

---

**Part 55: Ordinance 1**

---

**LAND DIVISION ORDINANCE**

---

An ordinance to provide a procedure for the division of properties located within the Township of Lenox, Macomb County, Michigan, and to regulate and control the division of such properties, in the interest of the public health, safety and welfare.

THE TOWNSHIP OF LENOX ORDAINS:

**SECTION 1     Title**

This Ordinance shall be known and cited as the "Lenox Township Land Division Ordinance", and will be referred to herein as "this ordinance".

**SECTION 2     Purpose And Authorization**

An Ordinance adopted pursuant to, and under the provisions of Act No. 591 of the Public acts of 1996, as amended, to provide procedures and standards for the division of properties located within Lenox Township, to regulate and control, in the interest of the Public Health, Safety and Welfare, the division of properties within Lenox Township; to prescribe rules and regulations; to provide penalties for the violation of this Ordinance; and to provide for the relationship of this Ordinance to other laws and Ordinances.

**SECTION 3     Definitions**

- A.     *Acreage Parcel* - Any parcel of land which is not within an approved and recorded plat or condominium development.
- B.     *Accessible* - In reference to a parcel means that the parcel meets 1 or both of the following requirements:
- (a)     Has an area where a driveway provides vehicular access to an existing public road or public street and meets all applicable location standards of the state transportation department or county road commission under Act No. 200 of the Public Acts of 1969, being sections 247.321 to 247.329 of the Michigan Compiled Laws, or has an area where a driveway can provide vehicular access to an existing public road or public street and meet all such applicable location standards. If the parcel, or any parcels, as divided, abuts an existing private road that is named in the Lenox Township Private Road Ordinance, such private road must meet all of the standards of the Lenox Township Private Road Ordinance and must have a Private Road Maintenance Agreement as defined in the Lenox Township Private Road Ordinance.

- (b) Is served by an existing easement that provides vehicular access to an existing public road and that meets all applicable location standards of the state transportation department or county road commission under Act No. 200 of the Public Acts of 1969, or can be served by a proposed easement that will provide vehicular access to an existing public road or public street and that will meet all such applicable location standards. If the parcel, or any parcels, as divided, abuts an existing private road that is named in the Lenox Township Private Road Ordinance, such private road must meet all of the standards of the Lenox Township Private Road Ordinance and must have a Private Road Maintenance Agreement as defined in the Lenox Township Private Road Ordinance.
- C. *Divide or Division* - The partitioning or splitting of an acreage parcel or tract into two or more parcels for purposes of sale, lease or building development. Division does not include a property transfer between 2 or more adjacent parcels, if the property taken from 1 parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this act or the requirements on an applicable local ordinance.
- D. *Exempt split*- The partitioning or splitting of a parcel or tract o land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns that does not result in 1 or more parcels of less than 40 acres or the equivalent.
- E. *Lot* - A measured portion of a parcel or tract of land which is described and fixed in a recorded plat.
- F. *Parent Parcel or Parent Tract* - An acreage parcel or tract, respectively, lawfully in existence on March 31, 1997.
- F. *Resulting Parcel* - The acreage parcel(s) which result from an approved division.
- G. *Tract* - Two or more acreage parcels that share a common property line and are under the same ownership.
- H. Terms not defined shall have the meaning as set forth in the Lenox Township Zoning Ordinance and PA 591 - The Land Division Act.

#### **SECTION 4      Division Of Acreage Parcels**

Any lot, acreage parcel or tract which is divided or proposed to be divided after the effective date of this Ordinance, shall be reviewed and approved in accordance with this ordinance.

**SECTION 5      Application Requirements And Procedures**

Application to divide a lot, acreage parcel or tract shall be made on forms provided by the Township Clerk, five (5) copies of the form and required information shall be submitted. Requests resulting in four (4) or more parcels shall be required to submit ten (10) copies of the application information. Applications shall include the following required information and submittals:

- A. Names, addresses and phone numbers of all owners of record, including all parties to a land contract or purchase agreement, and their signatures. Separate written consent to the proposed division by fee simple owners may be accepted by the Township in lieu of signatures on the application form.
- B. The applicant's name, address, phone number, and signature.
- C. The parcel identification number(s) of the lot, parent parcel(s) or parent tract.
- D. A true and accurate survey drawn to scale and certified by a Registered Land Surveyor. The survey shall include the following:
  - (1) Full legal descriptions of the parent parcel(s) or tract, and of all parcels which would result from the proposed division of the lot, parent parcel or tract and any remainder;
  - (2) All adjoining property within 100' of the lot, parent parcel or parent tract;
  - (3) All dimensions of existing and proposed property lines and easements;
  - (4) Location of all existing buildings, wetlands, lakes, streams, ponds, drives, public roads, easements, wells and septic fields, including setbacks from all property lines;
  - (5) The gross and net (exclusive of public road rights of way) size of each resulting parcel (in square feet and acres);
  - (6) The proposed location and type of access to each resulting parcel. (Where a road is proposed separate application to the Township Board and conformance with the Road Commission of Macomb County Standards and Specifications for Road Layout and Public Safety is required);
  - (7) Setbacks from property lines to all proposed buildings, drives, easements, wells and septic systems.
  - (8) Delineation and area (in square feet and acres) of contiguous buildable area (exclusive of wetlands, floodplains, steep slopes, or other unbuildable features) of each resulting parcel.
- E. Written verification and proof of ownership, by Warranty Deed, Quit Claim Deed, Land Contract, or other legal document of conveyance, which identifies the owner(s) of the lot, parent parcel(s) or parent tract.

- F. A written statement, signed and attached to the application form by the applicant and all owners of record, stating whether the right to make further divisions exempt from the platting process requirements of PA 591 - The Land Division Act has been transferred or otherwise conveyed.
- G. A written statement, signed and attached to the application form, by the applicant and all owners of record, stating that: "The deeds for all resulting parcels that are the subject of this application shall contain the following statement: *'This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right To Farm Act'*".
- H. Written verification from applicable utility companies indicating that there are adequate easements for public utilities from the parcel to existing public facilities.
- I. Written verification of approval from the Macomb County Road Commission regarding the adequacy of the proposed road(s) and / or driveway(s).
- J. If preliminary review by the Lenox Township Assessor or his/her designee under Section 6A below finds the parcel as having hydric soils on the Township Hydric Soils Map or wetlands on the Township Wetlands Map, the written verification from a civil engineer, surveyor, or sanitarian, licensed in the State of Michigan, shall be required indicating that the delineated buildable area of each parcel is capable of supporting typical site improvements (e.g., house, accessory building(s), driveway, well, septic field, and reserve septic field).
- K. Additional information as required by the Township to verify application information, geographic site data or to clarify status of other governmental reviews and approvals.
- L. All applicable review fees as established by resolution of the Township Board.

## **SECTION 6      Review Process**

All applications for proposed divisions of acreage parcels shall be reviewed in conformance with the following process:

- A. *Preliminary Review*
  - (1) The Lenox Township Clerk and Assessor shall review the application for completeness and all attachments for conformance with this ordinance and applicable sections of the Zoning Ordinance, including but not limited to accessibility, minimum lot area, lot width, and lot width to depth ratio. Prior to or at the time of submittal, the Assessor or his/her designee is available to review the Lenox Township Hydric Soils Map and Township Wetlands Map with the applicant to determine potential implications on the proposed parcels.

- (2) Where a division will result in 4 or more parcels or if the application includes the construction of a new street, the Planning Commission shall review the application package for completeness, accuracy, conformance with zoning requirements for lot size, width frontage, width-to-depth ratio, and tree protection. If the Planning Commission finds that all requirements have been met and that the layout and design promotes the appropriate and orderly development of the Township, they shall recommend approval to the Township Assessor.
- (3) Where a public road is proposed as a part of any division application, review and approval of the public road(s) shall be in accordance with the Road Commission of Macomb County's Standards and Specifications for Road Layout and Public Safety. The Planning Commission shall review applications with proposed public roads and provide a recommendation to the Township Board. Township Board and Road Commission of Macomb County review and approval of proposed public roads shall occur prior to final approval of the proposed division(s) by the Township Assessor. If the parcel, or any parcels, abut an existing private road that is named in the Lenox Township Private Road Ordinance, such private road must meet all of the standards of the Lenox Township Private Road Ordinance and must have a Private Road Maintenance Agreement as defined in the Lenox Township Private Road Ordinance.
- (4) If all required information has been submitted in accordance with Section 5 above, and all information and the proposed division(s) demonstrate(s) conformance with this ordinance, the Assessor shall grant preliminary approval of division(s) that do not require Planning Commission or Township Board approval. If the proposed application and division(s) do not comply with this ordinance, the application shall be denied or granted conditional preliminary approval. All approvals and denials shall be in writing, and shall include the reason(s) for approval or denial. Conditional approvals shall include all conditions, in writing, which must be met prior to final approval.

**B. *Final Approval***

- (1) Following Preliminary Approval or Preliminary Approval with Conditions, the Township's Building Inspector or his or her designee shall:
- (a) Verify that all conditions of Preliminary Approval have been met;
  - (b) Document that all stakes and monuments have been set in accordance with the approved survey;
  - (c) Verify Planning Commission recommendation for approval for any division which will create four (4) or more parcels.
  - (d) Verify Township Board and Road Commission of Macomb County approval of any public road(s) proposed in conjunction with the proposed division(s).

- (2) The Assessor shall grant written final approval of the proposed division(s) upon verification of the information in subsection 1 above. Denials shall be in writing and shall include the reason(s) for denial.
- (3) After Final Approval, the Assessor shall process the proposed division(s), verify assignment and issuance of new parcel identification number(s), and update taxation and assessment records as required by State Law.
- (4) All final approvals shall include the following written disclosure from the Township to the applicant: "Approval of a division(s) is not a determination that the resulting parcels comply with other ordinances, regulations, or building permit requirements.
- (5) All final approvals of divisions which result in a parcel which is less than one (1) acre shall include the following written disclosure from the Township to the applicant: "Where an approved division results in a parcel less than one (1) acre, Lenox Township, its officers, consultants, and employees are not liable if a building permit is not issued for the parcel for the reasons set forth in Section 109A of Act 591 The Land Division Act, Michigan Public Acts of 1996, as amended.

**SECTION 7      Time For Review And Approval Of Division**

Lenox Township shall have forty five (45) days from the date of submittal of a complete application to conclude its review of the proposed division to verify that it complies with the Michigan Land Division Act, as amended, other applicable Statutes of the State of Michigan, and all Ordinances of Lenox Township. Where a public road is proposed in conjunction with any proposed division, review and approval of said road in conformance with the Road Commission for Macomb County's Standards and Specifications for Road Layout and Public Safety shall occur concurrently with the application for property division. An application for property division may not be considered complete until approval of the public road in conformance with the Road Commission for Macomb County Standards and Specifications for Road Layout and Public Safety. For any parcels that abut a private road that is named in the Lenox Township Private Road Ordinance, an application for property division may not be considered complete until approval of the private road in accordance with the Lenox Township Private Road Ordinance and until Lenox Township has signed a copy of the Private Road Maintenance Agreement. No land division approval obtained from the Township of Lenox after January 1 of any year will appear on the Township tax roll until the subsequent tax year.

