

Section 3.47.0--- Private/Agricultural Wind Energy Conversion Systems

.01 DEFINITIONS

- A. Ambient:
Ambient is defined as the sound pressure level exceeded 90% of the time or L90.
- B. ANSI:
American National Standards Institute
- C. Authorized Factory Representative:
Any individual with technical training of a WECS who has received Factory installation instructions and is certified in writing by the manufacturer of the WECS.
- D. Commercial Wind Energy Conversion System:
Commercial WECS shall mean any WECS that is designed and built to provide electricity to the electric utility's power grid.
- E. dB(A):
The sound pressure level in decibels. Refers to the "a" weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.
- F. Decibel:
The unit of measure used to express the magnitude of sound pressure and sound intensity.
- G. Decommissioning:
Within sixty (60) days of the happening of the following events, the owner/operator of a WECS shall deconstruct and remove the WECS and concrete base to four feet below grade level and restore the property to the condition it was in immediately prior to construction:
1. The WECS has been unused for a period of twelve (12) consecutive months. The owner/operator of a WECS shall notify the Township Clerk in writing when any period of non-use commences and if and when it terminates;
 2. The permit issued by the Township for any WECS is revoked;
 3. The owner/operator of the WECS is ordered to cease operations for a period of time in excess of twelve (12) consecutive months by any agency or authority having jurisdiction to do so.
- H. FAA:

The Federal Aviation Administration

- I. Facility Abandonment:
A WECS out of production for a period of time not less than one (1) year.
- J. Habitable Structure:
Any structure usable for living or business purposes, which includes, but is not limited to working, sleeping, eating, cooking, recreation, office, office storage, or any combination thereof. An area used only for storage incidental to a residential use, is not included in this definition.
- K. Hub Height:
When referring to a WECS, the distance measured from ground level to the center of the turbine hub. Hub height is defined as the height from the Ground Level (GL) at which the hub of the windmill or the hub of the propeller blades of the wind energy generator is situated.
- L. IEC:
International Electro Technical Commission. The IEC is the leading global organization that prepares and publishes international standards for all electrical, electronic and related technologies.
- M. ISO:
International Organization for Standardization. ISO is a network of the national standards institutes of 156 countries.
- N. Manual and Automatic Controls:
Manual and Automatic Controls give protection to power grids and limit rotation of WECS blades to below the designed limits of the conversion system.
- O. Met Tower:
A meteorological tower used for the measurement of wind speed.
- P. Michigan Tall Structure Act (M.C.L. 259.481) and following:
Governs the height of structures in proximity to airport related uses and is included as a standard in the Article by reference.
- Q. Non-Participating Parcel:
Any parcel of property in the County not within the Wind Energy Overlay District.
- R. On Site Wind Energy Systems:
This system is intended to primarily serve the needs of the consumer, and is considered an accessory building.

S. Private/Agricultural Wind Energy Conversion System:

1. Private WECS shall mean any WECS that is an accessory to a principal non-farm, non-agricultural use located on the same lot, and is designed and built to serve the needs of the principal use which is intended to primarily reduce on-site consumption of utility power. The maximum height of a Private WECS is eighty (80) feet.

2. Agricultural WECS shall mean any WECS that is an accessory to a permitted farm or agricultural operation, and is designed and built to serve the needs of the farm or agricultural operation.

T. Professional Engineer:

Any licensed engineer registered in the State of Michigan.

U. Shadow Flicker:

Alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as a window in a dwelling.

V. Sound Pressure;

Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

W. Sound Pressure Level:

The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

X. Survival Wind Speed:

The maximum wind speed a WECS in automatic, unattended operation (not necessarily producing power) can sustain without damage to structural components or loss of the ability to function normally.

Y. Tower Height:

When referring to a Wind Energy System, the distance measured from ground level to the furthest vertical extension of the rotor.

Z. Utility Grid Wind Energy Systems:

This system is designed and built to provide electricity to the electric grid.

