

WAYLAND TOWNSHIP SUBDIVISION ORDINANCE

At a regular meeting of the Township Board of the Township of Wayland, Allegan County, Michigan, held in the Wayland Township Hall, 1060 129th Avenue, Bradley, Michigan within the Township, on the 7th day of August, 2018 at 7:00 p.m.

PRESENT: Members: VanVolkinburg, McInerney, Stein Kamyszek and Miner

The following ordinance was offered by Member Stein and supported by Member Kamyszek:

ORDINANCE NO. 003-2018

Effective September 15, 2018

WAYLAND TOWNSHIP SUBDIVISION ORDINANCE

AN ORDINANCE TO PROVIDE REGULATIONS FOR THE SUBDIVISION OF LAND WITHIN THE TOWNSHIP OF WAYLAND AND TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF.

THE TOWNSHIP OF WAYLAND, ALLEGAN COUNTY ORDAINS:

ARTICLE I

General

Section 1.01 Legal Basis; Purpose. This Ordinance is enacted pursuant to Public Act 288 of 1967, as amended, the Subdivision Control Act of 1967. ("Act 288") This Ordinance is intended to provide for the proper and orderly subdivision of land in the Township, to provide for adequate and essential public improvements and utilities, and to promote the public health, safety and welfare.

Section 1.02 Fee Schedule. Any person filing a plat pursuant hereto shall pay fees established from time to time by resolution of the Township Board, and until the fee is paid the plat shall not be considered or reviewed.

Section 1.03 Definitions. All terms herein shall have the meanings and definitions given by Act 288.

Section 1.04 Scope and Conflict. The provisions of this Ordinance apply to all platted subdivisions of land within the Township. Where this Ordinance provides a standard stricter than that required by Act 288, this Ordinance shall control.

Section 1.05 Certification of Plats and Drawings. All plats and drawings submitted hereunder shall be prepared and sealed by a registered surveyor and/or engineer, as applicable.

ARTICLE II

Preliminary Plat Application and Review Procedures

Section 2.01 Submission of Plats. The Proprietor of any land proposed to be subdivided shall submit 10 copies of a preliminary plat, together with supplementary documents, containing the information required by Act 288 and this Ordinance, to the Township Zoning Administrator who shall forward the plans to the Commission for its next meeting.

Section 2.02 Preliminary Plat; Required Information.

The following information shall be submitted for tentative approval of the preliminary plat. Maps shall be at a scale of not more than 100 feet to one inch.

- (1) The name or title of the proposed subdivision.
- (2) Legal description of the proposed plat.
- (3) The name, address and telephone number of the Proprietor, developer, record owner and subdivider.
- (4) A statement of the intended use for the proposed plat and showing land intended to be dedicated or set aside for public use or for the common use of property owners in the subdivision, and stating the location, dimensions and purpose of such land.
- (5) A small-scale vicinity map showing location of project within the Township, and the name and location of abutting subdivisions.
- (6) The location, dimensions and approximate grade and radius of proposed and existing streets, alleys and highways included in the plat.
- (7) The location of all existing features affecting the subdivision, such as railroads, buildings, trees, ditches, watercourses and other physical features.
- (8) Location and size of all existing and proposed public water, sanitary sewer and storm drainage pipes, equipment, fire hydrants, catch basins and other facilities.
- (9) Location of utility and drainage easements.

- (10) If the proposed plat is contiguous to other lands owned by the applicant, a map showing the street layout and access for subsequent development.
- (11) If the proposed subdivision is not to be served by public sewer and water systems, a written statement from the Allegan County Health Department regarding the suitability of the soils for on-site septic systems.
- (12) Location and dimension of lots, radii of all curves and approximate location of all setback lines. Lot width shall be shown for each lot, at the required setback line.
- (13) When any part of the subdivision lies within or abuts a floodplain area:
 - a. The floodplain, as established by the state department of natural resources, shall be shown within a contour line.
 - b. The contour line shall intersect the sidelines of the lots.
 - c. The sidelines shall be dimensioned to the traverse line from the street line and the established floodplain (contour) line.
 - d. The floodplain area shall be clearly labeled on the plat with the words "floodplain area."
- (14) Two copies of any proposed covenants and deed restrictions to be imposed upon the use of property in the subdivision or a statement in writing that none are proposed. If common areas are to be reserved for use by the residents of the subdivision, copies of an agreement indicating how the area will be maintained shall be submitted.
- (15) Property lines, dimensions, and building setback distances and all structures, lot lines and wetlands within one hundred (100) feet of the site.
- (16) Existing and proposed topographic elevations at two (2) foot intervals on the site and to a distance of fifty (50) feet outside the boundary lines of the site.
- (17) Direction of storm water drainage and how storm water runoff will be handled as well as a statement describing where storm water will be ultimately discharged such as a creek, stream, lake or wetland.
- (18) Location of abutting streets, rights-of-way, service drives, curb cuts, and access easements serving the site, as well as driveways opposite the site and driveways within one hundred (100) feet on either side of the site. Also, driveway width, curb radii and design of proposed deceleration lanes.

