

ELMWOOD TOWNSHIP

AN ORDINANCE TO DEFINE CONFLICT OF INTEREST AND ESTABLISH A CONFLICT OF INTEREST POLICY

ORDINANCE NO. 2023-0420

ELMWOOD TOWNSHIP ORDAINS:

Section 1. Purpose.

Elmwood Township (the "Township") adopts the following Ordinance pursuant to the authority granted to the Township Board under the Township Ordinances Act, PA 246 of 1945, MCL 41.181 et seq, as amended, the Michigan Planning Enabling Act, PA 33 of 2008, MCL 125.3801 *et seq.*, including MCL 125.3815(9), and the Michigan Zoning Enabling Act, PA 110 of 2006, MCL 125.3101 *et seq.*, (the "Acts") to define conflict of interest and establish a conflict of interest policy for the health, safety and welfare of Township residents.

The purpose of this ordinance is to define "conflict of interest," as applied to all Township officials, in order to provide for fair, ethical, and accountable decisions and operations. No public office shall be used for personal gain nor shall any public official gain personal or pecuniary advantage from his or her work.

Section 2. Applicability

This ordinance shall apply to all members of the Township Board, Planning Commission, Zoning Board of Appeals, Board of Review, and Township committees or subcommittees, whether appointed or elected (hereinafter referred to as "Members"). The definition of "conflict of interest" in this ordinance supersedes any definitions of "conflict of interest" set forth in the by-laws, if any, of the Township Board, Planning Commission, Zoning Board of Appeals, Board of Review, or any other Township board, committee, or subcommittee.

Section 3. Conflict of Interest – Defined

A conflict of interest shall include, but is not limited to, a matter pending before a board, commission or committee identified in Section 2 in which:

- a. a Member has a direct pecuniary interest in the matter or in the outcome of the matter, if such interest would result in an incompatibility between the Member's private interests and the Member's fiduciary duties; or
- b. a person in the Member's immediate family has a direct pecuniary interest in the matter or in the outcome of the matter, known to the member at the time of voting, if such interest would result in an incompatibility between the Member's private interests and the Member's fiduciary duties. "Immediate family" means a Member's spouse, children,

stepchildren, grandchildren, parents, brothers, sisters, grandparents, parent's in-law, or any individual living in the Member's household.

Section 4. Procedure

- a. Before participating in a decision, hearing, or casting a vote on a matter on which a Member may reasonably have a conflict of interest as identified in Section 3, the Member shall publicly disclose the potential conflict of interest to the board, commission, or committee on which the Member serves.
- b. The Member who has disclosed a conflict of interest shall disqualify himself or herself at the outset of the hearing or discussion and shall not participate in the deliberations or decision. The Member shall not attempt to exert his or her personal influence with respect to the matter, either at or outside the meeting. The presence of the disqualified Member at the meeting shall not be counted in determining the presence of a quorum for purposes of the vote on the matter presenting the conflict of interest. The Member's ineligibility to vote shall be reflected in the minutes of the meeting.
- c. If the Member is an applicant submitting an application, contract, transaction, or any other matter to the board, commission, or committee, the Member may be present in the meeting room during the discussion to make a presentation and answer questions.
- d. If a Member plans not to attend a meeting at which he or she has reason to believe that the board, commission, or committee will act on a matter in which the Member has a conflict of interest, the Member shall disclose to the chair of the meeting all facts material to the conflict of interest. The chair shall report the disclosure at the meeting and the disclosure shall be reflected in the minutes of the meeting.
- e. If a majority of members are disqualified by reason of a conflict of interest and a quorum does not exist for the purpose of transacting business of the board, commission, or committee, then a non-conflicted member shall administer the selection of one or more conflicted members to participate in a matter, but only to the extent necessary to achieve a quorum. Selection of conflicted members shall occur at a public meeting by having the conflicted members draw straws of various lengths to ensure the selection of conflicted members is random. Conflicted members permitted to participate in the discussion and vote on any matter in which the member has a conflict shall be the conflicted members who draw the shortest to the longest straws, in that order. Conflicted members who are not necessary to achieve a quorum shall not participate in the discussion or vote on the matter in which they are conflicted.

Section 5. Violation Constitutes Malfeasance

Any violation of this Ordinance, including failure to disclose a conflict of interest, constitutes malfeasance in office that may result in disciplinary action including censure, reprimand, removal, dismissal, or discharge.

Section 6. Validity and Severability

A holding that any portion of this Ordinance is invalid has no effect on the validity of the remaining portions.

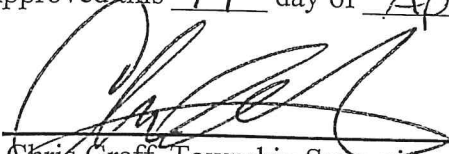
Section 7. Repealer Clause


Any ordinances, parts of ordinances or bylaw provisions of any board, commission, or committee outlined in Section 2 in conflict with this Ordinance are hereby repealed but only to the extent necessary to give this Ordinance full force and effect.

Section 8. Effective Date

This Ordinance shall take effect immediately after adoption and publication in a newspaper of general circulation in the Township.

Approved this 19 day of April, 2023.


Chris Graff, Township Supervisor


Pamela Brinkman, Township Clerk

I, Pamela Brinkman, Clerk of the Township of Elmwood, Tuscola County, Michigan, do hereby certify that Ordinance No. 2023-0420 was published in the Tuscola County Advertiser on the ~~26th~~ day of April, 2023.

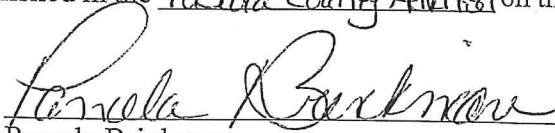

Pamela Brinkman,
Elmwood Township Clerk

EXHIBIT A

ELMWOOD TOWNSHIP
TOWNSHIP BOARD
ORDINANCE NO. 2023-0419

AN ORDINANCE TO AMEND THE TOWNSHIP ZONING ORDINANCE TO INCLUDE A MORATORIUM ON THE ISSUANCE OF PERMITS, LICENSES, OR APPROVALS FOR, OR FOR ANY CONSTRUCTION OF, COMMERCIAL SOLAR PROJECTS, AND TO REPEAL SECTIONS OF THE TOWNSHIP ZONING ORDINANCE PERTAINING TO COMMERCIAL SOLAR ENERGY SYSTEMS

ELMWOOD TOWNSHIP ORDAINS:

Section 1. Repeal and Replacement of Section 12.17.C of the Township Zoning Ordinance

Section 12.17.C of the Township Zoning Ordinance is repealed and replaced with the following:

Section 12.17.C. Moratorium on Commercial Solar Energy Systems

- 1: **Definition.** A “Commercial Solar Energy System” shall mean an energy system defined in Section 21.01 of the Zoning Ordinance.
- 2: **Purpose and Findings.** The purpose of this moratorium is to provide sufficient time for the Elmwood Township Planning Commission and Township Board to fully and thoughtfully explore, analyze, research, and make informed decisions regarding Commercial Solar Energy Systems. In support of this Ordinance, the Elmwood Township Planning Commission and Township Board have determined the following:
 - a. The integration of Commercial Solar Energy Systems within the Township's existing land uses requires suitable regulations and controls to ensure compliance with the Township's Master Plan and for the protection for the health, safety and welfare of all of the Township's residents.
 - b. The Township wishes to consider whether amendments to its Zoning Ordinance to regulate the establishment and use of Commercial Solar Energy Systems are necessary in order to better protect the public health, safety, and welfare of Township residents.
 - c. Imposing a moratorium, on a limited temporary basis, is reasonable and necessary in order to allow the Township time and space to fully and thoughtfully explore, analyze, research and develop any proposed zoning amendments regarding potential amendments to the Township's Zoning Ordinance applicable to Commercial Solar Energy Systems.
 - d. A moratorium should be imposed upon the issuance of any and all permits, licenses, and approvals for any property in the Township for the establishment and use of Commercial

Solar Energy Systems for 6 months, subject to further extensions by resolution adopted by the Township Board.

- e. Any section of the Township Zoning Ordinance that could be construed to permit Commercial Solar Energy Systems in the Township while the moratorium remains in effect is repealed.

3: **Moratorium.** A moratorium is hereby imposed upon the issuance of any and all permits, licenses, or approvals for any property in the Township for the establishment and use of Commercial Solar Energy Systems, so long as this Ordinance is in effect.

4. **Term of Moratorium; Renewal.** The moratorium imposed by this Ordinance remains in effect for 6 months following the effective date of this Ordinance. Before this moratorium expires, the Township Board may, by resolution, extend the moratorium for up to 3 additional months, if in its judgment the Township Board determines additional time is necessary. If an extension is adopted, the Township will publish notice of the resolution of extension.

Section 2. Validity and Severability.

Should any portion of this Ordinance be found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

Section 3. Repealer.

Any ordinances or parts of ordinances in conflict with this Ordinance, including but not limited to the ordinance adopted May 17, 2017, concerning solar energy systems, are hereby repealed but only to the extent necessary to give this Ordinance full force and effect. Specifically, but without limitation, any section of the Township Zoning Ordinance that could be construed to permit Commercial Solar Energy Systems in the Township while the moratorium remains in effect are repealed.

Section 4. Effective Date.

This Ordinance is effective as provided by law.

**ELMWOOD TOWNSHIP
ORDINANCE NO. 111**

**WIND ENERGY CONVERSION SYSTEM
MORATORIUM ORDINANCE**

An Ordinance pursuant to Public Act 246 of 1946, MCL 41.181, *et seq.*, to secure the health, safety and welfare of the citizens, residents and property owners of Elmwood Township, by imposing a moratorium on the establishment, placement, construction, enlargement and/or erection of Wind Energy Conversion Systems within the Township and on the issuance of any and all permits, licenses or approvals for any property subject to the Township's Zoning Ordinance for the establishment or use of Wind Energy Conversion Systems.