AA. Utility Scale:

All wind farms that produce greater than fifty (50) kilowatts of energy.

- BB. Wind Energy Conversion Systems (hereinafter referred to as WECS):
Any device such as a wind charger, windmill, or wind turbine, tower and air pumper mills that convert wind energy to a form of usable energy.
- CC. Wind Energy Conversion Facility, (WECF), or Wind Energy Facility:
An electricity generating facility consisting of one or more wind turbines under common ownership or operation control, and includes substations, MET Towers, cables/wires, and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customers.
- DD. Wind Energy Facility Site Permit:
A permit issued upon compliance with the standards enunciated in the Section.
- EE. Wind Energy Overlay District:
Districts created by the Sanilac County Board of Commissioners upon receiving a recommendation from the Planning Commission, by identifying specific areas within the County best situated for development of wind energy facilities. This District will be defined by the Sanilac County Wind Energy Overlay District Map, as approved by the Sanilac County Planning Commission.
- FF. Wind Energy Overlay District Map:
This will be a map showing the areas that are considered to be acceptable siting location for Wind Energy Facilities. This overlay map will be created and approved by the Sanilac County Planning Commission. This map will also include exclusionary zones that re considered to be unsuitable for location of these facilities.
- GG. Wind Energy System:
A wind energy conversion system which converts wind energy into electricity through the use of a wind turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid.
- HH. Wind site Assessment:
An assessment to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

- II. Wind Rotor:
The blades plus hub to which the blades are attached used to capture wind for purposes of energy conservation.

.02 PERMITTED ZONES

In any zoning district, the Zoning Administrator shall have the power to grant a land use permit to allow wind energy conversion systems, subject to the restrictions contained within this Ordinance.

.03 APPLICABILITY OF ORDINANCE

The standards that follow shall apply to systems intended for the provision of the electrical or mechanical power needs of the owner/operator of the system; also, such a system shall be the one main building and its accessory buildings only.

For systems intended for uses other than the above, Planning Commission approval shall be required. Said approval shall cover the location of the system (shown on a survey of the property) on the site, the noise generated by the system, assurances as to the safety features of the system, and compliance with all applicable state and federal statutes and regulations. Planning Commission approval shall specifically be required for arrays of more than one wind energy conversion system and for systems wherein one wind energy conversion system is intended to provide the electric power for more than one main building.

.04 STANDARDS FOR AND REGULATION OF WECS

A. Construction:

Tower construction shall be in accordance with the latest edition of the Michigan Building Code, and any future amendments and/or revisions to same.

B. Electric-Magnetic Interference (EMI):

Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio frequency energy which would cause harmful interference with radio and/or television broadcasting or reception, and shall comply with the provisions of Title 47, Chapter 1, Part 15 of the Federal Code of Regulations and subsequent revisions governing said emissions.

C. Setbacks:

The structural design shall be signed and sealed by a professional engineer, registered in the state of Michigan, certifying that the structural design complies with all of the standards set forth for safety and stability in all applicable codes then in effect in the State of Michigan and all sections referred to herein above. The minimum setbacks for such towers from all abutting streets or adjacent property shall be a distance equal to the height of such tower, that is, the property setback shall be on a one (1) to one and one-half (1-1/2) ratio with tower height.

The WECS shall be located a sufficient distance from any overhead utility lines, excluding service drops, such that a structural failure of any portion of the WECS or its supporting structure will not cause any portion of it to fall within five (5') feet of utility lines.

D. Maximum Height:

The maximum height permitted (without variance from the Zoning Board of Appeals) shall be eighty (80') feet unless otherwise prohibited by any state or federal statutes or regulations.

E. Minimum Blade Height:

The minimum distance between the ground and any rotating blades utilized on a WECS shall be fifteen (15') feet, as measured at the lowest point of the arc of the blades

F. Labeling Requirements:

A minimum of one sign shall be posted near ground level on the tower structure warning of high voltage. In addition, the following information shall be posted on a label or labels on the generator or alternator of the WECS.

