

**Charter Township of Alpena
Ordinance No. 152**

**An ordinance to amend the Charter Township of Alpena Zoning Ordinance
Article 2 (Definitions), Article 3 (General Provisions), Article 4 (District
Regulations), Article 7 (Supplemental Regulations) to address aggrieved person,
child care facilities, chickens/duck/geese, solar energy, wireless facilities, wind
energy, and building height.**

Charter Township of Alpena, Alpena County, Michigan ordains:

Section 1: Amendment to the Charter Township of Alpena Zoning Ordinance

That the Charter Township of Alpena Zoning Ordinance, Section 201 (Definitions) is hereby amended to read as follows:

Aggrieved Party Person. ~~A person who has suffered a substantial damage from a zoning decision not in common to other property owners similarly situated and who has actively opposed the decision in question.~~

To be aggrieved, a party must meet the following three (3) criteria:

- A. The appellant must have participated in the challenged proceedings by taking a position on the contested decision, such as through a letter or oral public comment.
- B. The appellant must claim some legally protected interest or protected personal, pecuniary (financial), or property right that is likely to be affected by the challenged decision.
- C. The appellant must provide some evidence of special damages arising from the challenged decision in the form of an actual or likely injury to or burden on their asserted interest or right that is different in kind or more significant in degree than the effects on others in the local community.

Child Care Home, Family. A State-licensed, owner-occupied private home in which one (1) but fewer than seven (7) minor children are received for care and supervision for periods less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Care is given for more than four (4) weeks during a calendar year. ~~A family child care home does not include an individual providing babysitting services for another individual. "Providing babysitting services" means caring for a child on behalf of the child's parent or guardian if the annual compensation for providing those services does not equal or exceed \$600.00 or an amount that would according to the internal revenue code of 1986 obligate the child's parent or guardian to provide a form 1099-MISC to the individual for compensation paid during the calendar year for those services. Family Child Care Home includes a private home with increased capacity. "Increased capacity" means one (1) additional child added to the total number of minor children received for care and supervision in a family child care home. The definition of Family Child Care Home in 1973 PA 116, as amended, supersedes this definition if a difference in definition exists.~~

Child Care Home, Group. A State-licensed, owner-occupied private home in which more than six (6) but not more than (12) minor children are given care and supervision for periods less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Care is given for more than four (4) weeks during a calendar year. Group child care home includes a private home with increased capacity. “Increased capacity” means two (2) additional children added to the total number of minor children received for care and supervision in a group child care home. The definition of Group Child Care Home in **1973 PA 116**, as amended, supersedes this definition if a difference in definition exists.

Solar Energy Definitions:

- A. **Solar Collection Device.** A photovoltaic panel, solar thermal collector, or collection of panels or collectors in a solar energy system that collects solar radiation.
- B. **Solar Energy Facility (Utility Scale).** A facility designed to capture and utilize the energy of the sun to generate electrical power primarily to be used off-site. A solar energy collection facility consists of an array of solar collection devices used to collect solar rays and all associated ancillary and structural devices needed to support and convert/transmit the energy collected.
- C. **Solar Energy Panels (Accessory).** Solar collection devices designed to capture and utilize the energy of the sun to generate electrical power primarily for use on-site. A solar collection device is the actual material(s) used to collect solar rays and all associated ancillary and structural devices needed to support and convert/transmit the energy collected.
 - 1. **Building-Integrated Accessory Solar Energy Panels.** Accessory solar energy panels that are an integral part of a primary or accessory building or structure (rather than a separate mechanical device), replacing or substituting for an architectural or structural component of the building or structure. Building-integrated systems include, but are not limited to, photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.
 - 2. **Building-Mounted Accessory Solar Energy Panels.** A solar energy system mounted on racking that is attached to or ballasted on the roof or wall of a building or structure.
 - 3. **Ground-Mounted Accessory Solar Energy Panels.** Accessory solar energy panels mounted on support posts, like a rack or pole, that are attached to or rest on the ground.
- D. **Maximum Tilt.** The maximum angle of a solar panel (i.e., most vertical position) for capturing solar radiation as compared to the horizon line.
- E. **Minimum Tilt.** The minimal angle of a solar panel (i.e., most horizontal position) for capturing solar radiation as compared to the horizon line.
- F. **Non-Participating Lot(s).** One (1) or more lots for which there is not a signed lease or easement for the development of a solar energy facility associated with the applicant project.

- G. **Participating Lot(s).** One (1) or more lots under a signed lease or easement for the development of a solar energy facility associated with the applicant project.
- H. **Repowering.** Reconfiguring, renovating, or replacing a solar energy facility to maintain or increase the power rating of the solar energy facility within the existing project footprint.

Wireless Communications (Telecommunication Towers and Facilities Definitions)

Wireless Communication Facility (Ground-Mounted) – also called “Earth Station or Ground Station”. A wireless communication facility in which the antenna array is mounted to the ground or other surface and which does not use a Wireless Communications Support Structure (tower).

