

**TOWNSHIP OF PENTWATER**  
**COUNTY OF OCEANA, MICHIGAN**

At a regular meeting of the Township Board of the Township of Pentwater, Oceana County, Michigan, held at the Pentwater Township Hall, 327 Hancock Street, within the Township, on the 10th day of April, 2019, at 6:00 p.m.

PRESENT: Members: Spitler, Johnson, Flynn, Siska and Ruggles

ABSENT: Members: None

The following ordinance was offered by Member Ruggles and supported by Member Siska:

**ORDINANCE NO. 19-02**

**AN ORDINANCE TO REGULATE PLATTED SUBDIVISIONS  
WITHIN THE TOWNSHIP OF PENTWATER**

THE TOWNSHIP OF PENTWATER ORDAINS:

Section 1.     **Subdivision Ordinance.**   The Township Board of the Township of Pentwater (the “Township”) hereby adopts an ordinance to regulate platted subdivisions within the Township as follows:

**PENTWATER TOWNSHIP SUBDIVISION ORDINANCE**

**Section 1.    General**

- 1.1     **Legal Basis; Purpose.** This ordinance is enacted pursuant to Public Act 288 of 1967, as amended, the Land Division Act (“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. This ordinance shall be known and may be cited as the “Pentwater Township Subdivision Ordinance.”
- 1.2     **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.
- 1.3     **Definitions.** All terms herein shall have the meanings and definitions given by Act 288.

- 1.4 **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.
- 1.5 **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.

## **Section 2. Preliminary Plat Application and Review Procedures**

- 2.1 **Submission of Plats.** The proprietor of any land proposed to be subdivided shall submit 12 copies of a preliminary plat, together with supplementary documents, containing the information required by Act 288 and this ordinance, to the Township Clerk.
- 2.2 **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.
- (a) The name or title of the proposed subdivision.
  - (b) Legal description of the proposed plat.
  - (c) The name, address and telephone number of the proprietor, developer, record owner and subdivider.
  - (d) A statement of the intended use for the proposed plat, indicating any 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.
  - (e) A sketch showing the location of the proposed plat.
  - (f) The location, dimensions and approximate grade and radius of proposed and existing public streets, alleys and highways included in the plat. All streets in a plat shall be public streets unless otherwise specifically recommended by the Planning Commission and approved by the Township Board in the approval of the preliminary and final plats.
  - (g) The location of all existing features affecting the subdivision, such as railroads, buildings, trees, ditches, watercourses and other physical features.
  - (h) The location and size of all existing and proposed public water, sanitary sewer and storm drainage pipes, equipment, fire hydrants, catch basins and other public facilities.
  - (i) The location of utility and drainage easements.
  - (j) If the proposed plat is contiguous to other lands owned by the applicant, a map showing the street layout and access for subsequent development.

- (k) The lot lines and required building setbacks in the plat.
- (l) The boundaries of floodplain areas within or adjacent to the plat, if any.
- (m) All buildings, structures, lot lines, wetlands, streets, rights-of-way, service drives and curb cuts within 100 feet of the site.
- (n) Existing and proposed topographic elevations at two-foot intervals.
- (o) Direction of storm water drainage, location and size of all existing and proposed storm water drainage facilities, as well as a statement describing where storm water will be ultimately discharged.
- (p) Existing and proposed street lighting, including the type of fixture as well as method of shielding illumination from adjacent properties and roadways.
- (q) Zoning and use of adjacent properties.

**2.3 Preliminary Plat; Tentative Approval Procedure.**

- (a) Preliminary plats shall be referred to the Planning Commission, which shall consider the preliminary plat and make a recommendation to the Township Board. The preliminary plat, together with minutes showing the action of the Planning Commission thereon, shall then be referred to the Township Board.
- (b) The Township Board shall approve, approve subject to conditions, or reject the preliminary plat not later than 90 days after the preliminary plat was first submitted by the proprietor. 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.
- (c) 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.

**2.4 Preliminary Plat; Final Approval Procedure.**

- (a) Following tentative approval of the preliminary plat by the Township Board, the proprietor shall:
  - (1) Submit the preliminary plat to all other reviewing authorities as required by Act 288.
  - (2) Submit a list of all such authorities to the Township Clerk, certifying that the list shows all approving authorities as required by Act 288.
  - (3) Submit all approvals to the Township Clerk after they have been secured.

- (b) 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.
- (c) The Township Board shall:
  - (1) Consider and review the preliminary plat and approve it if the proprietor has met all conditions specified for approval of the preliminary plat; or
  - (2) Instruct the Township Clerk to notify the proprietor of approval or rejection in writing.
- (d) 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.

### **Section 3. Final Plat Application and Review Procedure**

#### **3.1 Requirements.**

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

#### **3.2 Procedure; Final Plat.**

- (a) 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.
- (b) The Township Board shall examine the final plat at a meeting within 20 days after submission of the plat, or thereafter, if such time requirement is waived by the proprietor, and the Board shall either approve or disapprove the plat.

#### **3.3 Improvements and Facilities.**

- (a) Before final approval of a plat, all required improvements shall be completed, or security shall be given as provided in Section 7.13.

- (b) Monuments shall be set in accordance with Act 288 and the rules of the State Department of Treasury.
- (c) 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.

### 3.4 **Security for Completion.**

- (a) 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.
- (b) 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.
- (c) Security shall remain in force for a time to be specified by the Township Board.
- (d) Security shall be in the form of an irrevocable 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.
- (e) 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.

3.5 **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.

## **Section 4. Improvements and Regulations**

### 4.1 **Lots.**

- (a) All lots shall face upon, and have direct access to, a public or private street.
- (b) The side lines of lots shall be approximately at right angles or radial to the street upon which the lots face.