**SECTION 8      Review Standards**

The following standards shall be met prior to approval of any proposed division(s):

- A. The proposed division is in compliance with Act 591 - The Land Division Act, as amended;

- B. The proposed division is in compliance with the lot size, lot area, lot width to depth ratio, tree protection and other applicable design requirements of the Lenox Township Zoning Ordinance, or is in compliance with the provisions of Section 8F below;
- C. The proposed divisions are accessible;
- D. Where a public road is proposed, said road is in conformance with the Road Commission of Macomb County's Standards and Specifications for Road Layout and Public Safety and has been approved by the Township Board after recommendation by the Planning Commission;
- E. Adequate easements for public utilities from the parcel to existing public utility facilities are provided;
- F. The division meets all of the requirements of section 560.108 of the Land Division Act (maximum number of divisions permitted);
- G. The parent parcel and resulting parcels do not include any parcels within a condominium development approved by the Township;
- H. If the proposed division creates resulting parcels that are less than the minimum lot area or size required by Act 591, Michigan Public Acts of 1996, as amended, Section 5J above, or the Lenox Township Zoning Ordinance, the applicant shall also file with the Township a duly executed affidavit, suitable in form for recording with the Macomb County Register of Deeds, signed by all persons having a legal or equitable interest in the resultant parcel(s), stating that the resultant parcel(s) will not thereafter be developed or used separately, but only in conjunction with adjoining parcels which, when joined together, shall satisfy the minimum lot area and size requirements of Act 591 of 1996, as amended, the Lenox Township Land Division Ordinance, and the Lenox Township Zoning Ordinance.
- I. Payment of all taxes due on the parent parcel(s) or parent tract.

## **SECTION 9      Divisions Not Approved By Township**

Any division, which has not been first approved by Lenox Township, shall not constitute a valid division of such property under the terms of this Ordinance. Any parcel of real property, which has not received approval by the Township pursuant to the provisions of this Ordinance or the Lenox Township Subdivision Ordinance shall not be placed on the Township tax rolls as a separate and individual parcel of property.

**SECTION 10     Issuance Of Building Permit**

After the effective date of this Ordinance, prior to the issuance of any building permit for construction upon a resulting parcel, the person or entity applying for the building permit shall provide the following items to the Lenox Township Building Inspector:

- A. Written verification and evidence of final approval of the division of the subject property by Lenox Township;
- B. The parcel identification (tax) number which has been assigned to the subject property;
- C. A recorded copy of the survey, with legal description and drawing of the said parcel, or parcels, of property (as heretofore described in this Ordinance); and
- D. A recorded copy of the legal document which establishes the applicant's ownership interest in the property (that is, a Warranty Deed, Quit Claim Deed, Land Contract or other written evidence of ownership and title to the property).

**SECTION 11     Applications Involving Public Roads**

An application for approval of a division(s) that involves the construction of a public road must comply with the following requirements before the division(s) will be approved:

- A. The proposed division(s) and the plans for the public road must first be submitted to the Lenox Township Planning Commission. The Commission shall review the design for conformance with their adopted Master Plan, the Road Commission of Macomb County's Standards and Specifications for Road Layout and Public Safety, the lot area and width requirements of the Zoning Ordinance, and will recommend approval or disapproval of the public road to the Township Board.
- B. In accordance with the Road Commission of Macomb County's Standards and Specifications for Road Layout and Public Safety, a cul-de-sac's length shall not exceed 800 feet. This standard may be waived by the Road Commission and a greater length will be considered if it is approved by the Township Board and Township Fire Marshal and notice of such approval is furnished to the Road Commission. Cul-de-sac lengths are typically limited to minimize potential problems with access for fire and emergency protection, trash collection, drainage and traffic control. In an effort to minimize such access problems, while supporting the type of low density small scale development that is often association with land division requests, Lenox Township has further defined acceptable lengths for large lot, low density cul-de-sac public roads. The 800 foot maximum Road Commission standard for cul-de-sacs may be increased provided that the proposed length of the cul-de-sac is no more than 7 times the average lot width. This standard may be applied by the Township Board at their discretion to permit a maximum cul-de-sac length of up to 2,000 feet for districts with minimum lot sizes of 1 acre or greater, upon a finding that adequate access for fire and emergency protection,

trash collection, drainage and traffic control may be achieved within the proposed development. Increases in the maximum cul-de-sac length are appropriate only for low density large lot development in areas of the Township that are not planned for the higher densities typically associated with subdivision projects.

- C. The Township Board must grant approval of the public road before the Assessor or his/her designee will issue a final approval of the proposed division(s) which have access to the public road and add them to the Township Tax Roll.

## **SECTION 12     Violations And Penalties**

A violation of any provision of this Ordinance shall constitute a misdemeanor. Any person, firm, corporation, partnership or other entity who violates, disobeys, omits, neglects or refuses to comply with a provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than Five Hundred Dollars (\$500.00), or imprisonment in the County Jail for a period not to exceed ninety (90) days, or both such fine and imprisonment at the discretion of the Court. Each and every day, during which such violation continues, shall be deemed a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the provisions of this Ordinance.

In addition, the Township Board, any member thereof, or the Prosecuting Attorney for the County of Macomb, may institute injunctive proceedings to prevent or enjoin any violation of the provisions of this Ordinance. The rights and remedies provided herein are cumulative and in addition to other remedies provided by law.

## **SECTION 13     Severability**

This Ordinance and the various parts, sections, subsection, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional, invalid or unenforceable for any reason by a Court of competent jurisdiction, it is hereby provided that the remainder of this Ordinance shall not be affected thereby. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause thereof, irrespective of the fact that any one or more parts, sections, subsection, phrases, sentences or clauses be declared invalid.

## **SECTION 14     Relationship To Other Laws And Ordinances**

Whenever regulations or restrictions imposed by this Ordinance are either more or less restrictive than regulations or restrictions imposed by governmental authority through legislation, rule or regulation, the more restrictive regulations or those which impose the higher standards shall govern.

**SECTION 15    Effective Date**

This Ordinance shall take effect thirty (30) days following the publication hereof as provided by law.

**SECTION 16    Adoption**

This Ordinance was adopted by the Lenox Township Board at a regular meeting thereof held on June 4, 2007.

**Part 55: Ordinance 2**  
**SUBDIVISION REGULATION ORDINANCE**

**SECTION 1: General Provisions**

A. *Short Title.*

This Ordinance shall be known and may be cited as the Lenox Township Subdivision Regulation Ordinance.

B. *Purpose.*

The purpose of this Ordinance is to regulate and control the subdivision of land within Lenox Township in order to promote the safety, public health and general welfare of the community. These regulations are specifically designed to:

- (1) Provide for orderly growth and harmonious development of the community, consistent with adopted development policies of the Township.
- (2) Secure proper arrangement of streets in relation to adequate traffic circulation by coordinating existing and planned streets with the adopted Master Plan, and adequate traffic circulation through coordinating street systems with proper relation to major thoroughfares, adjoining subdivisions, and public facilities.
- (3) Achieve individual lots of maximum utility and livability, and lots of such size and layouts as to be in harmony with the existing and proposed development pattern of the area.
- (4) Insure adequate provisions for water, drainage and sanitary sewer facilities, and other health requirements.
- (5) Insure adequate provision for recreational areas, school sites, and other public facilities.

C. *Legal Basis; Scope; Administration.*

(1) Legal Basis

This Ordinance is enacted pursuant to the statutory authority granted by the Township Planning Act, Act 168, P.A. of 1959 as amended; and the Land Division Act, Act 591 of 1996, as amended.

(2) Scope

This Ordinance shall not apply to any lot or lots forming a part of a subdivision created and recorded prior to the effective date of this Ordinance, except for further dividing of existing lots. It is not intended for this Ordinance to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, or with private restrictions placed upon property by deed, covenant, or other private agreements, or with restrictive covenants running with the land to which the Township is a party. Where this Ordinance imposes a greater restriction upon land than is imposed or required by such existing provision of any other ordinance of the Township the provisions of this Ordinance shall prevail.

(3) Administration

The provisions of this Ordinance shall be administered in accordance with the Land Division Act, Act 591 of 1996, as amended, and the Township Planning Act, Act 168, P.A. of 1959, as amended.

(4) Fees

The schedule of fees for the review of plans and plats, the inspection of improvements for the administration of this Ordinance, and for other costs incurred by the Township in the platting process, shall be determined, and may be modified from time to time, by resolution of the Township Board.

(5) Conformance with Zoning Ordinance

All plats reviewed under these regulations shall conform to all Zoning Ordinance provisions for the district in which the proposed plat is to be located. All required zoning changes shall be made prior to tentative approval of the preliminary plat by the Township Board.

**SECTION 2: Definitions**

*A. Rules Applying to the Text*

For the purpose of this Ordinance certain rules of construction apply to the text, as follows:

- (1) Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- (2) The term “shall” is always mandatory and not discretionary; the word “may” or “should” is permissive.
- (3) Words or terms not interpreted or defined by this Article shall be used with a meaning of common or standard utilization.

*B. Definitions.*

The following definitions shall apply in the interpretation and enforcement of this Ordinance, unless otherwise specifically stated. Words not specifically defined in this Section shall be defined in conformance with the definitions in the Lenox Township Zoning Ordinance and the Land Division Act (P.A. 591 of 1996, as amended).

**ALLEY:** A dedicated public right-of-way shown on a plat which provides secondary access to a lot, block or parcel of land.

**AS-BUILT PLANS:** Revised construction plans in accordance with all approved field changes which reflect all site improvements as actually constructed.

**BLOCK:** Property abutting one side of a street and lying between the two nearest intersecting streets, or between the nearest such street and railroad right-of-way, unsubdivided acreage, river or live stream; or between any of the foregoing and any other barrier to the continuity of development.

**COUNTY DRAIN COMMISSIONER:** The Macomb County Drain Commissioner.

**COUNTY HEALTH DEPARTMENT:** The Macomb County Health Department.

**COUNTY PLAT BOARD:** The Macomb County Plat Board.

**COUNTY ROAD COMMISSION:** Road Commission for Macomb County.

**DEDICATION:** The intentional transfer (by the proprietor to the public) of the ownership of, or an interest in, land for a public purpose. Dedication may be affected by compliance with the statutes relating to dedication of land, by formal deed of conveyance, or by any other method recognized by the Laws of Michigan.

**EASEMENT:** The right of a person, governmental agency, or public utility company to use public or private land owned by another for a specific purpose. A grant of one or more of the property rights by the owner to, or for the use by, the public, a corporation, or another person or entity.

**FILING DATE:** The date which a complete application is received by the Township Clerk.

**FLOOD PLAIN:** That area of land adjoining the channel of a river, stream, watercourse, lake or other similar body of water which will be inundated by a flood which has a 1% chance of occurrence in any year (100 year flood).