That the Charter Township of Alpena Zoning Ordinance, Section 309 (Pets, Domestic Animals, & Chickens/Duck/Geese) is hereby amended as follows:

C. Chickens, Ducks, Turkeys, Guineafowl, and Geese – Special Use in R-1, R-2, R-3 and WR Districts.

Chickens, ducks, turkeys, guineafowl, or geese may be kept on lots in the R-1, R-2, R-3 and WR Districts which are classified as Category 4 sites by the Michigan Department of Agriculture and Rural Development’s “GAAMP for Site Selection and Odor Control for New and Expanding Livestock Facilities.” This shall be considered a Permitted Use with Zoning Administrator approval in the R-2 and R-3 Districts and upon issuance of a Special Land Use Permit in the R-1 and WR Districts. and according to The following conditions shall apply:

1. Roosters are prohibited.
2. Chickens, ducks, turkeys, guineafowl, or geese must be kept in and confined in a properly designed and constructed coop or a fenced and covered enclosure, which may be located only in the rear yard of the property.
3. Each fenced and covered enclosure shall be designed with adequate yard space for each bird, and the coop and the fenced and covered enclosure combined shall not cover more than fifty (50%) percent of the rear yard. Enclosures must be clean and resistant to predators and rodents.
4. Enclosures shall be located at least twenty-five (25’) feet from any dwelling on a neighboring parcel.
5. No chickens, ducks, turkeys, guineafowl, or geese shall be kept on parcels with more than one (1) dwelling.

That the Charter Township of Alpena Zoning Ordinance, Section 403 (Conservation District) is hereby amended to read as follows:

B. Under Human Care & Social Assistance, remove “6 or less” from Child Care Home, Family and “7 – 12” from Child Care Home, Group.

C. Development Standards for C District

1. Lot and Structure Standards
 - c. Building Height (max): 2 stories ~~or 30 feet~~ *(Add the following)* Only stories that are designed to be livable space shall be counted toward the maximum number of stories. Attics and basements which are not designed as livable space shall not count toward the maximum number of stories. The Planning Commission may permit a building to exceed the maximum number of stories listed in each district upon issuance of a Special Land Use permit.

That the Charter Township of Alpena Zoning Ordinance, Section 404 (Forest Recreation District) is hereby amended to read as follows:

B. Under Human Care & Social Assistance, remove “6 or less” from Child Care Home, Family and “7 – 12” from Child Care Home, Group.

C. Development Standards for FR District

1. Lot and Structure Standards
 - c. Building Height (max): 2 stories ~~or 30 feet~~ *(Add the following)* Only stories that are designed to be livable space shall be counted toward the maximum number of stories. Attics and basements which are not designed as livable space shall not count toward the maximum number of stories. The Planning Commission may permit a building to exceed the maximum number of stories listed in each district upon issuance of a Special Land Use permit.

That the Charter Township of Alpena Zoning Ordinance, Section 405 (Agricultural District) is hereby amended to read as follows:

B. Under Human Care & Social Assistance, remove “6 or less” from Child Care Home, Family and “7 – 12” from Child Care Home, Group.

C. Development Standards for A District

1. Lot and Structure Standards
 - c. Building Height (max): 2 stories ~~or 30 feet~~ *(Add the following)* Only stories that are designed to be livable space shall be counted toward the maximum number of stories. Attics and basements which are not designed as livable space shall not count toward the maximum number of stories. The Planning Commission may permit a building to exceed the maximum number of stories listed in each district upon issuance of a Special Land Use permit.

That the Charter Township of Alpena Zoning Ordinance, Section 406 (Waterfront District) is hereby amended to read as follows:

B. Under Human Care & Social Assistance, remove “6 or less” from Child Care Home, Family and “7 – 12” from Child Care Home, Group.

C. Development Standards for WR District

1. Lot and Structure Standards
 - c. Building Height (max): 2 stories ~~or 30 feet~~ *(Add the following)* Only stories that are designed to be livable space shall be counted toward the maximum number of stories. Attics and basements which are not designed as livable space shall not count toward the maximum number of stories. The Planning Commission may permit a building to exceed the maximum number of stories listed in each district upon issuance of a Special Land Use permit.

That the Charter Township of Alpena Zoning Ordinance, Section 407 (One-Family Residential District) is hereby amended to read as follows:

B. Under Human Care & Social Assistance, remove “6 or less” from Child Care Home, Family and “7 – 12” from Child Care Home, Group.

C. Development Standards for R-1 District

1. Lot and Structure Standards

c. Building Height (max): 2 stories ~~or 30 feet~~ *(Add the following)* Only stories that are designed to be livable space shall be counted toward the maximum number of stories. Attics and basements which are not designed as livable space shall not count toward the maximum number of stories. The Planning Commission may permit a building to exceed the maximum number of stories listed in each district upon issuance of a Special Land Use permit.

