**ORLEANS TOWNSHIP IONIA COUNTY MICHIGAN**

**WIND AND SOLAR ENERGY ORDINANCE**

**ORDINANCE NO. 2022-01**

**Adopted October 18, 2022**

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**ORLEANS TOWNSHIP WIND AND SOLAR ENERGY ORDINANCE**

**ORDINANCE NO. 2022-01**

*An Ordinance to* *regulate the location, construction, operation, and abandonment of wind and solar energy projects to protect and safeguard the health, safety, and general welfare of the citizens of Orleans Township by establishing reasonable and uniform regulations for such projects.*

THE TOWNSHIP OF ORLEANS ORDAINS:

# 1.0 Title. This Ordinance shall be known as the Orleans Township Solar and Wind Energy Ordinance.

# 2.0 Purpose. The purpose of this Ordinance is to regulate wind and solar energy projects to protect and safeguard the health, safety, and general welfare of the citizens of Orleans Township by establishing reasonable and uniform regulations.

# 3.0 Conflicts with Other Ordinances, Laws and Regulations. Except as expressly amended by this Ordinance, other Orleans Township ordinances shall remain unchanged and in full force and effect. It is not intended by this Ordinance to repeal, abrogate, annul, or in any other way impair or interfere with existing provisions of other laws and regulations, except those specifically repealed by this Ordinance.

# 4.0 General Responsibility. The Township Board or its duly authorized representative is hereby charged with the duty of enforcing this Ordinance and the Township Board is hereby empowered, in the name of Orleans Township, to commence and pursue any and all necessary and appropriate actions and/or proceedings in the appropriate court or agency having jurisdiction, to restrain and/or prevent any non-compliance with or violation of any of the provisions of this Ordinance, and to correct, remedy and/or abate such non-compliance or violation.

# 5.0 Validity and Severability. If a court of competent jurisdiction finds any provision, clause, or portion of this Ordinance to be invalid, the balance or remainder of this Ordinance shall remain valid and in full force and effect and shall be deemed severable from the portion, clause, or provision deemed to be invalid by the court.

# 6.0 Effective Date. This Ordinance shall become effective immediately after a summary of this Ordinance is published as provided by law; except that any penalty provisions relating to the enforcement of this Ordinance shall be effective thirty (30) days after publication of a summary of this Ordinance as required by law.

# 7.0 Definitions. For purposes of this Ordinance, the following terms shall have the indicated meanings:

1. **Abandoned Solar Energy System:** Any Solar Energy System, Solar Array or combination of Photovoltaic Devices that remains nonfunctional or inoperative to the extent that it generates less than ten percent (10%) of the intended output of electrical energy (as determined at the time of approval) for a continuous period of 180 days.
2. **Gross Surface Area (GSA):** For any Solar Energy System or Solar Array, the gross surface area of the panels or components constituting the Photovoltaic Devices.
3. **Large Solar Energy System (SES):** A utility-scale energy system where the primary use of the land is to generate electric energy or other energy by converting sunlight, whether by Photovoltaic Devices or other conversion technology, for the sale, delivery or consumption of the generated energy by more than one end user, and typically the power output of that system is equal to or greater than 1 megawatt.
4. **Non-Participating Property:** Parcel of land that is not a Participating Property.
5. **Participating Property:** A parcel of land whose owner has leased, sold, licensed or otherwise permitted it to be part of a wind farm or to have a WECS located on it, or whose owner has signed a letter consenting to different levels of noise, or shadow flicker, or lesser set-backs for WECS on adjacent or nearby property than otherwise required by this ordinance.
6. **Person:** Any individual, corporation, partnership, limited liability company, association, or other legal entity.
7. **Photovoltaic Device:** A system of components that generates electric energy from incident sunlight by means of the photovoltaic effect, whether or not the device is able to store the electric energy produced for later use.
8. **Solar Array**: Any number of Photovoltaic Devices connected together to provide a single output of electric energy or other energy.
9. **Solar Energy System Permit (SESP):** A permit authorized, approved, and presented by the Township Board by resolution to a person in which the Township expressly consents to the person operating, maintaining, constructing, erecting, or modifying a SES.
10. **Small Solar Energy System**: An on-site, accessory energy system where the sole use is to generate electric energy or other energy by converting sunlight, whether by Photovoltaic Devices or other conversion technology, primarily for personal consumption by a single end user at the same property upon which the Small Solar Energy System is located. The power output of a Small Solar Energy System shall not exceed 150 kilowatts.
11. **Unreasonable Safety Hazard**: Any condition which could reasonably be expected to create, cause, or compound the substantial likelihood that death, illness or personal injury may occur to any member of the general public, including but not limited to trespassers or emergency services personnel. Adherence by the property owner or occupants to industry standards for safeguarding against such risks will be taken into consideration in determining whether a condition poses an unreasonable safety hazard.
12. **Wind Energy Conversion System (WECS):** Also commonly referred to as a wind generating tower, windmill or wind-powered generator. It shall mean a combination of:

1. The surface area (typically a blade, rotor, or similar device), either variable or fixed, for utilizing the wind for electrical or electrical generating powers; and

2. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and

3. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and

4. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

A WECS can also include other components not listed above but associated with the operation of a wind energy conversion system.

1. **Single WECS for On-Site Service Only:** A single wind energy conversion system used to service the energy needs of only the property where the structure is located; provided that the tower shall not exceed a height of eighty (80) feet, the blade diameter (tip to tip) shall not exceed one-hundred (100) feet, the height of the overall WECS (with the blade in the vertical position) shall not exceed one-hundred and thirty (130) feet above ground level (at normal grade), and the distance of the tower from all property lines shall be at least two (2) times the WECS height.
2. **WECS Height:** The distance between the ground (at normal grade) and the highest point of the WECS, as measured from the ground (at normal grade), plus the length by which the rotor blade on a horizontal mounted WECS exceeds the structure which supports the rotor and blades (normally, the tower). Or put another way, the distance between the ground (at normal grade) and the highest point of the WECS (being the tip of the blade, when the blade is in the full vertical position).
3. **WECS Testing Facility or Testing Facility:** A structure and equipment used to determine the potential for the placement of a WECS.
4. **Wind Energy System Permit (WESP):** A permit authorized, approved, and presented by the Township Board by resolution to a person in which the Township expressly consents to the person operating, maintaining, constructing, erecting, or modifying a WECS, WECS Testing Facility, or Wind Farm.
5. **Wind Farm:** Clusters of 2 or more WECS placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the WECS are located.
6. **Habitable Structure:** A residence, school, hospital, church, public library, business, or other buildings people frequently sleep in or congregate, excluding accessory structures.Generally, considered a lived-in structure by humans.
7. **Non-Habitable Structure:** A structure that is generally considered non-lived in by humans and accessory to habitable structures. These may include but are not limited to barns, garages, shop buildings, storage buildings, animal housing or containment structures, greenhouses, silos, sheds, and warehouses.

