

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE TO AMEND THE ORDINANCE CODE OF THE CITY OF HOLLAND, BEING ORDINANCE NO. \_\_\_\_\_ OF THE CITY OF HOLLAND, BY AMENDING SECTION 39-2 OF CHAPTER 39 OF SAID CODE.**

**THE CITY OF HOLLAND ORDAINS:**

That the Ordinance Code of the City of Holland, Michigan, is hereby amended by amending Section 39-2 to read as follows: *(amendments in bold italics)*

**Section 39-2. Definitions.**

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Accessory buildings.* A subordinate building or structure on the same premises with a main building, or a portion of a main building or structure, occupied or devoted to an accessory use. Where an accessory building is attached to a main building by a wall higher than six (6) feet above finished grade, or by a roof, such accessory building shall be considered part of the main building for purposes of establishing height, area and yard requirements.

*Accessory use.* A use naturally and normally incidental to a principal use on the same premises.

***Ambient. The sound pressure level exceeded 90% of the time or L90.***

***Anemometer tower. A freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system which is an accessory land use to a utility grid wind energy system.***

***ANSI means the American National Standards Institute.***

*Automobile or trailer sales area.* An area used for the display, sale or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

*Automobile salvage.* The dismantling or disassembling of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled or wrecked vehicles or their parts.

*Bed and breakfast establishments.* An owner-occupied single-family residence licensed to provide overnight sleeping accommodations and serve breakfast to paying guests in accordance with regulations governing such activity.

*Boardinghouse or rooming house.* A dwelling with one (1) kitchen and used for the purpose of providing meals or lodging or both meals and lodging for pay or compensation of any kind, computed by day, week or month, to more than two (2) persons other than members of the family occupying such dwelling.

*Central Neighborhood District.* The area bounded by properties with frontage on the following: 8th Street on the north; Fairbanks Avenue north of 16th Street and Lincoln Avenue south of 16th Street on the east; 16th Street between Fairbanks Avenue and Lincoln Avenue, and 24th Street extended on the south; and Ottawa Avenue on the west.

*Condominium unit.* That portion of a site condominium project designed and intended for separate ownership and use, as described in the master deed regardless of whether it is intended for residential, commercial, office, industrial, business, recreational, use as a time-share unit, or any other type of use.

***dB(A).*** *The sound pressure level in decibels. It refers to the “a” weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.*

***Decibel means the unit of measure used to express the magnitude of sound pressure and sound intensity.***

*Development plan.* A plan for a project requiring review under Article II of this chapter for properties located in a PUD or PRD Districts or a site condominium project (see also the definition of "site plan" in this section).

*Dwelling or apartment.* A building or portion thereof designed or used exclusively as the residence or sleeping place of one (1) or more persons, including one-family, two-family and multiple dwellings, apartment-hotels, hotels, boarding and lodging houses, but not including motels, tourist cabins or trailers.

*Dwelling unit.* One (1) room or a suite of two (2) or more rooms designed for or occupied by not more than one (1) family.

*Effective date of this ordinance.* Wherever the provisions of this chapter refer to the effective date or the date of enactment of a section, such reference shall be to the effective date or date of enactment of the ordinance adopting such section and not to the effective date of the recodification of this Chapter.

*Essential services.* The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground or overhead gas, electrical, steam or water transmission or distribution system, communication, supply or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, electric substations, telephone exchange buildings, gas regulator stations and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of utility service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare.

*Family.* A person living alone, or two (2) or more persons customarily living together as a single housekeeping unit in a dwelling unit having one (1) kitchen facility as distinguished from a group occupying a hotel, club, religious or institutional building, boarding or lodging house, or fraternity or sorority house.

*Fraternity and sorority.* A group of enrolled students associated or formally organized and attending a college, university, or other institution of higher education customarily living together as a single housekeeping unit.

*Garage, private.* A detached accessory building or portion of a main building used primarily for the storage of passenger vehicles and for not more than one (1) truck of a rated capacity not exceeding one and one-half (1 1/2) tons, or both.