1. The maximum power output of the system and the wind speed at which it is achieved.
2. Nominal voltage and maximum current.
3. Manufacturer's name and address, serial number and model number.
4. Maximum survival wind speed and the emergency and normal shut down procedures.

G. Utility Company Notification:

The utility company shall be notified in writing of any proposed interface with that company's grid prior to installing such interface and shall conform with any legislated requirements governing installations of WECS so as to comply with the Utility Tariff specifications.

H. Safety:

The WECS' manufacturers shall document that the WECS model has been tested and certified by Underwriter's Laboratory, or other such applicable independent accrediting agency, and that when installed in accordance with recommended specifications shall have a maximum survival wind speed of not less than eighty (80) miles per hour.

I. Noise:

The maximum level of noise to be generated by a WECS shall be fifty (50) decibels, as measured on the dB(A) scale, measured at the property line.

.05 MISCELLANEOUS

- A. All electric line/utility wires shall be buried under ground except in A-1, A-2, and I Districts.
- B. Any mechanical equipment associated with and necessary for operation, including a building for batteries and storage cells shall be enclosed with a six (6') foot fence. The supporting tower shall also be enclosed with a six (6') foot fence unless the base of the tower is not climbable for a distance of twelve (12') feet.
- C. When a building is necessary for storage of cells or related mechanical equipment, the building may not exceed one hundred forty (140) square feet in area nor eight (8') feet in height, and must be located at least the number of feet equal to the height of the tower from any property line.
- D. The tower and generating unit shall be kept in good repair and sound condition. In the event a private/ Agricultural wind energy system which has been granted a land-use permit or Administrative Approval is abandoned, unused, or damaged so as to be unusable for a period of one (1) year (unless an extension is granted by the appropriate township body upon application by owner prior to expiration of said one (1) year period, the owner of the wind energy system or land shall promptly remove the private/Agricultural wind energy system and all related equipment within sixty (60) days. Failure to remove the private/Agricultural wind energy system and related equipment in accordance with the forgoing shall subject the private/Ag wind energy system and land owner to fines established by the Township Board. In addition, by accepting a land use permit for the private/AG wind energy system the applicant and the land owner agree that in the event the tower and equipment is not removed as required, after thirty (30) days notice from the Township, the Township may undertake such removal and bill the costs to the applicant and the land owner plus administrative fees of fifteen (15%) which, if not paid within thirty (30) days shall be assessed against the land on which the Private/ Ag wind energy system and related equipment is located and collected in the same manner as delinquent taxes.
- E. No private/AG WECS shall display visible signage, such as advertisement, on its face and should be painted a neutral grey, white or light blue. Other neutral colors may be approved by the Zoning Administrator.

3.47.01---Commercial Wind Energy Conversion Systems

.01 DEFINITIONS

See definitions listed in Private/Agricultural Wind Energy Conversion Systems at 3.47.0.01.

.02 APPROVAL REQUIRED

Except where noted in this Section, it shall be unlawful to construct, erect, install, alter, or locate any Commercial WECS project within Lexington Township unless a special land use permit has been obtained pursuant to this Ordinance.

Application for special use permit required by this Section shall be made on forms provided by Lexington Township and shall contain the following, in addition to the requirements of Section 14.1.0, Special Land Use:

- A. Company contact information (telephone numbers and e-mail addresses), including name of company, name of project, key company contacts with titles, EIN (Employer Identification Number)
- B. A narrative describing the proposed Wind Energy Facility, including an overview of the project.
- C. Site plan (GIS shape file overlay, electronic file and paper copy) of the property showing existing and proposed features such as buildings, structures, roads (right of ways), applicable utility easements, county drains, land use, zoning district, ownership of property, location of proposed turbine towers (with required setbacks, exclusion zones and non-participating properties), underground and overhead wiring (including depth underground), access roads (including width), substations, and accessory structures.
- D. Details or drawings shall show features in the design of a typical tower and its base, that upon removal of said tower will allow restoration of the soil at the site to a depth of four (4') feet.
- E. Anticipated construction date and anticipated completion date.
- F. The lessor must acknowledge the fact in writing that the decommissioning process poses some risk of the concrete bases remaining in place, if the responsible party (lessee) was unable to properly remove the bases as required in this ordinance. This acknowledgment is to be submitted with the application package and can be in the form of the actual lease language that has been signed by the lessor or an "Acknowledgement Letter" that documents this understanding and has been signed by the lessor.
- G. A permit fee for each WECS as set by the Lexington Township Board must accompany the application.

.03 GENERAL STANDARDS

The following standards shall apply to all Commercial Wind Energy Conversion Systems in Lexington Township.

A. Design Safety Confirmation:

The safety of the design of all Commercial WECS towers shall be certified by a Professional Engineer registered in the State of Michigan. The standard for certification shall be included with the permit application.

B. Controls and Brakes:

All Commercial WECS projects shall be equipped with manual and automatic Controls to limit rotation of blades to a speed below the designed limits of the WECS. The Professional Engineer must certify that the rotor and over-speed control design and fabrication conform to applicable design standards.

No changes or alterations from certified design shall be permitted unless accompanied by a Professional Engineer's statement of certification.

C. Electrical Components:

All electrical compartments, storage facilities, wire conduit, and interconnections with utility companies will conform to national and local electrical codes.

D. Compliance with Township Ordinances:

All Commercial WECS projects shall be in compliance with all Lexington Township Zoning Ordinance requirements and other applicable ordinances.

E. Setbacks:

All Commercial WECS projects must be setback from property lines at a distance equal to or greater than one hundred fifty percent (150%) of the height of the structure, measured from the base of the structure to the highest reach of its blade. No part of the wind system structure, including guy wire anchors, may extend within the required setbacks.

F. Height:

Commercial WECS projects shall be exempt from the height requirements of the Ordinance, subject to the provisions of Special Land Uses, Article 14.1.0, and compliance with FAA regulations.

G. Installation Certification:

The Professional Engineer shall certify that the construction and installation of the Commercial WECS project meets or exceeds the manufacturer's construction and installation standards.

H. Climb Prevention:

All Commercial WECS towers must be un-climbable by design or protected by Anti-climbing devices such as:

1. Fences with locking portals at least six (6') feet high;

2. Anti-climbing devices twelve (12') feet from base;

I. Interference:

It shall be the responsibility of the person in charge of the Commercial WECS to submit acceptable documentation as part of the special land use permit to determine if the WECS project would in any way cause interference with microwave transmission, residential television reception, satellite reception, internet reception, or radio reception.

J. Fire Risk:

All Commercial WECS projects must adhere to all applicable electrical codes and standards, must remove fuel sources, such as vegetation, from the immediate vicinity of electrical gear and connections, and must utilize twistable cable or turbines.

K. Waste:

All solid waste, whether generated from supplies, equipment parts, packaging, operation, or maintenance of the WECS, including old parts and equipment, shall be removed from the site immediately and disposed of in an appropriate manner. All hazardous waste generated by the operation and maintenance of the WECS, including, but not limited to, lubricating materials, shall be removed from the site immediately and disposed of in a manner consistent with all local, state, and federal rules and regulations.

L. Noise Levels:

The noise level measured at the property line of the property on which the Commercial WECS project has been installed shall not exceed fifty (50) decibels, as measured on the dB(A) scale.

M. Shadow Flicker:

At the discretion of the Zoning Administrator, the applicant shall submit a copy of a shadow flicker analysis at the property line to identify the locations of shadow flicker that may be caused by the project and it shall also identify problem areas where shadow flicker may affect adjacent parcels and show measures that shall be taken to eliminate or mitigate the problems.

.04 ADDITIONAL STANDARDS FOR COMMERCIAL WECS PROJECTS

The following additional standards shall apply to all Commercial WECS systems in Lexington Township.