**GOVERNING BODY:** The Township Board of Lenox Township.

**IMPROVEMENTS:** Any structure or material change incident to servicing or furnishing facilities for a subdivision such as, but not limited to grading, street surfacing, curb and gutter, drainage ditches, driveway approaches, sidewalks, pedestrian ways, water mains and lines, sanitary sewers, wells or well systems, septic systems, storm sewers, culverts, bridges, utilities, lagoons, slips, waterways, lakes, bays, canals, and other appropriate items, with appurtenant construction; demolition of structures; planting; or removal of trees and other vegetation cover.

**LAND DIVISION ACT:** Act 288 of 1967, as amended, previously known as the Subdivision Control Act.

**MASTER PLAN:** The Master Plan for the Township of Lenox, Michigan, as adopted by the Planning Commission and Township Board.

**OPEN SPACE:** Land dedicated or reserved for use by the general public or for use by residents of the subdivision, or land held out of development and retained in its natural condition, with or without public access. Open space includes but is not limited to parks, parkways, playgrounds, school sites, wildlife or plant life preserves, and nature study areas.

**OUTLOT:** When included within the boundary of a recorded plat, means a lot set aside for purposes other than a building site, park or other land dedicated to a public use or reserved for private use.

**PATHWAY:** An off road path dedicated or reserved for public use which may be designed specifically to satisfy the physical requirements of bicycling or other non-motorized transportation, in accordance with the standards of the American Association of State Highway and Transportation Officials (AASHTO).

**PARCEL (or Tract):** A continuous area or acreage of land which can be described as provided for in the Land Division Act.

**PARK:** A public or private park for outdoor recreation, such as a playground, playing field, picnic area, or similar use.

**PERFORMANCE GUARANTEE:** Any security including performance bonds, escrow agreements, and other similar collateral or surety agreements, which may be accepted by the Township Board as a guarantee that required subdivision improvements will be made by the developer.

**PLAT:** A map or chart of a subdivision of land.

- (1) Preliminary Plat - A map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration prepared in conformance with the Subdivision Control Act.
- (2) Final Plat - A map of all or part of a subdivision providing substantial conformance to the Preliminary Plat of the Subdivision prepared in conformance with the requirements of the Subdivision Control Act and this Ordinance, and suitable for recording by the County Register of Deeds.

**PLANNING COMMISSION:** The Planning Commission of Lenox Township as established under the Township Planning Act, Act 168, P.A. of 1959, as amended.

**PERSONS:** An individual, corporation, government, or governmental agency, business trust, estate trust, partnership or association, two or more persons having a joint or common interest, or any legal entity.

**PROPRIETOR:** Any person or any combination of persons, including a government agency undertaking any development as defined in this Ordinance. The term Proprietor includes such commonly used references as subdivider, developer, and owner.

**SOIL CONSERVATION DISTRICT:** Macomb County Conservation District.

**STREET:** A way of vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated.

**COLLECTOR:** Streets which carry traffic from local streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development, and streets which are identified as such in the Lenox Master Plan.

**CUL-DE-SAC:** A minor street with only one outlet and being permanently terminated at the other end by a vehicular turn-around, usually circular in nature.

**FUTURE CONNECTION (STUB) STREET:** A dead end street for the purpose of future connections to adjacent subdivisions or acreage parcels.

**LOCAL STREET:** Streets that are primarily for access to the abutting properties and which are identified as such in the Lenox Township Master Plan.

**MAJOR THOROUGHFARE / ARTERIAL:** Streets and highways which are used as through routes for traffic in the Township and which are identified as such in the Lenox Master Plan.

**MARGINAL ACCESS STREET:** Minor streets which are parallel to and adjacent to arterial streets and highways; and which provide access to abutting properties and protection from through traffic.

**SECONDARY THOROUGHFARE / ARTERIAL:** Streets which are used as through routes while providing access to abutting properties and minor intersecting streets, and which are identified as such in the Lenox Township Master Plan.

**SUBDIVISION OR SUBDIVIDING:** The partitioning or dividing of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than 1 year, or of building development that results in 1 or more parcels of less than 40 acres or the equivalent, and that is not exempt from the platting requirements of the Land Division Act.

**SUBDIVISION CONTROL ACT:** Originally Act 288, P.A. of 1967, as amended, now Public Act 591 of 1996, The Land Division Act.

**SURVEYOR:** A professional surveyor licensed by the State of Michigan as provided for by Section 102 of the Land Division Act.

**TOWNSHIP:** Lenox Township.

**ZONING ORDINANCE:** The Lenox Township Zoning Ordinance.

**SECTION 3: Procedures And Specifications**

Proposed subdivisions within Lenox Township shall conform to the following review procedures and specifications:

A. *Pre-application Conference*

(1) Purpose

The purpose of the pre-application conference is to acquaint the proprietor with the planning policies of Lenox Township as they apply to the property to be subdivided, to give the Township an opportunity to discuss the subdivision with the proprietor before expensive surveys and drawings are made, and to discuss the concepts and basic organization of the proposed development in relation to existing and future conditions on and around the site. The basic decisions as to the interpretation of planning policy for the site and area in question, and modification of such policy as a result of the proposed development will be made in this stage. The consensus reached in this stage will form the basis of the preliminary plat.

(2) Application - Pre-application Conference

- (a) The proprietor shall make application to the Township Clerk for a pre-application conference with the Township planning consultant and Township consulting engineers and to each officer or agency entitled to review the preliminary plat under Section 560.113 to 560.118 of the Land Division Act.
- (b) The proprietor is encouraged to consult the Lenox Township Master Plan, Zoning Ordinance, this Ordinance, other ordinances which regulate the subdivision of land in Lenox Township, and other plans of any unit of government that affect the tract to be subdivided and the area surrounding it before submittal of an application for a pre-application conference.
- (c) Prior to the meeting, the proprietor shall file copies of the concept plan, the number of which shall be sufficient to provide all reviewing departments, agencies, and consultants with the proposed plat concept.

- (3) A pre-application review meeting shall take place not later than 30 days after the application and concept plan are received. Representatives of each agency entitled to review the preliminary plat shall be informed of the meeting and may attend.
- (4) If a pre-application review takes place, the Township Board shall act on the complete Tentative Preliminary Plat application within 60 days of submittal rather than 90 days, unless the proprietor requests a delay in action to resolve outstanding issues.
- (5) Pre-application Conference - Suggested Information

In order to gain maximum benefit from the pre-application conference the proprietor should submit the following information with the application for a pre-application conference for the entire tract of land, whether or not the tract will be developed in stages. Information may be combined on one or more drawings.

- (a) Description of man-made or cultural features, existing and proposed, surrounding the site.
- (b) Description of natural features, general topographic and general soil conditions on the site. (Information is available from the Macomb County Planning Department and the Macomb Conservation District.)
- (c) A site analysis showing which of the site conditions the proprietor intends to retain or modify as part of the basic design of the subdivision.
- (d) The concept, objectives, general layout, and location and extent of the various uses and facilities to be incorporated within the subdivision, including a general layout of the proposed street system, lot sizes and lot configuration;
- (e) Stages of development.
- (f) Property dimensions and area.
- (g) Aerial photograph of the site and surrounding area, with the site clearly defined.
- (h) Proprietor's interest in the property, and verification of all persons having ownership interest in the parcel(s).

B. *Preliminary Plat-Tentative Approval*

## (1) Filing Procedures

The proprietor shall file sixteen (16) copies of the tentative preliminary plat together with a completed application form and tentative preliminary plat review fees with the Township Clerk at least twenty one (21) days prior to the regular Planning Commission meeting at which the tentative preliminary plat is to be considered. The Township Clerk shall check the completeness of the submittal, and if complete, transmit same to the Planning Commission in adequate time for inclusion on the agenda for the Planning Commission's next regular available meeting. If the application is not complete, the Clerk shall so notify the applicant in writing and shall list deficiencies. The Clerk shall also mail one (1) copy of the application packet and tentative preliminary plat to the Township planning consultant and engineer for their review and comment. An application shall not be officially received until all deficiencies noted by the Clerk have been corrected.

## (2) Information Required

The following information is required for all preliminary plats submitted for tentative approval. The required information may be combined for presentation on one or more drawings or maps. The Planning Commission may request that the information be presented on drawings or maps in addition to those submitted.

- (a) Name of proposed subdivision and date of plan preparation.
- (b) Legal description of the entire site to be subdivided.
- (c) Scale of not greater than 1 inch equals 100 feet, and a north point shall be indicated on each map or plan.
- (d) Name and address of proprietor; other owners, if any, and planner, engineer, surveyor, or designer who prepared the subdivision layout. The plans shall be sealed by the professionals who prepared the drawings.
- (e) A location map with a scale of not less than 1 inch equals 2,000 feet showing the relationship of the subdivision to its surroundings such as section lines and / or major streets or collector streets.
- (f) General site data including the total acreage of the proposed plat, and the zoning classification(s) of the subject property and adjacent properties and civil jurisdiction of all such properties.

- (g) Property lines of adjacent subdivisions and unsubdivided land within ½ mile of the site being proposed for subdivision, including those located across abutting roads.
- (h) Layout of streets indicating street names, right-of-way widths, and connections with adjoining streets, widths and locations of alleys, easements, and public walkways adjacent to or connecting with the proposed subdivision; layout and dimensions of lots or parcels adjacent to the proposed subdivision; names and addresses of owner(s) of record of all adjacent property.
- (i) The location of all man-made and natural features on and within 100 feet of the proposed plat, including, but not limited to, topography, property lines of adjacent parcels, fence lines, curb cuts, streets, and any other especially significant features such as the general location of the floodplain and wetlands within or adjacent to the proposed plat and an inventory of existing regulated trees by type and size.
- (j) Topography, existing and proposed, at two (2) foot intervals. Proposed grading and land filing shall be indicated on the plans along with a description of measures to be used to control sedimentation and erosion. All topographic data shall relate to NGV datum of 1929. Benchmarks for the work shall be indicated on the drawing. If slope gradients of two (2) percent or greater exist on the site, then a sketch shall be presented with shadings for the first two (2) to four (4) percent change; the four (4) to ten (10) percent change; the ten (10) to twenty (20) percent change and the twenty (20) percent and greater change. The topographic and slope gradient sketch shall include the area of the proposed subdivision as well as an area at least 200 feet beyond it.
- (k) Drainage patterns shall be graphically displayed on an accompanying sketch and include the following information:
  - 1. River, stream or open (ditch) drainage ways and the direction of flow.
  - 2. The direction of surface drainage over the site.
  - 3. Ridgelines or watersheds boundaries, if any are on or within ½ mile of the site.
  - 4. Soil drainage characteristics:
    - a. Well drained
    - b. Subject to ponding
    - c. Susceptible to flooding
  - 5. Flood hazard areas, wetlands, and hydric soils.