*General common elements.* That portion of a site condominium project, other than the condominium units, and other than the limited common elements.

*Home business.* A home based business, occupation, or profession that results in a product or service that is clearly an accessory, incidental, and secondary use of a residential dwelling unit that may exhibit evidence that a business is being conducted from the premises.

*Home occupation.* A business, occupation, or profession that results in a product or service that is clearly an accessory, incidental, and secondary use of a residential dwelling unit with no exterior evidence that a business is being conducted from the premises, except those typically residential activities noted in section 39-192(c). Music instruction in the home shall be deemed a home occupation.

***IEC. The International Electrotechnical Commission.***

***ISO. The International Organization for Standardization.***

*Junk yards.* A place where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including house wreck yards, used lumber yards and places or yards for use of salvaged house wrecking and structural steel materials and equipment, but excluding such uses when conducted entirely within completely enclosed building and excluding pawn shops and establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment, and the processing of used, discarded or salvaged materials as part of manufacturing operations.

***Lease unit boundary. The boundary around property leased for purposes of a wind energy system, including adjacent parcels to the parcel on which the wind energy system tower or equipment is located. For purposes of setback, the lease unit boundary shall not cross road right-of-ways.***

*Limited common elements.* That portion of a site condominium project, other than the condominium units, reserved in the master deed for the exclusive use of the less than all of the co-owners.

*Lot.* A parcel of land which is or may be occupied wholly or in part by one (1) principal building or use and its accessories, and having either immediate frontage upon a public street or a permanent, exclusive, non-obstructed deeded access to a public street.

*Master deed.* The condominium document establishing the site condominium project and to

which are attached as exhibits and incorporated by reference the bylaws for the site condominium project and the condominium subdivision plan for the site condominium project, containing all information required by Michigan Act 59 of 1978, as amended, or any similar successor statute.

*Motels.* Groups of furnished rooms or separate structures providing sleeping and parking accommodations for transient tourist trade, commonly known as tourist cabins or motor courts, as distinguished from furnished rooms in an existing residential building.

*Nonconforming structure.* A structure lawfully existing at the time of adoption of this chapter, or any amendment thereto, and which does not conform to the regulations of the district in which it is located.

*Nonconforming use.* A use which lawfully occupied a structure or land at the time of adoption of this chapter, or any amendment thereto, and which does not conform with the regulations of the district in which it is located.

***On site wind energy system. A land use for generating electric power from wind that is accessory to a legal principal use and intended to primarily serve the needs of the electric power consumer at that site.***

*One-family or single-family residence.* A building designed for or exclusively occupied by one (1) family.

*Parking area.* An open area, other than a street or other public way, used for the parking of three (3) or more motor vehicles and available for public use whether for a fee or as an accommodation for clients, customers, residents or members.

*Petroleum bulk plants.* An establishment for the storage of petroleum products in bulk and in packages for distribution by tank car, tank vehicle, or motor truck.

*Principal or primary use.* The predominant use of the premises.

***Rotor. An element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.***

***Shadow flicker. Alternating changes in light intensity caused by the moving blades of a wind energy system casting shadows on the ground and stationary objects, such as but not limited to a window at a dwelling.***

*Single ownership.* A lot of record on or before August 16, 1961, in separate and distinct ownership from adjacent lot or lots where such adjacent lot or lots were not at that date owned by the same owner or by the same owner by the entireties, in joint tenancy or tenancy in common with any other person or persons.

*Site condominium project.* The term "site condominium" and "condominium" shall be synonymous unless the specific context of the ordinance would indicate otherwise.

*Site plan.* A plan for projects requiring review by the planning commission pursuant to section 39-20(b) of this chapter (see also the definition of "development plan" in this section).

***Sound pressure.*** *An 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.*

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

*Structure.* Anything constructed or erected which has a permanent location on the ground or is attached to something having such location.

*Structural changes or alterations.* Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial change in the roof.

*Two-family residences.* A building designed for or used for two (2) dwelling units.