- (19) Street lighting, if any, including the type of fixture as well as method of shielding illumination from adjacent properties and roadways.
- (20) Location and type of significant existing vegetation, water courses, and water bodies including county drains and manmade surface drainage ways, floodplains, and wetlands.
- (21) Location of existing and proposed slopes which are twelve (12) percent or greater, which may be altered by the development or the construction of buildings within the development.
- (22) Zoning and use of the proposed subdivision and on adjacent properties.
- (23) As part of its review the Planning Commission may require that an analysis of the site be performed to determine if any environmental contamination exists on the site from farm activities or any other previous use of the land which may pose a health or safety risk to potential users of the site. The site analysis shall be performed by a professional firm or individual experienced in such analysis as selected by the Planning Commission. The cost for the analysis shall be borne by the applicant through the Township escrow account established by Township Board resolution for land development review.

Section 2.03 Preliminary Plat; Tentative Approval Procedure.

- (1) Preliminary plats shall be referred to the Planning Commission, which shall consider the preliminary plat and make a recommendation to the Township Board. Such consideration and recommendation shall take place following a public hearing by the Planning Commission on the preliminary plat. Notice of the hearing shall be as required in Section 24.11 of the Wayland Township Zoning Ordinance.

The preliminary plat, together with minutes showing the action of the Planning Commission thereon, shall be referred to the Township Board not more than 60 days after submission of the preliminary plat. Such time period may be extended with the consent of the applicant. If no action is taken within 60 days, the preliminary plat shall be deemed to have been approved by the Planning Commission.

- (2) The Township Board shall approve or disapprove the preliminary plat not later than 90 days after the preliminary plat was first submitted by the proprietor. A resolution approving a plat shall state: (i) the nature and character of the improvements that will be required to be made by the Proprietor; (ii) the periods of time within which the respective improvements must be completed; and (iii) any conditions relating thereto. If the preliminary plat is not approved, the Township Board shall set forth in writing its reasons for rejection. The Township Board shall record its approval or disapproval on the plat and return one copy to the Proprietor.
- (3) Tentative approval under this section shall confer upon the Proprietor, for a period of one year, approval of lot sizes, lot orientation and street layout. The duration of such tentative approval may be extended by the Township Board.

Section 2.04 Preliminary Plat; Final Approval Procedure.

- (1) Following tentative approval of the preliminary plat by the Township Board, the Proprietor shall:
 - a. Submit the preliminary plat to all other reviewing authorities as required by Act 288.
 - b. Submit a list of all such authorities to the Township Clerk, certifying that the list shows all approving authorities as required by Act 288.
 - c. Submit all approvals to the Township Clerk after they have been secured.
- (2) Following a determination that all required approvals have been secured, the Clerk shall forward the approved copies of the preliminary plat, together with all communications from the reviewing agencies, to the Township Board as soon as possible prior to the next regularly scheduled meeting.
- (3) The Township Board shall, at its next regularly scheduled meeting or within 20 days following submission of the required materials shall:
 - a. Consider and review the preliminary plat and approve it if the Proprietor has met all conditions specified for approval of the preliminary plat.
 - b. Instruct the Township Clerk to notify the Proprietor of approval or rejection in writing.
- (4) Final approval of the preliminary plat under this section shall confer upon the Proprietor for a period of two years from the date of approval, the rights granted under Act 288. This period may be extended by the Township Board.

ARTICLE III

Final Plat Application and Review Procedure

Section 3.01 Requirements.

- (1) Final plats shall be prepared and submitted as provided in Act 288.
- (2) A written application for approval and all recording and other Township and State fees shall accompany all final plats.
- (3) The Proprietor shall submit proof of ownership of the land included in the final plat in a form satisfactory to the Township.
- (4) The Township may require such other information as it deems necessary to establish whether the proper parties have signed the plat.