THE TOWNSHIP BOARD OF ELMWOOD TOWNSHIP, TUSCOLA COUNTY, MICHIGAN ORDAINS:

Section 1. Title

This ordinance shall be known as the "Elmwood Township Wind Energy Conversion System Moratorium Ordinance" (hereinafter referred to as "Ordinance").

Section 2. Purpose

The Township Board has become aware of significant number of options, easements and leases being secured within the Township by a number of companies for Wind Energy Conversion Systems. It is clear that applications for these Wind Energy Conversion Systems may be proliferating. The rapidly evolving technology and the unique location of wind corridors within the Township indicate that applications for the construction and location of Wind Energy Conversion Systems may be imminent.

The integration of these Wind Energy Conversion Systems within the Township's existing pattern of predominantly residential and agricultural land use emphasizes the need for suitable regulations and controls with reference to Wind Energy Conversion Systems.

The Township Board is vested with the authority to establish reasonable requirements and regulations to govern and control Wind Energy Conversion Systems within the Township in order to protect the public health, safety and welfare to the Township residents and their property.

The Township Board requires sufficient time for enactment of amendments to its Zoning Ordinance to establish reasonable regulations pertaining to the establishment, placement, construction, enlargement and/or erection of Wind Energy Conversion Systems in order to adequately protect the public health, safety and welfare of the Township residents.

Section 3. Definitions

When used in the ordinance:

A "Township Board" shall mean the Elmwood Township Board or such Committee or commission appointed by and to which the Elmwood Township Board's authority has been duly and properly delegated.

B. "Wind Energy Conversion Systems" shall include any combination of the following:

- a. A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
- b. A surface area such as a blade, rotor, or similar device, either variable or fixed, for utilizing the wind for electrical or mechanical power;
- c. 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;
- d. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy;
- e. The tower, pylon, or other structure upon which any, all or some combination of the above are mounted;
- f. Any other components not listed above but associated with the normal construction, operation, and maintenance of a wind energy conversion system.

Wind Energy Conversion Systems shall not include any of those exempt under Section 12.12.B of Elmwood Township Zoning Ordinance Amendment, Ordinance No. 106.

Section 4. Regulation

Pursuant to Public Act 246 of 1945, MCL 41.181, et. seq., the statutory powers vested in Elmwood Township (the Township) to regulate activities within the Township for protection of the health, safety and welfare of its residents, the Township Board hereby declares a moratorium, on a temporary basis, on the establishment, placement, construction, enlargement and/or erection of Wind Energy Conversion Systems within the Township and on the issuance of any and all permits, licenses or approvals for any property subject to the Township's Zoning Ordinance for the establishment or use of Wind Energy Conversion Systems, in order to allow time for review of and potential amendments to the Township's Zoning Ordinance.

Section 5. Duration of Ordinance

The moratorium shall remain in effect for a period of twelve (12) months following the effective date of the Ordinance or until the Wind Energy Conversion System regulations in the Township's Zoning Ordinance are amended, whichever occurs first. Before this moratorium expires, the Township may by resolution extend the moratorium as appropriate to allow sufficient time to complete amendments to its Zoning Ordinance. If an extension is adopted, the Township will publish notice of the extension.

Section 6. Severability

This Ordinance and the various parts, sentences, paragraphs, sections, subsections, phases and clauses are hereby declared severable, and if any of them are adjudged unconstitutional or invalid, it is hereby declared that the remainder of this Ordinance shall not be affected by such determination.

Section 7. Repealer

This Ordinance repeals Township Ordinance No. 110, Industrial Wind Energy Conversion System Moratorium Ordinance.

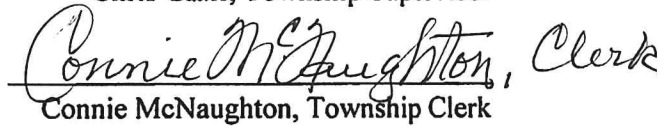
Section 8. Effective Date

This Ordinance shall become effective immediately upon publication as required by law following adoption by the Township Board.

The undersigned Supervisor and Clerk of the Township of Elmwood hereby certify that this Zoning Ordinance was duly adopted by the Township Board at the meeting held on the 3rd day of March, 2016, and was published the Tuscola County Advertiser on the 9th day of AUGUST 2016. This Zoning Ordinance shall take effect immediately upon publication.



Chris Graff, Township Supervisor



Connie McNaughton, Township Clerk

ELMWOOD TOWNSHIP

ORDINANCE NO. 112

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE
TO IMPLEMENT REGULATIONS REGARDING SOLAR ENERGY**

The Township of Elmwood ordains:

SECTION 1. ADD DEFINITIONS TO SECTION 21.01.

The following definitions are hereby added to Section 21.01 of the Zoning Ordinance and shall read as follows:

BUILDING INTEGRATED PHOTOVOLTAICS (BIPVs): A Private or Commercial Solar Energy System that is integrated into the structure of a building, such as solar roof tiles and solar shingles.

SOLAR ENERGY SYSTEM: Any part of a system that collects or stores solar radiation or energy for the purpose of transforming it into any other form of usable energy, including but not limited to the collection and transfer of heat created by solar energy to any other medium by any means.

PRIVATE SOLAR ENERGY SYSTEM: A Solar Energy System used exclusively for private purposes and not utilized for any commercial resale of any energy, except for the sale of surplus electrical energy back to the electrical grid.

COMMERCIAL SOLAR ENERGY SYSTEM: A Solar Energy System where the principal design, purpose or use of such system is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity.

ROOF OR BUILDING MOUNTED SOLAR ENERGY SYSTEM: A Private or Commercial Solar Energy System attached to or mounted on any roof or exterior wall of any principal or accessory building, but excluding BIPVs.

GROUND MOUNTED SOLAR ENERGY SYSTEM: A Private or Commercial Solar Energy System that is not attached to or mounted to any roof or exterior wall of any principal or accessory building.

**SECTION 2. ADDITION OF SECTION 12.17 TO ZONING ORDINANCE
ENTITLED "SOLAR ENERGY SYSTEMS".**

Section 12.17 entitled "SOLAR ENERGY SYSTEMS" is hereby added to the Township's Zoning Ordinance. The section shall read in its entirety as follows:

Section 12.17. SOLAR ENERGY SYSTEMS.

A. GENERAL REQUIREMENTS. All Solar Energy Systems are subject to the following general requirements:

1. All Solar Energy Systems must conform to the provisions of this Ordinance and all County, State, and Federal regulations and safety requirements as well as applicable industry standards.
2. Solar Energy Systems shall be located or placed so that concentrated solar glare shall not be directed toward or onto nearby properties or roadways at any time of the day.

B. PRIVATE SOLAR ENERGY SYSTEMS.

1. Private Solar Energy System BIVPs. Private Solar Energy System BIVPs shall be permitted in all zoning districts, provided such BIVPs conform to applicable County, State and Federal regulations and safety requirements, including the Michigan Building Code. A building permit shall be required for the installation of any BIVPs.

2. Roof or Building Mounted Private Solar Energy Systems. Roof or building mounted Private Solar Energy Systems shall be considered an accessory use in all zoning districts, subject to the following requirements:

- a) No part of the Solar Energy System erected on a roof shall extend beyond the peak of the roof. If the Solar Energy System is mounted on a building in an area other than the roof, no part of the Solar Energy System shall extend beyond the wall on which it is mounted.
- b) No part of a Solar Energy System mounted on a roof shall be installed closer than three (3) feet from the edges of the roof, the peak, or eave or valley in order to maintain pathways of accessibility.
- c) No part of a Solar Energy System mounted on a roof shall extend more than two (2) feet above the surface of the roof.
- d) In the event that a roof or building mounted Solar Energy System has been abandoned (meaning not having been in operation for a period of one (1) year), it shall be removed by the property owner within six (6) months from the date of abandonment.
- e) A building permit shall be required for installation of roof or building mounted Private Solar Energy Systems.

3. Ground Mounted Private Solar Energy Systems. Ground mounted Private Solar Energy Systems shall be considered an accessory use in all zoning districts, subject to the following requirements:

- a) Prior to the installation of a ground mounted Solar Energy System, the property owner shall submit a site plan to the Zoning Administrator. The site plan

shall include setbacks, panel size, and the location of property lines, buildings, fences, greenbelts, and road right of ways. The site plan must be drawn to scale.

b) A ground mounted Solar Energy System shall not exceed the maximum building height for adjacent accessory buildings, but in no case shall the maximum height of any ground mounted Solar Energy System exceed fifteen (15) feet above the ground when oriented at maximum tilt.

c) A ground mounted Solar Energy System shall be located in the rear yard and shall meet the rear yard setback requirements applicable in the zoning district in which the Solar Energy System will be located.

d) All power transmission or other lines, wires or conduits from a ground mounted Solar Energy System to any building or other structure shall be located underground. If batteries are used as part of the ground mounted Solar Energy System, they must be placed in a secured container or enclosure.

e) There shall be greenbelt screening around any ground mounted Solar Energy Systems and equipment associated with the system to obscure, to the greatest extent possible, the Solar Energy System from any adjacent residences. The greenbelt shall consist of shrubbery, trees, or other non-invasive plant species that provide a visual screen. In lieu of a planting greenbelt, a decorative fence (meeting the requirements of this Ordinance applicable to fences) may be used.

f) No more than 20% of the total lot area may be covered by a ground mounted Solar Energy System.

g) In the event that a ground mounted Solar Energy System has been abandoned (meaning not having been in operation for a period of one (1) year), it shall be removed by the property owner within six (6) months from the date of abandonment.

h) A building permit shall be required for installation of a ground mounted Solar Energy System.

C. COMMERCIAL SOLAR ENERGY SYSTEMS. Commercial Solar Energy Systems shall only be allowed in the Agricultural District or the Industrial District as a special use approved by the Planning Commission. In addition to any other requirements for special use approval, Commercial Solar Energy Systems shall be ground mounted and are subject to the following requirements:

1. The property owner or applicant for a Commercial Solar Energy System shall provide the Planning Commission with proof of ownership of the subject property, a copy of any lease agreement for a commercial solar energy system, together with an operations agreement, which shall set forth the operations parameters, the name and contact information of the certified operator, inspection protocol, emergency procedures and general safety documentation.