That the Charter Township of Alpena Zoning Ordinance, Section 408 (Rural Residential District) is hereby amended to read as follows:

B. Under Human Care & Social Assistance, remove “6 or less” from Child Care Home, Family and “7 – 12” from Child Care Home, Group.

C. Development Standards for R-2 District

1. Lot and Structure Standards

c. Building Height (max): 2 stories ~~or 30 feet~~ *(Add the following)* Only stories that are designed to be livable space shall be counted toward the maximum number of stories. Attics and basements which are not designed as livable space shall not count toward the maximum number of stories. The Planning Commission may permit a building to exceed the maximum number of stories listed in each district upon issuance of a Special Land Use permit.

That the Charter Township of Alpena Zoning Ordinance, Section 409 (Mixed Residential District) is hereby amended to read as follows:

B. Under Human Care & Social Assistance, remove “6 or less” from Child Care Home, Family and “7 – 12” from Child Care Home, Group.

C. Development Standards for R-3 District

1. Lot and Structure Standards

c. Building Height (max): 2 stories ~~or 30 feet~~ *(Add the following)* Only stories that are designed to be livable space shall be counted toward the maximum number of stories. Attics and basements which are not designed as livable space shall not count toward the maximum number of stories. The Planning Commission may permit a building to exceed the maximum number of stories listed in each district upon issuance of a Special Land Use permit.

That the Charter Township of Alpena Zoning Ordinance, Section 410 (Office Service District) is hereby amended to read as follows:

C. Development Standards for OS District

1. Lot and Structure Standards

c. Building Height (max): 4 stories ~~or 45 feet~~ *(Add the following)* Only stories that are designed to be livable space shall be counted toward the maximum number of stories. Attics and basements which are not designed as livable space shall not count toward the maximum number of stories. The Planning Commission may permit a building to exceed the maximum number of stories listed in each district upon issuance of a Special Land Use permit.

That the Charter Township of Alpena Zoning Ordinance, Section 411 (Restricted Business District) is hereby amended to read as follows:

C. Development Standards for B-1 District

1. Lot and Structure Standards

c. Building Height (max): 2 stories ~~or 30 feet~~ *(Add the following)* Only stories that are designed to be livable space shall be counted toward the maximum number of stories. Attics and basements which are not designed as livable space shall not count toward the maximum number of stories. The Planning Commission may permit a building to exceed the maximum number of stories listed in each district upon issuance of a Special Land Use permit.

That the Charter Township of Alpena Zoning Ordinance, Section 412 (General Business District) is hereby amended to read as follows:

C. Development Standards for B-2 District

1. Lot and Structure Standards

c. Building Height (max): 4 stories ~~or 45 feet~~ *(Add the following)* Only stories that are designed to be livable space shall be counted toward the maximum number of stories. Attics and basements which are not designed as livable space shall not count toward the maximum number of stories. The Planning Commission may permit a building to exceed the maximum number of stories listed in each district upon issuance of a Special Land Use permit.

That the Charter Township of Alpena Zoning Ordinance, Section 413 (Community Business District) is hereby amended to read as follows:

C. Development Standards for B-3 District

1. Lot and Structure Standards

c. Building Height (max): 4 stories ~~or 45 feet~~ *(Add the following)* Only stories that are designed to be livable space shall be counted toward the maximum number of stories. Attics and basements which are not designed as livable space shall not count toward the maximum number of stories. The Planning Commission may permit a building to exceed the maximum number of stories listed in each district upon issuance of a Special Land Use permit.

That the Charter Township of Alpena Zoning Ordinance, Section 414 (Light Manufacturing District) is hereby amended to read as follows:

C. Development Standards for M-1 District

1. Lot and Structure Standards

c. Building Height (max): 4 stories ~~or 45 feet~~ *(Planned development involving three (3) acres or more under one (1) ownership shall be subject to the approval of the Planning Commission,*

after public hearing, regarding modifications with respect to height regulations. (Add the following) Only stories that are designed to be livable space shall be counted toward the maximum number of stories. Attics and basements which are not designed as livable space shall not count toward the maximum number of stories. The Planning Commission may permit a building to exceed the maximum number of stories listed in each district upon issuance of a Special Land Use permit.

That the Charter Township of Alpena Zoning Ordinance, Section 416 (Full Table of Permitted & Special Land Uses) is hereby amended as follows:

Under Human Care & Social Assistance, remove “6 or less” from Child Care Home, Family and “7 – 12” from Child Care Home, Group.