Section 3.02 Procedure; Final Plat.

- (1) The final plat shall be submitted not less than 20 days prior to the next regular meeting of the Township Board. For any plat submitted thereafter, the applicant shall pay an additional fee established by resolution, for the cost of calling a special meeting to comply with Section 167 of Act 288, unless the Proprietor waives compliance with Section 167.
- (2) The Township Board shall examine the final plat at the next regularly scheduled meeting or within 20 days after submission of the plat, and the Board shall either approve or disapprove the plat.

Section 3.03 Improvements and Facilities.

- (1) Before final approval of a plat, all required improvements shall be completed, or security shall be given as provided in Section 3.04.
- (2) Monuments shall be set in accordance with Act 288 and the rules of the State Department of Treasury.
- (3) Upon completion of all required improvements, one complete copy of as-built engineering plans for all required public improvements and utilities shall be filed with the Township Clerk coincident with the submission of the final plat.

Section 3.04 Security for Completion.

- (1) In lieu of completion of some or all required improvements, the Township Board may give final plat approval conditioned upon the proprietor providing a financial guaranty for performance as provided in this section.

- (2) Security shall be in an amount equal to the total estimated cost for completion of the improvement, including reasonable contingencies. Security shall not be required for an improvement for which security has been furnished to another governmental agency.
- (3) Security shall remain in force for a time to be specified by the Township Board.
- (4) Security shall be in the form of an irrevocable bank letter of credit issued by a bank, in a form satisfactory to the Township, or in the form of cash escrow or certified check. A performance bond in form satisfactory to the Township, from a surety company authorized to do business in the State of Michigan and acceptable to the Township, may be substituted in lieu of such security only if the applicant can satisfy the Township that an irrevocable letter of credit, cash escrow or certified check cannot reasonably be made available.
- (5) The proprietor may request periodic reductions in the amount of security as public improvements are completed. Township staff may approve such reductions, to an amount estimated to be equal to the remaining cost of improvements, plus a reasonable contingency.

Section 3.05 Certificates on Final Plat. The final plat shall include proper certificates for the Township Clerk to certify the approval of the plat by the Township Board, and the acceptance on behalf of the public of all dedications shown thereon by the governmental body having jurisdiction over such dedication.

ARTICLE IV

Improvements and Regulations

Section 4.01 General. The following standards shall apply to all subdivisions within the Township.

Section 4.02 Lots.

- (1) All lots shall face upon, and have direct access to, a public or private street.
- (2) The side lines of lots shall be approximately at right angles or radial to the street upon which the lots face.
- (3) All lots shall conform to the requirements of the zoning ordinance for the zone in which the plat is located. This Ordinance shall not be construed as providing for lots smaller than as specified in the Zoning Ordinance. If public water and sewer are available, the provisions of the Township Zoning Ordinance shall override Section 186 of Act 288.

- (4) Corner lots for residential use shall have the minimum required frontage on both streets adjacent to the lot.
- (5) The depth of a lot shall not exceed four times the width. The depth of a lot shall be measured along a horizontal line located midway between the side lot lines and connected to the front and rear lines, or the two front lines of a through lot. The width of the lot shall be measured between the side lot lines parallel to the front lot line at the minimum required front setback line.
- (6) Corner lots shall have sufficient extra width so as to permit appropriate building setback from both streets or orientation to both streets. Lots abutting pedestrian mid-block crosswalks shall be treated as corner lots.
- (7) Lots in subdivisions bounded by existing streets shall only have access from internal streets constructed to serve the subdivision and not directly to such existing streets. The Planning Commission and Township Board may waive this requirement if it is determined that there is no practical way to provide an internal access street due to insufficient lot depth, topography or other natural features of the land to be subdivided.
- (8) Greenbelts or landscaped screen plantings shall be located between a residential subdivision and adjacent major arterial streets or railroad rights-of-way. The proposed subdivision plat shall show the location of said greenbelts. The greenbelt shall contain plantings of sufficient size and number to provide a visual screen for subdivision residents. The greenbelt may contain an earthen berm in conjunction with plantings.

Section 4.03 Usable Land. All land shall be platted such that it is usable for building lots or required improvements. Land may be platted for common or public areas if adequate provision is made for continued maintenance of such areas, unless such provision for continued maintenance is waived or deemed unnecessary by the Township

Section 4.04 Streets. Streets within subdivisions shall be private streets unless sufficient justification is provided to the Wayland Township Board that future street maintenance and improvements such as re-paving, widening or other similar improvements shall not be financed by Wayland Township in which case streets may be public. All private streets shall comply with the design standards and requirements of the private road provisions of the Wayland Township Zoning Ordinance and shall include easements for public and private utilities within the street and at least ten feet on either side thereof.