*Yards.*

*Front yard.* The open unoccupied space between the front line of the building, excluding steps and unenclosed porches, and the street line, and extending for the full width of the lot. On a corner lot, the narrowest lot dimension along a street line shall be deemed to be the front lot line. Front yards shall be measured to the front property line less any area taken for public right-of-way purposes.

*Rear yard.* A space unoccupied, except by an accessory building or use as permitted by this chapter, extending for the full width of the lot between any building other than a building of accessory use and the rear lot line.

*Side yard.* An open unoccupied space on the same lot with the building, between the building and the side lot line, extending from the front yard to the rear yard. On a corner lot, the widest lot dimension along a street line shall be deemed to be a side lot line.

***Utility grid wind energy system.*** *A land use for generating electric power by use of wind at one or multiple tower locations in a community, including accessory uses such as but not limited to a SCADA tower and an electric substation. A utility grid wind energy system is designed and built to provide electric power to the electric utility grid rather than the electric power consumer on site.*

***Wind energy system.*** *A land use for generating power by use of wind; utilizing wind turbine generators, including the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the electric utility grid. See also onsite wind energy system and utility grid wind energy system.*

***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.*

*Zoning board.* The City of Holland zoning board of appeals.

All other provisions of Chapter 39 shall remain in full force and effect.

ORDINANCE ADOPTION DATE: \_\_\_\_\_

ORDINANCE EFFECTIVE DATE: \_\_\_\_\_

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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE TO AMEND THE ORDINANCE CODE OF THE CITY OF HOLLAND, BEING ORDINANCE NO. \_\_\_\_\_ OF THE CITY OF HOLLAND, BY AMENDING SECTION 39-17 OF CHAPTER 39 OF SAID CODE.**

**THE CITY OF HOLLAND ORDAINS:**

That the Ordinance Code of the City of Holland, Michigan, is hereby amended by amending Section 39-17 to read as follows: *(amendments in bold italics)*

**Section 39-17. Conditional uses.**

Conditional uses, as defined in this section, shall be permitted in all zone districts (except as restricted below) following a hearing by the zoning board and subject to such reasonable restrictions as such board may impose as hereinafter provided. Site or development plan review under Article II of this chapter is not required for conditional uses.

Recommendations from the planning commission or community services and development department regarding site planning concerns may be included as recommended proposed conditions in the report to the zoning board concerning the proposed conditional use as is currently provided by subsection 39-17(b).

- (a) *"Conditional uses" defined.* "Conditional uses" are those uses which are or could be publicly operated or are traditionally affected with a public interest. Because of the unique characteristics, they cannot be properly classified as permitted uses in any particular district without consideration of the impact of such uses upon adjoining land or public facilities.

Conditional uses may include, but are not limited to, the following uses:

- (1) Railroad spurs, switching yards, maintenance facilities and traffic-control terminals.
- (2) Private cemeteries, mausoleums, crematoriums and memorial gardens.
- (3) Private or semipublic nonprofit parks, recreation areas, athletic clubs, sportsman clubs, etc., including structures essential or accessory to such uses.
- (4) Community service uses including community centers and administrative, recreational or instructional services, such as Red Cross, YMCA, scouting or day care.
- (5) Private, profit-seeking instructional, tutorial or educational facilities.
- (6) Communications centers, including television, radio stations.
- (7) Personal wireless service towers and supporting facilities, television

and radio towers and supporting facilities.

(8) ***Utility grid wind energy systems, on-site use wind energy systems of greater than 30 kW, and anemometer towers over 100 feet high.***