Under “Communications”, add the following:

Table of Permitted Uses & Special Land Uses													
<i>*supplemental development regulations</i>													
P = Permitted by right S = Permitted with a Special Use Permit	WR	R-1	R-2	R-3	OS	B-1	B-2	B-3	A	FR	C	M-1	M-2
Communications													
Antenna towers and masts (residential accessory use)	S	S	S	S	S	S	S	S	S	S	S	S	S
Small Cell Wireless Facilities - §730	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Television/Radio Broadcasting Stations (with tower)							S	S					
Wireless Communications Facility: Ground-Mounted			S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*
Wireless Communications Support Structures (cell towers) - §730	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*	S*

That the Charter Township of Alpena Zoning Ordinance, Section 417 (Schedule of Regulations) is hereby amended as follows:

Under “Maximum Height of Structure” – remove the column titled “In Feet”. In column titled “In Stoires”, add footnote “q”

q. Only stories that are designed to be livable space shall be counted toward the maximum number of stories. Attics and basements which are not designed as livable space shall not count toward the maximum number of stories. The Planning Commission may permit a building to exceed the maximum number of stories listed in each district upon issuance of a Special Land Use permit.

That the Charter Township of Alpena Zoning Ordinance, Section 402 (Application of District Regulations) is hereby amended as follows:

B. Application of Area and Width Regulations.

1. The area or width of a lot shall not be reduced below the minimum requirements herein established for the district in which such lot is located **except as indicated in subsection B.1.a.**

- a. **Creation of a Nonconforming Lot.** A lot may be split which results in a nonconforming lot (a lot that does not meet the minimum lot width or area standards) only in the event that the resulting portion of the lot that does not meet standards is legally combined with another existing abutting lot. Until the lot is legally combined with another existing abutting lot, that newly created nonconforming lot shall not be developed.

That the Charter Township of Alpena Zoning Ordinance, Section 732 (Solar Energy) is hereby amended as follows:

A. Solar Energy Facilities (Utility Scale).

1. **Reflection/Glare.** Attached, building-integrated or freestanding solar collection devices, or combination of devices, shall be designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard. This may be accomplished by both the placement and angle of the collection devices as well as human-made or environmental barriers. ~~Glare intensity is considered an issue if it measures more than twenty (20%) percent of the incident sun intensity.~~ Plans to reduce glare may be required in the initial materials submitted.
2. **Impervious Surface/Stormwater.** If more than eight thousand (8,000) square feet of impervious surface will be located on the site, the application shall include a drainage plan prepared by a registered civil engineer showing how stormwater runoff will be managed. If detergents will be used to clean solar panels, details on the type of detergent, frequency, and quantity of use, and stormwater quality protection measures shall be provided. Any necessary permits from outside agencies for off-site discharge shall be provided.
3. **Screening.** Solar devices shall be screened **year-round** from view from any residential district or residential use by use of a masonry screen wall, evergreen vegetation, or other screening of a similar effectiveness and quality, as determined by the Planning Commission. **Screening shall be installed which screens the facility fully from view from the time of planting or installation. Screening shall be maintained throughout the life of the facility including replacing dead vegetation within six (6) months or at the earliest feasible time of year dependent on the weather.**
4. **Setbacks.** The setbacks of all solar collection devices and ancillary equipment shall be at least fifty (50') feet from all property lines **of non-participating lots.**
5. **Wiring.** Wiring (including communication lines) may be buried underground. Any above-ground wiring within the footprint of the solar energy facilities shall not exceed the height of the solar array at maximum tilt.

6. **Lighting:** Lighting shall be limited to inverter and/or substation locations only. Light fixtures shall have downlit shielding and be placed to keep light on-site and glare away from adjacent properties, bodies of water, and adjacent roadways. Flashing or intermittent lights are prohibited.
7. **Sound.** The sound pressure level of a solar energy facility and all ancillary solar equipment shall not exceed fifty-five (55) dBA (Leq (1 hour)) at the property line of an adjacent non-participating lot. The site plan shall include modeled sound isolines extending from the sound source to the property lines to demonstrate compliance with this standard.
8. **Land Clearing:** Land disturbance or clearing shall be limited to what is minimally necessary for the installation and operation of the system and to ensure sufficient all-season access to the solar resource given the topography of the land. Topsoil distributed during site preparation (grading) on the property shall be retained on site.
9. **Access Drives:** New access drives within the Solar Energy Facility shall be designed to minimize the extent of soil disturbance, water runoff, and soil compaction on the premises. The use of geotextile fabrics and gravel placed on the surface of the existing soil for temporary roadways during the construction of the Solar Energy Facility is permitted, provided that the geotextile fabrics and gravel are removed once the Solar Energy Facility is in operation.
10. **Fencing:** Solar Energy Facilities may be secured with perimeter fencing to restrict unauthorized access. Fencing is not subject to setbacks in subsection A.4.
11. **Battery Storage.** Sufficient space shall be reserved on the property for battery storage, if applicable, and such storage area shall be indicated on the site plan.
12. **Lot Coverage:** Solar collection devices shall not count toward the maximum lot coverage standards in Article 4.
13. **Agricultural Protection:** For sites where agriculture is a permitted use in a district, solar energy facilities shall be sited to minimize impacts to agricultural production through site design and accommodations including:
 - a. The ground mounting of panels by screw, piling, or a similar system that does not require a footing, concrete, or other permanent mounting in order to minimize soil compaction.
 - b. Siting panels to avoid disturbance and compaction of farmland by siting panels along field edges and in nonproduction areas to the maximum extent practicable and financially feasible.
 - c. Maintaining all drainage infrastructure on-site, including drain tile and ditches, during the operation of the solar energy facility.
 - d. Siting the solar energy facility, if feasible, to avoid isolating areas of the farm operation such that they are no longer viable or efficient for agricultural production, including, but not limited to, restricting the movement of agricultural vehicles/equipment for planting, cultivation, and

harvesting of crops, and creating negative impacts on support infrastructure such as irrigation systems or drains.