# 8.0 Solar Energy. The purpose of this Section is to protect the public health, safety and general welfare in the operation of a SES as defined hereunder and establish standards for these uses. It is the purpose of this Section to regulate the operation of SES in a manner that does not unreasonably interfere with the enjoyment of surrounding land areas by persons owning, occupying or otherwise residing on such lands, and is compatible with the public health, safety and welfare of the Township.

# SESP. The Township Board may approve and present a SESP to a person to operate, maintain, construct, erect, or modify a Solar Energy System within Orleans Township. The Township Board shall approve and present a SESP to a person when all applicable requirements, conditions and specifications in this Ordinance are met and satisfied.

# General Requirements for SES. To obtain a valid SESP from the Township Board, the following general requirements shall be met for a SES:

1. Any SES mounted on the roof of a property must be installed with a minimum three (3) foot setback from the edges of the roof, the peak, the eave, or the valley.
2. No SES shall be installed in such a way as to pose an Unreasonable Safety Hazard.
3. A SES shall be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and the SES will not change the essential character of the area in which it is proposed.
4. A SES shall be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities.
5. No SES shall create excessive additional requirements at public cost for public facilities and services.
6. No SES shall involve 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.
7. A SES shall be consistent with and promote the intent of this Ordinance.
8. A SES shall be compatible with adjacent uses of land, the natural environment, and capacities of public service and facilities affected by the system.
9. A SES shall be installed in such a way as to be consistent with the public health, safety, and welfare of the Township.
10. A SES must conform to all applicable federal, state and county requirements, in addition to other applicable Township Ordinances, as well as any applicable industry standards.
11. A SES must be installed in a manner ensuring that concentrated solar glare shall not be directed onto nearby properties or roadways.
12. A SES mounted on the ground shall be sufficiently screened from the view of adjacent properties or roadways through the use of fencing.
13. All power transmission lines from a ground mounted SES to any building or other structure shall be located underground. The Township Board may waive this requirement, or may limit it through conditions, if it determines that it would be impractical or unreasonably expensive to install, place or maintain such transmission lines underground.
14. A SES and the surrounding premises must be kept and maintained in good repair and condition at all times, and must continuously conform with all applicable building and electrical codes. This shall include, but is not limited to, ensuring that any fencing is maintained to provide sufficient protection and screening, that the property is kept clear of trash and other debris, that all aspects of the SES are maintained according to industry standards, and that no portion of the SES is in a blighted, unsafe, or substandard manner.
15. An Abandoned Solar Energy System shall be removed by the property owner or occupant within 180 days.
16. Prior to construction, a SES shall be required to obtain building permits, electrical permits, and an engineering evaluation as required by the applicable building code.

# Small Solar Energy Systems. Except where otherwise specifically provided, Small Solar Energy Systems shall not be subject to the requirements of this Ordinance.