- (b) *Application for conditional use.* Application for a conditional use shall be filed with the city clerk on a form prescribed by the zoning board. The application shall be accompanied by such plans and data and other information as may be prescribed by the zoning board. The city clerk shall submit copies of such application to the planning commission, office of the city engineer, city manager, department of environmental health, city assessor, police department, fire department and board of public works for review and recommendation.
- (c) *Zoning board hearing.* The zoning board shall hold a hearing on such application, such hearing to be held within ninety (90) days of the initial filing with the city clerk, and shall, within a reasonable time following such hearing, grant or deny such application. The zoning board shall hold a formal public hearing on all such applications and shall give notice thereof as provided in section 39-409. If the request involves placement of a tower or antenna on public property, it shall be acted upon within the time limits imposed by state or federal law.
- (d) *Standards.* If the zoning board finds from reasonable evidence that all of the following facts and conditions exist, it shall authorize the conditional use:
- (1) That the applicant has proven that the proposed use and proposed location would not result in a violation of the terms of section 39-74, as the standards therein set forth apply to the applicant's proposed use at the proposed location.
  - (2) That the conditional use will not cause substantial damage to the value of other property in the neighborhood in which it is to be located.
  - (3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
  - (4) That adequate utilities, access roads, drainage and other required site improvements have been or are being provided.
  - (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

- (6) Except for the conditions and requirements applicable to height, area and off-street parking, the conditional use shall in all other respects conform to the applicable regulations of the district in which it is located.
- (e) *Conditions and guarantees.* Prior to the granting of any conditional use, the zoning board shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as shall be necessary to promote the public health, safety and general welfare of the city, and to insure compliance with the standards and requirements specified in subsection (d) of this section. In all cases in which conditional uses are granted, the zoning board shall further require such evidence and guarantees as it may deem necessary and proper as proof that the conditions stipulated in connection therewith are being and will be met.
- (f) Except for the uses listed in paragraphs (a)(1)--(7) of this section, nothing herein shall be deemed to allow approval as a conditional use for any use which is explicitly permitted in any of the various existing zone districts.
- (g) *Additional requirements for towers:*
- (1) *Purpose; goals.* The purpose of this section is to establish general guidelines for the siting of towers and antennas. The goals of this section are to:
- a. Strongly encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the city;
  - b. Encourage the joint use of new and existing tower sites;
  - c. Encourage users of towers and antennas to locate and configure them, to the extent possible, in areas where the adverse impact on the community is minimized;
  - d. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
- (2) *Definitions.*
- a. *Antenna* shall mean any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves. For purposes of this section, "antenna" shall not include citizens' band or ham radio transmission equipment that is used for noncommercial purposes.

- b. *Co-location* shall mean the use of a single tower and/or site by more than one (1) provider.
  - c. *FAA* shall mean the Federal Aviation Administration.
  - d. *FCC* shall mean the Federal Communications Commission.
  - e. *Height* shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
  - f. *Personal wireless service* shall mean commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined in the Telecommunications Act of 1996.
  - g. *Provider(s)* shall mean an entity that provides personal wireless service and other forms of communication service including, but not limited to, such as radio and television.
  - h. *Tower* shall mean any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular and personal communication service (PCS) telephone towers, and the like.
- (3) *Additional conditional use application requirements.* In addition to the information otherwise requested by the zoning board for a conditional use permit application, the following items shall also be required for an application under this section:
- a. A map showing the service area of the proposed tower facility and an explanation of the need for the facility.
  - b. A map showing the locations and service areas of other tower facilities operated by the applicant and those that are proposed by the applicant which are located within the city or any adjoining township.
  - c. An application shall be signed by the property owner and applicant and state that:
    - 1. The owner and applicant agree to allow for the potential co-location of additional communication equipment by other providers on the applicant's structure or within the same location; and

2. The owner and applicant agree to comply with all of the conditions imposed by this ordinance and the conditional use permit, including but not limited to removal of the tower and all supporting facilities as required by this section if use of the site is discontinued.