- (l) A site report for subdivisions that will not be served by public water and sewer shall be submitted which provides an analysis of the site soil conditions and other site characteristics which demonstrate ability to meet required County Health Department criteria for septic and well installations.
- (m) Soil types and characteristics as made available by the United States Department of Agriculture Soil Conservation Service shall be sketched and submitted at the same scale as the subdivision site indicating the suitability of the site for the proposed development for subdivision. (See current Soil Survey Macomb County, Michigan)
- (n) Plans and specification of soil erosion and sedimentation control measures in accordance with standards and specifications of the Soil Conservation District.
- (o) Proposed deed restrictions or protective covenants (may be delayed until the Final Preliminary Plat). If no deed restrictions are proposed, a statement of such in writing.
- (p) Lot layout, dimensions including depth and width of lot at setback line, setback requirements, area in square feet and lot numbers of proposed lots.
- (q) All parcels, public facilities, or lands to be dedicated or reserved for public use, open space, or for use in common by property owners in the subdivision shall be indicated on the preliminary plat, along with any conditions of such dedication or reservation. The plat shall clearly specify dedication of such areas or facilities to the public.
- (r) Statement of intended use of the proposed plat such as residential single-family, two-family and multiple housing, commercial, industrial, recreational, or agricultural. Also the location of stormwater drainage features, with arrows depicting the direction of flow, and indicating in general the methods proposed for stormwater disposal.
- (s) Location and size of all existing and proposed sanitary sewer, septic, storm sewer and water supply lines, wells, or other facilities; location of, and points of connection to, proposed lines; location of valves and hydrants; location, description, and details of any on-site facilities to serve the entire subdivision.

- (t) Identification, location, and nature of all uses other than single family residences to be included within the subdivision.
  - (u) Staging of development of the entire subdivision shall be clearly shown on the plat, and the relation of each stage to the entire subdivision plan shall be clearly indicated.
  - (v) If the applicant or owner of the subject property also owns or has a legal interest in the acquisition of adjoining land which may be developed in the future as a plat, the applicant shall also submit a tentative conceptual plan showing the feasibility of the development of such adjoining land in relation to the proposed development of the subject property.
  - (w) Location, dimensions, and purpose of all existing easements shall be shown on the plat.
  - (x) Location and type of sidewalks, street lighting, street trees, curbs, water mains, sanitary sewers and storm drains, man-holes, catch basins and underground conduits.
- (3). Review Procedures - Tentative Preliminary Plat Approval
- (a) The Planning Commission shall review the preliminary plat for conformance with the Master Plan and to standards and specifications set forth in the Land Division Act, the Lenox Township Zoning Ordinance and this Ordinance.
  - (b) The Planning Commission shall take action on the preliminary plat within sixty 60 days of the date of filing of the plat. The Planning Commission shall approve, conditionally approve, or disapprove the preliminary plat and transmit all copies of the preliminary plat together with the reasons for its action to the Township Board. Preliminary plats which have taken advantage of the optional pre-application review shall require action by the Planning Commission within 30 days of the filing date of the plat, since the governing body must take action on these plats within 60 days of filing with the clerk. The 30 day review period for the Planning Commission will permit the Township Board to act on the preliminary plat within the timeframe required by the Land Division Act. The review period may be extended by written agreement between the Planning Commission and the proprietor. If no action is taken by the Planning Commission within the recommended review period, and if no extension is secured, the Township Board shall assume that the preliminary plat has been approved by the Planning Commission.

- (c) The Township Board shall tentatively approve or disapprove the preliminary plat within 90 days after submittal to the Township Clerk except as provided for by Section 300.B.5. of this Ordinance.
- (4) Effect of Tentative Approval of Preliminary Plat
- (a) Tentative approval of the preliminary plat shall confer upon the proprietor for a period of one (1) year from the approval date by the Township Board, approval of the lot size, lot orientations and street layout of the proposed subdivision, and application of the then-current subdivision regulations. The tentative approval may be extended for a single period of one year if an extension is applied for in writing by the proprietor and granted in writing by the Township Board.
  - (b) After tentative approval by the governing body, the proprietor shall submit copies of a preliminary plat to each officer or agency entitled to receive those copies under sections 560.113-560.118 of the Land Division Act for their simultaneous review and action within the 30 day time period prescribed by the Act.

C. *Preliminary Plat - Final Approval*

(1) Filing Procedures

The proprietor shall submit the preliminary plat, as tentatively approved by the Township Board and approved by all county and state plat approval authorities as required by the Land Division Act, together with the required information, completed application form, number of copies specified, and fees, to the Township Clerk at least twenty (20) days prior to the meeting of the Township Board at which the preliminary plat is to be considered for final approval. The Township Clerk shall determine if the application is complete, and if complete, transmit same to the Township Board in adequate time for inclusion on the agenda for the Board's next meeting. If the application is not complete the Township Clerk shall so notify the proprietor in writing and shall list deficiencies. An application shall not be officially received until all deficiencies identified by the Township Clerk have been corrected.

(2) Information Required for Final Approval of Preliminary Plat

The proprietor shall submit the following information to the Township Board for final approval of the preliminary plat:

- (a) A list of all county and state authorities required by the Land Division Act to approve the preliminary plat, certifying that the list is complete and that each authority has approved the preliminary plat.
  - (b) One (1) approved copy of the preliminary plat from each county and state authority required by the Land Division Act to approve the preliminary plat.
  - (c) One (1) Copy of a receipt from the Township Treasurer that all fees required under this Ordinance have been paid.
  - (d) Certificates of approval from the Township Engineer for all improvements proposed to be completed prior to final plat approval and construction schedules.
  - (e) Elevations, grades, direction of flow and profiles of all existing and proposed sanitary sewer, storm sewer and water supply lines.
  - (f) Location of electricity, gas and telephone supply lines.
  - (g) Location, dimensions, and purpose of all proposed easements.
  - (h) Required number of copies of the final preliminary plat.
- (3). Review by the Township Board
- (a) The Board shall review the preliminary plat at its next regular meeting after submittal of the complete application, or within 20 days from the date of submission. The Board shall approve the preliminary plat if it conforms to the preliminary plat as tentatively approved by the Board and if all other required approvals have been obtained by the proprietor. The Township Clerk shall promptly notify the proprietor of the final approval, in writing.
  - (b) The Board shall disapprove the preliminary plat if it does not conform to the preliminary plat as tentatively approved by the Board, or if any of the other approvals required by the Land Division Act have not been obtained. The Township Clerk shall promptly notify the proprietor of the disapproval and the reasons thereof, in writing. The reasons for the disapproval shall be recorded in the minutes of the meeting of the Board. Notice of disapproval shall be sent to each of the other plat approval authorities by the Township Clerk.

- (c) In case of disapproval of the preliminary plat, further consideration of a plat for subdividing the same land can be obtained only if the proprietor first applies for tentative approval of a preliminary plat.
- (d) The proprietor and the Board may agree in writing to extend the 20-day review period. Any changes made in the plat during the period of extension shall be sent to each of the other authorities, which have approved the preliminary plat. Approval of such changes by each such authority shall be obtained before the Board may approve the preliminary plat. This provision is intended to be used only in situations where, in the opinion of the Board, objections to final approval are minor.

(4) Effect of Final Approval of Preliminary Plat

For a period of two (2) years from the date of Township Board approval of the final preliminary plat, the proprietor shall be granted the conditional right that the general terms and conditions under which the final approval of the preliminary plat was granted will not be changed. The two (2) year period may be extended if applied for by the proprietor and granted by the Township Board in writing. Written notice of any extension shall be sent by the Township Clerk to all other plat approval authorities.

D. *Improvement Design - Review and Approval*

(1) Submission

- (a) Engineering plan review and approval consistent with Township engineering standards shall be obtained after final preliminary plat approval and prior to final plat approval. Once engineering plan approval is granted, construction permits for site improvements can be issued by the Township and other applicable regulatory agencies. The subdivider shall file the following with the Township Clerk: an application for design review, plans for all improvements to be installed within the proposed subdivision, and all plan review fees.
- (b) The Township Clerk shall forward all plans received to the Township Engineers and Township Planner.
- (c) Said improvement plans shall be held for review by the Township Engineers and Planners for a period not to exceed a total of forty-five (45) calendar days. Said forty-five (45) days shall include only those days in which the improvement plans are in the possession of the Township.

(2) Plan contents

All improvement plans shall be prepared in accordance with Article 5 of this ordinance and with Township engineering standards.

(3) Plan Review

- (a) The Township Engineer shall initially review all plans submitted to determine their conformance with Township engineering standards and the approved preliminary plat. The Township Planner shall review the plans for their conformance with Township standards for traffic impact and design.
- (b) The improvement plans shall then be reviewed by the other appropriate Township Departments.
- (c) After the improvement plans have received final approval from the Township Engineer, Township Planner, Township departments and all other governmental agencies, the Township Engineer shall issue approval to the subdivider’s engineer, with copies to the subdivider and the Township Clerk.
- (d) The subdivider’s engineer shall submit to the Township Engineer cost estimates for all approved improvements.
- (e) The Township Engineer shall then prepare and submit a detailed summary of required deposits in an amount sufficient to insure construction of the required improvements. Copies shall be sent to the Township Clerk and the subdivider.

(4) Site work/construction of improvements/models:

- (a) No preliminary site work, such as clearing and grubbing, shall commence until the subdivider has:
  - 1. Been issued all necessary wetlands, watercourse, and soil erosion permits;
  - 2. If final approval of all improvement plans has not been obtained, the subdivider shall execute an agreement acknowledging that it is proceeding at its own risk and that permission to proceed with preliminary site work does not in any way guarantee approval of the final plat; and

3. Completed a pre-construction meeting with staff and consultants, and verification that necessary permits have been obtained. The purpose of the pre-construction meeting shall be to review the manner in which the preliminary site work shall be performed and inspected.
  4. Deposit an amount of money with the Township sufficient to restore the site by grading, redistributing topsoil, seeding and mulching all areas disturbed. The amount of the deposit shall be approved by the Township Engineer but shall not be less than \$3,000 per acre. The deposit shall be refunded upon final approval or completion of restoration by the developer.
- (b) No construction of improvements shall begin until the subdivider has:
1. Received approval of all improvement plans;
  2. Received necessary approvals from all other governmental agencies;
  3. Deposited with the Township all necessary inspection fees, applicable water supply connection fee (capital fee), and applicable sanitary sewer service connection fee.
- (c) No building permit shall be granted for a permanent building within a subdivision until final plat approval, and completion of all improvements except as follows:
1. Streets, water supply, sewage disposal, storm drainage and other utilities to service model home lots shall be completed and determined to be acceptable for use prior to issuance of building permits. The Building Department may issue building permits for model homes upon the proprietor submitting metes and bounds legal descriptions of the properties upon which the homes will be constructed. Permits shall be issued for not more than four (4) model homes nor more than ten (10) percent of the total number of lots, whichever is less. Certificates of occupancy for such homes shall be limited to occupancy and use for model purposes until such time as the final plat is approved and all streets, water supply, sewage disposal and other utilities throughout the subdivision have been installed and deemed acceptable for use.