# SES Requirements

1. **Purpose and Intent**: The purpose and intent of this Section is to establish standards for the siting, installation, operation, repair, decommissioning and removal of a SES.
2. **SESP Approval**: A person may obtain a SESP from the Township Board for a SES if the requirements contained in this Section and Section 8.2 are satisfied.
3. **Preliminary Site Plan Review:** If desired by the Applicant, ten (10) copies of a preliminary site plan may be submitted to the Township Clerk for review by the Township Board prior to final site plan submittal. The purpose of this optional procedure is to allow discussion between the Applicant and the Township, to better inform the Applicant of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval.
   1. A preliminary site plan submittal shall include the following, unless deemed unnecessary by the Township Board:
      1. A completed application form.
      2. Small scale sketch of properties, streets and use of land within one half (1/2) mile of the area.
      3. Ten (10) copies of a site plan at a scale not to exceed one (1) inch equals one hundred (100) feet (1” = 100’). The following items shall be shown on the plan:
         1. Existing adjacent streets and proposed streets.
         2. Property lines and approximate dimensions.
         3. Parking lots and access points.
         4. Proposed buffer strips or screening.
         5. Significant natural features, including but not limited to open space, stands of trees, brooks, ponds, wetlands, floodplains, hills, and similar natural assets.
         6. Location of any signs not attached to the system(s).
         7. Existing buildings and structures.
         8. Location and height of proposed Solar Array(s), buildings, structures, electrical tie lines and transmission lines, security fencing, and all above-ground structures and utilities associated with the SES.
         9. Location of all existing and proposed overhead and underground electrical transmission or distribution lines within the SES.
         10. General topographical features including contour intervals no greater than five (5) feet.
         11. All buildings and driveways within three hundred (300) feet of all property lines of the subject property.
         12. The name and address of the petitioner, and, if not the same, name of Owners of each lot or parcel within the Township that is proposed to be within the SES.
         13. Name and address of the person and/or firm who drafted the plan and the date on which the plan was prepared.
   2. The Township Board shall review the preliminary site plan and impose any necessary conditions or amendments that will cause the plan to be in conformance with the review standards required by this Ordinance. The Township shall advise the Applicant as to the general acceptability of the proposed plan, but shall not be bound by any statements or indications of acceptance of the plan.
4. **Final Site Plan Drawing and Supporting Materials**: All applications for a SESP submitted to the Township Clerk for review by the Township Board must be accompanied by detailed site plans, drawn to scale and dimensioned and certified by a registered engineer licensed in the State of Michigan. Applications for final site plan reviews shall include ten (10) copies of a site plan at a scale not less than 1” = 20’ for property under three (3) acres and at least 1” = 100’ for those three (3) acres or more and the following information, unless deemed unnecessary by the Township Board:
   1. The date, north arrow, and scale.
   2. The seal, name, and firm address of the professional individual responsible for the preparation of the site plan.
   3. The name and address of the petitioner, and, if not the same, name of Owners of each lot or parcel within the Township that is proposed to be within the SES.
   4. A location sketch.
   5. Legal description of the subject property.
   6. The size (in acres) of the subject property and approximate number of acres allocated to each proposed system and gross area in buildings, structures, public streets and drives, and open space.
   7. Property lines and required setbacks shall be shown and dimensioned.
   8. The location all existing structures, driveways, and parking areas within three hundred (300) feet of the subject property’s boundary.
   9. A vicinity map showing the location of all surrounding land uses.
   10. The location and dimensions of all existing structures on the subject property including dwelling unit densities by type, if applicable.
   11. Location and height of proposed Solar Array(s), buildings, structures, electrical tie lines and transmission lines, security fencing, and all above-ground structures and utilities associated with the SES.
   12. The location and dimensions of all existing and proposed drives, sidewalks, signs, exterior lighting, curbing, parking areas, and unloading areas.
   13. Access driveways within and to the SES, together with a detailed narrative regarding dimensions, composition, and maintenance of each proposed driveway. All access drives shall be subject to Ionia County Road Department or Michigan Department of Transportation approval as appropriate and shall be planned so as to minimize the use of lands for that purpose, and evidence of such approval shall be submitted to the Township Clerk.
   14. The location, pavement width and right-of-way width of all roads, streets, and access easements within three hundred (300) feet of the subject property.
   15. The location of all existing vegetation and the location, type, and size of all proposed landscaping, and the location, height, and type of existing and proposed fences and walls.
   16. The location of all existing and proposed utilities.
   17. The location and size of all surface water drainage facilities. A written description of measures to be taken to support the flow of surface water throughout the SES, including any measures to promote the growth of vegetation beneath the arrays and/or otherwise limit the impacts of storm water runoff. The measures shall be subject to the approval of the Ionia County Drain Commissioner, and evidence of such approval shall be submitted to the Township Clerk.
   18. Existing and proposed topographic contours at a minimum of two (2) foot intervals.
   19. Recreational areas, common use areas, flood plain areas, and areas to be conveyed for public use and purpose.
   20. Exterior lighting showing area of illumination and indicating the type of fixture to be used.
   21. Horizontal and vertical (elevation) scale drawings with dimensions that show the location of the proposed Solar Array(s), buildings, structures, electrical tie lines and transmission lines, security fencing and all above ground structures and utilities on the property.
   22. Location of all existing and proposed overhead and underground electrical transmission or distribution lines within the SES and within 1,000 feet of the outside perimeter of the SES.
   23. Land elevations for the Solar Array(s) location and the relationship to the land elevations of all existing and proposed structures within the SES.
   24. Planned security measures to prevent unauthorized trespass and access and to warn of potential dangers during the construction, operation, removal, maintenance or repair of the SES.
   25. A written description of the maintenance program to be used for the Solar Array(s) and other components of the SES, including decommissioning and removal procedures when determined by the Township to be obsolete, uneconomic or an Abandoned Solar Energy System. The description shall include maintenance schedules, types of maintenance to be performed, and decommissioning and removal procedures and schedules if the SES becomes obsolete, uneconomic or an Abandoned Solar Energy System.
   26. A copy of the manufacturer’s safety measures.
   27. The environmental impact of the SES, as reflected in an environmental impact study, including, but not limited to, a review of the following factors:
       1. Impact on area water resources
       2. Impact on air quality
       3. Noise impacts caused by the SES
       4. Impact on utilities and infrastructure
       5. Protection of neighboring property owners and occupants
       6. Impact on wildlife
       7. Effects on floodplains and wetlands
       8. Unique farmlands or soils
       9. Areas of aesthetic or historical importance
       10. Archeological or cultural concerns
       11. Any other environmental factors typically evaluated by other members of the commercial energy industry when evaluating locations for a proposed power-generating facility.
   28. A written report of all power to be supplied to the electrical grid by the SES. If this information is considered a confidential trade secret, the Township, upon written request from an energy provider, will keep such information confidential to the extent permitted and through the means authorized by Public Act 442 of 1976, as amended.
5. **Escrow**: An escrow deposit shall be paid to the Township Treasurer by the Applicant when the Applicant applies for a SESP. The monetary amount deposited by the Applicant in escrow with the Township shall be the amount estimated by the Township Board to cover all reasonable costs and expenses associated with the review and approval process, which costs shall include, but are not limited to, reasonable fees of the Township Attorney, Township Planner and Township Engineer. Such escrow amount shall be in addition to any filing or application fees established by resolution. At any point during the review process, the Township Board may require that the Applicant place additional funds into escrow with the Township Treasurer if the existing escrow amount deposited by the Applicant is deemed insufficient by the Township Board. If the escrow account needs replenishing and the Applicant refuses to do so promptly, the process shall cease unless and until the Applicant makes the required additional escrow deposit. The escrow account shall not be required to bear interest.
6. **Compliance with the State Building Code and the National Electric Safety Code:** Construction of a SES shall comply with the National Electric Safety Code and the state construction codes as administered and enforced by the Township (as shown by approval by the Township) as a condition of approval under this section.
7. **Height:** Maximum height of a Solar Array shall not exceed fifteen (15) feet. Other collection devices, components or buildings of the SES shall not exceed thirty-five (35) feet at any time or location on the property. The height shall be measured from the natural grade at the base of the Solar Array, device, component or building measured. The Township Board may waive or modify these height requirements for certain aspects of a SES (such as structures associated with above-ground transmission lines) through the implementation of conditions when appropriate.
8. **Lot Size:** A SES shall be located on one or more parcels with an aggregate area of twenty (20) acres or greater.
9. **Project Area**: The Project Area of a SES shall not exceed two hundred and fifty (250) acres in total. For the purposes of this section, “Project Area” means the surface area of all land covered by Solar Arrays, including spacing between rows of panels, but not including setbacks, regardless of whether that land is located on one or multiple parcels within the Township.
10. **Setbacks**: A minimum setback distance of seventy-five (75) feet from all property boundaries on the outside perimeter of the SES shall be required for all buildings and Solar Arrays, except for property boundaries where the applicable adjoining Owner(s) agree to reduce that setback distance by executing a signed written waiver of this requirement in recordable form.
11. **Lot Coverage**: A SES is exempt from maximum lot coverage limitations.
12. **Screening/Security**: A SES shall be completely enclosed by perimeter security fencing to restrict unauthorized access. Such fencing shall be 8 (eight) feet in height as measured from the natural grade of the fencing perimeter. Electric fencing is not permitted. The perimeter of the SES shall also be screened and buffered by installed evergreen vegetative plantings whenever existing natural forest vegetation does not otherwise continuously obscure the SES’s entire perimeter from adjacent parcels, subject to the following requirements:
13. Unless screened and buffered at all times by natural forest vegetation meeting the minimum spacing and height requirements, and having a substantially similar obscuring effect of an evergreen vegetative buffer installed pursuant to this Section, a continuous evergreen vegetative buffer shall be installed and maintained at all times at the perimeter of the SES, including without limitation between such SES and adjacent residential or commercial/industrial areas and/or public highways or streets. Nothing contained herein shall be construed to prevent reasonable access to a SES as approved under this Section.
14. The evergreen or native vegetative buffer shall be composed of native or evergreen trees that at planting shall be a minimum of four (4) feet in height and shrubs two (2) feet in height. The evergreen trees shall be spaced no more than fifteen (15) feet apart on center (from the central trunk of one plant to the central trunk of the next plant), native trees shall be placed no more than thirty (30) feet apart on center and shrubs shall be spaced no more than seven (7) feet apart on center. All unhealthy (sixty (60) percent dead or greater) and dead material shall be replaced by the Applicant within six (6) months, or the next appropriate planting period, whichever occurs first, but under no circumstances should the Applicant allow unhealthy or dead material to remain in place for more than six (6) consecutive months. Failure to maintain the required evergreen vegetative buffer as required by this subsection shall constitute a violation of this Ordinance and sufficient grounds for revocation of a SESP previously granted.