2. Commercial Solar Energy Systems shall be located on parcels of land no less than twenty (20) acres in size.
3. The Commercial Solar Energy System shall meet the minimum front, side and rear yard setbacks of the zoning district.
4. The height of the Commercial Solar Energy System and any mounts shall not exceed fifteen (15) feet when oriented at maximum tilt.
5. Landscaping shall be provided to screen the system from view on all sides to the greatest extent possible.
6. Prior to installation, the applicant shall submit a descriptive site plan to the Planning Commission which includes where and how the Commercial Solar Energy System will connect to the power grid.
7. No commercial solar energy system shall be installed until evidence has been given to the Planning Commission that the electric utility company has agreed to an interconnection with the electrical grid or a power purchase agreement. Any such agreement shall be furnished to the Planning Commission.
8. To ensure proper removal of a Commercial Solar Energy System upon discontinued use or abandonment, applications shall include a description of the financial security guaranteeing removal of the system which must be posted with the Township within fifteen (15) days after approval or before a construction permit is issued for the facility. The financial security shall be: 1) a cash bond; or 2) an irrevocable bank letter of credit or a performance bond, in a form approved by the Township. The amount of such guarantee shall be no less than the estimated cost of removal and may include a provision for inflationary cost adjustments. The estimate shall be prepared by the engineer for the applicant and shall be subject to approval by the Township.
9. If the owner of the facility or the property owner fails to remove or repair the defective or abandoned Commercial Solar Energy System, the Township, in addition to any other remedy under this Ordinance, may pursue legal action to abate the violation by seeking to remove the Solar Energy System and recover any and all costs, including attorney fees.

SECTION 3. VALIDITY AND 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. REPEALER.

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

SECTION 5. EFFECTIVE DATE.

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

Approved this 17 day of May, 2017.

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TOWNSHIP OF ELMWOOD

ZONING ORDINANCE AMENDMENT

**PUBLIC UTILITY FACILITIES, COMMUNICATION TOWERS,
AND WIND ENERGY CONVERSION SYSTEMS**

Ordinance Number 106

An ordinance to amend the Elmwood Township Zoning Ordinance, to provide for public utility facilities, communication towers, and wind energy systems.

THE TOWNSHIP OF ELMWOOD ORDAINS:

The following Sections of the Elmwood Township Zoning Ordinance are hereby amended to provide as follows:

Section 5.02.J. Communications towers and wind energy conversion systems, subject to the requirements of Section 12.12.

Section 8.02.D. Communications towers and wind energy conversion systems, subject to the requirements of Section 12.12.

Section 9.02.E. Communications towers and wind energy conversion systems, subject to the requirements of Section 12.12.

Section 12.12. PUBLIC UTILITY FACILITIES, COMMUNICATION TOWERS, AND WIND ENERGY SYSTEMS.

- A. **Public Utilities.** Certain facilities provided by public utility companies or by the Township government shall be permitted in all zoning districts. Facilities permitted by this Section shall include transmission lines, sewer lines, water mains, pumping stations, substations, poles, and related equipment. Any equipment enclosures, substations, equipment storage buildings or similar structures shall be subject to the site plan review requirements of Article XV. Any office, manufacturing, or sales buildings must be located in the Commercial or Industrial zoning district. All communication towers or commercial wind energy conversion systems operated by public utility companies shall be subject to the requirements of subsections C and D below.
- B. **Exempt Towers and Wind Energy Conversion Systems (WECS).** Communication towers, antennas, wind energy conversion systems, windmills, and related facilities located on the premises of a farm, home, or business and which do not primarily involve the sale of electricity or communication services off the premises shall be exempt from the requirements of subsections C and D. Such units shall be allowed as a permitted accessory use in all zoning districts, providing the electricity or communication services are primarily used on site for

a farm, home or business. Communication antennas shall include equipment used by ham radio operators, as well as residential television, radio, and internet antennas. An antenna, tower, or related facilities shall not exceed eighty (80) feet in height. The height shall be measured from the ground level to the top of the tower or antenna. In the case of a WECS, the total height with the blade fully extended shall not exceed one hundred thirty (130) feet and the minimum clearance from ground level to the blade at its lowest point shall be twenty (20) feet. The minimum setback from property lines and road right of way lines shall be equal to 125% of the height of the unit, measured with the windmill blade at its highest point.

- C. Communication Towers. All communication towers, including transmission towers, relay or receiving antennas, and normal accessory facilities involved in telephone, television, radio, microwave, cable systems, cellular, and similar communication services, shall be allowed as special land uses in the AR Agricultural Residential, C Commercial, and I Industrial Zoning Districts, pursuant to Article XVI, subject to the following requirements:
1. The applicant shall submit a site plan in full compliance with Article XV of this Ordinance. The applicant shall also submit a written statement and technical verification regarding the nature of any transmissions, electromagnetic fields, and any other radiation emitted from the facility, any potential hazards to humans, animals, vegetation or property in the area, and whether the tower will cause any interference with transmissions to existing facilities. The applicant shall also submit a written explanation of the design characteristics and the ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards. This information shall address the potential for the tower or other mounting structure and/or antennas to topple over or collapse, and what tower configuration should be expected in such an event. Technical documentation of any information regarding these concerns shall also be provided as well as technical data as to compliance with all FCC and FAA requirements.
 2. The minimum setback from any property line or road right-of-way shall be equal to 125% of the height of the tower. The maximum height of the tower shall be two hundred (200) feet.
 3. A communication tower shall not be injurious to the public safety or to the occupants of nearby properties.
 4. All towers and related equipment shall be designed to be as harmonious as possible in style and building materials to the surrounding area and shall be designed to have the least possible adverse aesthetic impact on the area.
 5. Monopole antenna structures shall be encouraged in all areas where technologically feasible. "Web" or "lattice" type towers shall not be

allowed, unless absolutely necessary for structural reasons.

6. All tower bases and related equipment shall be screened from view and shall be surrounded by a full perimeter fence to prevent unauthorized access. The fence shall have locked gates and shall be cyclone fence at least eight (8) feet in height.
7. No tower shall be located within two (2) miles of any other tower.
8. In order to maximize the efficiency of the provision of telecommunication services, while also minimizing the impact of such facilities on the Township, co-location, or the provision of more than one (1) antenna and more than one (1) user on a single tower at a single location, shall be strongly encouraged. Before approval is granted for a new facility, the applicant shall demonstrate that it is not feasible to co-locate at an existing site.
9. Co-location shall be deemed to be “feasible” for the purposes of this Section, where all of the following are met:
 - (a) The site on which co-location is being considered, including reasonable modification or replacement of a facility, is able to provide structural support.
 - (b) The co-location being considered is technologically reasonable, i.e., the co-location will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
 - (c) Existing towers or structures are located within the geographic area which meet the applicant’s engineering requirements.
 - (d) The fees, costs or contractual provisions required in order to share an existing tower or structure or to adapt an existing tower or structure for co-location are not unreasonable. For the purposes of this paragraph, costs exceeding new tower development are presumed to be unreasonable.
10. Applicants receiving approval for a tower shall agree to allow co-location on the tower for reasonable market compensation as long as the conditions described in subsections C.9(a)(b)(c) and (d) are met.
11. A condition of every approval shall be adequate provision for the removal of the structure whenever it ceases to be used for one hundred eighty (180) days or more. The Planning Commission can grant an extension of an additional one hundred eighty (180) days upon a showing by the owner that the structure will be put back into use. Removal shall include the

proper receipt of a demolition permit from the Building Official and proper restoration of the site to the satisfaction of the Building Official and the Zoning Administrator. Removal of the structure and its accessory use facilities shall include removing the caisson and all other components to a depth of at least eight (8) feet below grade. This area shall then be filled and covered with top soil and restored to a state compatible with the surrounding land. Restoration must be completed within ninety (90) days of abandonment.

12. To ensure proper removal of the structure when it is abandoned, any application for approval of a structure shall include a description of the financial security to be posted at the time of receiving a building permit. The security shall be in the form of: 1) cash deposit; 2) irrevocable bank letter of credit for the full term of lease; or 3) performance bond for the full term of the lease in a form approved by the Township Attorney, establishing the obligation of the applicant to remove the structure in a timely manner. The amount of such guarantee shall be no less than one hundred ten (110%) percent of the estimated cost of removal. The estimate shall be prepared by the engineer for the developer and approved by the Building Inspector and Zoning Administrator. 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. Such financial guarantee shall be deposited or filed with the Township Clerk after a special use has been approved but before construction commences on a communication tower. Such financial security shall be kept in full force and effect during the entire time that the structure exists. Such financial security shall be irrevocable and non-cancelable (except by the written consent of both the Township and the then owner of the structure) for at least thirty (30) years from the date of the special land use approval. Failure to keep such financial security in full force and effect at all times while the structure exists shall constitute a material and significant violation of a special use approval and this ordinance, and will subject the applicant to all available remedies to the Township, including possible enforcement action and revocation of the special use approval. The applicant shall be responsible for the payment of any attorney fees and other costs incurred by the Township in the event that the structure is not voluntarily removed and the Township has to enforce removal.

D. Commercial Wind Energy Conversion Systems (WECS). Wind energy conversion systems and WECS testing facilities, other than those exempted under subsection B above, shall only be allowed as special land uses in the AR Agricultural-Residential, C Commercial, and the I Industrial Zoning Districts, pursuant to Article XVI as to Special Land Use approvals and the following requirements:

1. An escrow account shall be set up when the applicant applies for a Special Use Permit for a WECS or WECS Testing Facility. The monetary amount

filed by the applicant with the Township shall be in an amount estimated by the Township Board to cover all reasonable costs and expenses associated with the special use zoning review and approval process, which costs can include, but are not limited to, fees of the Township Attorney, Township Planner, and Township Engineer, as well as any reports or studies which the Township anticipates it may have done related to the zoning review process for the particular application. Such escrow amount shall include regularly established fees. At any point during the zoning review process, the Township may require that the applicant place additional monies into escrow with the Township should the existing escrow amount filed by the applicant prove insufficient. If the escrow account needs replenishing and the applicant refuses to do so within fourteen (14) days after receiving notice, the zoning review and approval process shall cease until and unless the applicant makes the required escrow deposit. Any escrow amounts which are in excess of actual costs shall be returned to the applicant. An itemized billing of all expenses shall be provided to the applicant.

