additionally, a description of the procedures that will be used for lowering or removing the LWET to conduct maintenance, if applicable. The operations agreement shall set forth the operations parameters, the name and contact information of the certified operator, the applicant's inspection protocol, emergency procedures, and general safety documentation including, but not limited to, fire and emergency response plans and training materials for such responders.

l) Documented compliance with applicable local, state and federal regulations including, but not limited to, all applicable safety, construction, environmental, electrical, and communications. The LWET shall comply with Federal Aviation Administration (FAA) requirements, Michigan Airport Zoning Act, Michigan Tall Structures Act, and any

applicable airport overlay zone regulations. All permits and approvals must be obtained before the applicant or operator begins any phase of construction.

m) Proof of applicant's liability insurance in an amount no less than $10 million per incident.

n) Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. A copy of the applicant's power purchase agreement or other written agreement with an electric utility showing approval of an interconnection with the proposed LWETS. Off-grid systems shall be exempt from this requirement.

o) Other relevant information as may be requested by CATO township to ensure compliance with the requirements of the Ordinance.

p) Following the completion of construction, the applicant shall certify that all construction is completed pursuant to the Special Use Permit.

q) A plan for managing any hazardous waste and other refuse from the construction or operation of the LWETs, including a description of the disposal plan for obsolete, damaged, or retired equipment (including turbines).

r) A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the LWETS, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the LWETS and restore the subject parcels. The decommissioning plan must include the following information:

i. the useful life of each type and size of turbine in the project;

ii. the anticipated life of the project;

iii. the estimated decommissioning costs net of salvage value in current dollars;

iv. a method of ensuring that funds will be available for decommissioning and restoration;

v. the anticipated manner in which the project will be decommissioned and the site restored to original condition; and

vi. a detailed policy and process book for the repair, replacement, and removal of malfunctioning, defective, worn, or non-compliant WECS components.

s) The CATO township reserves the right to review all maintenance plans and bonds under this Ordinance to ensure that all conditions of the permit are being followed.

t) Signature of the Applicant.

u) In addition to the Site Plan Requirements listed previously, the LWET shall be subject to the following:

i. A site grading, erosion control and storm water drainage plan will be submitted to the zoning administrator prior to issuing a special use permit for an LWET. At the CATO township's discretion, these plans may be reviewed by the CATO township's engineering firm. The cost of this review will be the responsibility of the applicant.

ii. A description of the routes to be used by construction and delivery vehicles, including any applicable agreements with the County Road Commission and Michigan Department of Transportation and of any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries, and a bond which guarantees the repair of damage to public roads and other areas caused by construction of the LWET within six (6) months of completion of construction.

iii. A study assessing any potential impacts on the natural environment (including, but not limited to, assessing the potential impact on endangered species, eagles, birds, and/or other wildlife, wetlands and fragile ecosystems. The study shall conform to state and federal wildlife agency recommendations based on local conditions.

v) A written lighting plan identifying the planned number and location of lights, light color, activation methods, and whether any lights blink. The lighting plan must comply with lighting requirements in this Ordinance.

F. Certification & Compliance:

1. The CATO township must be notified of a change in ownership of a LWET or a change in ownership of the property on which the LWET is located before the transfer of ownership or operation of the LWET.

2. The CATO township reserves the right to inspect LWETs, in order to ensure compliance with the Ordinance. Any cost associated with the inspections shall be paid by the owner/operator of the WET.

3. In addition to the Certification & Compliance requirements listed previously, the LWET shall also be subject to the following:

a) A post-construction sound pressure level analysis as provided in subsection (A)(7)(c) of this Ordinance.

b) The applicant or operator must submit a written report on or before January 1 of each year and present such written report annually in person to the Township Board at a regular or special meeting that includes all of the following:

1. Current proof of insurance;
2. Verification of financial security;
3. A summary of all complaints, complaint resolutions, and extraordinary events; and
4. A description of how the applicant or operator has complied with the written plans submitted in connection with its application.

G. Public Inquiries & Complaints:

1. Should an aggrieved property owner allege that the LWET is not in compliance with the requirements of this Ordinance, the procedure shall be as follows:

Subject to the Township's review and approval during the special land use approval process, the applicant or operator must comply with a complaint resolution process. At a minimum, the complaint resolution process must include the following:

1. The applicant or operator will, at its expense, use a website, telephone line, or third-party service to receive complaints about the LWETs.
2. The applicant or operator will use its best efforts to respond to and resolve any complaints.
3. The applicant or operator will establish an escrow account with the Township with a minimum of $25,000 balance at all times to pay the cost of investigating complaints.
4. The applicant or operator will forward each complaint, along with the applicant's or operator's response to each complaint, to the Township within 15 days after each complaint is received.
5. A 3-member committee consisting of the Township's Zoning Administrator and two members of the Planning Commission as appointed by the Township Board will investigate each complaint, with all expenses (including professional fees) drawn from the escrow account.

6. At the Township's request, the applicant or operator must provide the Township with SCADA data from any turbine related to the complaint, which must include meteorological and performance data such as temperature, humidity, power output, wind velocities, and nacelle vector.

7. Following its investigation, if the Township has reason to believe that that the applicant or owner has violated this Ordinance, the Township may take any actions permitted by law, including revoking the special land use permit following notice and an opportunity to be heard.

H. VIOLATIONS OF ORDINANCE

a. Following notice and an opportunity to be heard, the Township may revoke any approvals for, and require the removal of, any WECS that does not comply with this Ordinance.

b. In addition to any other remedies in this Ordinance, violations of this Ordinance also constitute a municipal civil infraction. Each day that a violation occurs or continues constitutes a separate offense and is subject to penalties or sanctions as a separate offense.

c. In addition to any other remedies set forth in this Ordinance, the Township may bring an action for damages or for an injunction or other action to restrain, prevent, or abate any violation of this Ordinance.

Section 2. AMENDMENT OF SECTIONS 5.02, 9.02 AND 10.02

Sections 5.02, 9.02 and 10.02 are hereby amended to add Large Wind Energy Turbines as a use permitted by special land use in the agriculture, industrial and commercial zoning districts.

Section 3. SEVERABILITY

Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

Section 4. REPEAL OF CONFLICTING ORDINANCES

Any ordinances or parts of ordinances in conflict herewith are hereby repealed but only to the extent necessary to give this Ordinance full force and effect. This Ordinance shall only repeal Ordinance No. 2022-1 to the extent that it applies to the issuance of permits, licenses, or approvals for, or for any construction of wind

energy conversion facilities. It does not repeal Ordinance No. 2022-1 with respect to large solar energy facilities.

Section 5. EFFECTIVE DATE

This ordinance shall become effective seven days following publication as provided by law.

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