(4) *Additional procedures and required conditions.*

- a. Prior to making application, all personal wireless service providers and other providers shall inquire with the community services and development department regarding the availability of additional antenna equipment capacity on existing towers.
- b. If a provider finds adequate space on an existing tower for their antenna facilities, the location of such additional antenna equipment on said tower facility shall be a permitted use, without further zoning board approval.
- c. Providers shall locate their antenna equipment on existing towers unless the zoning board determines that existing towers are at capacity, the equipment is incompatible with other equipment on the existing towers, or existing towers are not located so as to meet the provider's reasonable requirements. If a provider's equipment cannot be co-located on existing towers, then a provider shall make every effort to locate their equipment on existing publicly or privately owned tall structures.
- d. If a provider finds a suitable existing tall structure on or within which it may locate its equipment, the zoning board may waive any required condition of this section if it determines that waiver will not adversely affect the health, safety, and general welfare of the public at large, with special attention paid to the adjoining neighborhood thereof.
- e. Towers of one hundred (100) feet or more in height may only be located [in] the C-2 Highway Commercial District, C-4 Regional Shopping Center District, I-1 Industrial District, and the I-2 Industrial District. Towers of less than one hundred (100) feet in height may be located in any I or C district. All towers that require approval by the zoning board of appeals shall be prohibited from the M-40 Corridor/South End Overlay Zone District area as described in section 39-341(a).
- f. All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to

regulate towers and antennas. If such standards and regulations change, all providers must certify that the facility meets those revised standards. Providers shall certify that they meet FCC requirements for radiation emissions prior to receiving the initial facility building permit and shall recertify annually that they meet all FCC requirements.

- g. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If upon inspection, it is determined by the city building inspector that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall bring such tower into compliance with such standards within a reasonable time frame determined by said city building inspector.
- h. All towers shall be designed such that a minimum of two (2) additional antenna facilities comparable to that planned by an applicant provider shall be available to other providers at a reasonable cost. All providers shall demonstrate they have an agreement from the property owner to provide adequate ground area, access, and utility connections for additional users of the tower, again at reasonable cost.
- i. Approval of a conditional use does not authorize a provider to utilize the public right-of-way for related utility or communication needs not shown on the plan.
- j. Upon the cessation of use of the proposed tower by all providers for a period exceeding twelve (12) months, the owner of said tower shall be required to remove the tower and all other above ground installations in their entirety within six (6) months. Failure to remove the improvements is declared unlawful and shall be deemed a nuisance per se and shall be subject to enforcement action under section 1-10 of this Ordinance Code. The zoning board may require the owner to post a bond or other form of assurance that towers will be promptly removed in accordance with this section.
- k. No signage or logos shall be placed above ten (10) feet in height on any tower or any accessory building.
- l. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an

appropriate anti-climbing device; provided, however, that the zoning board may waive such requirements, as it deems appropriate.

- m. The zoning board shall have the discretion to choose the type of tower to be constructed by the applicant. Currently, tower types are limited to monopole, lattice, and guy-wire supported structures.
- n. The owner of the tower and any accessory buildings shall comply with the following landscaping requirements:
  - 1. Towers and accessory buildings (the "facilities") shall be landscaped with a buffer of plant materials that effectively screens view of the facilities (except for the tower) from adjacent property. The standard buffer shall consist of a landscaped strip at least six (6) feet wide around the perimeter of the facilities. Landscaping shall consist of evergreen trees and shrubs, or other suitable landscape materials planted at intervals sufficient to effectively screen the facilities.
  - 2. The zoning board may reduce or waive the landscaping requirements only if it determines that the visual impact of the facilities upon surrounding properties will be minimal or the lot size and existing natural growth on the property or adjacent properties is a sufficient buffer.
  - 3. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.
  - 4. The zoning board may incorporate additional landscaping and screening requirements, including any recommended by the planning commission, to provide an adequate screening or buffer.
- o. Towers and all accessory buildings shall abide by the applicable setback requirements for principal buildings in the zone district in which the tower is located. Additionally, all towers shall be setback from residentially used property a minimum distance equal to the height of the tower.
- p. Providers shall cooperate in the investigation of complaints that an antenna system causes interference with other electronic devices. If deemed responsible for the interference,

a provider shall rectify the interference or provide reasonable relief for the affected parties.

q. Aesthetics and lighting:

1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color, so as to reduce visual obtrusiveness.
2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
4. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the owner shall install lighting as approved by the zoning board based upon a design that will cause the least disturbance to surrounding views.