2. At the Township's request, the applicant shall fund an environmental assessment or impact study and/or other relevant report(s) or studies (including, but not limited to, assessing the potential impact on endangered species, eagles, birds, and/or other wildlife) as required by the Township for review. Any study shall be limited to the area within the Township boundaries or areas within an adjacent three (3) miles. Each such study or report shall be provided to the Township prior to the time when the Planning Commission makes its final decision regarding the special use request.
3. At the Township's request, the applicant shall fund an economic impact study for review by the Township of the area affected by the WECS. Such study or report shall be provided to the Township prior to the time when the Planning Commission makes its final decision regarding the Special Use request. Such a study shall include probable financial impact as to jobs, tax revenue, lease payments and property values.
4. The applicant shall submit a site plan in full compliance with Article XV of this Ordinance. The applicant shall also submit a written explanation of the design characteristics and the ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards as well as information as to the potential for vibration, shadow flicker, and blade ice deposits on nearby residences. This information shall also address the potential for the windmill to topple over or collapse, and what tower configuration should be expected in such an event. Additional requirements for a WECS site plan are as follows:

- (i) Additional detail(s) and information as requested by the Planning Commission.
5. The minimum setback from any property line of a non-participating property owner or any road right-of-way shall be equal to 150% of the height of any WECS or WECS Testing Facility, measured with the windmill blade at its highest point.
6. The minimum clearance from ground level to the blade at its lowest point shall be twenty (20) feet. The maximum height of a WECS shall be five hundred (500) feet measured with the windmill blade at its highest point.
7. The wind energy conversion system shall not be unreasonably injurious to the public health and safety or to the health and safety of occupants of nearby properties.
8. All WECS bases and related equipment shall be surrounded by a full perimeter fence to prevent unauthorized access. The fence shall have locked gates and shall be cyclone fence at least eight (8) feet in height. The applicant may propose alternate means of access control which may be approved at the discretion of the Planning Commission. The site and the base area shall be continuously maintained in a neat manner.
9. The WECS and related equipment shall comply with all current guidelines published by the Energy Office of the State of Michigan or its successor agency, unless this ordinance mandates more stringent requirements.
10. Blade arcs created by a WECS shall have a minimum of seventy-five (75') feet of clearance over and from any structure or adjoining property of a non-participating property owner. The minimum blade or rotor clearance above ground level shall be at least twenty (20') feet.
11. Each WECS shall be equipped with a braking device capable of stopping the WECS operation in high winds.
12. Each WECS and Testing Facility shall have one sign, not to exceed two square feet in area, posted at the base of the tower. The sign shall contain at least the following:
 - (a) Warning high voltage.
 - (b) Owner's name and operator's name.

- (c) Emergency telephone numbers (list more than one number).
 - (d) If fenced, place signs on the perimeter fence at the tower base.
13. Each WECS and Testing Facilities shall be designed, constructed and operated so as not to cause radio and television or other communication interference. In the event that verified interference is experienced, the applicant must provide alternate service to each individual resident or property owner affected within thirty (30) days of receipt of the complaint.
 14. Noise emissions from the operation of a WECS and Testing Facilities shall not exceed forty-five (45) decibels on the DBA scale as measured at the nearest property line of a non-participating property owner or road. A baseline noise emission study of the proposed site and impact upon all areas within one mile of the proposed WECS location must be done (at the applicant's cost) prior to any placement of a WECS and submitted to the Township. The applicant must also provide estimated noise levels to property lines at the time of a Special Use application.
 15. All electrical connection systems and lines from the WECS to the electrical grid connection shall be located and maintained underground (both on the property where the WECS will be located and off-site). The Planning Commission may waive the requirement that distribution lines for the WECS which are located off-site (i.e., are not located on or above the property where the WECS will be located) be located and maintained underground if the Planning Commission determines that to install, place, or maintain such distribution lines underground would be impractical or unreasonably expensive.
 16. Each WECS and Testing Facility must be kept and maintained in good repair and condition at all times. If a WECS is not maintained in operational and reasonable condition or poses a potential safety hazard, the applicant shall take expeditious action to correct the situation. The applicant shall keep a maintenance log on each WECS which the Township can review on request.
 17. Any damages to a public road located within the Township resulting from the construction, maintenance, or operation of a WECS or Testing Facility shall be repaired at the applicant's expense pursuant to Tuscola County Road Commission requirements.
 18. The applicant shall insure each WECS at all times for at least \$2,000,000 for liability to cover the applicant, Township and landowner.
 19. A WECS shall be painted a non-obtrusive (light environmental color such as beige, gray or off-white) color that is non-reflective. The wind turbine base and blades shall be of a color consistent with all other turbines in the

- area. No striping of color or advertisement shall be visible on the blades or tower.
20. All efforts shall be made not to affect any resident with any strobe effect or shadow flicker.
 21. Under no circumstances shall a WECS or Testing Facility produce vibrations or wind currents humanly perceptible beyond the property boundaries of participating property owners where the WECS or Testing Facility is located.
 22. The applicant shall be responsible for compensation to persons damaged due to any stray voltage caused by a WECS.
 23. In addition to the other requirements and standards contained in this section, the Planning Commission shall not approve any WECS or Testing Facilities unless it finds that the WECS or Testing Facility will not pose a safety hazard or unreasonable risk of harm to the occupants of any adjoining properties or area wildlife.
 24. The provisions of subsections C.11 and C.12 as to structure removal and financial guarantees shall be complied with as to all WECS and WECS testing facilities approved pursuant to this subsection.

Section 21.01. DEFINITIONS.

Communication Tower or Antenna. A radio, telephone, cellular telephone or television relay structure or antenna attached directly to the ground or to another structure, used for the transmission or reception of radio, television, microwave, or any other form of telecommunications signals.

Survival Wind Speed: The maximum wind speed, as designated by the WECS manufacturer, at which a WECS in unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.

WECS Applicant. The person, firm, corporation, company, limited liability corporation or other entity which applies for Township approval for a WECS or Testing Facility, as well as the applicant's successors, assigns and/or transferees. An applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own, and operate the WECS or Testing Facility. The duties and obligations regarding a zoning approval for any approved WECS or Testing Facility shall be with the owner of the WECS or Testing Facility, and jointly and severally with the owner and operator or lessee of the WECS or Testing Facility if different than the owner.

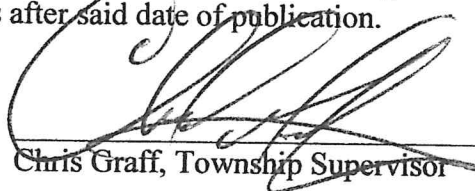
Wind Energy Conversion System (WECS). Means any combination of the following:

- a. A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
- b. A surface area such as a blade, rotor, or similar device, either variable or fixed, for utilizing the wind for electrical or mechanical power;
- c. 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;
- d. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy;
- e. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.
- f. Any other components not listed above but associated with the normal construction, operation, and maintenance of a wind energy conversion system.

Wind Energy Conversion System (WECS) Testing Facility. A structure and equipment such as a meteorological tower for the collection of wind data and other meteorological data and transmission to a collection source. Such a facility shall not be deemed to be a communication tower regulated by subsection 12.12.C.

REPEAL. The former Zoning Ordinance Section 12.12 and the former Zoning Ordinance Amendment No. 106, adopted on November 12, 2008, are hereby repealed and replaced with the provisions of this amendment.

The undersigned Supervisor and Clerk of the Township of Elmwood hereby certify that this Zoning Ordinance Amendment was duly adopted by the Township Board at a meeting held on the 21 day of September, 2011, and was published in the Tuscola County Advertiser on the _____ day of _____, 2011. This Zoning Ordinance Amendment shall take effect seven (7) days after said date of publication.


Chris Graff, Township Supervisor


Amy Lowman, Township Clerk

TOWNSHIP OF ELMWOOD
MEDICAL MARIJUANA ORDINANCE
ORDINANCE NO. 108

An Ordinance to regulate the use, possession, growing and distribution of medical marijuana by caregivers and patients within the Township.

THE TOWNSHIP OF ELMWOOD ORDAINS:

Section 1: Findings, Intent and Purpose of Ordinance.

The Township of Elmwood adopts this Ordinance based on the following findings:

A. In 2008, the voters of the State of Michigan adopted by initiative election a statute authorizing the limited use, growing, and distribution of marijuana for certain medical conditions.

B. The stated intent of the statute approved by the voters was to enable certain specified persons who comply with the registration provisions of the law to legally obtain, possess, grow, use and distribute marijuana and to assist specifically registered individuals identified in the statute without fear or criminal prosecution under limited, specific circumstances.

C. Despite the provisions of the medical marijuana legislation, marijuana is still a controlled substance under Michigan law and the limited legalization of medical marijuana has a potential for abuse that should be closely monitored and to the extent permissible regulated by local authorities.

D. Pursuant to the rules adopted (R333.125) under the Michigan Medical Marijuana Act, additional felony penalties apply to any caregiver who is convicted of distributing marijuana to someone not allowed to use marijuana for medical purposes.

E. It is the intention of the Township that nothing in this Ordinance be construed to allow persons to engage in conduct that endangers others or causes a public nuisance, or to allow the use, possession, growing, distribution or consumption of marijuana for non-medical purposes that is otherwise illegal. This Ordinance is not intended to condone, authorize or provide immunity from prosecution for violations of state law, but rather only to describe the type of conduct which constitutes a violation of this Ordinance.

F. It is the purpose of this Ordinance to impose specific requirements for those individuals registering with the State of Michigan as “qualifying patients” or “primary caregivers” as those terms are defined by MCL 333.26421, the Michigan Medical Marijuana Act, and to regulate the conduct of activity pursuant thereto so as to protect the public health, safety and welfare.

Section 2: Definitions.