15. All plant materials shall be installed between March 15 and November 15. If the Applicant requests a Final Certificate of Occupancy from the Township and the Applicant is unable to plant during the installation period, the Applicant will provide the Township with a letter of credit, surety or corporate guarantee for an amount equal to one and one-half (1.5) times the cost of any planting deficiencies that the Township shall hold until the next planting season. After all plantings have occurred, the Township shall return the financial guarantee.
16. **Signage:** No lettering, company insignia, advertising, graphics or other commercially-oriented inscriptions or designs shall be on any part of the Solar Arrays or other components of the SES. This section does not prohibit signs reasonably necessary to inform the public of potential safety hazards associated with the SES, nor does it prohibit any other signs that may be required by this Ordinance or other applicable law.
17. **Noise**: No component of a SES shall emit noise exceeding forty-five (45) dB(A) as measured at the outside perimeter of the project.
18. **Lighting**: All lighting for parking lots, driveways, external illumination of buildings, or the illumination of signs shall be directed away from and be shielded from adjacent properties and shall be so arranged as to not adversely affect driver visibility on adjacent public roads.
19. **Glare**: All solar panels shall be placed such that concentrated solar glare shall not be directed onto nearby properties or roadways.
20. **Distribution, Transmission and Interconnection**: All collection lines and interconnections from the Solar Array(s) to any electrical substations shall be located and maintained underground inside the SES. The Township Board may waive this requirement, or modify it with appropriate conditions, if it determines that it would be impractical or unreasonably expensive to install, place or maintain such collection lines and interconnections underground.
21. **Abandonment and Decommissioning**: Following the operational life of the project, or at the time the project becomes obsolete, uneconomical or an Abandoned Solar Energy System, as determined by the Township Engineer or any other expert or specialist to be designated by the Township to make such a determination, the Applicant shall perform decommissioning and removal of the SES and all its components. The Applicant shall prepare a Decommissioning Plan and submit it to the Township Board for review and approval prior to approval under this section. Under this plan, all structures and facilities shall be removed, including any structures below-grade, and removed offsite for disposal. No concrete, piping and other materials may be left in place. Any Solar Array or combination of Photovoltaic Devices that become an Abandoned Solar Energy System shall be removed under the Decommissioning Plan. The ground must be restored to its original condition within 180 days of becoming an Abandoned Solar Energy System, or decommissioning, whichever occurs first. If decommissioning is not completed within a 180-day period, the Township Board shall have the authority to complete any decommissioning and restoration activities necessary to restore the property to the condition in existence prior to the installation of the SES or any components thereof. Any costs incurred by the Township in pursuing such activities shall be at the expense of the Applicant, including the Applicant’s continuing restoration security as provided by this Section.
22. **Safety**: The Township Board shall not approve a SESP for a SES if it finds the SES will pose an Unreasonable Safety Hazard to the occupants of any surrounding properties or area wildlife.
23. **Conditions and Modifications**: In addition to the requirements of this Section, the Township Board may impose additional reasonable conditions on the approval of a SES. Any conditions and modifications approved by the Township Board shall be made by resolution and shall be recorded in the Township Board’s meeting minutes. The Township Board may, in addition to other reasonable conditions, require landscaping, walls, fences and other improvements that are reasonable.
24. **Post-Approval**: After approval, at least two (2) copies of the final approved Site Plan shall be signed and dated by the Township Supervisor and authorized representative of the Applicant. One copy shall be kept on file by the Township Clerk, and one copy shall be returned to the Applicant’s authorized representative.
25. **Maintenance and Repair**: Each SES must be kept and maintained in good repair and condition at all times. If the Township Supervisor determines that a SES fails at any time to meet the requirements of this Ordinance, or that it poses a potential Unreasonable Safety Hazard, the Applicant shall shut down the SES within 48 hours after notice by the Township Board and not operate, start or restart the SES until the condition has been corrected. Applicant shall keep a maintenance log on the Solar Array(s), which shall be available for the Township’s review on a monthly basis. In addition to such a log, Applicant shall maintain a robust maintenance and repair diagnostic system, which shall record the electrical output of each Solar Array on a daily basis. Such system shall also maintain a list of any fault codes, descriptions of faults, a notes log of any maintenance or repairs, and recordings indicating the amount of time any Solar Array was offline or otherwise not producing its ordinary allotment of electrical power. Applicant shall keep all sites within the SES neat, clean and free of refuse, waste or unsightly, hazardous or unsanitary conditions.
26. **Roads**: Any material damages to a public road located within the Township resulting from the construction, maintenance or operation of a SES shall be repaired at the Applicant’s expense. In addition, the Applicant shall submit to either the Ionia County Road Department or Michigan Department of Transportation (as appropriate) a description of the routes to be used by construction and delivery vehicles; any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries; and a performance guarantee acceptable to the appropriate agency in an amount necessary to assure repair of any damage to the public roads caused by construction of the SES or any of its elements.
27. **Continuing Security and Escrow**: If a SES is approved for construction and the Applicant is granted a SESP under this Section, the Applicant shall be required to post continuing security with the Township Clerk and a continuing escrow deposit with the Township Treasurer prior to commencement of construction, which shall remain in effect until the SES has been finally removed, as provided below:
    1. Continuing Restoration Security: If a SES is approved and the Applicant is granted a SESP pursuant to this section, the Township Board shall require security in the form of a surety bond acceptable to the Township, which will be furnished by the Applicant to the Township Clerk in order to ensure full compliance with this section and all conditions of approval. When determining the amount of each required security, the Township Board may also require an annual escalator or increase based on the Consumer Price Index (or the equivalent or its successor). Such financial guarantee shall be deposited or filed with the Township Clerk after a SES has been approved and the Applicant is granted a SESP, but before construction commences on the SES. At a minimum, the financial security shall be in an amount determined by the Township to be reasonably sufficient to restore the property to its previous condition prior to construction and operation of the SES. Such financial security shall be kept in full force and effect during the entire time that the SES exists or is in place, and such financial security shall be irrevocable and non-cancelable. In addition, the party operating a SES approved by the Township Board shall inform the Township Board in the event that the SES, or a material portion of that system is sold to a third party, and any such sale shall require the purchasing party to provide the Township Board with the security described by this section, along with relevant contact information.
    2. Continuing Compliance and Enforcement Escrow Deposit: A continuing escrow deposit shall be held by the Township Treasurer and shall be funded in cash by the Applicant prior to the commencement of construction of a SES and shall be maintained by the Owner or Operator until the SES has been permanently decommissioned and removed. The monetary amount placed by the Applicant in escrow with the Township Treasurer shall be estimated by the Township Board to cover all reasonable costs and expenses associated with continuing enforcement of this Ordinance and the terms of approval set forth herein, which costs can include, but are not limited to, reasonable fees for the Township Attorney, Township Planner and Township Engineer, as well as costs for any reports or studies that the Township Board determines are reasonably related to enforcement of the Ordinance. If the Township is required to expend any portion of the escrow deposit or if the existing escrow amount paid by the Applicant proves to be insufficient to cover the Township’s enforcement costs, the Township Board may require the Applicant to place additional monies into escrow with the Township Treasurer. The escrow account shall not be required to bear interest.
    3. Continuing Obligations: Failure to keep any required financial security and escrow deposit in full force and effect at all times while a SES exists or is in place shall constitute a material and significant violation of this Ordinance, and will subject the SES Applicant, Owner and Operator to all remedies available to the Township, including enforcement action pursuant to Section 10 and revocation of the SESP. A review of security and escrow requirements shall occur no less than annually to determine compliance with this section.
28. **Completion of Construction**: The construction of a SES must commence within a period of one (1) year from the date a SESP is granted for such system and must be completed within a period of three (3) consecutive years from the date a SESP is granted for such system. The Township may grant an extension not to exceed one (1) year. Failure to complete construction within the permitted time period shall result in the SESP being rendered null and void.
29. **Transfer of Ownership/Operation**: Prior to a change in the ownership or operation a SES, including, but not limited to, by the sale or lease of that System or the underlying property, the current Owner or Operator shall provide written notice to the Township Board at least sixty (60) days prior to that change becoming effective. This notice shall inform the Township Board of the intended transfer of control of the SES, and shall include a copy of the instrument or agreement effecting that transfer. Such an instrument or agreement shall include an express statement that the new Owner or Operator of the SES shall not be permitted to operate that System until compliance with the terms of this Ordinance, including requirements for continuing security and escrow funds, has been established.
30. **Renewal and Review:** Permits shall be approved by Township Board resolution for a period of 5 years. Not less than 60 days prior to the expiration of a permit and December 31st of every year after approval of the permit, the permit holder shall submit to the Township Clerk a report of the operations of the SES, any violations of the standards set forth above, any complaints received in writing and any known or projected changes or modifications from any information previously submitted to the Township for approval of a SESP, and any trends and usage of that System as set by the Township Board (If this information is considered a confidential trade secret, the Township, upon written request from an energy provider, will keep such information confidential to the extent permitted and through the means authorized by Public Act 442 of 1976, as amended). The Township Clerk will then forward all material to the Township Board to be reviewed at the next regularly scheduled Township Board meeting. If the reports or other evidence indicate that the permit is in compliance with this Ordinance, as amended from time to time, the permit shall be renewed. If the evidence discloses that the permittee is not in compliance with this Ordinance or the permit, the Township Board shall not renew the permit and give the permittee 30 days to correct any such noncompliance. The permittee shall be given written notice by the Township Board with an itemized list of the items in noncompliance with this Ordinance or permit. If the permittee corrects the deficiencies noted by the Township Board, a renewed permit shall be issued.
31. **Inspection:** Not less than 60 days prior to the expiration of a permit and December 31st of every year after approval of the permit, the permittee shall make arrangements with the Township for an inspection of the SES by a member or designated agent of the Township Board. The Township Board member or designated agent may also be accompanied by an engineer, for which the permittee shall reimburse the Township upon being invoiced for the costs of the engineer’s services.
32. **Revocation:** The Township Board shall review the information in the annual report and the inspector's report each year. If the reports or other evidence indicate that the permittee is not in compliance with this Ordinance, as amended from time to time, the permit may be revoked at any time, after providing notice of such noncompliance, 60 days to correct any such noncompliance, and the opportunity for a hearing before the Township Board.