(5) *Conditional use permit limitations:*

- a. Any tower structure that does not contain any active antennas for 365 consecutive days shall receive a written notice by the Building Official to remove said tower and accessory equipment from the property. The owner or the owner's agent shall reply within 30 days of the date of the Building Official's notice and shall state their schedule to comply with the order to remove the tower, or otherwise comply with the requirements of this Section. Unless otherwise approved by the Zoning Board of Appeals, the tower and accessory equipment shall either then be removed from the property or one or more active antennas shall have been added to the tower within 90 days of the date of the Building Official's notice.
- b. A conditional use permit shall terminate if the permitted tower facility is not constructed and placed into use within

one (1) year of the date of the zoning board's approval, provided that the zoning administrator may extend the permit for six (6) months if construction has commenced before expiration of the initial year.

- c. The owner and operator of a communication tower facility shall and does, upon approval of this conditional use permit, agree to indemnify, protect, defend and hold harmless the city, its council members, zoning board members, officers, employees, agents and, representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorneys' fees (collectively, "liabilities") incurred by the city arising, directly or indirectly, from:
  - 1. The city's approval and issuance of this conditional use permit;
  - 2. The city's approval or issuance of any permit or action, whether discretionary or nondiscretionary, in connection with the use contemplated herein;
  - 3. The applicant's installation, maintenance, and operation of the facility including, without limitation, any and all liabilities arising from the emission of electromagnetic fields or other energy waves or emissions.

The owner's and operator's compliance with this section is an express condition of the conditional use permit and this provision shall be binding on the owner and operator and their successors and assigns.

- d. The applicant shall maintain the tower facility to standards that may be imposed by the city at the time of the granting of a permit. Such maintenance shall include, but shall not be limited to, maintenance of the paint, structural integrity and landscaping. If the applicant fails to maintain the facility, the city may undertake the maintenance at the expense of the applicant or terminate the conditional use permit, or both, at its sole option.
- e. The applicant shall notify the city of all changes in ownership or operation of the facility within sixty (60) days of the change.

***(h) Utility grid wind energy system, on-site use wind energy system of greater than 30 kW, and anemometer towers over 100 feet high.***

*A utility grid wind energy system, on-site use wind energy system of greater than 30 kW, and anemometer towers over 100 feet high shall meet the following standards:*

*(1) Property Setbacks.*

*a. Anemometer tower setbacks shall be the distance equal to the height of the tower from property lines.*

*b. Utility grid and on-site use wind energy system setbacks shall be at least equal to the height of the tower including the top of the blade in its vertical position from property lines or from the lease unit boundary, whichever is less.*

*c. An operations and maintenance office building, a sub-station, or ancillary equipment shall comply with the property setback requirements of the respective zoning district. Overhead transmission lines and power poles shall comply with the setback and placement requirements applicable to public utilities.*

*(2) Sound Pressure Level. The sound pressure level shall not exceed 55 dB(A) measured at the property lines or the lease unit boundary, whichever is farther from the source of the noise. This sound pressure level shall not be exceeded for more than three minutes in any hour of the day. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).*

*(3) Safety. Shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present. All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the wind energy system. A sign shall be posted near the tower or operations and maintenance office building that will contain emergency contact information. Signage placed at the access drive entrance shall warn visitors about the potential danger of falling ice. The minimum vertical blade tip clearance from grade shall be 30 feet for a wind energy system employing a horizontal axis rotor.*

*(4) Construction Codes, Towers, and Interconnection Standards. Shall comply with all applicable state construction and electrical codes and local building permit requirements.*

*(5) Pre-Application Permits. Required permits and evidence of compliance with the following Federal, State and local statutes shall be submitted as required before approval of a conditional use permit:*

- a. *Utility Infrastructure: The infrastructure shall comply with Federal Aviation Administration (FAA) requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950 as amended, M.C.L. 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959 as amended, M.C.L. 259.481 et seq.), and local jurisdiction airport overlay zone regulations. The minimum FAA lighting standards shall not be exceeded. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA. Utility Grid wind energy systems shall comply with applicable utility, Michigan Public Service Commission, and Federal Energy Regulatory Commission interconnection standards.*
  