The definition of words and terms used in this Ordinance shall be the definitions contained in the Michigan Medical Marijuana Act, MCL 333.26421 et seq.

In addition, for purposes of this Ordinance, a “dispensary” is defined as any location providing Medical Marijuana to qualified patients.

Section 3: Prohibited Conduct.

a) Medical Marijuana Compensation Restrictions:

No person shall receive or share in compensation for the costs associated with assisting a qualifying patient with the medical use of marijuana to a qualifying patient except for a registered caregiver who is distributing marijuana to a qualifying patient that the registered caregiver is connected through the Michigan Department of Community Health’s registration process and the transaction is otherwise in compliance with the Michigan Medical Marijuana Act. No qualifying patient shall receive compensation for costs associated with assisting other qualifying patients with the medical use of marijuana unless the qualifying patient providing the assistance is a registered primary caregiver connected to the qualifying patient receiving the marijuana through the Michigan Department of Community Health’s registration process and the transaction is otherwise in accordance with the Michigan Medical Marijuana Act.

b) Medical Marijuana Possession Limits.

No primary caregiver or qualifying patient shall possess marijuana or marijuana plants in excess of the amount he or she is allowed to possess under MCL 333.26424(b). The possession limits for a registered caregiver under the Michigan Medical Marijuana Act are as follows:

1) 2.5 ounces of usable marijuana for each qualifying patient that is connected to the caregiver.

2) 12 marijuana plants kept in an enclosed, locked facility, for each registered qualifying patient who has specified that the qualified caregiver will be allowed to cultivate marijuana for the qualifying patient.

3) Any incidental amount of seeds, stalks, and usable roots.

The possession limits for a qualifying patient under the Michigan Medical Marijuana Act are as follows:

1) 2.5 ounces of usable marijuana.

2) 12 marijuana plants kept in an enclosed, locked facility provided that the qualifying patient has not specified that a primary caregiver will be allowed to cultivate marijuana for the qualifying patient.

3) Any incidental amount of seeds, stalks, and unusable roots shall also be allowed under state law and shall not be included in this amount.

c) Entity Restrictions.

The following entities are expressly prohibited from receiving compensation for costs associated with assisting a registered qualifying patient in the medical use of marijuana: corporations, limited liability companies, and partnerships, or any other entity other than an individual registered caregiver.

d) Common Facilities Restrictions.

It shall be a violation of this Ordinance for any person to participate as a registered primary caregiver in a jointly operated facility where primary caregivers jointly share building space which is used in common to assist more than 5 qualifying patients with the medical use of marijuana. Use "in common," as that phrase is used in this subparagraph, shall include a shared or common reception area or shared or common customer service area.

e) Restrictions Against Delegation of Caregiver Functions.

It shall be a violation of this Ordinance for a primary caregiver to delegate to an employee or other person not independently and specifically authorized by the Michigan Medical Marijuana Act to provide assistance with the medical use of marijuana to the specific qualifying patient.

f) Continued Illegality of Non-Medical Marijuana.

The sale, distribution, cultivation, possession and use of marijuana or marijuana plants is prohibited to the extent it is in violation of the Michigan Medical Marijuana Act or other Michigan statutes.

g) No medical marijuana caregiver or patient shall:

- (1) Undertake any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice.
- (2) Possess or engage in the use of medical marijuana:
 - (A) In a school bus;
 - (B) On the grounds of any preschool or primary or secondary school;
- (3) Smoke marijuana in any public place.
- (4) Operate or be in actual physical control of any motor vehicle, while under the influence of marijuana.

Section 4: Dispensaries and Growing Facilities For Medical Marijuana.

It shall be unlawful for any "primary caregiver," as defined by the Michigan Medical Marijuana Act, to dispense or grow medical marijuana within any retail store, storefront, office building, manufacturing building, processing facility, or any other type of commercial or industrial building located within the Township.

Section 5: Requirements for Primary Caregivers.

A person who has been issued and possesses a Michigan registration identification card as a "primary caregiver" shall:

- A. Comply with all applicable statutes, including the Michigan Medical Marijuana Act;
- B. Have hours of operation which do not extend beyond 8:00 a.m. to 9:00 p.m. Monday through Saturday.

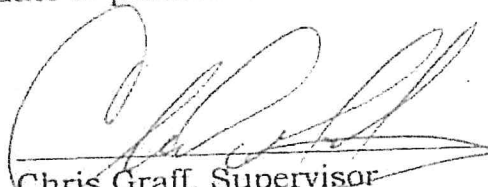
Section 6: Severability.

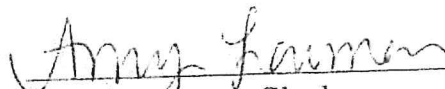
Sections of this Ordinance shall be deemed severable and should any section, clause or provision of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

Section 7: Penalty.

Any person, firm, or corporation who shall violate any provision of this Ordinance shall be deemed responsible of violating a municipal civil infraction and shall, upon finding thereof, be subject to a fine of not more than One Hundred and 00/100 (\$100.00) Dollars, plus Court costs and costs of prosecution not to exceed Five Hundred and 00/100 (\$500.00) Dollars, both at the discretion of the Court. Each day that a violation occurs shall be considered a separate offense. The Township may in addition seek injunctive relief.

Adopted by the Township Board of the Township of Elmwood, Michigan on the 20th day of July, 2011 and published in the Trois Rivieres Advertiser, on the _____ day of August, 2011. This Ordinance shall become effective twenty (20) days after said date of publication.


Chris Graff, Supervisor


Amy Lowman, Clerk

ELMWOOD TOWNSHIP

ORDINANCE NO. R-2019-1

**ORDINANCE PROHIBITING MARIHUANA ESTABLISHMENTS
UNDER INITIATED LAW 1 OF 2018, THE MICHIGAN REGULATION AND
TAXATION OF MARIHUANA ACT**

ELMWOOD TOWNSHIP ORDAINS:

Section 1. Findings.

1. On November 6, 2018, Michigan voters approved Initiated Law 1 of 2018, known as the Michigan Regulation and Taxation of Marihuana Act (“MRTMA”). Among other things, the MRTMA makes marihuana legal under state and local law for adults 21 years of age or older, makes industrial hemp legal under state and local law, and controls the commercial production and distribution of marihuana under a system that licenses, regulates, and taxes the businesses involved.
2. Section 6 of the MRTMA authorizes a municipality to completely prohibit or limit the number of marihuana establishments within its boundaries. A “marihuana establishment” under the MRTMA means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the Michigan Department of Licensing and Regulatory Affairs.
3. The Township has considered the potential benefits, challenges, and costs of permitting marihuana establishments within its boundaries and has determined that prohibiting marihuana establishments is in the best interest of the public health, safety, and welfare.

Section 2. Prohibition on Marihuana Establishments.

Pursuant to Section 6 of the MRTMA, the Township prohibits marihuana establishments within its boundaries.

Section 3. Scope.

Nothing in this Ordinance shall be construed to prohibit activities that are permitted under the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 *et seq.*

Section 4. Validity and 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 5. Repealer Clause.

Any ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 6. Effective Date.

This Ordinance shall take effect immediately upon publication.

4486392-1

TOWNSHIP OF ELMWOOD

ORDINANCE NO. 052522

MOBILE HOME AND TRAILER COACH ORDINANCE

An Ordinance to protect the public health, safety and general welfare from the potential adverse effects from the use of mobile homes and trailer coaches as temporary dwelling units in the Township and to repeal any ordinances or parts of ordinances in conflict herewith and to provide for an effective date.

TOWNSHIP OF ELMWOOD ORDAINS:

SECTION 1. TITLE.

This Ordinance shall be known and cited as the Elmwood Township Mobile Home and Trailer Coach Ordinance.

SECTION 2. PURPOSE.

Elmwood Township recognizes the need to regulate temporary dwelling units to protect the health, safety and welfare of the public and to minimize adverse impacts on adjacent properties. However, the Township recognizes that, in certain limited circumstances and for a limited duration, temporary dwellings are appropriate and necessary. The purpose of this Ordinance is to protect the public health, safety and general welfare of the residents of the Township from the potential detrimental impacts from the temporary use of mobile homes and trailer coaches as dwelling units in the Township by enacting certain regulations and restrictions.

SECTION 3. DEFINITIONS.

Words used in the present tense include the future; words used in the singular include the plural; and words used in the plural number include the singular; and the word "shall" is mandatory and not merely directory.

For the purpose of this Ordinance, certain terms and words are defined as follows:

"Mobile Home" or "Trailer Coach" means any movable vehicular unit with or without motive power, designed to permit occupancy as a dwelling or sleeping place by one or more persons.

"Trailer Coach Park" means any tract, lot, site, parcel of land, or field arranged or designed to accommodate three or more trailer coaches or mobile homes for either transient, temporary or more or less permanent type of occupancy.

SECTION 4. GENERAL PROVISIONS.

From and after the effective date of this Ordinance, it shall be unlawful for any person to use, within the limits of Elmwood Township, any mobile home or trailer coach for dwelling purposes or any other purpose, except as provided and permitted by this Ordinance.

- A. The Township Board may permit, upon application, the use of a trailer coach or mobile home as a temporary dwelling for a period of one year when the occupant of said trailer coach is definitely engaged in the erection of a permanent dwelling on the same lot and when necessary and proper health, sanitation, plumbing and fresh water facilities are provided. If substantial progress has been made toward the completion of the permanent dwelling the Township Board may grant an extension of an additional period not exceeding one (1) year.

- B. A trailer coach that is used for traveling purposes (and by extension, temporary or transient dwelling) by one or more persons who are not residents of the principal dwelling unit is permitted, provided that (i) only one trailer coach shall be permitted on any tract, lot, site or parcel of land at any time; (ii) the parking or storage of the trailer coach complies with any and all applicable Township ordinances; (iii) the owners or occupants of the trailer coach use the toilets, bathing and laundry facilities of the principal dwelling unit located on the tract, lot, site or parcel of land where the trailer coach is parked or stored; and (iv) no trailer coach used for temporary or transient dwelling shall be located on any tract, lot, site or parcel of land for a period longer than thirty (30) days in one calendar year without a permit from the Township. The Township Board may extend this period at its discretion, provided application is made in writing to the Township Board.