A. Color and Signage:

Towers and blades shall be painted any neutral color that is acceptable to Lexington Township or otherwise required by law, nor shall there be any signage, such as advertisement, other than as provided in this ordinance.

B. Compliance with FAA:

It shall be the responsibility of the person in charge of the Commercial WECS project to complete the proper FAA applications and obtain the proper permits for the Commercial WECS project. It shall also be the responsibility of the person in charge of the Commercial WECS project to obtain a determination of no significant impact to air navigation from the FAA.

C. Warnings:

A visible warning sign of "High Voltage" may be required to be placed at the base of all Commercial WECS projects. The sign must have at a minimum, six-inch letters with $\frac{3}{4}$ inch stroke. Such signs shall be located a maximum of three hundred (300) feet apart and at all points of site ingress and egress.

D. Annual Inspection:

Every Commercial WECS project must be inspected annually by an Authorized Factory Representative or Professional Engineer to certify that it is in good working condition and not a hazard to the public. Such records shall be submitted to Lexington Township and considered a part of a continuing special land use permit.

E. Compliance with Additional Regulations:

It shall be the responsibility of the person in charge of the Commercial WECS project to contact the FCC and FAA regarding additional permits necessary or any other applicable federal or state regulation for the installation, prior to Lexington Township granting a special land use permit.

F. Migratory Birds:

The Township may require an avian study conducted by a qualified professional to determine any potential impacts the Commercial WECS project may present to migratory birds. The study as part of the conditional use permit must provide assurances that the WECS project does not negatively affect the path of migratory birds.

G. Decommissioning Plan and Escrow:

The Commercial WECS project must contain a Decommissioning Plan to ensure it is properly decommissioned upon the end of the project life or facility abandonment.

Decommissioning shall include: removal of all structures (including transmission equipment and fencing) and debris to a depth of four (4) feet, restoration of the soil, and restoration of vegetation within six (6) months of the end of project life or facility abandonment.

The Decommissioning Plan shall state how the facility will be decommissioned, the Professional Engineer's estimated cost of decommissioning, the

financial resources to be used to accomplish decommissioning, and the escrow agent with which the resources shall be deposited.

The Decommissioning Plan shall also include an agreement between the applicant and the Township that:

1. The financial resources for decommissioning shall be in the form of a surety bond, or shall be deposited in an escrow account with an escrow agent acceptable to Lexington Township.
2. The Township shall have access to the escrow account funds for the expressed purpose of completing decommissioning if decommissioning is not completed by the applicant within six (6) months of the end of project life of facility abandonment as defined by decommissioning.
3. The Township is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.
4. The Township is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the Township's right to seek reimbursement from the applicant or applicant successor for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real estate owned by the applicant or applicant's successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien. Financial provisions shall not be so onerous as to make wind power projects unfeasible.

.05 REVOCATION OF PERMIT

A permit issued pursuant to this ordinance may be revoked upon violation of any provision of this ordinance. If a violation is alleged, the Township shall send written notice of said violation to the owner/operator of the WECS at the address on file with the Township. Said notice shall set forth the nature of the violation and shall notify the owner/operator that it has thirty (30) days to correct the violation. If the violation is not corrected within the thirty (30) day time period, the revocation of the permit shall be placed on the agenda of a Township Board meeting. The Township shall give the owner/operator at least seven (7) days written notice of the time and place of said meeting. The owner/operator may attend and present such information as it deems appropriate regarding the revocation. The Township Board shall determine if a violation exists and shall determine a timetable for either correcting the violation or revoking the permit.

.06 ENFORCEMENT

A violation of this ordinance is declared to be a public nuisance and the Township may enforce the same by injunction or other remedy including the right to correct the violation and recover the cost of making the necessary correction from the owner/operator. In the event the Township obtains a judgment against the owner/operator pursuant to this section, the Township shall be entitled to an award of all reasonable and necessary costs incurred including actual attorney fees.