- b. *Environment The site plan and other documents and drawings shall show:*
  - 1. *Mitigation measures to minimize potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities, as identified in an environmental analysis.*
  - 2. *Compliance with applicable parts of the Michigan Natural Resources and Environmental Protection Act (Act 451 of 1994, M.C.L. 324.101 et seq.).*

*(6) Performance Security. The Zoning Board may require security for the applicant's performance in the form of a letter of credit, deposit or bond to ensure that the applicant repairs any damage to public infrastructure or property caused by construction of the wind energy system.*

*(7) Utilities. Power lines shall be placed underground, when feasible. All aboveground lines, transformers, or conductors shall comply with the Avian Power Line Interaction Committee published standards to prevent avian mortality.*

*(8) The following standards apply only to utility grid wind energy systems:*

- a. *Visual Impact: Utility grid wind energy system projects shall use tubular towers and all utility grid wind energy systems in a project shall be finished in a single, non-reflective matte finished color. A project shall be constructed using wind energy systems of similar design, size, operation, and appearance throughout the project. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades. Nacelles may*

*have lettering that exhibits the manufacturer's and/or owner's identification. The applicant shall avoid state or federal scenic areas and significant visual resources listed in the local unit of government's Plan.*

- b. Avian and Wildlife Impact: Site plan and other documents and drawings shall show mitigation measures to minimize potential impacts on avian and wildlife.*
- c. Shadow Flicker: Site plan and other documents and drawings shall show mitigation measures to minimize potential impacts from shadow flicker.*
- d. Decommissioning: A Zoning Board approved decommissioning plan indicating 1) the anticipated life of the project, 2) the estimated decommissioning costs net of salvage value in current dollars, 3) the method of ensuring that funds will be available for decommissioning and restoration, and 4) the anticipated manner in which the project will be decommissioned and the site restored.*
- e. Complaint Resolution: A Zoning Board approved process to resolve complaints from nearby residents concerning the construction or operation of the project.*
- f. Electromagnetic Interference: No utility grid wind energy system shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system. No utility grid wind energy system shall be installed in any location within the line of sight of an existing microwave communications link where operation of the wind energy system is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.*

*(9) Plan Requirements.*

- a. Utility grid wind energy system, on-site use wind energy system of greater than 30 kW, and anemometer towers over 100 feet high. All plans shall include the following information:*

1. *Documentation that sound pressure level, construction code, tower, interconnection (if applicable), and safety requirements have been reviewed and the submitted site plan is prepared to show compliance with these issues.*
2. *Proof of the applicant's public liability insurance for the project.*
3. *A copy of that portion of all the applicant's lease(s) with the land owner(s) granting authority to install the anemometer tower and/or utility grid wind energy system; legal description of the property(ies), lease unit(s); and the site plan shows the boundaries of the leases as well as the boundaries of the lease unit boundary.*
4. *The phases, or parts of construction, with a construction schedule.*
5. *The project area boundaries.*
6. *The location, height, and dimensions of all existing and proposed structures and fencing.*
7. *The location, grades, and dimensions of all temporary and permanent on-site and access drives from the nearest street.*
8. *All new infrastructure above ground related to the project.*
9. *A copy of Manufacturers' Material Safety Data Sheet(s) which shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.*

*b. Utility grid wind energy systems only. All plans for Utility grid wind energy systems shall also include the following information:*

1. *A copy of a noise modeling and analysis report and the site plan shall show locations of equipment identified as a source of noise which is placed, based on the analysis, so that the wind energy system will not exceed the maximum permitted sound pressure levels. The noise modeling and analysis shall conform to IEC 61400 and ISO 9613. After installation of the utility grid wind energy system, sound pressure level measurements shall be done by a third party, qualified professional according to the procedures in the most current version of ANSI S12.18. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter. Documentation of the sound*

*pressure level measurements shall be provided to the Department of Community and Neighborhood Services within 60 days of the commercial operation of the project.*