- D. Mobile Homes and Trailer Coaches shall be permitted when located on a farm of forty (40) acres or more under a "Temporary Permit" for the occupancy of migratory farm workers. Said farm owner or Lessee shall first make written application through the Township Clerk, who shall issue a permit for one (1) or more mobile homes or trailer coaches. Mobile homes or trailer coaches permitted by this subsection (i) shall not be located less than two hundred (200) feet away from any public highway and/or boundary of adjoining property; and (ii) shall have adequate fresh water supply and sanitary facilities. A permit issued under this subsection shall be effective for a period of one (1) year.

- E. Mobile Homes and Trailer Coaches shall be permitted when located on a tract, lot, site, or parcel of land approved by the Township under a "Temporary Permit" for the occupancy of construction workers for a specific job. The Employer shall first make written application through the Township Clerk, giving all pertinent data, including description of land to be used and the number of mobile homes or trailer coaches to be used. Mobile homes or trailer coaches permitted by this subsection (i) shall not be located less than two hundred (200) feet away from any public highway and/or boundary of adjoining property; and (ii) shall have

adequate fresh water supply and sanitary facilities. A permit issued under this subsection shall be effective for a period not to exceed one (1) year. The Township Board may extend this period at its discretion, provided application is made in writing to the Township Board establishing good cause for the extension.

- F. A trailer coach shall be permitted to be openly parked on any tract, lot, site, parcel of land, or field, provided that (i) the trailer coach is not used for temporary or permanent dwelling; (ii) the trailer coach shall not be located closer than ten (10) feet to any side or rear property line or less than one hundred (100) feet away from any public highway; and (iii) any open parking or storage of a trailer coach is subject to any rule, restriction or ordinance governing the use of the tract, lot, site or parcel of land.

SECTION 5. REVOCATION OF PERMISSION.

It is hereby provided that should any one or more of the following conditions exist on any tract, lot, site, parcel of land, or field where a mobile home or trailer coach is permitted pursuant to this Ordinance, such permission granted by the Township may be immediately revoked by the Township by written notice to the owner of such tract, lot, site, parcel of land, or field:

- A. More than one mobile home or trailer coach is located on the same tract, lot, site, or parcel of land if not expressly permitted by the Township.
- B. An accessory structure, garage or storage shed is erected adjacent to or in close proximity of a mobile home or trailer coach;
- C. A mobile home is not connected to a fresh water supply and septic tank and drain field sewerage system.
- D. The yards surrounding a mobile home or trailer coach is ill kept and unsightly to the extent of being an eyesore or a nuisance.

SECTION 7. PERMIT REQUIRED.

Except as provided under Section 4.B of this Ordinance, establishment of trailer coach or mobile home for temporary or transient dwelling shall be by permit and under such safeguards and conditions as the Elmwood Township Board shall prescribe.

SECTION 8. VIOLATION - PENALTY.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Ordinance shall be responsible for a municipal civil infraction. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 9. VALIDITY.

Should any section, clause or provision of this Ordinance be declared by any Court of competent jurisdiction to be invalid; the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

SECTION 10. ENFORCEMENT.

Any Township official authorized to issue civil infractions citations and municipal civil infractions violation notices pursuant to the Elmwood Township Code of Ordinances is permitted to enforce the terms of this Ordinance.

SECTION 11 REPEALER CLAUSE

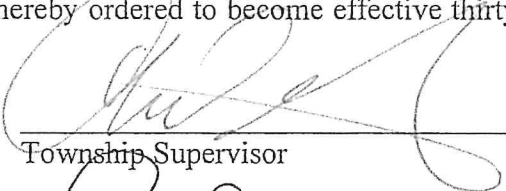
Any other ordinance or parts of ordinances in conflict herewith are hereby repealed but only to the extent necessary to give this Ordinance full force and effect.

SECTION 12 EFFECTIVE DATE

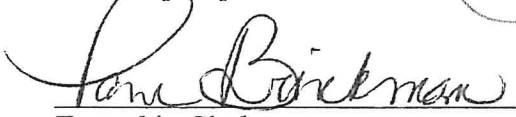
This Ordinance shall be effective thirty (30) days after publication or as otherwise required by law.

The Township Board, the Township Attorney, the County Health Officer, the Prosecuting Attorney of Livingston County, any owner or owners of real estate within the area or any other aggrieved person may institute injunction, mandamus, abatement or other appropriate proceedings to correct violations of this Ordinance.

The provisions of this Ordinance are hereby declared to be necessary for the preservation of the public health, safety and general welfare and are hereby ordered to become effective thirty (30) days after publication.



Township Supervisor



Township Clerk

EXHIBIT A

TOWNSHIP OF ELMWOOD

ORDINANCE AMENDING ORDINANCE NO. 101 BLIGHT ORDINANCE

An ordinance to protect the public health, safety and general welfare by eliminating blight within Elmwood Township; to define and prohibit blight; and to provide penalties for violation hereof.

THE TOWNSHIP OF ELMWOOD ORDAINS:

Section 1. Amendment of Blight Ordinance.

Ordinance No. 101 "Blight Ordinance" is hereby amended to read, in its entirety, as follows

ARTICLE I

Blight Defined and Prohibited

Section 1.1. It is hereby determined that the activities described in this Article constitute blight which, if allowed to exist, will result in unsafe, unsanitary and undesirable conditions.

Section 1.2. No person shall maintain or permit to be maintained any of the following types of blight upon any premises owned, rented, or occupied by such person:

(a) The outdoor parking or storage of any junk motor vehicle. The term "junk motor vehicle" shall include any motor vehicle which is not currently licensed, or which has been inoperable for any reason for a period in excess of thirty (30) days.

(b) The storage or accumulation of garbage of any kind, except domestic refuse originating on the premises and stored in a sanitary manner for a period not to exceed fourteen (14) days. The term "garbage" shall include food waste matter and discarded food containers, as well as any other household refuse. Dumpsters and other large garbage containers shall be stored on the property served for not more than 30 (thirty) days. Domestic dumpsters and other large garbage containers shall be limited in capacity to 120 gallons.

(c) The outdoor storage or accumulation of junk. The term "junk" shall include machinery parts, tires, containers, motor vehicle parts, mobile home components, tin cans, unused appliances, metal remnants, cast-off materials, scrap, rubbish, discarded paper products, unused furniture, inoperable equipment, discarded building materials, and any inoperable or discarded machinery or materials.

(d) The outdoor storage of mobile homes (other than those actually used and occupied for dwelling purposes as permitted under Township ordinances), truck bodies, bus bodies, or semi-trailers, either as vacant units or storage units.

(e) The dumping or landfilling of any junk, garbage, or junk motor vehicles. The term "dumping or landfilling" shall include burying or otherwise disposing of items on property not licensed as a landfill pursuant to the Michigan Solid Waste Management Act.

Section 1.3. This Ordinance shall not apply to junkyards or salvage yards which have been granted special approval pursuant to the Elmwood Township Zoning Ordinance.

ARTICLE II Penalties and Enforcement

Section 2.1. Any person, firm, or corporation, or anyone acting in behalf of said person, firm or corporation, who shall violate any of the provisions of this Ordinance, is responsible for a municipal civil infraction, subject to the Township's Civil Infraction Ordinance and payment of a civil fine of not less than \$50.00, plus the costs of prosecution, and other orders and sanctions which may be imposed for each infraction. Repeat offenses under this ordinance may be subject to increased fines. Each day such violation continues shall be deemed a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance.

Section 2.2. The foregoing sanctions shall not prohibit the Township from seeking injunctive relief against a violator for abatement of blight or such other relief or remedy as may be available at law or in equity.

Section 2.3. Any violation of this ordinance shall constitute a public nuisance.

Section 2.4. Any person found responsible for blight shall eliminate such blight and shall be liable for the cost of elimination of the blight. If such blight is not eliminated by the responsible party, the Township may cause such blight to be eliminated and bill the cost, including all expenses, court costs and attorney fees, to the responsible party. Such costs, if not voluntarily paid for by the responsible party, shall be assessed against the property on the next tax roll.

Section 2. Validity and Severability.

If any Section, paragraph, clause or provision of this Ordinance is, for any reason, held to be invalid or unconstitutional, the invalidity or unconstitutionality of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 3. Repealer.

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

Section 4. Effective Date.

This Ordinance shall take effect thirty (30) days following publication thereof as provided by law.

**ELMWOOD TOWNSHIP
TOWNSHIP BOARD**

**NOTICE OF ORDINANCE ADOPTION:
FIRE RUN ORDINANCE**

On June 16, 2021, Elmwood Township (the "Township") adopted Ordinance No. 621, Fire Run Ordinance (the "Ordinance"). The following is a summary of the Ordinance. A true copy of the Ordinance is available at the Township Hall, 6437 Lincoln St, Gagetown, MI 48735.

Section 1. Purpose. This section states the purpose of the ordinance

Section 2. Liability for Setting Fires and False Alarms. This section provides that any person who sets a fire which burns out of control shall be liable for the fees and costs established pursuant to Section 3 for any Elmwood Township fire run made to the fire and any person who turns in a false fire alarm or who fails to maintain a fire alarm system so as to prevent false alarms shall be liable for the fees established pursuant to Section 3 for any Elmwood Township fire run made pursuant to the false alarm.

Section 3. Cost Recovery Charges. This section provides that the fees to be charged for fire protection shall be those set by resolution of the Elmwood Township Board. The fees may be changed at any time by further resolution of the Elmwood Township Board. In the event that a fire or hazardous incident necessitates that the fire department expend time, equipment or materials in excess of the standard fire run fee, the responsible party shall also be liable for all actual costs in excess of the fire run fee amount.

Section 4. Time for Payment for Run. The section provides that all of the foregoing charges are due and payable to Elmwood Township within 30 days from the date the service is rendered and, in default of payment, are collectible through proceedings in any court of competent jurisdiction as a matured debt.