- e. Voluntarily purchasing agricultural conservation easements from an equivalent number of prime farmland acres if the township has adopted a purchase of development rights ordinance.

- 14. **Repowering:** In addition to repairing or replacing solar energy components to maintain the system, a solar energy facility may at any time be repowered, without the need to apply for a new Special Land Use permit, by reconfiguring, renovating, or replacing the solar energy components to increase the power rating within the existing project footprint.

A proposal to change the project footprint of an existing solar energy facility shall be considered a new application, subject to the ordinance standards at the time of the request. Expenses for legal services and other studies resulting from an application to modify a Solar Energy Facility will be reimbursed to the Township by the Solar Energy Facility owner in compliance with established escrow policy.

- 15. **Reports.** Solar energy production summary reports by month shall be provided annually for each Solar Energy Facility to the Planning Commission and the Township Clerk, by January 31st each year, for the preceding year.

- 16. **Abandonment.** Any freestanding solar collection site or device which is not used for six (6) **continuous** months shall be deemed to be abandoned. The applicant/permit holder will be so notified in writing by the Township and requested to dismantle the site and return it to its original state. If there are mitigating circumstances as to why the site has not been used, the applicant/permit holder may contact the Township and request a three (3) month extension. If a site has been deemed abandoned and no request for an extension is received, the applicant/permit holder will again be notified to dismantle the site and return it to its original state. If the applicant/permit holder does not do this, the Township will have the removal and restoration done at the owner/applicant's expense. Removal shall include removing posts, equipment, panels, foundations, and other items so that the ground is restored to its preconstruction state and is ready for development as another land use.

- 17. **Performance Guarantee:** As a condition of approval, prior to construction, the Planning Commission may require an owner to deposit funds in escrow with the Township or provide a performance guarantee (pursuant to **Section 905**) satisfactory to the Planning Commission to assure the removal of the solar energy facility. If required, such escrow deposit or insurance bond shall be in an amount equal to 1.25 times the cost of removal of the facility. The deposit or bond shall be maintained by successor owners of the facility.

- 18. **Decommissioning Plan:** A decommissioning plan is required at the time of application.

- a. The decommissioning plan shall include:

- 1. The anticipated manner in which the project will be decommissioned, including a description of which above-grade and below-grade improvements will be removed, retained (e.g. access drive, fencing), or restored for viable reuse of the property consistent with the zoning district.

2. The projected decommissioning costs for removal of the solar energy facility (net of salvage value in current dollars) and soil stabilization, less the amount of the surety bond posted with the State of Michigan for decommissioning of panels installed on PA 116 lands.
 3. The method of ensuring that funds will be available for site decommissioning and stabilization (in the form of surety bond, irrevocable letter of credit, or cash deposit).
- b. A review of the amount of the performance guarantee based on inflation, salvage value, and current removal costs shall be completed every five (5) years, for the life of the project, and approved by the Township Board. A solar energy facility owner may at any time:
- (1) Proceed with the decommissioning plan approved by the Planning Commission and remove the system as indicated in the most recent approved plan; or
 - (2) Amend the decommissioning plan with Planning Commission approval and proceed according to the revised plan.

B. Solar Energy Panels (as Accessory Use).

Solar energy panels shall be allowed as an accessory use in all zoning districts subject to the requirements below. A building permit is required.

1. **Submittal Requirements.** Applicants shall submit a plot plan that shows the location of the system on the property, height, tilt features (if applicable), the primary structure, accessory structures, and setbacks to property lines. Accessory use applications that meet the ordinance requirements shall be granted administrative approval by the Zoning Administrator.
2. **Height.**
 - a. Ground-mounted ~~or pole-mounted~~ accessory solar energy panels shall not exceed the allowable height of detached accessory buildings pursuant to **Section 305** when oriented at maximum tilt.
 - b. Building-mounted ~~or roof-mounted~~ accessory solar energy systems shall not exceed **three (3) feet above the highest point of the roof** ~~maximum allowed building height in any zoning district.~~
3. **Setbacks.**
 - a. Ground-mounted ~~or pole-mounted~~ accessory solar energy panels shall adhere to setbacks established for detached accessory buildings pursuant to **Section 305**.
 - b. Building-mounted ~~or roof-mounted~~ accessory solar energy panels shall adhere to district setbacks for a principal building but may encroach into designated main building setbacks by twelve (12") inches.