# Nuisance Per Se

1. The installation, maintenance or operation of a SES in Orleans Township in violation of this Ordinance is hereby declared to be a public nuisance *per se*, and may be abated by order of any court of competent jurisdiction.
2. Any SES, building, or structure which is erected, repaired, altered, or converted in violation of any of the provisions hereof is hereby declared to be a public nuisance *per se*, and may be abated by order of any court of competent jurisdiction.

# 9.0 Wind Energy. The purpose of this Section is to protect the public health, safety and general welfare in the operation of any WECS as defined hereunder. It is the purpose of this Section to regulate the operation of a WECS in a manner that does not unreasonably interfere with the enjoyment of surrounding land areas by persons owning, occupying, or otherwise residing on such lands, and is compatible with the public health, safety and welfare of the Township.

# 9.1 Wind Energy System Permit (WESP). The Township Board may approve and present a WESP to a person to operate, maintain, construct, erect, or modify a WECS, Wind Farm, or WECS Testing Facility within Orleans Township. A Single WECS for On-Site Service Only shall not be required to obtain a WESP under this Ordinance. The Township Board shall approve and present a WESP to a person when all conditions and specifications as presented in this Section hereinafter are met and satisfied.

# 9.2 Permit Application and Approval Procedure and Standards. No person shall install, construct, maintain, or operate a WECS, Wind Farm, or WECS Testing Facility within Orleans\_ Township without first duly obtaining a WESP from the Township Board under this Ordinance.