Section 5. Collection of Charges. The section provides that Elmwood Township may proceed in district court by suit to collect any monies remaining unpaid from a responsible party and shall have any and all other remedies provided by and subject to law for the collection of said charges.

Section 6. Severability. This section provides that if any provision or part of this ordinance is declared invalid or unenforceable by a court of competent jurisdiction, the validity or enforceability of the balance of the ordinance is not affected and remains in full force and effect.

Section 7. Effective Date. This section provides that this ordinance has immediate effect. All ordinances or parts of ordinances in conflict with this ordinance including Ordinance No. 104, are repealed.

Dated: June 16, 2021



Pam Brinkman
Township Clerk

6437 Lincoln St
PO Box 156
Gagetown, MI 48735
(989) 912-5250

PUBLIC UTILITY FRANCHISE
Act 266 of 1909

AN ACT to authorize township boards to grant the right to use the highways, streets, alleys and other public places of any township for poles, wires, pipes or conduits, or tracks for railways, and to operate and maintain the same, and to authorize townships to grant public utility franchises, and to provide for the submission of such public utility franchise grants to the electors for confirmation.

History: 1909, Act 266, Eff. Sept. 1, 1909.

The People of the State of Michigan enact:

460.601 Franchise to use streets and public places; grant by township board.

Sec. 1. The township board of any township may grant to any person, partnership, association or corporation the right to use the highways, streets, alleys, and other public places of the township to set poles, string wires, lay pipes or conduits or to lay tracks for railways and to operate and maintain the same and the right to transact a local business in such township, subject to such reasonable regulations as said board shall prescribe from time to time.

History: 1909, Act 266, Eff. Sept. 1, 1909;—CL 1915, 4836;—CL 1929, 11103;—CL 1948, 460.601.

460.602 Franchise granted by township board; majority vote; designation as revocable or irrevocable; vote by electors.

Sec. 2. (1) A township may grant a franchise by a majority vote of the township board. The board shall designate a franchise granted under this act as either revocable or irrevocable.

(2) If the franchise is designated as irrevocable, approval of the franchise as irrevocable shall be submitted to a vote of the electors of the township at the next election.

(3) If the electors do not approve the irrevocability of the franchise, the franchise shall remain valid but continue as a revocable franchise.

History: 1909, Act 266, Eff. Sept. 1, 1909;—CL 1915, 4837;—CL 1929, 11104;—CL 1948, 460.602;—Am. 1996, Act 322, Imd. Eff. June 26, 1996.

460.603 Vote by electors to grant irrevocable trust; notice.

Sec. 3. At least 20 days before the next election, the township clerk shall give notice that the question of granting an irrevocable franchise will be submitted to a vote of the electors by posting a notice in 3 or more public places in the township.

History: 1909, Act 266, Eff. Sept. 1, 1909;—CL 1915, 4838;—CL 1929, 11105;—CL 1948, 460.603;—Am. 1996, Act 322, Imd. Eff. June 26, 1996.

460.603a Revocable franchise granted before effective date of act.

Sec. 3a. Unless revoked by the board or otherwise voted by the electors, a revocable franchise granted before the effective date of the amendatory act that added this section shall be a revocable franchise under this act subject to the terms and conditions of any existing agreements or contracts between the franchisee and the township.

History: Add. 1996, Act 322, Imd. Eff. June 26, 1996.

460.604, 460.605 Repealed. 1996, Act 322, Imd. Eff. June 26, 1996.

Compiler's note: The repealed sections pertained to confirmation of grant by electors.

affect in any manner the existing and continuing right of GRANTEE to conduct and expand its operations within those areas of the Township where GRANTEE operates.

(D) The GRANTOR further grants to the GRANTEE the right, power, and authority to construct and maintain equipment related to both electrical and broadband services in the following circumstances where such construction is necessary to connect the GRANTEE's customers to facilities owned and operated by an authorized public utility under a franchise with GRANTOR and located within the boundary limits of the Township.

Section 2: Term

This franchise shall be for the term of thirty (30) years.

Section 3: Consideration

In consideration of the rights, powers, and authority granted, the GRANTEE shall faithfully perform all obligations required by this franchise.

Section 4: Conditions

GRANTEE shall have the right to make and enforce reasonable rules and regulations for the sale, delivery, and metering of its electric energy and broadband service and the conduct of its business and may reserve in such rules and regulations the right to disconnect service to customers where GRANTEE's equipment are found to have been tampered with, or who have failed to pay for such services and to reimburse the GRANTEE for its equipment at all reasonable

GRANTEE covenants and agrees that it will indemnify and hold GRANTOR free and clear of any claims for damages or otherwise caused by the negligence of the GRANTEE in the construction, operation, or maintenance of its property within the Township. It is understood and agreed that, in the event of claims being presented or prosecuted against GRANTOR, the GRANTEE shall have the right to defend against the same and to settle and discharge same in such manner as it may see fit. To this end, GRANTOR agrees to notify the GRANTEE of such claims and to furnish to it such information and assistance as may be necessary in defense thereof.

Section 6: Franchise Not Exclusive

The rights, power, and authority granted by this franchise are not exclusive.

Section 7: Rates

The GRANTEE shall be entitled to charge the citizens of Elmwood Township for electricity furnished therein and for broadband internet service at the rate approved by GRANTEE.

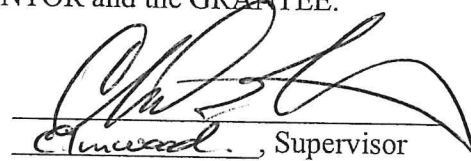
Section 8: Jurisdiction

The GRANTEE shall be and remain subject to all ordinances, rules and regulations of GRANTOR now in effect or which might subsequently be adopted for the regulation of land uses or for the protection of the health, safety, and general welfare of the public; provided, however, that nothing shall be construed as a waiver by the GRANTEE of any of its existing or future rights under state or federal law or a limitation upon the existing or future powers of the GRANTOR pursuant to its charter or state or federal law.

Section 9: Effective Date

This ordinance shall take effect on June 16, 2021. Upon acceptance and publication, this ordinance shall constitute a contract between the GRANTOR and the GRANTEE.

Dated: June 21, 2021


Elmwood, Supervisor

Dated: June 21, 2021


Elmwood Twp, Clerk

TOWNSHIP OF ELMWOOD

ORDINANCE NO. 122020

LAND DIVISION ORDINANCE

Adopted: December 16, 2020

Effective: January 22, 2021

An ordinance to regulate partitioning or division of parcels or tracts of land enacted pursuant but not limited to the Land Division Act, being Michigan Public Act 288 of 1967, as amended, Michigan Public Act 591 of 1996, as amended, and Michigan Public Act 246 of 1945, as amended; to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this Ordinance.

THE TOWNSHIP OF ELMWOOD ORDAINS:

SECTION 1 TITLE

This Ordinance shall be known and cited as the "Land Division Ordinance."

SECTION 2 PURPOSE

The purpose of this Ordinance is to carry out the provisions of the Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the Township by establishing reasonable standards for prior review and approval of land divisions within the Township.

SECTION 3 DEFINITIONS

For purposes of this Ordinance, certain terms and words used herein shall have the meaning set forth herein. Additionally, where terms and words are set forth in the Land Division Act, those terms and words shall have the definitions ascribed to them in the Land Division Act, except as set forth within this section.

- A. "Assessor"- shall mean the public officer holding the position as the Township Assessor.

- B. “Applicant” – shall mean any person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.
- C. “Depth to Width Ratio” – is the measure within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement.
- D. “Divided” or “Division” – shall mean the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Section 108 and 109 of the Land Division Act. “Divide” or “Division” does not include a property transfer between two or more adjacent parcels if the property taken from one parcel is added to an adjacent parcel; and any resulting parcels shall not be considered a building site unless the parcel conforms to the requirements of the Land Division Act.
- E. “Exempt split” or “exempt division” – shall mean the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent.
- F. “Forty acres or the equivalent”– shall mean either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
- G. “Governing body” – shall mean the Township Board of Elmwood Township, Tuscola County, Michigan.
- H. “Planning Commission”- shall mean the Elmwood Township Planning Commission.
- I. “Township” – shall mean the Township of Elmwood, Tuscola County, Michigan.
- J. “Width” – shall mean the straight line distance between the side lot lines measured at the two points where the minimum front yard setback intersects the side lot lines.
- K. “Zoning Administrator” – shall mean the official of Elmwood Township or authorized representative charged with the responsibility of administering this Ordinance.

SECTION 4 EXEMPT DIVISIONS

Land in the Township shall not be divided without the prior review and approval of the Township Assessor and the Zoning Administrator or other official designated by the Township Board, in accordance with this Ordinance and the Land Division Act; provided that the following shall be

exempted from this requirement.

- A. A parcel proposed for subdivision through a recorded plat pursuant to the Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the Land Division Act and any applicable Elmwood Township ordinance.
- C. An exempt split as defined in this Ordinance, or other partitioning or splitting that only results in parcels of 20 acres or more where each parcel is not accessible (as defined in the Land Division Act) and either the parcel was in existence on March 31, 1997, or resulted from exempt splitting under the Land Division Act.

SECTION 5 APPLICATION FOR LAND DIVISION APPROVAL

Any Applicant desiring a Division as required by this Ordinance shall file a written application on a form provided by the Township and available through the Planning Department with an application fee, as provided by resolution of the Township Board, that should include the following documentation:

- A. Proof of fee ownership of the land proposed to be divided or written consent to the application signed by the fee owner of the land.
- B. A tentative parcel map showing the parent parcel or parent tract which is the subject of the application, and the area, parcel lines, public utility easements, and the manner of proposed access for each resulting parcel. A tentative parcel map shall include:
 - 1. Proposed boundary lines and the dimensions of each parcel;
 - 2. An accurate legal description of each resulting parcel;
 - 3. The location, dimensions and nature of proposed ingress to and egress from any existing public or private road or easement;
 - 4. The location of any public or private street, driveway or utility easement to be located within any resulting parcel;
 - 5. The location and measurements of any existing buildings or other existing land improvements on the parent parcel or parent tract; and
 - 6. The location and accessibility of public utilities.
- D. Proof that all standards of the Land Division Act and this Ordinance have been met.