- c. Setbacks are measured from the lot line to the nearest portion of the structure when oriented at minimum tilt.
 - d. If no solar access is available in the location required by this subsection, the Planning Commission may approve ground-mounted solar energy panels in an alternate location on a case-by-case basis. Screening from the road or neighboring property may be required.
4. **Glare.** Panels shall not result in glare onto adjoining properties or public rights of way.
5. **Nonconformities.**
- a. A building-mounted accessory solar energy panel installed on a nonconforming building or nonconforming use shall not be considered an expansion of the nonconformity.
 - b. Ground-mounted accessory solar energy panels installed on a nonconforming lot or nonconforming use shall not be considered an expansion of the nonconformity.
6. **Building-Integrated Solar Panels.** Building-Integrated solar energy panels are subject only to zoning regulations applicable to the structure or building and not subject to standards in subsections 1 through 5 above.

That the Charter Township of Alpena Zoning Ordinance, Section 731 (Wind Energy) is hereby amended as follows:

B. Wind Turbine Generator (Utility-Grid or Commercial).

- 9. Lighting.** Lighting shall consist of the minimum required by the **Federal Aviation Administration** or the **Michigan Aeronautics Commission** or other applicable authority, or otherwise necessary for the reasonable safety and security thereof. If lighting is required, the lighting alternatives and design chosen:
- a. Shall be the intensity required under State or Federal regulations.
 - b. Shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by State or Federal regulations. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to State or Federal regulations.
 - c. All tower lighting required by State or Federal regulations shall be shielded to the extent possible to reduce glare and visibility from the ground.
 - d. **Radar-activated obstruction lighting system shall be utilized, if available.**
- 15. Decommissioning Plan.** ~~The owner shall furnish the Township with an approved decommissioning plan indicating the anticipated life of the project, the estimated decommissioning costs net of salvage value in current dollars, the method of ensuring that funds will be available for decommissioning and restoration, and the anticipated manner in which the project will be decommissioned and the site restored.~~

A decommissioning plan is required at the time of application.

a. The decommissioning plan shall include:

- (1) The anticipated manner in which the project will be decommissioned, including a description of which above-grade and below-grade improvements will be removed, retained (e.g. access drive, fencing), or restored for viable reuse of the property consistent with the zoning district.
- (2) The projected decommissioning costs for removal of the Wind Turbine Generator and soil stabilization.
- (3) The method of ensuring that funds will be available for site decommissioning and stabilization (performance guarantee in the form of surety bond, irrevocable letter of credit, or cash deposit).

b. A review of the amount of the performance guarantee based on inflation, salvage value, and current removal costs shall be completed every five (5) years, for the life of the project, and approved by the Township Board. A wind energy facility owner may at any time:

- (1) Proceed with the decommissioning plan approved by the Planning Commission and remove the system as indicated in the most recent approved plan; or
- (2) Amend the decommissioning plan with Planning Commission approval and proceed according to the revised plan.

16. Removal of Abandoned Wind Turbine Generators or Anemometer Towers. Any Wind Turbine Generator or anemometer tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such Wind Turbine Generator or anemometer tower shall remove the same within one hundred eighty (180) days of receipt of notice from the Township of such abandonment. In addition to removing the Wind Turbine Generator or anemometer tower, the owner shall restore the site of the Wind Turbine Generator or anemometer tower to its original condition prior to location of the Wind Turbine Generator or anemometer tower, subject to reasonable wear and tear. Any foundation associated with a Wind Turbine Generator or anemometer tower shall be removed to a minimum depth of five (5) feet below the final grade and site vegetation shall be restored. Failure to remove an abandoned Wind Turbine Generator or anemometer tower within the one hundred eighty (180) day period provided in this subsection shall be grounds for the Township to remove the Wind Turbine Generator or anemometer tower at the owner's expense. The Planning Commission shall require the applicant to file a performance guarantee (pursuant to **Section 905**) equal to one and a quarter (1.25) times the estimated cost of the removal of the Wind Turbine Generator or anemometer at time of approval. Such escrow deposit or bond shall be maintained by successor owners and shall be a condition of a Special Land Use given pursuant to this Section.