The Township may require a recorded agreement whereby the Township may maintain the street and charge the cost thereof as a lien against all properties in the subdivision if the association or other entity charged with the maintenance of the street fails to adequately maintain the street.

Section 4.05 Street Names. Street names shall be approved by the Planning Commission with final approval by the Allegan County Road Commission before printing on the final plat. All streets which extensions of existing streets must carry the names of such existing streets.

Section 4.06 Street Alignment, Layout and Connections.

- (1) The subdivision layout shall conform to the Master Plan of the Township.
- (2) All proposed streets shall be continuous and in alignment with existing, planned or platted streets insofar as practicable. Where streets in new subdivisions are extensions of existing streets, the platted streets shall be at least as wide as the existing streets that are being extended.
- (3) A private road may be required to be extended to the adjacent property line by the Planning Commission and Township Board according to the following criteria:
 - a. The road extension is necessary to provide a secondary means of access for emergency vehicles.
 - b. The road extension is a logical method to achieve the safe and efficient movement of vehicles and pedestrians between residential areas and to reduce the amount of vehicle trips which would otherwise need to utilize the public street system to access adjoining residential areas.
 - c. The road extension would not result in future traffic from off-site creating unsafe situations for the residents of the project proposed by the applicant.
 - d. If such a connection is required, the applicant shall construct the road to the adjacent property line at the time the private road is built; provided the Planning Commission or Township Board may permit the applicant to record an agreement to construct the road connection when the adjacent property develops.
 - e. Upon completion of the connection the applicant shall record a statement that the connection shall remain open at all times for the uninterrupted movement of people and vehicles.
- (4) A private road system shall not serve more than 30 lots, or dwellings units, unless a secondary means of ingress and egress is provided for all of the lots or dwellings served. This secondary access shall meet the minimum standards for private roads as required by the Wayland Township Zoning Ordinance.
- (5) Intersections of subdivision streets shall be at least 250 feet from the intersection of a public or private street measured from centerline to centerline.

Section 4.07 Sidewalks.

- (1) Except as otherwise provided in this section, sidewalks at least five feet wide, on both sides of the street, shall be provided for and installed in all plats. A plat shall include right-of-way of sufficient width so as to accommodate such sidewalks.

- (2) Sidewalks are required on only one side of the street if the other side clearly cannot be developed and if there are no existing or anticipated uses that would generate pedestrian trips on that side.
- (3) Such sidewalks shall be laid out and constructed when streets and other public improvements are made, unless the Planning Commission and Township Board approve an arrangement for subsequent sidewalk construction, as lots are improved. With any such approval for subsequent sidewalk construction, conditions and time deadlines may be imposed.

Section 4.08 Street Lighting. Adequate street lights ~~may be~~ **are** required to be provided, however, the Planning Commission may limit the placement, type and intensity of street lights in order to prevent lighting glare from intruding onto nearby properties and to help preserve rural atmosphere.

Section 4.09 Public Utilities.

- (1) Public electricity and telephone shall be furnished to each lot in the subdivision.
- (2) All utilities shall be installed and maintained underground and in appropriate easements.
- (3) Utility easements shall be provided along rear lot lines, and also along the side lot lines when necessary. The total width of such easements shall be not less than ten feet.
- (4) When a proposed subdivision is to be served by a publicly-owned or privately-owned public water system, fire hydrants and other required water system appurtenances shall be provided by the sub-divider.
- (5) If there is no existing or available publicly-owned water supply system, the sub-divider may be required to install a privately-owned public water supply system for drinking and fire protection purposes for the common use of the lots within the subdivision in accordance with the requirements of the Safe Drinking Water Act, Act 399 of the Public Acts of Michigan of 1977, as amended, or successor statute of like import, and with the requirements of Township Ordinance.

Section 4.10 Natural Features. The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. A development shall respect the natural resources of the Township as recommended in the Township's Master Plan.

Section 4.11 Drainage. An adequate storm drainage system, including the necessary storm sewers, drain inlets, manholes, culverts, bridges, and other appurtenances, shall be

provided in accordance with the requirements of the Township and the County Drain Commissioner. Such facilities shall be designed and constructed so as to have no adverse effect on adjoining lands, or upon lots within the subdivision.