.07 SEVERABILITY

If any provision of this ordinance is held invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provision.

.08 REPEALER

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are repealed to the extent of such conflict, to the extent that this ordinance conflicts with any other ordinance this ordinance shall control (supersede).

3.47.02 Meteorological Towers (MET)

.01 DEFINITIONS

See definitions listed in Private/Agricultural Wind Energy Conversion Systems at 3.47.0.01.

.02 APPROVAL REQUIRED

Except where noted in this Section, it shall be unlawful to construct, erect, install, alter, or locate any MET Tower project within Lexington Township unless a special land use permit has been obtained pursuant to this Ordinance.

Application for special use permit required by this Section shall be made on forms provided by Lexington Township and shall contain the following, in addition to the requirements of Section 14.1.0, Special Land Use:

- A. Company contact information (telephone numbers and e-mail addresses), including name of company, name of project, key company contacts with titles, EIN (Employer Identification Number).
- B. A narrative describing the proposed MET tower, including an overview of the project.
- C. Site plan (GIS shape file overlay, electronic file and paper copy) of the property showing existing and proposed features such as buildings, structures, roads (right of ways), applicable utility easements, county drains, land use, zoning

district, ownership of property, location of proposed MET tower (with required setbacks, exclusion zones and non-participating properties), underground and overhead wiring (including depth underground), access roads (including width), substations, and accessory structures.

- D. Details or drawings shall show features in the design of a typical MET tower and its base, that upon removal of said MET tower will allow restoration of the soil at the site to a depth of four (4') feet.
- E. Anticipated construction date and anticipated completion date.
- F. The lessor must acknowledge the fact in writing that the decommissioning process poses some risk of the concrete bases remaining in place, if the responsible party (lessee) was unable to properly remove the bases as required in this ordinance. This acknowledgment is to be submitted with the application package and can be in the form of the actual lease language that has been signed by the lessor or an "Acknowledgement Letter" that documents this understanding and has been signed by the lessor.
- G. A permit fee for each MET tower as set by the Lexington Township Board must accompany the application.

.03 GENERAL STANDARDS

The following standards shall apply to all MET towers in Lexington Township.

- A. MET towers shall be mounted on tubular towers with solid exteriors.
- B. MET towers and accessory structures shall be painted a non-reflective, non-obtrusive color. The exterior shall be maintained in good condition and the MET tower shall be repainted whenever rust, corrosion or peeling or flaking paint becomes visible.
- C. MET towers shall not be lighted unless so required by statute, ordinance, rule or regulation.
- D. MET towers shall contain no letters, numbers or symbols other than the name of the manufacturer and the name of the owner/operator unless otherwise required by this ordinance or any other statute, ordinance, rule or regulation. Any such letters, numbers or symbols may not exceed six (6") inches in height. Every MET tower must have a sign or lettering identifying its owner/operator and contain contact information.
- E. All guy wires and anchors must be clearly visible to a height of six (6') feet above ground level and marked as established by the Planning Commission.

- F. Design Safety Confirmation:
The safety of the design of all MET towers shall be certified by a Professional Engineer registered in the State of Michigan. The standard for certification shall be included with the permit application.
- G. Compliance with Township Ordinances:
All MET towers shall be in compliance with all Lexington Township Zoning Ordinance requirements and other applicable ordinances.
- H. Setbacks:
All MET towers must be setback from property lines at a distance equal to, or greater than one hundred fifty percent (150%) of the height of the structure, measured from the base of the structure to the highest reach. No part of the MET tower, including guy wire anchors, may extend within the required setbacks.
- I. Height:
MET towers shall be exempt from the height requirements of the Ordinance, subject to the provisions of Special Land Uses, Article 14.1.0, and compliance with FAA regulations.
- J. Installation Certification:
The Professional Engineer shall certify that the construction and installation of the MET tower meets or exceeds the manufacturer's construction and installation standards.
- K. Climbing Prevention:
All MET towers must be un-climbable by design or protected by anti-climbing devices.
- L. Waste:
All solid waste, whether generated from supplies, equipment parts, packaging, operation, or maintenance of the MET tower, including old parts and equipment, shall be removed from the site immediately and disposed of in an appropriate manner.
- M. Color and Signage:
MET towers shall be painted any neutral color that is acceptable to the Lexington Township Board or otherwise required by law, nor shall there be any signage, such as advertisement, other than as provided in this ordinance.
- N. Compliance with FAA:
It shall be the responsibility of the person in charge of the MET tower project to complete the proper FAA applications and obtain the proper permits for the MET tower project. It shall also be the responsibility of the person in charge of the MET tower project to obtain a determination of no significant impact to air navigation from the FAA.