That the Charter Township of Alpena Zoning Ordinance, Section 730 (Wireless Communication Facilities) is hereby amended as follows:

A. Uses Allowed.

1. **Co-location - Permitted Use.** Pursuant to Section 3514 of **2006 PA 110, as amended** (Michigan Zoning Enabling Act, being MCL 125.3101 et.seq.), co-location of wireless communications equipment is a permitted use of property.
2. **New Support Structure (also called “Tower”) or Ground-Mounted Wireless Facility (Earth Station or Ground Station).** New support structures and Ground-Mounted Wireless Facilities are a Special Land Use and shall be evaluated using the procedures stated in **Subsection B and C** below. **In addition, any other wireless facility that does not fall under the definition of a Support Structure or Ground-Mounted Wireless Facility shall be a Special Land Use and subject to Subsection B and C below.**
3. **Residential Towers.** Antenna towers and masts erected and operated as a residential accessory use and not more than fifty (50’) feet in height as measured between the tower's base at grade and its highest point are exempt from these regulations.
4. **Small Cell Wireless Facilities.** See **Subsection E.**

B. Procedures for Support Structure (Tower) Special Land Use Approval.

1. An application for Special Land Use approval ~~of wireless communications support structures~~ shall include all information required by **Section 503 (Site Plan Data Required)** and **601.**
2. After an application for a Special Land Use approval is filed, the Zoning Administrator shall determine whether the application is administratively complete. The application shall be considered to be administratively complete when the Zoning Administrator makes that determination or fourteen (14) business days after the Zoning Administrator receives the application, whichever is first.
3. If, before the expiration of the fourteen (14) day period under **Subsection B.2**, the Zoning Administrator notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the fourteen (14) day period under **Subsection B.2** is tolled until the applicant submits to the body or official the specified information or fee amount due. The notice shall be given in writing or by electronic notification.
4. The Planning Commission shall approve or deny the application not more than ninety (90) days after the application is considered to be administratively complete. If the Planning Commission fails to timely approve or deny the application, the application shall be considered approved and the Planning Commission shall be considered to have made any determination required for approval.

5. In considering **each Special Land Use** authorization of such towers and masts, the Planning Commission shall apply the standards of **Section 504, Section 602**, and the following standards in **Subsection C**.

C. **Standards for Special Land Uses Support Structure (Tower).**

1. **Ownership.** The applicant shall provide documentation to the Planning Commission that clearly establishes the legal ownership of the **wireless communications facility tower**. The applicant, its agents, successors, and assigns shall report to the Planning Commission any changes in the legal ownership of the **wireless communications facility tower** within thirty (30) days of the effective date of the change.
2. **Leases on a Portion of the Parcel.** Where a **wireless communications facility tower** is to be located on leased property, and the lease extends beyond one (1) year, and the lease arrangement is for only a portion of the parent parcel, the property owner shall obtain a land division (lot split) for the **wireless communications facility tower** site in conformance with the **State's Land Division Act**.
3. **Visual Impact Analysis.** The application for Special Land Use approval for ~~the a~~ tower shall include a visual impact analysis, prepared by the applicant, which includes graphic depiction of the anticipated visual appearance of the tower from important vantage points in the surrounding area.
4. **Height.** A communications tower shall be exempt from building height limits established by zoning district regulations, provided that the tower height shall not exceed the minimum height necessary to serve its intended functions or two hundred (200') feet, whichever is less.
5. **Co-Location.** Documentation shall be required showing whether or not it is feasible to provide equivalent service by co-locating the antenna on an existing tower or alternative tower structure in the Township, or on an existing tower or other existing alternative tower structure located in neighboring communities.
6. **Compatibility and Screening.** The **wireless communications facility tower** and any ancillary building or buildings housing equipment needed for operation of the **wireless communications facility tower** shall not exceed the floor area and height minimally necessary for such equipment, and shall be of a size, type, color, and exterior materials which are aesthetically and architecturally compatible with the surrounding area. Landscape screening may be required by the Planning Commission to accomplish screening of ancillary equipment buildings.
7. **Setbacks of Cables/Anchors.** Guy cables and anchors shall comply with applicable zoning district setback requirements.
8. **Setback of Tower.**
 1. **Towers.** The tower shall be set back a distance **at least** equal to the height of the tower measured from the base of tower to all points on each property line. If adjacent parcels are under the same ownership as the parcel proposed for the development of a tower and not

separated by a right-of-way, the properties may be considered in combination in determining setback of the tower. The tower and any supporting or appurtenant structures shall be no closer to any dwelling than the distance equal one and one half (1.5) times the height of the tower measured from its base at grade to its highest point.