1. **Amount of Application Fee:** The Township Board shall adopt a fee schedule by resolution.
2. **Issuance or Rejection of the Permit:** The Township Board shall, by resolution, after the application has been fully reviewed and the contents thereof approved or disapproved, grant or deny the application for a permit. The Township Board may require changes to be made in the application to conform to the requirements of this Ordinance or impose reasonable conditions upon the construction or operation of the WECS before issuing a permit. In the event the application is denied, a written explanation for the denial shall be given.
3. **Length of Permit**: Construction on an approved WECS must begin within 5 years of issuance of a WESP. This period may be extended by the Township Board for a period of up to 5 years upon showing good cause for the failure to begin construction within 5 years of issuance of the WESP.
4. **WECS and Wind Farm Application information**: All applications for a WECS or Wind Farm permit shall be accompanied by a detailed site plan in bond and Portable Document Format (PDF) drawn to a scale of not less than one (1) inch equals 100 feet on a sheet not less than 18" x 24" or larger than 24" x 36", and dimensioned, displaying all of the following information
   1. Legal description, dimensions of site boundary lines, total site area, contours at ten (10) foot intervals, water courses and water bodies, and locations of all buildings, driveways, parking areas, and other structures on adjacent properties within 300 feet of the property including those across the street of the property or on adjacent properties. All lot lines and dimensions, including a legal description.
   2. Location and height of all proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and other above ground structures associated with the WECS.
   3. Locations of all adjacent buildings, structures, and above ground utilities located within 300 feet of the exterior boundaries of the lot or parcel where the proposed WECS and/or Testing Facility will be located. Specific distances to other on-site buildings, structures, and utilities shall also be provided.
   4. The location of all reasonably available existing and WECS proposed overhead and underground electrical transmission or distribution lines shall be shown, whether to be utilized or not with the WECS or Testing Facility, located on the lot or parcel involved, as well as within 300 feet of the boundaries of such parcel or lot.
   5. Access driveway to the WECS together with a detailed narrative regarding dimensions, composition, traffic control signs or devices and maintenance of the proposed driveway.
   6. Proposed setbacks for the WECS from all structures located on the property where the WECS will be located.
   7. Planned security measures to prevent unauthorized trespass and access, and to warn of potential dangers*.*
   8. Geotechnical desktop study of geographic location of the proposed project to identify its ability to site the WECS. Additional borings shall be completed as a condition of the permit and submitted to the township prior to construction of the turbines.
   9. WECS Maintenance Programs: The Applicant shall provide the Township a written description of the maintenance program to be used to maintain the WECS or wind farm, including removal when determined to be obsolete or abandoned. The description shall include maintenance schedules, the types of maintenance to be performed and removal procedures and schedules if the WECS or Wind Farm become obsolete or abandoned.
   10. Planned safety measures to prevent uncontrolled rotation or over speeding.
   11. Planned lighting protection measures.
   12. Any proposed modifications to site drainage patterns on the wind farm shall be identified on plan maps.
   13. Exterior lighting showing area of illumination and indicating the type of fixture to be used.
   14. North arrow, legend, graphic and written scale, and title block containing project name.
   15. A report of the predicted sound impact of the proposed WECS shall be included with the application, specifically taking into consideration the sound emission levels set forth in this ordinance. The report shall demonstrate that the predicted sound level limit is met at all non-participating habitable structures within 1200’ of sound emission sources and the report conforms with ANSI/ISO standards for outdoor measurements and predictions. The report shall be produced by a qualified acoustical consultant with full member status with the Institute of Noise Control Engineering (INCE).
   16. The name and address of the person and firm who prepared the application, the seal of the professional engineer licensed in the State of Michigan responsible for the accuracy of the application and the date on which the application was prepared.
   17. Any additional information, diagrams, schematics or plans to show that the standards for approval of a permit are satisfied.
   18. Reasonable additional detail(s) and information related to the standards contained in this ordinance as requested by the Township Board.
   19. A report of the predicted shadow flicker impact of the proposed WECS shall be included with the application. This report shall demonstrate the expected annual shadow flicker produced by the proposed WECS on habitable structures within 1.5 miles of outer most collective participating parcel boundaries. The shadow flicker report shall include a map that indicates participating and non-participating parcels and all habitable and non-habitable structures that are clearly identified as such. The report shall demonstrate that the predicted shadow flicker limit is met at all non-participating habitable structures within 1.5 miles of the collective participating parcels.
5. **Standards:** Any WECS, Wind Farm, or Testing Facility must meet the following standards as a condition of receiving an approved WESP to operate within Orleans Township:
   1. Design Standards:
      1. Color: A WECS shall be painted a non-obtrusive (light environmental color such as beige or gray) color that is non-reflective. The wind turbine base and blades shall be of a color consistent with all other turbines in the area. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades other than noting the turbine number and safety information at the base of the turbine.

* + 1. Height: The permitted maximum total height of a WECS (*i.e*., WECS height) shall be 499feet including the blade in vertical position or the permissible height by FAA, MDOT and the Ionia County Airport, whichever is greater.
       1. State and federal regulations may require a lesser height.
       2. As a condition of approval, the Township Board may require a lesser height for a WECS if reasonably necessary to comply with any other standards or requirements contained in this Ordinance.
       3. A WECS shall be constructed with a tubular tower, not a lattice tower.
    2. Height of Test Tower Facility: Unless a different height is approved by the Township Board, the WECS Testing Facility height shall be no greater than 380 feet from the ground (*i.e.*, from normal grade to the test tower top) and shall comply with design standards. A WECS Testing Facility which is not in use for 6 months or more shall be required to comply with the provisions of this Ordinance regarding abandonment.
    3. Setbacks: No part of a WECS, or WECS Permanent Testing Facility (including guy wire anchors) shall be located closer than (a) 1,200 feet from any residential dwelling on a non-participating property, (b) 1000 feet from a residential dwelling on a participating property c) 1.1 times the height of the structure from any parcel or lot line of a non-participating property and (d) one-half (1/2) mile from the village limits of the Village of Orleans.
    4. Rotor or Blade Clearance: Blade arcs created by a WECS shall have a minimum of seventy-five (75) feet of clearance over and from any structure or trees on non-participatory property. The minimum blade or rotor clearance above ground level shall be at least twenty (20) feet.
    5. Tower Access: To prevent unauthorized climbing, WECS and Testing Facilities must comply with all of the following provisions:
       1. Tower climbing apparatus shall not be located on the outside of the tower, but must be located inside the tower; and
       2. A locked anti-climb device or locked door shall be installed and maintained on the WECS. ; and

3. A test facility tower capable of being climbed shall be enclosed by a locked, protective fence at least ten (10) feet high with barbed wire fence.