2. The Building Department may issue building permits after substantial completion of all site improvements if the developer has guaranteed completion of all remaining site work in compliance with Section 504 of this Ordinance. Certificates of Occupancy may not be issued prior to Final Plat approval by the Township.

E. *Final Plat*

(1) Filing Procedures

- (a) Final plats shall be submitted to the Township Clerk in the form required in the Land Division Act, together with the following:
  1. Completed application form.
  2. Fees for filing, recording, plat review, and inspection of improvements.
  3. Agreement and security required to guarantee performance.
  4. One (1) reproducible copy of the final plat on mylar or other dimensional stable material, signed by the County Treasurer, Township Treasurer, County Road Commission, and County Drain Commissioner and four (4) paper prints thereof.
  5. One (1) copy of the final plat drawings in AutoCAD compatible, digital media.
- (b) All required information and submittals shall be submitted to the Township Clerk at least twenty-one (21) days prior to the meeting of the Township Board at which the plat is to be considered. The Township Clerk shall determine if the submittal is complete, and if complete, transmit same to the Board in adequate time for inclusion on the agenda for the Board's next meeting. If the application is not complete the Township Clerk shall so notify the applicant in writing and shall list deficiencies. A final plat shall not be accepted for review after the date of expiration of the final approval of the preliminary plat. The final plat shall be submitted to the following agencies, in the indicated order, and the proprietor shall obtain signatures from the agency thereon, in the indicated order, prior to filing the plat with the Board for approval.

1. County and Township Treasurer
2. Drain Commissioner
3. County Road Commission

(c) The final plat shall be sealed and signed by the registered land surveyor who prepared the final plat, and by the proprietor(s) prior to filing with the Township Clerk.

(2) Information Required - Final Plat Approval

(a) All final plats shall be in the form, and contain the information, required by the Land Division Act.

(b) Abstract of title or other certificate establishing ownership interest and to ascertain if proper parties have signed the plat, for all land included in the subdivision.

(c) The proprietor shall provide the Township Clerk with a certificate from the design engineer indicating that improvements have been installed in conformance with the approved engineering drawings, with any changes noted therein and attached in drawings, and proof of a guarantee of completion for those improvements to be installed after final plat approval, as finally approved in the preliminary plat.

(d) A detailed estimate of all costs of all required improvements not to be installed prior to final plat approval, as provided in Section 5, herein. The estimate of costs shall be verified and approved by the Township Engineer prior to review of the final plat by the Township Board.

(3) Review of Final Plat

(a) The final plat shall substantially conform to the preliminary plat as finally approved. The final plat may cover only a portion of the area covered by the preliminary plat as finally approved.

(b) All improvements and facilities to be provided by the proprietor shall be installed, or adequate security in lieu thereof shall be provided, and all dedications and easements shall be evident as having been made before the Township Board may approve the final plat. However, approval of the final plat shall not constitute acceptance of items for dedication. The Township Board may request review of the final plat by its consultants or staff.

- (c) The Township Board shall review all recommendations and either approve or disapprove the final plat at its next regular meeting after the date of submission, or at a meeting called within 20 days of the date of submission. The Board shall approve the plat if it conforms to the final preliminary plat approval, other applicable Township ordinances, and to the provisions of the Land Division Act.
  - (d) If the final plat is approved, the Township Clerk shall transmit the reproducible copy of the plat and the filing and recording fee to the County Plat Board. The reproducible copy shall be a reduced size mylar image which does not exceed 10½" x 14". One paper print shall be forwarded to the Township planning consultant and Building Department; and one print shall be retained by the Township Clerk. The reproducible copy and paper prints shall have the date of approval marked thereon.
  - (e) If the final plat is approved, the Township Clerk shall sign a certificate signifying approval of the final plat by the Township Board, which shall include the date of approval and the date on which the Clerk signs the certificate.
  - (f) If the final plat is disapproved, the Township Clerk shall record the reasons for rejection in the minutes of the meeting, notify the proprietor in writing of the action and the reasons therefor, and return the plat to the proprietor.
- (4) Effect of Final Plat Approval
- (a) Approval of the final plat by the Township Board shall not constitute legal acceptance of dedicated streets, alleys, or other public areas indicated on the plat. The proprietor shall be responsible for obtaining all required approvals of the final plat and / or construction plans from the County Road Commission and other governmental agencies having jurisdiction over any aspect of the plat.
  - (b) Upon approval of the final plat by the Township Board, the Township Clerk shall cause the final plat to be stamped approved and shall provide written notification of the Township Board's approval to the proprietor.

**SECTION 4: Design and Development Standards**

A. *General*

In reviewing applications for approval of subdivision plats, the standards set forth in this Article shall be considered minimum requirements. Where another ordinance requires higher standards, such higher standards shall apply. Variances from the standards set forth in this Section shall be granted only as provided in Section 6, herein.

B. *Design and Development Standards*

(1) *Streets and Alleys*

The specifications contained in this Ordinance are the standards for all highways, streets, and alleys that might hereafter be platted within the Township.

(a) *Street Layout*

1. Street layout shall conform to the adopted Lenox Township Master Plan, Township Zoning Ordinance, as applicable, and all applicable County Road Commission road and right of way design standards.
2. The arrangement of streets in the subdivision shall provide for the continuation of existing streets in adjacent subdivisions.
3. The layout shall also provide for proper extension of principal streets to the boundary line to make provision for the future projection of streets to adjoining properties not yet subdivided. Where future connections to adjacent areas are to be provided, the land for such connection shall be shown on the various plats in accordance with the Township Zoning Ordinance, where applicable, and County Road Commission standards. Each such connection shall be shown on the plat at the time of filing of the preliminary plat for tentative preliminary approval. In general, all such streets shall have a pavement and right of way width at least as great as the street being extended. In no instance shall the right-of-way width be less than sixty (60) feet.
4. Local streets shall be laid out so as to discourage their use by through traffic.

5. Streets shall be aligned to maximize the preservation of natural features, to result in desirable and usable lots and to maintain existing grades to the extent feasible. Streets should follow natural topography to minimize grading and provide for safe streets with reasonable gradients.
6. The street layout shall not isolate parcels or lots from streets or roads, unless suitable access is provided, and that such access be granted by easement or dedicated to public use.
7. Jogs in continuous streets at points of intersection with other streets shall not be permitted. The minimum distance between centerlines of the intersecting streets shall be in accordance with County Road Commission Subdivision Design Standards. It is desirable that proposed streets be offset a minimum of 250 feet from an existing street located on the opposite side of an existing road.
8. Intersecting streets shall be laid out so that the angle of intersection is approximately ninety (90) degrees, but in no case shall the angle of intersection vary by more than ten (10) degrees from the ninety (90) degree standard.
9. The street layout shall provide more than one point of external access to the subdivision. A boulevard street entrance shall not be considered as providing secondary access. Multiple access points shall be as remote from one another as is feasible. The requirement for secondary access may be satisfied by access to an adjacent subdivision. Secondary access shall not be required when each lot in the subdivision is no farther than eight hundred (800) feet in street length from the point of external access to the subdivision.
10. Intersections of local or residential roads with collector and arterial roads shall be designed in accordance with County Road Commission Subdivision Design Standards.
  - a. It is recommended that bypass lanes be provided at major points of ingress/egress to all proposed Subdivisions. Failure to provide bypass lanes may result in the prohibition of left turn movements to the proposed Subdivision.

- b. Acceleration and deceleration lanes and tapers are required along all existing section or quarter section line roads with proposed intersections.
  - c. Minimum corner sight distance for entrances onto existing county roads shall be in accordance with the Posted Speed Limit as designated by the Road Commission's Guide for Corner Sight Distance.
11. All street construction shall be centered on the street right-of-way. Section line and quarter line roads shall be centered on these lines unless the Township Engineer or County Road Commission approves an exception.

(b) Cul-De-Sac Streets

1. Each cul-de-sac street shall not be more than eight hundred (800) feet in length, unless approved by the Township Board and the Road Commission for Macomb County. This standard may be waived by the Road Commission and a greater length will be considered if it is approved by the Township Board and Township Fire Marshal and notice of such approval is furnished to the Road Commission. Cul-de-sac lengths are typically limited to minimize potential problems with access for fire and emergency protection, trash collection, drainage and traffic control. In an effort to minimize such access problems, while supporting the type of low density small scale development that is often association with land division requests, Lenox Township has further defined acceptable lengths for large lot, low density cul-de-sac public roads. The 800 foot maximum Road Commission standard for cul-de-sacs may be increased provided that the proposed length of the cul-de-sac is no more than 7 times the average lot width. This standard may be applied by the Township Board at their discretion to permit maximum cul-de-sac lengths of up to 2,000 feet for districts with minimum lot sizes of 1 acre or greater, upon a finding that adequate access for fire and emergency protection, trash collection, drainage and traffic control may be achieved within the proposed development. Increases in the maximum cul-de-sac length are appropriate only for low density large lot development in areas of the Township that are not planned for the higher densities typically associated with subdivision projects.

2. Temporary 90 foot diameter cul-de-sacs are required for street stubs that are 200 feet or greater in length. Dedication of a 15 foot temporary turnaround easement on each side of the proposed 60 foot right-of-way is required.
  3. The cul-de-sac street shall be designed, constructed and maintained in accordance with County Road Commission standards.
- (c) Right-of-Way widths shall conform to the requirements of the County Road Commission or at least the following requirements, whichever is greater:
1. Major and Secondary Thoroughfares- In conformance with the Thoroughfare Plan section of the Lenox Township Master Plan.
  2. Collector Streets / Quarter Line Roads - 86'
  3. Industrial Service Streets - 70'
  4. Local / Residential Streets - 60'
  5. Marginal Access Streets - 60'
  6. Alleys- 20'
  7. Boulevard Streets - 86' minimum for residential, 100' for Collector Streets and Industrial Developments.
  8. Cul-de-Sac Streets - Turn Around
    - a. Industrial 75' radius terminating with 150' diameter
    - b. Residential 60' radius terminating with a 120' diameter
- (d) Road Cross-Sections:
1. Standard development. Pavement widths shall be a minimum of 28 feet back of curb to back of curb for all roads within a residential development having lot frontage less than 150 lineal feet at the road right-of-way line. Each lane of travel shall be a minimum of 14 feet in width and shall be constructed with a bituminous pavement and concrete curbs and gutters or concrete pavement with integral curbs, as selected by the Proprietor. See Road Commission Subdivision Design Standards Cross-Sections 4-1 and 4-2 for detail.
  2. Large lot development. Pavement widths shall be a minimum of 24 feet with 5 foot wide gravel shoulders on each side for all roads within a single-family residential development having lot frontage of 150 lineal feet or greater at the road right-of-way line. Each lane of travel shall be a minimum of 12 feet wide and may be constructed with open ditches and

a bituminous or concrete pavement as selected by the Proprietor. (Road Commission standard intended to maintain rural character in large lot developments.)