2. **Ground-Mounted Wireless Communications Facilities.** Ground-Mounted Wireless Communications Facilities shall be set back at least one hundred seventy-five (175') feet from the outside edge of the equipment enclosure to each property line. The Planning Commission may reduce the required setbacks if it is determined that such reduction will not adversely affect neighboring property. If adjacent parcels are under the same ownership as the parcel proposed for the development of a ground-mounted wireless communications facility and not separated by a right-of-way, the properties may be considered in combination in determining setback of the facility.
9. **Fence.** A fence not less than six (6') feet in height, plus anti-climb features in addition to the six (6') feet, shall be constructed around the base of the tower. **Fencing not less than six (6') in height shall be constructed around ground-mounted wireless communications facility.**
10. **Lighting.** The applicant shall provide documentation of any lighting to be installed on the site. If tower lighting is required or proposed, the tower may not be approved unless the Planning Commission determines that it will not have a significant adverse impact on properties and residents of the surrounding area. Towers shall not be artificially lighted, unless required by the **Federal Aviation Administration (FAA)** or other applicable authority. If lighting is required, the lighting alternatives and design must cause the least disturbance to the surrounding views. **Radar-activated obstruction lighting system shall be utilized, if available.**
11. **Color.** Towers in alternate bands of orange and white shall be permitted only if specifically required by **Federal Communications Commission (FCC)** or **Federal Aviation Administration (FAA)** regulations. If alternate band painting is required by FCC or FAA regulations, the applicant shall provide documentation of such requirements and regulations. The antenna and/or array installed on a tower structure and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the tower structure, so as to make the antenna and related equipment as visually unobtrusive as possible.
12. **Signs.** No signs other than signs required pursuant to Federal, State or local law and ordinance shall be allowed on ~~an antenna or tower or site~~ **wireless communications facility.**
13. **FCC and FAA Conformance.** The applicant shall provide documentation of conformance with any **Federal Communications Commission** and **Federal Aviation Administration** regulations.
14. **Use of Tower.** The owner/operator of the tower shall agree to permit use of the tower by other personal or business communications services providers, including local government agencies, on reasonable terms, so long as such use does not interfere with the owner/operator's reasonable use of the tower. The addition of other user's equipment to the tower shall be permitted so long as the engineered design capacity of the tower or mast is not exceeded.

15. **Height Decrease.** If the height required for the a tower to serve its intended function decreases from such height as installed due to technological advancement, additional tower installations at other locations, or other factors, the Township may order that the tower be lowered to such decreased minimum height.

16. **Decommissioning.** ~~The owner shall furnish the Township with an approved decommissioning plan indicating the anticipated life of the project, the estimated decommissioning costs net of salvage value in current dollars, the method of ensuring that funds will be available for decommissioning and restoration, and the anticipated manner in which the project will be decommissioned and the site restored.~~ **A decommissioning plan is required at the time of application.**

a. The decommissioning plan shall include:

(1) The anticipated manner in which the project will be decommissioned, including a description of which above-grade and below-grade improvements will be removed, retained (e.g. access drive, fencing), or restored for viable reuse of the property consistent with the zoning district.

(2) The projected decommissioning costs for removal of the wireless communication facility and soil stabilization, if applicable.

(3) The method of ensuring that funds will be available for site decommissioning and stabilization (performance guarantee in the form of surety bond, irrevocable letter of credit, or cash deposit).

b. A review of the amount of the performance guarantee based on inflation, salvage value, and current removal costs shall be completed every five (5) years, for the life of the project, and approved by the Township Board. A wireless communication facility owner may at any time:

(1) Proceed with the decommissioning plan approved by the Planning Commission and remove the system as indicated in the most recent approved plan; or

(2) Amend the decommissioning plan with Planning Commission approval and proceed according to the revised plan.

17. **Removal of Abandoned Wireless Communications Facilities** Any wireless communication facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such wireless communication facility shall remove the same within one hundred eighty (180) days of receipt of notice from the Township of such abandonment. In addition to removing the wireless communication facility, the owner shall restore the site of the wireless communication facility to its original condition prior to location of the wireless communication facility, subject to reasonable wear and tear. Any foundation associated with a wireless communication facility shall be removed to a minimum depth of five (5) feet below the final grade and site vegetation shall be restored. Failure to remove an abandoned wireless communication facility within the one hundred eighty (180) day period provided in this subsection shall be grounds for the Township to remove the wireless communication facility at the owner's expense. The Planning Commission shall require the applicant to file a performance guarantee (pursuant to **Section 905**) equal to one and a quarter (1.25) times the

estimated cost of the removal of the wireless communication facility at time of approval. Such escrow deposit or bond shall be maintained by successor owners and shall be a condition of a Special Land Use given pursuant to this Section.

Subsections D and E shall remain unchanged.

Section 2: Severability

If any clause, sentence, paragraph or part of this Ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered.

Section 3: Saving Clause

The Charter Township of Alpena Zoning Ordinance, except as herein or heretofore amended, shall remain in full force and effect. The amendments provided herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation, or prosecution of any right established, occurring prior to the effective date hereof.

Section 4: Effective Date

The ordinance changes shall take effect upon the expiration of seven days after the publication of the notice of adoption.

Charter Township of Alpena Supervisor Charter Township of Alpena Clerk

I, _____, Clerk for the Charter Township of Alpena, hereby certify that the foregoing is a true and correct copy of Ordinance No. ___ of 2022 of Charter Township of Alpena, adopted by at a meeting of the Township Board of Trustees held on _____.

A copy of the complete ordinance text may be inspected or purchased at the Charter Township of Alpena Offices, at 4385 US 23 North, Alpena MI 49707.

Adopted: _____ Published: _____ Effective: _____, subject to PA 110 of 2006 as amended.