O. Compliance with Additional Regulations:

It shall be the responsibility of the person in charge of the MET tower project to contact the FCC and FAA regarding additional permits necessary or any other applicable federal or state regulation for the installation, prior to Lexington Township granting a special land use permit.

P. Temporary Structures:

MET towers are intended to be temporary measuring device structures and will be permitted up to one (1) year unless an extension is granted prior to the expiration of one (1) year, by the Planning Commission.

Q. Decommissioning Plan and Escrow:

The MET tower project must contain a Decommissioning Plan to ensure it is properly decommissioned upon the end of the project life or facility abandonment.

Decommissioning shall include: Removal of all structures (including transmission equipment, guy wires, and fencing), and debris to a depth of four (4') feet, restoration of the soil, and restoration of vegetation within six (6) months of the end of project life or facility abandonment.

The Decommissioning Plan shall state how the facility will be decommissioned, the Professional Engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the escrow agent with which the resources shall be deposited. The Decommissioning Plan shall also include an agreement between the applicant and the Township that:

1. The financial resources for decommissioning shall be in the form of a surety bond, or shall be deposited in an escrow account with an escrow agent acceptable to Lexington Township.
2. The Township shall have access to the escrow account funds for the express purpose of completing decommissioning if decommissioning is not completed by the applicant within six (6) months of the end of project life or facility abandonment as defined by decommissioning.
3. The Township is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.
4. The Township is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the Township's right to seek reimbursement from the applicant or applicant successor for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real estate owned by the applicant or applicant's successor, or in which they have an interest, for the amount of the excess,

and to take all steps allowed by law to enforce said lien. Financial provisions shall not be so onerous as to make MET towers unfeasible.

.05 REVOCATION OF PERMIT

A permit issued pursuant to this ordinance may be revoked upon violation of any provision of this ordinance. If a violation is alleged, the Township shall send written notice of said violation to the owner/operator of the MET tower at the address on file with the Township. Said notice shall set forth the nature of the violation and shall notify the owner/operator that it has thirty (30) days to correct the violation. If the violation is not corrected within the thirty (30) day time period, the revocation of the permit shall be placed on the agenda of a Township Board meeting. The Township shall give the owner/operator at least seven (7) days written notice of the time and place of said meeting. The owner/operator may attend and present such information as it deems appropriate regarding the revocation. The Township Board shall determine if a violation exists and shall determine a timetable for either correcting the violation or revoking the permit.

.06 ENFORCEMENT

A violation of this ordinance is declared to be a public nuisance and the Township may enforce the same by injunction or other remedy, including the right to correct the violation and recover the cost of making the necessary correction from the owner/operator. In the event the Township obtains a judgment against the owner/operator pursuant to this section, the Township shall be entitled to an award of all reasonable and necessary costs incurred including actual attorney fees.

.07 SEVERABILITY

If any provision of this ordinance is held invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provision.

.08 REPEALER

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are repealed to the extent of such conflict, to the extent that this ordinance conflicts with any other ordinance this ordinance shall control (supersede).

10/20/2011 Admendment Approved
Amending the Lexington Township Zoning Ordinance Book updated 3/18/2010