- 2. A visual impact simulation showing the completed site as proposed on the submitted site plan. The visual impact simulation shall be from four viewable angles.*
- 3. A copy of an Environment Analysis by a third party qualified professional to identify and assess any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.*
- 4. A copy of an Avian and Wildlife Impact Analysis by a third party qualified professional to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts. (Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sites that are frequented by federally and/or state listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptor. At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, raptors, and general avian use should be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law. The analysis shall indicate whether a post construction wildlife mortality study will be conducted and, if not, the*

*reasons why such a study does not need to be conducted.)*

5. *A copy of a shadow flicker analysis at occupied structures to identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sun-set over the course of a year. The site plan shall identify problem areas where shadow flicker may affect the occupants of the structures and show measures that shall be taken to eliminate or mitigate the problems.*
6. *A second site plan, which includes all the information found in Section 39-17(h)(8)(d) of this Ordinance, and shows the restoration plan for the site after completion of the project which includes the following supporting documentation:
  - a. *The anticipated life of the project.*
  - b. *The estimated decommissioning costs net of salvage value in current dollars.*
  - c. *The method of ensuring that funds will be available for decommissioning and restoration.*
  - d. *The anticipated manner in which the project will be decommissioned and the site restored.**
7. *A description of the complaint resolution process developed by the applicant to resolve complaints from nearby residents concerning the construction or operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude the local government from acting on a complaint. During construction the applicant shall maintain and make available to nearby residents a telephone number where a project representative can be reached during normal business hours.*

All other provisions of Chapter 39 shall remain in full force and effect.

ORDINANCE ADOPTION DATE: \_\_\_\_\_

ORDINANCE EFFECTIVE DATE: \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND THE ORDINANCE CODE OF THE CITY OF HOLLAND, BEING ORDINANCE NO. \_\_\_\_\_ OF THE CITY OF HOLLAND, BY CREATING A NEW SECTION 39-18.1 OF CHAPTER 39 OF SAID CODE.

**THE CITY OF HOLLAND ORDAINS:**

That the Ordinance Code of the City of Holland, Michigan, is hereby amended by creating a new Section 39-18.1 to read as follows:

*Section 39-18.1. On-site use wind energy systems and anemometer towers of 100 feet or less.*

*An on-site use wind energy system is a permitted accessory use in all zone districts and shall meet the following standards:*

- (a) Designed to primarily serve the needs of a home, farm, or business located on the same site as the on site use wind energy system.*
- (b) Shall have a maximum power generation of 30 kW.*
- (c) Property Setback.*
  - 1. For stand alone wind energy systems, the distance between an on-site use wind energy system and the owner's property lines shall be equal to or greater than the height of the wind energy system tower including the top of the blade in its vertical position.*
  - 2. For wind energy systems mounted on a principal or accessory structure, the distance between an on-site use wind energy system and the owner's property lines shall be equal to or greater than the height of the wind energy system tower including the top of the blade in its vertical position as measured from where the system is attached to the structure.*
  - 3. The distance between an anemometer tower and the owner's property lines shall be equal to the height of the tower.*
  - 4. No part of the wind energy system structure, including guy wire anchors, may extend closer than ten feet to the owner's property lines.*
- (d) Sound Pressure Level. On-site use wind energy systems shall not exceed 55 dB(A) at any property line. This sound pressure level may be exceeded during short term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).*
- (e) Electromagnetic Interference: No on-site wind energy system shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would produce*

*electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system. No on-site wind energy system shall be installed in any location within the line of sight of an existing microwave communications link where operation of the wind energy system is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.*

*(f) Construction Codes, Towers, & Interconnection Standards: On-site use wind energy systems including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. On-site use wind energy systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and local jurisdiction airport overlay zone regulations. An interconnected on-site use wind energy system shall comply with Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.*

*(g) Safety: An on-site use wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lightning protection. If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least six feet above the guy wire anchors. The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.*

All other provisions of Chapter 39 shall remain in full force and effect.

ORDINANCE ADOPTION DATE: \_\_\_\_\_

ORDINANCE EFFECTIVE DATE: \_\_\_\_\_