- 3. Cul-de-sacs. Pavement widths shall include a minimum paved radius of 44 feet measured from the center of the cul-de-sac to the back of the curb. Cul-de sacs shall contain concrete curb and gutter and minimum pavement widths of 28' from the back of curb to the back of curb for the road leading to the turnaround. Islands within cul-de-sacs are prohibited due to maintenance and fire truck accessibility concerns.
- 4. Industrial Streets. Paved widths shall be 36 feet measured from the back of the curb to the back of curb and shall be constructed of concrete pavement with integral curbs. Cul-de-sac pavement widths shall include a minimum paved radius of 58' feet measured from the center of the cul-de-sac to the back of the curb. Islands within cul-de-sacs are prohibited due to maintenance and fire truck accessibility concerns.
- 5. Alleys shall have a paved width of 20 feet.

(e) Street Grades:

- 1. Maximum - All streets, 5%, provided that where essential for reasonable development 6% may be permitted for collector and minor streets.
- 2. Minimum - Shall meet the standards of the County Road Commission.

(f) Vertical Alignment: Per the specifications of the County Road Commission.

(g) Horizontal Alignment:

- 1. When tangent centerlines deflect from each other they shall be connected by a curve with a minimum centerline radius of :
  - a. Major and Secondary Thoroughfares: 800'
  - b. Collector Street: 500'
  - c. Local Street: 200'

2. Between reverse curves there shall be minimum tangent distance of 100 feet.
  3. In no case less than the specifications of the County Road Commission.
- (h) Driveway locations: All driveway locations shall be subject to regulations, recommendations and review of the County Road Commission.
- (i) Drainage
1. All streets and alleys shall be provided with facilities for adequate surface drainage. This may be accomplished by the use of ditches, county drains, natural watercourses, or tributaries constructed thereto.
  2. Drainage facilities shall be designed, constructed and maintained in accordance with the standards of the County Road Commission, the County Drain Commission, and Lenox Township.
  3. Lenox Township shall not be responsible for the maintenance of drainage facilities located within County rights-of-way or on private property.
- (j) Alleys
1. Where alleys are provided they shall be at least twenty (20) feet wide. Dead-end alleys shall be prohibited.
  2. Alleys shall be designed in accordance with standards of the Lenox Township Land Development Ordinance No. 01-89.
  3. Where alleys are developed, a private agreement shall be recorded that provides for maintenance and snow plowing by the homeowners association.
- (k) Marginal Access Streets
1. Where marginal access streets are required or proposed, the proprietor shall be responsible for improving said streets according to County Road Commission standards.

2. Where a subdivision borders or contains a limited access highway right-of-way, the Planning Commission may require a street approximately parallel to and on one or both sides of such right-of-way, at a distance suitable for the appropriate use of the intervening land and in accordance with applicable County Road Commission standards. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
3. When a subdivision abuts or contains an existing or proposed arterial or collector street, the Planning Commission may require a marginal access street, side or reverse frontage lots with screen planting contained in a non-access reservation along the side or rear property line, or such other treatment as might be necessary for adequate protection of residential properties, to afford separation of through and local traffic, and to retain the traffic carrying capacity of the arterial or collector streets.
4. A greenbelt at least twenty (20) feet wide shall be provided between a marginal access street and the adjacent street. Said greenbelt shall be designed and planted in accordance with the Zoning Ordinance, subject to Road Commission Standards for tree location.

(l) Future Connection / Stub Streets

1. Future street connections also known as stub streets, shall be required to provide future access to an adjacent parcel or parcels at intervals along the property boundary not to exceed two thousand (2,000) feet, unless one of the following are found to exist:
  - a. The extension is impractical because of topography, the dimensions of the property subdivided, or other natural features, including but not limited to regulated wetlands, floodplains, open water bodies, and steep slopes.
  - b. The extension will result in the creation of undesirable traffic patterns not customarily found in residential areas.
  - c. The extension would connect to property zoned or master planned for nonresidential use.

2. The stub street right-of-way shall be designed and built in conformance with the Zoning Ordinance, where applicable, and County Road Commission standards.
3. Stub streets that exceed two hundred (200) feet in length shall be constructed with a temporary 90 foot diameter cul-de-sac. Stub streets that are less than 200 feet in length shall require a temporary "T" turn-around.

(m) Street Names

1. Street names shall not duplicate names of any existing street in Macomb County, except where a new street is a continuation of an existing street. Duplication shall be avoided by checking new street names with the County Road Commission.
2. Street names that are spelled differently but sound the same shall be avoided.
3. Generally, no street shall change direction by more than 90 degrees without a change in street name.
4. Street names shall not include numbers, or single letters.

(n) Location for Utilities

1. Utilities shall be located so as to best conform to the layout of existing facilities. In streets where no pattern has been established, utilities shall be located in conformance with standards of the County Road Commission.
2. The proprietor shall contact the Township Engineer and public utility involved to locate and design utilities.
3. All utilities shall be underground unless the Planning Commission approves them in another manner because of unusual circumstances.

(2) Blocks

- (a) Blocks containing lots averaging 110 feet or less in width generally shall not be less than 500 feet or more than 1400 feet in length as measured from centerlines of streets. The Township Board, upon recommendation from the Planning Commission may approve a plat which varies from these dimensions if there is documented evidence that significant natural features such as topography, water bodies and drainage ways will be preserved or stub streets to connect to vacant land are being provided which will result in a conforming situation in the future.
- (b) Large lot subdivisions of one-half acre or greater shall not be restricted by the above block lengths. All other patterns, which cannot be described as having blocks shall be reviewed and approved by the Planning Commission, and shall be subject to adjustment by the Planning Commission as necessary.
- (c) No block width shall be less than twice the normal lot depth except where lots back onto a major street, natural feature or subdivision boundary. A block shall be designed so as to provide two (2) tiers of lots, except where the lots back onto a major street, natural feature, subdivision boundary or other feature or facility which necessitates double frontage.
- (d) The Planning Commission may require reservation of an easement through blocks to provide for the crossing of underground utilities and/or pedestrian traffic where needed or desirable, and may specify further, at its discretion, that sidewalks be provided by the proprietor. Blocks intended for non-residential uses shall be designed in accordance with Zoning Ordinance provisions. In such cases, the above dimensions do not apply.

(3) Lots

- (a) Lots shall conform to the requirements of the Zoning Ordinance for the district(s) in which the subject parcel(s) are located.
- (b) Lots shall have a front-to-front relationship across all streets where possible.

- (c) Corner lots shall have extra width to permit appropriate building setbacks. It is desirable for corner lots to be at least fifteen (15) feet wider than the minimum width permitted by the Zoning Ordinance. At a minimum, corner lots shall maintain the minimum lot width, as specified in the Zoning Ordinance, adjacent to both street or road frontages. Lots abutting a pedestrian mid-block crosswalk or other right-of-way shall be treated as corner lots.
  
- (d) Residential lots shall not front directly onto a freeway, arterial or collector right-of-way, shopping centers, industrial districts or parks, and other similar non-residential areas. In such situations, lots shall be designed in accordance with one of the following:
  - 1. Lots may back onto the above features, but shall be separated from the proposed future right-of-way or property line, whichever is greater, by the following:
    - a. A 25-foot wide landscaped greenbelt along the rear property line of all lots which abut an arterial or collector right-of-way, shopping center, industrial district or park, or other similar non-residential area. Within the greenbelt there shall be provided a 3.5-foot high landscaped berm with a 3 (horizontal) to 1 (vertical) maximum slope and a 2-foot wide crown planted with a minimum of one large deciduous or evergreen tree and 4 shrubs for every 30 linear feet. The 25-foot wide greenbelt shall be considered part of the contiguous lot, shall be reserved as an open space easement and shall not be located in any road right-of-way or utility easement. All landscape materials shall comply with Zoning Ordinance standards.
  
    - b. A 60-foot wide landscaped greenbelt along the rear property line of all lots which abut a freeway right-of-way. Within the greenbelt there shall be provided an 8-foot high landscaped berm with a 3 (horizontal) to 1 (vertical) maximum slope and a 2-foot wide crown planted with a minimum of one large deciduous or evergreen tree and 4 shrubs for every 30 linear feet. The 60-foot wide greenbelt shall be considered part of the contiguous lot, shall be reserved as an open space easement and shall not be located in any road right-of-way or utility easement. All landscape materials shall comply with Zoning Ordinance standards.

2. Lots may face onto a marginal access street.
3. Corner lots shall front onto intersecting local streets. All driveway openings shall access the intersecting local streets. Corner lots which abut a major street right-of-way or non-residential area shall be separated from the proposed future right-of-way or property line, whichever is greater, by a 20 foot wide landscaped greenbelt along the property line of all lots which abut the feature. Within the greenbelt there shall be provided a 3.5-foot high landscaped berm with a 3 (horizontal) to 1 (vertical) maximum slope and a 2-foot wide crown. The 20 foot wide greenbelt shall be considered part of the contiguous lot, shall be reserved as an open space easement and shall not be located in any road right-of-way or utility easement.

- (e) All lots shall abut and have access to a street in conformance with the frontage and lot width requirements in the Zoning Ordinance. Exceptions may be made for a planned unit development for multiple dwellings, business centers, or industrial tracts where, in the judgement of the Commission, such requirements would not serve the best interests of the Township.
- (f) Lots facing a three-way intersection shall be aligned to prevent on-coming headlight glare into the living area of the building envelope.
- (g) Where a lot borders a lake, stream, regulated wetland or similar amenity, the front yard shall be the street side area of the lot. Minimum setbacks for any yard shall be determined in conformance with the Zoning Ordinance.
- (h) Re-Subdividing

Where a tract is to be subdivided into lots substantially larger than the minimum size required in the Zoning Ordinance, or when the tract is in an area which the Planning Commission can reasonably expect to be served with sewer and water lines in the future, but which at time of subdividing does not have sewer and water services available, the Commission may require that streets and lots be laid out so as to permit future re-subdivision in a logical manner and in accordance with provisions of this Ordinance. Lot arrangements shall allow for ultimate extension of adjacent streets through blocks or the splitting of lots into smaller lots. The plan for such future re- subdividing or lot splitting shall be approved by the Planning Commission before division of lots may be made.

(i) Lot Lines

Side lot lines shall generally be perpendicular to the right-of-way lines or radial to curved streets. All side and rear lot lines shall be straight lines unless natural features or street curvature so prevent. Variations in these provisions may be made when, in the opinion of the Planning Commission, such variations would result in a better arrangement of lots.

(j) Lots to be Buildable

Lots shall be designed such that in constructing a building in compliance with the Zoning Ordinance, topography or other natural conditions will not create difficulties in locating the building and driveway and in providing adequate yard areas. Acute angles created by side lot lines, and odd shaped lots shall be avoided. The size, shape, and location of each lot shall have the following qualities:

- a. A suitable site for placing a house without excess grading.
- b. A usable area for outdoor living and other activities.
- c. Adequate surface drainage away from the house site and outdoor living areas.
- d. Reasonable driveway grades.
- e. General site grading shall be minimized with significant trees and other vegetation retained.