ARTICLE V

Variance

Section 5.01 A variance from the provisions of this Ordinance may be granted as follows:

- (1) If the Proprietor demonstrates that literal enforcement of this Ordinance is impractical or will impose undue hardship in the use of the land because of special or peculiar conditions pertaining to the land, the Township Board, upon recommendation of the Planning Commission, may permit a variance or variances which are reasonable and within the general policy and purpose of this Ordinance. The Township may attach conditions to the variance.
- (2) A petition for a variance shall be submitted along with the preliminary plat. Notice that request for a variance has been received shall be included in the notice of public hearing on the preliminary plat provided in Section 2.03, and the variance shall be considered during the process of considering the preliminary plat. If a request for a variance arises because of unforeseen circumstances after preliminary plat review, a request for a variance may be submitted, and a recommendation made by the Planning Commission to the Township Board after public hearing following notice given in accordance with Section 2.03.

ARTICLE VI

Enforcement

Section 6.01 No plat shall be transmitted to any county or state approving authority for official action until each plat shall have been, in the first instance, approved by the Township Board in accordance with the requirements of this Ordinance.

Section 6.02 No person shall sell or convey any lot in any plat by reference thereto until such plat has been duly recorded in the office of the Allegan County Register of Deeds.

Section 6.03 No building permit shall be issued, and no public sewer or water service shall be provided for any dwelling or other structure located on a lot or plot subdivided or sold in violation of these regulations. The fact that final plat approval has not been received from the State of Michigan shall not prevent a building permit from being granted for not more than three buildings, or for the maximum number of land divisions which would be permitted under Act 288 without plat approval, whichever is less. No building may be occupied or used, however, until all required improvements have been completed, and necessary utilities installed.

Section 6.04 Any act or failure to act done in violation of the provisions of this Ordinance is hereby declared to be a nuisance per se.

Section 6.05 Any person, firm, or corporation which violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of this Ordinance shall be subject, upon conviction, to a fine of not less than \$500.00 nor more than \$1,000.00 and the costs of prosecution or by imprisonment for not more than ninety (90) days, or by both fine and imprisonment, in the discretion of the court. Each day such violation continues shall be deemed a separate offense. The imposition of any such sentence shall not exempt the offender from compliance with the requirements of this Ordinance.

Section 6.06 In addition to any other available remedy, the Township may in its discretion bring an action in its own name to restrain or prevent any violation of this ordinance or any continuance of such violation. In such case the person found violating this ordinance shall pay the Township's costs and expenses in enforcing this Ordinance, including its attorneys' fees.

ARTICLE VII

Division of Platted Lots

Section 7.01 Prohibition. No lot or other parcel of land located within a recorded plat shall be further partitioned or divided or a building permit issued for a partitioned or divided lot unless such partition or division is first approved by the Township Board as provided in this article. No partition or division of a lot may result in the creation of a lot that does not satisfy the particular minimum lot dimension requirements of the Township zoning ordinance.

Section 7.02 Approval of Lot Splits.

- (1) Any proprietor or property owner who desires to partition or split a lot, outlot, or other parcel of land located in a recorded plat shall apply to the Township Clerk. The application shall include a detailed statement of the reasons for the requested partition or division, sketch, map or maps prepared to scale showing the proposed division or partition and all adjoining lots, streets, and parcels of land, and a statement from the Allegan County Health Department indicating the effect of the proposed division or partition upon the safe operation of necessary septic tanks and wells.
- (2) The Township Clerk shall transmit the application and report from the Allegan County Health Department to the Planning Commission, which shall make a recommendation to the Township Board.
- (3) In reviewing the application, the Planning Commission and Township Board shall consider whether the request is consistent with all Township Ordinances, Act 288, and other State laws and is consistent with the general public welfare.

- (4) Upon receiving the recommendation of the Planning Commission, the Township Board shall either approve or reject the application.
- (5) The Township Board may condition its approval of a division or partition upon such reasonable conditions as shall be deemed desirable by the Township Board.

SECTION 2

Severability

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance will not be affected thereby.

SECTION 3

Effective Date:

This Ordinance shall take effect thirty days after its publication in the manner provided by law

ADOPTION: August 7, 2018

PUBLICATION: August 16, 2018

EFFECTIVE DATE: September 15, 2018

Ann McInerny
Wayland Township Clerk