* 1. Signs: Each WECS, Wind Farm, or Testing Facility shall have one sign, not to exceed two (2) square feet in area, posted at the base of the tower. The sign shall contain at least the following:
     1. Warning high voltage.
     2. Warning falling ice.
     3. Manufacturer’s name.
     4. Emergency telephone numbers (list more than one number).
     5. Emergency shutdown procedures.
     6. FAA regulated sign with precise description with latitude and longitude and shall also contain both the Applicant’s current telephone number and the current telephone number for the FAA’s regional office having jurisdiction over Orleans Township.
     7. If fenced, place signs on the fence.
  2. Construction of Private Road: The Township Board shall require the construction of a private road to serve a WECS or Wind Farm if it is determined that said road is necessary to protect the public health, safety, or welfare, or to offer an adequate means by which the Township or other governmental agency may readily access the site in the event of an emergency. All private roads shall be constructed to Ionia County Road Department residential driveway permit specifications.
  3. Construction Codes, Towers, & Interconnection Standards: The WECS shall comply with all applicable state construction codes, as well as Federal Aviation Administration (FAA) requirements, the Michigan Airport Zoning Act, the Michigan Tall Structures Act, and local jurisdiction airport overlay zone regulations, if applicable. The tower shaft shall not be illuminated unless required by the FAA. The WECS shall comply with applicable utility, Michigan Public Service Commission, and Federal Energy Regulatory Commission interconnection standards.
  4. Rotor or Blade Safety: Each WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds (forty (40) mph or greater), during turbine failure or in conditions of imbalance.
  5. Lighting: A lighting plan for each WECS or Wind Farm shall be approved by the Township Board. Such plan must describe all lighting that will be utilized, including any lighting that may be required by the FAA. Such a plan shall include but is not limited to the planned number and location of lights, light color and whether any lights will be flashing. Minimum FAA lighting standards shall not be exceeded. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. Strobe lights are discouraged and must be shielded from the ground if such lights are allowed by the Township Board.
  6. Electromagnetic Interference: Each WECS or Wind Farm shall be designed, constructed and operated so as not to cause radio, wireless internet, telephone (both landline and cell phone) and television interference. In the event that electromagnetic interference is experienced as a result of the WES, the Applicant must take appropriate action to minimize such interference, and if that is not feasible, the applicant shall provide alternate service to each individual resident or property owner affected.
  7. Stray Voltage: Each WECS or Wind Farm shall be designed, constructed and operated so as not to cause any stray voltage.
  8. Sound emissions from the operation of the WECS shall include, but are not limited to, sound created from the mechanical movement of parts comprising of a WECS and flow of air over and past the blades of the WECS. A qualified acoustical consultant shall model all WECS locations and create a sound report of the predicted sound impact of the proposed WECS and any other sound sources associated with the project. The sound report will include the following:
     1. A description and map of the project’s sound producing features.
     2. Participating and non-participating parcels relative to the sound report.
     3. All predictive sound modeling will be expressed with the dB(A) scale.
     4. The range of decibels should be illustrated for 35 dB(A) to 55 dB(A) in 5 dB(A) increments.
     5. Sound should be modeled using an Leq (10-minute interval).
     6. Habitable structures shall be modeled by a single central point of the structure.
     7. Non-participating habitable structure sound limit of 50 dB(A) shall be met.
     8. Where ambient noise exceeds the 50 dB(A) sound limit, sound emissions from the WECS or operational project sound sources may exceed the ambient noise by not more than 5 dB(A).
     9. All measurements and modeling shall be conducted in compliance with ANSI/ISO standards for outdoor sound measurements and be supervised by a qualified acoustical consultant with full member status with the Institute of Noise Control Engineering (INCE).
  9. A report of the predicted shadow flicker impact to habitable structures within 1.5 miles of participating parcels by the proposed WECS shall be required. The model should include the following inputs: proposed WECS locations, habitable structures within 1.5 miles of participating parcels, existing topography, rotor diameter and hub height of the WECS, joint wind speed and direction distribution (wind rose table), and sunshine probability. The shadow flicker report will include the following:
     1. A description and map of the project’s shadow flicker producing features and basis for the expectation.
     2. Participating and non-participating parcels relative to the shadow flicker report.
     3. Predicted annual shadow flicker shall be reported to the nearest tenth of an hour at habitable structures.
     4. Habitable structures shall be models by a single central point of the structure.
     5. Non-participating habitable structure shadow flicker limit of 30 hours annually shall be met.
  10. Environmental Assessment: At the Township’s request, the Applicant shall provide an environmental assessment or impact study and/or other relevant report(s) or studies (including, but not limited to, assessing the potential impact on endangered species, eagles, birds, and/or other wildlife) as required by the Township for review by the Township regarding the area or surrounding areas where the WECS will be placed. Each such study or report requested shall be provided to the Township prior to the time that a building permit is issued for the project. Any such study or report at the request of the applicant, shall be treated as a confidential document and not subject to disclosure under Section 13(i)f) of the Freedom of Information Act.
  11. Abandonment: Any WECS, Wind Farms, or Testing Facilities that are not used for twelve (12) successive months or longer shall be deemed to be abandoned and shall be promptly dismantled and removed from the property unless the Applicant or its successor can demonstrate good cause for the non-operation of the WECS. All above and below ground materials must be removed. The ground must be restored to its original condition within 60 days of abandonment.
  12. Security: If a WECS permit is approved pursuant to this Ordinance, the Township Board shall require security in the form of a surety bond (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 Ordinance and any conditions of approval. When determining the amount of such required security, the Township may also require an annual escalator or increase based on the Federal Consumer Price Index (or the equivalent or its successor). Such financial guarantee shall be deposited or filed with the Township Clerk after a permit has been approved but before construction commences upon a WECS or Wind Farm. At a minimum, the financial security shall be in an amount determined by the Township Board to be sufficient to have the WECS or Wind Farm fully removed and decommissioned (and all components properly disposed of and the land returned to its original state) should such structure or structures become abandoned, dangerous or not in compliance with this Ordinance or the permit approval. Such financial security shall be kept in full force and effect during the entire time while a WECS or Wind Farm exists or is in place. Such financial security shall be irrevocable and non-cancelable (except by the written consent of both the Township and the then-Owner of the WECS or Wind Farm) for at least 25 years from the date of the permit approval, or until every WECS and Wind Farm has been completely removed as required by this Ordinance, whichever comes later. Failure to keep such financial security in full force and effect at all times while a WECS or Wind Farm exists or is in place shall constitute a material and significant violation of a permit approval and this Ordinance, and will subject the Applicant to all available remedies to the Township, including possible enforcement action and revocation of the permit.
  13. Road repair: Any damages to a public road located within the Township resulting from the construction of a WECS or Wind Farm shall be repaired to a condition according to Ionia County Road Department standards at the Applicant’s expense. Any road commissioning permits will be sought for turbine delivery and conditions of those permits met where required.
  14. Liability: The Applicant shall insure each WECS at all times for at least $2,000,000 (to be adjusted annually to an amount equivalent to 2022 dollars based on the federal CPI) for liability to cover the Applicant, the Land Owner. Evidence of annual insurance renewal shall be given to the Township Clerk within 60 days of such renewal.
  15. Mitigation: Mitigation measures for each receptor site shall be described, including but not limited to, siting changes, operational procedures, grading, modifications to a dwelling, and/or landscaping. If landscaping is used as a mitigation procedure, the planting of mature trees shall be required. The Township may require a performance guarantee, in the case of landscaping, and/or other mitigation measures, to assure the long term viability and effectiveness of the mitigation.
  16. Financial Impact Study: At the Township’s request, the Applicant shall provide a financial impact study for review by the Township of the impacts of WECS in communities similar to Orleans Township. Such study or report shall be provided to the Township prior to the time when the Township Board makes its final decision regarding the permit.
  17. Reasonable Conditions: In addition to the requirements of this section, the Township Board may impose additional reasonable conditions on the approval of a permit for a WECS or Wind Farm.
  18. Escrow: An escrow account shall be set up with the Township Treasurer when the Applicant applies for a permit for a WECS or Wind Farm. The monetary amount paid by the Applicant shall be estimated by the Township to cover all costs and expenses associated with the permit review and approval process, which costs can include, but are not limited to, fees of the Township Attorney, Township Planner and Township Engineer, as well as any reports or studies which the Township anticipates it may have done related to permit review process for the particular application. Such escrow amount shall be in addition to regularly established fees. At any point during the permit review process, the Township may require that the Applicant place additional monies into escrow with the Township Treasurer should the existing escrow amount filed by the Applicant prove insufficient. If the escrow account needs replenishing and the Applicant refuses to do so promptly, the permit review and approval process may cease until and unless the Applicant makes the required escrow deposit. The escrow account shall not be required to bear interest. Any applicable zoning escrow resolutions or other ordinances adopted by the Township or by Ionia County shall also be applicable. Any balance in the escrow account shall be returned to Applicant upon completion of construction of the WECS or Wind Farm.
  19. Approval Standards: In addition to the other requirements and standards contained in this section, the Township Board shall not approve any WECS or Wind Farm unless it finds that the WECS or Wind Farm will not pose an unreasonable safety hazard or unreasonable risk of harm to the occupants of any adjoining properties or area wildlife.
  20. Decommissioning: The Applicant shall submdescribing the intended disposition of the WECS at the end of their useful life, and shall describe any agreement with the landowner regarding equipment removal upon termination of the lease. A performance bond, letter of credit or equivalent financial instrument shall be posted, in a resonable amount determined by the Township, to be used in the event the Applicant has not followed the decommissioning plan. The bond, letter of credit or other instrument shall be in favor of Orleans Township, and may be provided jointly as a single instrument for multiple townships within a single wind farm. The bond, letter of credit or other instrument shall contain a replenishment obligation. The Township reserves the right to review the decommissioning plan every 5 years and revise requirements as necessary.
  21. Continuing Obligations: Failure to keep any required financial security and escrow deposit in full force and effect at all times while a WECS or Wind Farm exists or is in place shall constitute a material and significant violation of this Ordinance, and will subject the WECS or Wind Farm Applicant, Owner and Operator to all remedies available to the Township, including enforcement action pursuant to Section 10. A review of security and escrow requirements shall occur no less than annually to determine compliance with this Section.