(4) Setback and Yard Requirements

- (a) Placement of the building on the site shall conform to all yard requirements of the Zoning Ordinance.
- (b) Variation in the placement of the building on each lot is encouraged.
- (c) The setbacks provided shall conform to topography and natural features of the site.

(5) Access to Lots

Driveways and curb-cuts shall conform to the design, construction and locational standards of the County Road Commission and the Lenox Township Zoning Ordinance, where applicable.

(6) Lot Division

- (a) The division of a lot in a recorded plat is prohibited unless approved following application to the Township Board in conformance with the Land Division Act and the Lenox Township Land Division Ordinance. The application shall be filed with the Township Assessor and shall state the reasons for the proposed division.
- (b) No building permit shall be issued, nor any construction commenced, until the division has been approved in accordance with the provisions of the Lenox Township Land Division Ordinance.

(7) Pathways and Sidewalks

- (a) Non-motorized pathways, other than sidewalks in street rights-of-way as regulated below, shall be located within an easement at least twenty (20) feet wide, when required and shall be designed as follows:
  - 1. Ten foot wide non-motorized pathways designed in accordance with engineering specifications adopted by the County Road Commission shall be provided along all thoroughfares adjacent to the perimeter of a subdivision or condominium. Such pathways shall extend along the entire frontage of the property and connect to adjacent pathways in existence.
  - 2. The surface of a non-motorized pathway shall consist of concrete, asphalt, stone, or other surface material, in accordance with engineering specifications adopted by the County Road Commission, or where applicable, the Township Board. The Planning Commission and/or Township Board may permit other surfacing material appropriate to the design and function of the pathway. Alternative surfacing material may be permitted in accordance with subsection 1. above for uses such as off-road bike trails, horse trails, nature walkways and the like shall be stable, with a suitable base approved by the Township Engineer.

3. Pathways limited to nature trails shall have a minimum cleared width of 6 to 8 feet for the walking surface. Unpaved equestrian and off road bike trails should have a cleared width of at least 8 feet. Such trails shall be designed to enhance the trail users experience while minimizing safety hazards.
  4. Overhead clearance (hanging branches, vines, etc) should be at least 7 to 8 feet for hiking trails, 8 feet for bike trails and 10 to 11 feet over equestrian trails.
  5. Fences and/or other improvements may also be required if the Planning Commission and/or Township Board determine such are necessary to buffer adjacent property owners or pedestrians, and shall be designed, constructed and maintained in conformance with the Lenox Township Zoning Ordinance.
  6. The Planning Commission may require that non-motorized pathways be lighted, with the lighting to be located and designed in conformance with the performance standards in the Zoning Ordinance. Sidewalks are intended primarily for pedestrian traffic. Sidewalks shall be required on both sides of all streets included in a plat. Street rights-of-way shall be sufficient to provide for sidewalks on both sides of the street. Sidewalks shall be designed as follows: Sidewalks shall have a minimum pavement width of five (5) feet, and shall have a minimum of lateral slope of  $\frac{1}{4}$  inch per foot of width.
  7. Sidewalks shall be placed within the street right-of-way, one-foot away from the property line. Sidewalks shall be concrete, 4 inches thick, with 6-inch thickness under driveways.
- (b). Sidewalks are intended primarily for pedestrian traffic. Sidewalks shall be required on both sides of all streets included in a plat. Street rights-of-way shall be sufficient to provide for sidewalks on both side of the street. Sidewalks shall be designed as follows:
1. Sidewalks shall have a minimum pavement width of five (5) feet, and shall have a minimum of lateral slope of  $\frac{1}{4}$  inch per foot of width.
  2. Sidewalks shall be place within the street right-of-way, one-foot away from the property line.

3. Sidewalks shall be concrete, 4 inches thick, with 6-inch thickness under driveways.
  4. Driveway aprons shall not break the sidewalk level.
  5. Sidewalks will not be required along industrial service drives and will only be required along one side of marginal access streets.
  6. Sidewalks shall be required where necessary along retention ponds, outlots, and open space areas to provide continuity with sidewalks installed in other adjoining developments where deemed necessary by the Township Board.
- (c) Pedestrian through-block connectors. Pedestrian through-block connectors may be required in the middle of any block over 1,000 feet in length to obtain satisfactory pedestrian circulation within the subdivision, to provide access to parks or open space, to provide links with an adjacent subdivision, or to provide access to other community amenities. Where such pedestrian through-block connectors are required, an easement at least 20 feet wide shall be provided. The city may require placement of a fence along the easement to ensure the location is visible and to protect the adjacent property owners.
- (d) In residential districts where the minimum lot size is one (1) acre or greater, sidewalks shall be provided either 1) on one side of all local and collector streets shown on the plat or plan, with sufficient street right of way to provide for sidewalks on both sides of the street or 2) along a system of pathways (paved or unpaved) that meander through permanent open space that in the opinion of the approving body provides equivalent pedestrian circulation to the majority of lots within the development.
- (e) Non-motorized pathways along external arterial and collector roads shall be constructed prior to occupancy of the first lot in the subdivision.
- (f) Lenox Township shall not be responsible for the maintenance of non-motorized pathways and sidewalks located within County rights-of-way or on private property.

- (g) Sidewalks and pathways, or portions thereof, otherwise required may be eliminated or modified where the Township Board determines, upon Planning Commission recommendation, that installation would have an adverse impact on a sensitive natural area or is not practical due to extreme topographic or site features. In such instances, the Township Board may require alternative methods of providing public walkways.
- (8) Natural Features
- (a) The Planning Commission shall, wherever possible and reasonable, require the preservation of natural features such as large trees or groves of trees, water courses, vistas, historic structures, places and features, wildlife habitats and ecological areas, and similar irreplaceable assets.
  - (b) The location, nature, and extent of such features shall be identified in the initial review stages of the preliminary plat and shall be made a part of the subsequent plats to the greatest possible extent. The preservation and/or inclusion of such features may be made a condition of tentative approval of the preliminary plat.
  - (c) Designated floodplains, regulated wetlands, and open water bodies shall not be platted for residential use, or for any other use that might create a danger to health, safety, or property, or which might increase the flood hazard within or outside the subdivision. Such lands shall be retained in their natural state as permanent open space. Any area of land within the proposed subdivision which lies either wholly or partly within the flood plain of a river, stream, creek, or lake, any designated wetland, or any other areas which are subject to flooding shall be clearly shown on the preliminary plat and the final plat.
- (9) Utilities
- a. Storm Drainage
    - 1. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, a storm water easement or drainage right-of-way shall be provided in accordance with standards of the County Drain Commissioner. Such easements shall be placed so as not to interfere with use of lots. Existing drainage ways may be re-channeled but such re-channeling shall not increase the flow or level, or cause impoundment of water on properties upstream or downstream from the proposed subdivision. Exceptions may be made if such changes conform to an overall drainage plan for the drainage district.

2. All natural water drainage ways and impoundment areas shall be preserved at their natural gradient and shall not be filled or interfered with in any way, except as approved by the County Drain Commissioner. If, in the judgment of the Drain Commissioner, a natural water drainage way or impoundment area shall be reserved in the public interest, a storm drainage easement(s), of a width and/or to an elevation specified by the Drain Commissioner, shall be required and reserved as a public storm drainage easement or impoundment area. Access rights for maintenance purposes to same shall be dedicated to the public through the Drain Commissioner and placed on file with the County Register of Deeds. The proprietor may be required to carry away by pipe or open ditch, in appropriate easements, any spring or surface water that might exist either previous to, or as a result of, the subdivision.
3. A culvert or other drainage facility to be provided in the proposed subdivision shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether that area is inside or outside the subdivision. The design and size of the facility shall be based on anticipated run-off from a fifty (50) year storm under conditions of total potential development permitted by the Zoning Ordinance, and other applicable ordinances, and recommended in adopted development policies for the lands lying within the drainage area.
4. The effect of the subdivision on existing downstream drainage facilities outside the subdivision shall be reviewed by the proprietor and the County Drain Commissioner. Where it is anticipated that the additional run-off resulting from development of the subdivision will overload an existing downstream drainage facility during a fifty (50) year storm, the County Drain Commissioner shall notify the Township Board of such potential condition. In such situations the Board shall not approve the subdivision until provision has been made for improvement of said condition, or storm detention facilities have been provided to limit the discharge to an amount permitted by the County Drain Commissioner or Township standards.

5. All drainage improvements shall be approved by the Township Engineer and shall conform to the duly adopted and published Master Plan for the area covered by the proposed subdivision and for the upstream and downstream areas involved, and to the standards and specifications of the County Drain Commissioner. The Planning Commission may, if it considers such requirements necessary for the proper and safe development of the subdivision and surrounding area, require that the drain be enclosed.

(b). Sewer and Water Utilities

1. Sanitary sewer and water supply facilities shall be designed and located according to the specifications and procedural requirements of the Michigan Department of Environmental Quality.
2. On-site services and private sanitary sewer and water systems shall be designed according to requirements of the County Health Department.

(c) Gas, Wire or Cable Utilities

1. All lines for telephone, electrical, television, and other services distributed by wire or cable shall be placed underground throughout a subdivision. This Section shall not be construed to prohibit the construction above ground of surface equipment associated with an underground distribution system, such as, but not limited to, surface mounted transformers, power terminal pedestals, meters and meter boxes, concealed wires, streets lights and street light poles.
2. All facilities, including those for gas distribution, shall be installed in accordance with standards and specifications of the agency having jurisdiction over the utility lines and the Land Division Act. The layout of such facilities shall be submitted to the utility companies having jurisdiction in the area for their review before filing for final approval of the preliminary plat. All said utilities placed in public rights-of-way shall not conflict with other underground lines. Easements shall be provided in accordance with Section 4 below.

(10) Easements

- (a) All underground public utility installations, including lines for street lighting systems, which traverse privately owned property shall be protected by easements granted by the proprietor and approved by the public utility or shall be in the public road right-of-way.
- (b) Easements shall provide access to every lot, park or public grounds. Such easements shall be a total of not less than 12 feet wide.
- (c) Recommendations on the proposed layout of and restrictions pertaining to such easements shall be in accordance with the standards and specifications of the agency having jurisdiction over the utility lines and the Land Division Act, and shall be indicated on the preliminary plat submitted for tentative approval. It shall be the responsibility of the proprietor to submit copies of the preliminary plat to all appropriate public utility agencies.
- (d) Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width or construction or both as will be adequate for the purpose. Such easements shall meet the approval of the County Drain Commissioner and / or County Road Commission.
- (e) The Township may require an easement for emergency vehicle access through properties adjacent to bodies of water.