- (c) All lots shall conform to the requirements of the Township 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 Zoning Ordinance shall override Section 186 of Act 288.
- (d) Corner lots for residential use shall have the minimum required frontage on both streets adjacent to the lot.
- (e) When feasible, new curb cuts for driveways shall be minimized by providing access from internal streets constructed to serve the subdivision, rather than creating new driveways that exit directly onto existing streets running along the perimeter of the subdivision.
- (f) 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.

4.2 **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.

4.3 **Street Names.** Street names shall be approved by the Oceana County Road Commission before printing on the final plat. All streets which are extensions of existing streets must carry the names of such existing streets.

4.4 **Street Alignment and Layout.**

- (a) All proposed public streets, and where specifically permitted private 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.
- (b) If streets are to be dedicated to the public, a sufficient number of streets shall extend to the boundary of the subdivision so as to provide sufficient access to adjoining property and to future development on contiguous land.
- (c) No dead end street or street terminating in a cul-de-sac shall provide access to more than 20 dwelling units.
- (d) Intersections of public or private streets shall be at angles of 90 degrees, or as close to such angle as possible, but in no case more than 30 degrees from perpendicular.

4.5 **Street Design Standards.** Public streets, intersections and cul-de-sacs in plats shall conform to the design, drainage, grade, layout, right-of-way width and construction requirements of the Oceana County Road Commission. Any street not dedicated to the public shall comply with the private street provisions of the Township Zoning Ordinance.

4.6 **Sidewalks.**

- (a) Except as otherwise provided in this section, concrete sidewalks at least five feet wide shall be installed within the street right-of-way on both sides of all streets within new subdivisions.
- (b) Sidewalks shall be constructed at the time streets are constructed, 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.
- (c) In their discretion, the Planning Commission may recommend and the Township Board may approve a modification, in whole or in part, from the sidewalk requirements of this section. In considering whether to recommend and approve such modification, the Planning Commission and Township Board shall consider and make findings upon the following factors:
  - (1) Whether the installation of sidewalks would be a reasonably appropriate plat improvement, giving consideration to the convenience of pedestrians, the amount of available land and other applicable circumstances.
  - (2) The likelihood that pedestrians will make reasonable use of sidewalks in the plat, currently and in the future.
  - (3) Whether there are other sidewalks already installed on adjacent or nearby lands.
  - (4) The effect of topography, landscaping, location of streets and other improvements and the effect, if any, of other physical aspects of the platted lands.

4.7 **Street Lighting.** Adequate street lights may be required to be provided, and if so, they shall comply with the outdoor lighting requirements of the Township Zoning Ordinance.

4.8 **Utilities.** Public utility easements shall be provided along the rear lot lines, when feasible, and also along the side lot lines when necessary. The total width of such easements shall be not less than ten feet along each lot, or a total of twenty feet for adjoining lots.

- (a) Public electricity, telephone, and gas service, if available, shall be furnished to each lot in the subdivision.
- (b) If available, public sanitary sewer and water, or either of them, shall be provided according to the requirements of the zoning district in which the subdivision is located and in accordance with the Township's water and sewer ordinances.

- (c) All utilities shall be installed and maintained underground and in appropriate easements.
- (d) 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 subdivider.
- (e) If there is no existing or available publicly-owned water supply system, the subdivider may be required to install a privately-owned community water supply system in accordance with applicable standards of the Township and the Oceana County Health Department.
- (f) 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 install utilities and develop the site in accordance with the requirements of this ordinance.

4.9 **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 Storm Water Ordinance and the Oceana 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.

## **Section 5. Variance**

5.1 **Eligibility and Procedures.** 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.

## **Section 6. Enforcement**

6.1 **Recording Required.** 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 Oceana County Register of Deeds.

6.2 **Lot Sales in Violation of Ordinance.** 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 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.

### 6.3 **Violations.**

- (a) A violation of this ordinance is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$1,000 for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, attorney fees and expenses provided by law. For purposes of this section, “subsequent offense” means a violation of this ordinance committed with respect to a separate incident by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible. Each day such violation continues shall be considered a separate offense.
- (b) The landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in, or maintains a violation may each be found responsible for a municipal civil infraction and be liable for the penalties herein provided.
- (c) Nothing herein contained shall prevent the Township Board or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this ordinance or of the Land Division Act.

6.4 **Other Remedies.** 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.

## **Section 7. Division of Platted Lots**

7.1 **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 ordinance. 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.

### 7.2 **Approval of Lot Splits.**

- (a) 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 Oceana County Health Department indicating the effect of the proposed division or partition upon the safe operation of necessary septic tanks and wells.

- (b) The Township Clerk shall transmit the application and report from the Oceana County Health Department to the Planning Commission, which shall make a recommendation to the Township Board.
- (c) 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.
- (d) Upon receiving the recommendation of the Planning Commission, the Township Board shall either approve or reject the application.
- (e) The Township Board may condition its approval of a division or partition upon such reasonable conditions as deemed necessary by the Township Board to ensure compliance with applicable Township ordinances and state laws.

Section 2.     **Publication/Effective Date.** This ordinance shall become effective 30 days following its publication or the publication of a summary of its provisions in a local newspaper of general circulation.

Upon motion made to adopt said ordinance, a roll call vote was taken as follows:

AYES:           Members: Ruggles, Siska, Johnson, Flynn and Spitler

NAYS:           Members: None

ORDINANCE DECLARED ADOPTED.

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Sue Ann Johnson, Township Clerk

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Township Board of the Township of Pentwater at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.

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Sue Ann Johnson, Township Clerk