# Permit Renewal, Review, and Revocation

1. **Renewal and Review:** Permits shall be approved by Township Board resolution for a period of 5 years. Following completion of construction of the WECS, the permit vests for the life of the project or until abandonment or decommissioning of the WECS. Following construction of the WECS, the applicant shall provide the Township by December 21 each year a report of the operations of the WECS, any violations of the standards set forth above, any complaints received in writing and any known or projected changes or modifications from any information previously submitted to the Township for approval of a permit. The Township Clerk will then forward all material to the Township Board to be reviewed at the next regularly scheduled Township Board meeting. If the evidence discloses that the permittee is not in compliance with this Ordinance or the permit, the Township Board shall give the permittee 180 days to correct any such noncompliance. The permittee shall be given written notice by the Township Board with an itemized list of the items in noncompliance with this Ordinance or permit.
2. **Inspection**: Not less than 60 days prior to the expiration of a permit and December 31st of every year after approval of the permit, the permittee shall make arrangements with the Township for an inspection of the WECS or wind farm by a member or designated agent of the Township Board. The Township Board member or designated agent may also be accompanied by an engineer, for which the permittee shall reimburse the Township upon being invoiced for the costs of the engineer’s services.

**(c) Review**: The Township Board shall review the information in the annual report and the inspector's report each year. If the reports or other evidence indicate that the permittee is not in material compliance with this Ordinance, after providing notice of such noncompliance, 180 days to correct any such noncompliance, and the opportunity for a hearing before the Township Board., the Township may take whatever action is authorized by laws of the State of Michigan.

# Nuisance *Per Se*: The operation of any WECS or wind farm in Orleans\_ Township in violation of this Ordinance is hereby declared to be a public nuisance *per se*, and may be abated by order of any court of competent jurisdiction, by allowing the project to continue operating after taking actions to abate the nuisance, if possible.

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# 10.0 Violations and Penalties

1. **Applicability**: This Ordinance is applicable to all Owners and Operators of any WECS, Wind Farm, WECS Testing Facility, or SES operating within the Township. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance is subject to the violations set forth in this Ordinance.
2. **Civil Infractions**: Any person or other entity who causes or permits to continue a violation of this Ordinance is responsible for a municipal civil infraction as defined by Michigan law and is subject to a civil fine of not more than $5,000.00 for each day a violation continues, plus costs, which may include all direct or indirect expenses to which the Township has incurred in connection with the violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan law, including without limitation injunctive relief against such violations.

# 11.0 Waivers: Where there are practical difficulties or unnecessary hardships that unreasonably prevent the carrying out of the strict interpretation of this Ordinance, the Township Board shall have the power, upon a clear and convincing showing by the Applicant, to waive or modify any of the rules, regulations or provisions of the Ordinance, by granting waivers, provided that any waiver granted from this Ordinance:

(a) Will not be contrary to the public interest.

(b) Will not cause a substantially adverse effect upon property values.

(c) Will relate only to the property under the control of the Applicant.

(d) Will not jeopardize the preservation of a substantial right, so that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done.

(e) Will not impair the adequate supply of air and light to any adjacent property.

(f) Will not increase the hazards from fire, flood or other natural or man-made dangers.

(g) Will not produce nuisance conditions to occupants of nearby premises, whether by reason of dust, noise, fumes, odors, vibration, smoke or excessive light.

(h) Will not otherwise impair the public health, safety and general welfare of the residents of Orleans\_ Township.

**MOTION:** At a regular meeting of the Township Board of Orleans Township, Ionia County, Michigan, held at the Orleans Township Hall on October 18, 2022, at 7:00, Township Board Member Almy moved to adopt the foregoing Ordinance, which motion was supported by Township Board Member Harper:

**ROLL CALL VOTE:**

YEAS: Harper, Almy, C. Colwell, B. Colwell

NAYS: None

ABSENT/ABSTAIN: Terrill

ORDINANCE DECLARED ADOPTED.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Clare R. Colwell

Township Supervisor

**CERTIFICATION**

I hereby certify that:

1. The above is a true copy of an Ordinance adopted by the Orleans Township Board at a duly scheduled and noticed meeting of that Township Board held on October 18, 2022, pursuant to the required statutory procedures.

2. A summary of the above Ordinance was duly published in the Ionia Shoppers Guide and the Greenville Daily News newspapers that circulate within Orleans Township, on October XX, 2022.

3. Within one (1) week after such publication, I recorded the above Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the Ordinance, the names of the members of the township board voting, and how each member voted.

4. I filed an attested copy of the above Ordinance with the Ionia County Clerk on October XX, 2022.

ATTESTED:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Melissa Harper

Orleans Township Clerk

20054830.1