- E. If requested by the Assessor or Zoning Administrator, the history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the Land Division Act.
- F. If transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- G. The required fee as may from time to time be established by resolution of the Township Board for land division reviews pursuant to this Ordinance.

SECTION 6 GENERAL PROCEDURES

- A. Upon receipt of a complete land division application, the Township shall approve or disapprove the Division within 45 days after receipt of a completed application conforming to this Ordinance's requirements and the Land Division Act, and shall promptly notify the Applicant of the decision, and if denied, the reason for denial.
- B. Any Applicant aggrieved by the decision of the Assessor and/or Zoning Administrator may, within 30 days of said decision, appeal the decision to the Township Board which shall consider and resolve such appeal by a majority vote of said Board at its next regular meeting or session affording sufficient time for a 20 day written notice to the Applicant of the time and date of said meeting. The Township Board may affirm, modify or reverse the decision of the Assessor and/or Zoning Administrator and its decision shall be final.
- C. The Assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.

SECTION 7 STANDARDS FOR APPROVAL

A proposed land division shall be approved if the following criteria are met:

- A. The proposed land division, including all resulting parcels, complies with all requirements of the Land Division Act, this Ordinance including, but not limited to, accessibility as defined and required by the Township's zoning or other ordinances, and all applicable provisions of the Township zoning ordinance.
- B. The ratio of depth to width of any parcel created by the division does not exceed a four (4) to one (1) ratio. A greater depth to width ratio than that required by this subsection may be permitted if the resulting parcel(s) exhibit exceptional topographic or physical conditions such as wetlands, woodlands and/or steep slopes or is consistent with the land development pattern of the surrounding area. The depth to width ratio requirements of this subsection shall apply to parcels larger than 10 acres but shall not apply to the remainder of the parent parcel or parent tract retained by the proprietor. In the event that

the Township Zoning Ordinance shall specify a depth to width ratio for a particular area which differs from that set forth within this sub-section, the ratio contained in the Township Zoning Ordinance shall control.

- C. Each parcel created by the proposed Division(s) shall have the minimum width and lot area as established by the Township's Zoning Ordinance for the zoning district in which the resulting parcel(s) is (are) located.
- D. Each parcel created by the proposed Division(s) shall have the minimum area as established by the Township's Zoning Ordinance for the zoning district in which the resulting parcel(s) is (are) located.

SECTION 8 LIMITED EFFECT

Approval of a Division is not a determination that the created or resulting parcels comply with other laws, ordinances of the Township or applicable regulations. The Township and its officers and employees shall not be liable for approving a Division if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to that effect.

SECTION 9 NONCOMPLIANCE

Any parcel created contrary to any provision of this Ordinance or the Land Division Act shall not be eligible for any building permits or zoning approvals including, but not limited to, special land use approval, site plan approval or land use permit, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this Ordinance shall subject the violator to the penalties and enforcement actions set forth in Section 10, Penalties and Enforcement of this Ordinance, and as may otherwise be provided by law.

SECTION 10 PENALTIES AND ENFORCEMENT

Violations of the provisions of this Ordinance shall constitute a municipal civil infraction. Any person, firm, association, partnership, corporation or entity who is found responsible or admits responsibility for a municipal civil infraction shall be subject to a civil fine and costs. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation of this Ordinance continues to exist shall constitute a separate violation of this Ordinance. The Township shall be entitled to its costs, including reasonable attorney fees, from any person that has violated or permitted the violation of any provision of this Ordinance.

SECTION 11 VALIDITY AND SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision be declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this Ordinance other than said part or portion thereof.

SECTION 12 REPEAL

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Township zoning ordinance.

SECTION 13 EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days following its publication after adoption.

We certify that the foregoing Land Division Ordinance was duly enacted by the Elmwood Township board of the County of Tuscola, on the 16th day of December 2020.

TOWNSHIP OF ELMWOOD

ORDINANCE NO. 122020

LAND DIVISION ORDINANCE

Adopted: December 16, 2020

Effective: January 22, 2021

An ordinance to regulate partitioning or division of parcels or tracts of land enacted pursuant but not limited to the Land Division Act, being Michigan Public Act 288 of 1967, as amended, Michigan Public Act 591 of 1996, as amended, and Michigan Public Act 246 of 1945, as amended; to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this Ordinance.

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- D. “Divided” or “Division” – shall mean the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Section 108 and 109 of the Land Division Act. “Divide” or “Division” does not include a property transfer between two or more adjacent parcels if the property taken from one parcel is added to an adjacent parcel; and any resulting parcels shall not be considered a building site unless the parcel conforms to the requirements of the Land Division Act.
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- F. “Forty acres or the equivalent”– shall mean either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
- G. “Governing body” – shall mean the Township Board of Elmwood Township, Tuscola County, Michigan.
- H. “Planning Commission”- shall mean the Elmwood Township Planning Commission.
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Land in the Township shall not be divided without the prior review and approval of the Township Assessor and the Zoning Administrator or other official designated by the Township Board, in accordance with this Ordinance and the Land Division Act; provided that the following shall be

exempted from this requirement.

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- B. A lot in a recorded plat proposed to be divided in accordance with the Land Division Act and any applicable Elmwood Township ordinance.
- C. An exempt split as defined in this Ordinance, or other partitioning or splitting that only results in parcels of 20 acres or more where each parcel is not accessible (as defined in the Land Division Act) and either the parcel was in existence on March 31, 1997, or resulted from exempt splitting under the Land Division Act.

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Any Applicant desiring a Division as required by this Ordinance shall file a written application on a form provided by the Township and available through the Planning Department with an application fee, as provided by resolution of the Township Board, that should include the following documentation:

- A. Proof of fee ownership of the land proposed to be divided or written consent to the application signed by the fee owner of the land.
- B. A tentative parcel map showing the parent parcel or parent tract which is the subject of the application, and the area, parcel lines, public utility easements, and the manner of proposed access for each resulting parcel. A tentative parcel map shall include:
 - 1. Proposed boundary lines and the dimensions of each parcel;
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 - 3. The location, dimensions and nature of proposed ingress to and egress from any existing public or private road or easement;
 - 4. The location of any public or private street, driveway or utility easement to be located within any resulting parcel;
 - 5. The location and measurements of any existing buildings or other existing land improvements on the parent parcel or parent tract; and
 - 6. The location and accessibility of public utilities.
- D. Proof that all standards of the Land Division Act and this Ordinance have been met.

- E. If requested by the Assessor or Zoning Administrator, the history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the Land Division Act.
- F. If transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
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SECTION 6 GENERAL PROCEDURES

- A. Upon receipt of a complete land division application, the Township shall approve or disapprove the Division within 45 days after receipt of a completed application conforming to this Ordinance's requirements and the Land Division Act, and shall promptly notify the Applicant of the decision, and if denied, the reason for denial.
- B. Any Applicant aggrieved by the decision of the Assessor and/or Zoning Administrator may, within 30 days of said decision, appeal the decision to the Township Board which shall consider and resolve such appeal by a majority vote of said Board at its next regular meeting or session affording sufficient time for a 20 day written notice to the Applicant of the time and date of said meeting. The Township Board may affirm, modify or reverse the decision of the Assessor and/or Zoning Administrator and its decision shall be final.
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SECTION 7 STANDARDS FOR APPROVAL

A proposed land division shall be approved if the following criteria are met:

- A. The proposed land division, including all resulting parcels, complies with all requirements of the Land Division Act, this Ordinance including, but not limited to, accessibility as defined and required by the Township's zoning or other ordinances, and all applicable provisions of the Township zoning ordinance.
- B. The ratio of depth to width of any parcel created by the division does not exceed a four (4) to one (1) ratio. A greater depth to width ratio than that required by this subsection may be permitted if the resulting parcel(s) exhibit exceptional topographic or physical conditions such as wetlands, woodlands and/or steep slopes or is consistent with the land development pattern of the surrounding area. The depth to width ratio requirements of this subsection shall apply to parcels larger than 10 acres but shall not apply to the remainder of the parent parcel or parent tract retained by the proprietor. In the event that

the Township Zoning Ordinance shall specify a depth to width ratio for a particular area which differs from that set forth within this sub-section, the ratio contained in the Township Zoning Ordinance shall control.

- C. Each parcel created by the proposed Division(s) shall have the minimum width and lot area as established by the Township's Zoning Ordinance for the zoning district in which the resulting parcel(s) is (are) located.
- D. Each parcel created by the proposed Division(s) shall have the minimum area as established by the Township's Zoning Ordinance for the zoning district in which the resulting parcel(s) is (are) located.

SECTION 8 LIMITED EFFECT

Approval of a Division is not a determination that the created or resulting parcels comply with other laws, ordinances of the Township or applicable regulations. The Township and its officers and employees shall not be liable for approving a Division if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to that effect.

SECTION 9 NONCOMPLIANCE

Any parcel created contrary to any provision of this Ordinance or the Land Division Act shall not be eligible for any building permits or zoning approvals including, but not limited to, special land use approval, site plan approval or land use permit, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this Ordinance shall subject the violator to the penalties and enforcement actions set forth in Section 10, Penalties and Enforcement of this Ordinance, and as may otherwise be provided by law.

SECTION 10 PENALTIES AND ENFORCEMENT

Violations of the provisions of this Ordinance shall constitute a municipal civil infraction. Any person, firm, association, partnership, corporation or entity who is found responsible or admits responsibility for a municipal civil infraction shall be subject to a civil fine and costs. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation of this Ordinance continues to exist shall constitute a separate violation of this Ordinance. The Township shall be entitled to its costs, including reasonable attorney fees, from any person that has violated or permitted the violation of any provision of this Ordinance.

SECTION 11 VALIDITY AND SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision be declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this Ordinance other than said part or portion thereof.

SECTION 12 REPEAL

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Township zoning ordinance.

SECTION 13 EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days following its publication after adoption.

We certify that the foregoing Land Division Ordinance was duly enacted by the Elmwood Township board of the County of Tuscola, on the 16th day of December 2020.