(11) Planting Strips

Planting strips may be required to be placed next to incompatible features such as highways, railroads, commercial or industrial uses to screen the view from residential properties. Such screens or greenbelts shall be a minimum of ten (10) feet wide and shall not be part of the normal roadway right-of-way or utility easement. (Refer to greenbelt planting requirements of Lenox Township Zoning Ordinance)

(12) Topsoil

Removal of topsoil from areas to be subdivided shall be prohibited except in those areas to be occupied by buildings, roads or parking areas. A plan for storage or stockpiling of topsoil shall be submitted by the proprietor with the final plat and approved prior to receiving approval of the final plat. Such plan shall meet the requirements of the Zoning Ordinance.

## (13) Reservation of Public Use Areas

- (a) The proprietor may opt to dedicate areas suitably located and on adequate size for playgrounds, school sites, or parks and recreation facilities in order to qualify for a reduction in the minimum lot area as prescribed in the Township's Zoning Ordinance by utilizing one of the following methods:
1. Provision of a recreational area within the subdivision with an area equal to a minimum of two and on half (2.5) percent of the entire area platted or four hundred (400) square feet per lot platted or one platted lot, whichever shall be the greater, and which shall be developed and maintained by the proprietor or by the lot owners in the subdivision under a legal arrangement adequate to secure such end; or
  2. By conveying by warranty deed to the Township an amount of land within the subdivision equal to a minimum of two and on half (2.5) percent of the entire area platted or four hundred square feet per lot platted or one platted lot, whichever shall be the greater, which land or the proceeds thereof shall be held by the Township to be used for the acquisition improvement of land for one or more park or recreational areas in the neighborhood of said subdivision; or
  3. By contributing to the Township such sum of money as shall be equivalent to the reasonable market value of a minimum of two and one half (2.5) percent of the entire area of the subdivisions after the same shall have been improved or four hundred (400) square feet per lot after same shall have been improved ,whichever shall be the greater, which reasonable market value shall be computed at six (6) times the equalized assessed value of land prior to subdivision in lieu of which such contribution shall be made. Such contributions shall be made in cash and all sums so contributed shall be held by the Township to be used for the acquisition or improvement of land for one or more parks or recreational areas in the neighborhood of said subdivision.

When invoking one of the above methods, the proprietor may reduce the minimum lot area as prescribed in the Township's Zoning Ordinance in an amount equal to the percentage reduction in total land of the public dedication or equivalent cash contribution up to a total of ten percent. (For example, in a 40-acre subdivision, the proprietor may dedicate 2 acres or its value to the Township thus qualifying him to reduce his minimum lot by 2/40 or 5% upon Planning Commission acceptance).

- (b) Where a proposed park, playground, open space area, public school, library or other public use area is shown on the adopted Master Plan and is located in whole or in part in a proposed subdivision, such area or areas shall be shown on the plat.
- (c) Such area or areas may be dedicated to the Township or other applicable public agency by the proprietor if the Township Board or other applicable public agency approves such dedication.

(14) Commercial Subdivisions

- (a) Where commercial developments for retail sales, wholesale sales, business services, offices, and similar establishments fall within the definition of “subdivision” as set forth in the Land Division Act, such development shall conform to the provisions of this Ordinance, except for modifications provided for in this Section.
- (b) The development shall conform to all Zoning Ordinance requirements for the zoning district in which the development is located.
- (c) Streets shall conform to the requirements of Section 401. All streets in a commercial subdivision shall be paved, and shall have curb and gutter, and underground storm drainage. Streets shall be designed and constructed in accordance with County Road Commission industrial subdivision standards to adequately handle truck traffic. Curb side parking and loading shall not be provided for, nor permitted on, any street in a commercial subdivision unless approved by the Planning Commission. No backing or similar maneuvering of vehicles to enter or leave a parking or loading space shall be permitted or provided for on a commercial subdivision street. Such movements shall be adequately provided for on each lot.
- (d) Entry drives for the subdivision shall be located and designed in conformance with the design and construction standards of the County Road Commission.
- (e) Blocks shall be designed to meet the needs of commercial uses in conformance with the lot standards for commercial uses in the Zoning Ordinance. Block sizes shall meet the requirements of fire protection, snow removal, and other service and emergency vehicles.

- (f) Lots in a commercial subdivision shall have access from subdivision or frontage streets, and shall not open directly onto an arterial or collector street.
- (g) Sidewalks shall be required in commercial subdivisions, except where the Planning Commission determines that such facilities are not required for the safety and convenience of pedestrians within or around the subdivision.
- (h) Landscaping and screening shall be provided in accordance with the provisions of the Zoning Ordinance for the proposed use(s).

(15). Industrial Subdivisions

- (a) Where industrial developments fall within the definition of “subdivision” as set forth in the Land Division Act, such development shall conform to the provisions of this Ordinance, except for modifications provided for in this Section.
- (b) The development shall conform to all Zoning Ordinance requirements for the zoning district in which the site is located.
- (c) Streets shall conform to the requirements of Section 401 herein. All streets shall have concrete curb and gutter with enclosed underground storm drainage.
- (d) All streets within the subdivision shall be designed and constructed to accommodate the movement of large trucks in conformance with County Road Commission standards for design and construction.
- (e) Parking and loading on all streets in an industrial subdivision shall be prohibited. Adequate parking and loading areas, and space necessary for maneuvering of trucks in loading and unloading operations shall be provided on each site in accordance with the requirements for parking and loading in the Zoning Ordinance. Layouts which permit use of streets for turnaround and other maneuvers shall not be acceptable.
- (f) Entry drives for the subdivision shall be located and designed in conformance with the design and construction standards of the County Road Commission.

- (g) Streets within an industrial subdivision normally shall not be extended to the boundaries of adjacent existing or potential residential areas or connected to streets intended for predominantly residential traffic. Streets within the subdivision, except collector and arterial streets, shall be laid out so as to discourage through traffic.
- (h) Blocks shall be designed to meet the needs and characteristics of industrial operations in conformance with the lot standards for industrial uses in the Zoning Ordinance. Block sizes may vary in size and shall meet the requirements of fire protection, snow removal, and other service and emergency vehicles.
- (i) Lots in an industrial subdivision shall have access only from subdivision or frontage roads, and shall not open directly onto arterial or collector streets.
- (j) Landscaping and screening shall be provided in accordance with the provisions of the Zoning Ordinance for the proposed use(s).
- (k) Any intended future expansion of the industrial development shall be shown on the preliminary plat as submitted for tentative approval.
- (l) The proprietor's continuing interest, if any, in the subdivision shall be clearly described.

(16) Soil Erosion and Sedimentation Control

Plans for a subdivision shall contain proposed erosion and sedimentation control measures for review by the Township Engineer. The control measures shall be incorporated into the final plat and final construction drawings. Erosion and sedimentation control measures shall conform to applicable standards and specifications established by the County Drain Commissioner, or other agency of jurisdiction. These standards shall be applied in their current form and as modified from time to time, it being the intent of this Section to incorporate such standards and specifications into this Ordinance by reference. The measures shall apply to all street and utility installations as well as to individual lots. Measures shall be instituted to prevent or control erosion and sedimentation during all stages of construction of the subdivision.

(17) Restrictive Covenants

- (a) Covenants may be provided by the proprietor. Such covenants shall be recorded with the plat and shall apply to the entire subdivision.

- (b) Covenants shall be reviewed by the Planning Commission during the initial procedures and/or preliminary plat stages for conformance with Township standards.
- (c) Covenants may require more stringent restrictions on use of land or the design and construction of a subdivision. However, they shall not in any way constitute a reduction or variance from the provisions of this ordinance or any other ordinance of the Township. Where there is a conflict between the provisions of this ordinance or another Township ordinance, the provisions of said ordinance shall apply.
- (d) The Township shall not be responsible for enforcement of private covenants or deed restrictions, unless specifically designated in such capacity through open space agreements, easements, or other form of conveyance approved by the Township.
- (e) Covenants shall be recorded with the County Register of Deeds prior to the sale of any lot within the subdivision.

(18) Trees

- (a) Trees shall be provided along both sides of all streets, and shall be placed at the minimum rate of two (2) per single family residential lot or at a maximum distance apart of 60 feet, whichever results in a greater number of trees. Trees may also be required by the Planning Commission to be installed, according to the same spacing standards, along one (1) or both sides of pedestrian ways.
- (b) Trees to be installed adjacent to streets shall be large deciduous trees. Ornamental trees may be installed adjacent to non-motorized pathways. All trees shall be planted in accordance with the standards of the Zoning Ordinance.
- (c) The following trees are not permitted in any landscaped area: box elder, soft maples, American elm, poplar, ailanthus (tree of Heaven) and willow.
- (d) All trees shall be protected from damage by wind and other elements during the first full year after planting.
- (e) All trees shall be located in conformance with applicable County Road Commission and Lenox Township Zoning Ordinance standards for planting location and setbacks from roadways.

- (f) Full size shade and evergreen trees shall not be located within 10 feet of the water main, storm sewers or sanitary sewers. Shrubs and ornamental trees may be permitted, subject to Township approval.

(19) Street Lights

- (a) Street lights shall be provided in all commercial and industrial subdivisions. Street lights may be required within residential subdivisions at the discretion of the Planning Commission.
- (b) Where provided, street lights shall have underground wiring and shall be full cut-off style fixtures designed to eliminate glare.
- (c) Light standards shall meet the minimum specifications of the electric utility company serving that area of the proposed subdivision. Lenox Township Zoning Ordinance and maximum light levels shall these necessary for safety & security.
- (d) Where lights are to be provided, they shall be installed prior to the occupancy of structures within the subdivision.

(20) Maintenance of Common Areas and Vacant Lots

- (a) Maintenance of all common areas located within the plat shall be the responsibility of the Subdivision Association, unless such areas have been dedicated to the Township Board or other public agency, or specifically designated through open space agreements, easements, or other form of conveyance approved by the Township.
- (b) All vacant lots shall be properly maintained by the Subdivision Association.

**SECTION 5: Subdivision Improvements****A. Purpose**

It is the purpose of this Article to establish and define the improvements which the proprietor will be required to provide as conditions for final plat approval; to outline the procedures and responsibilities of the proprietor and the various public officials and agencies concerned with the planning, design, construction, financing, and administration of improvements; and to establish procedures for assuring compliance with these requirements.

**B. General****(1) Standards**

- (a) Improvements shall be provided by the proprietor in accordance with this Article and/or with any other applicable standards and requirements which may from time to time be established by the Township Board or by any of the various Township departments or county and state agencies, in the form of ordinances or published rules.
- (b) The improvements required under this Article shall be considered the minimum acceptable standards.
- (c) Where the standards or requirements of this ordinance are different than the provisions of another ordinance, the more stringent of the two shall apply.

**2. Preparation of Plans**

- (a) It shall be the responsibility of the proprietor to have prepared by a registered engineer a complete set of construction plans for streets, utilities, and other improvements required in Section 5.
- (b) Such construction plans shall conform to the preliminary plat as finally approved.
- (c) Construction plans are subject to approval by the Township and responsible agencies and shall be prepared in accordance with the Lenox Township Engineering Design Standards and with the applicable agency standards and specifications.

(3) Timing of Improvements

Except as provided in Section 3, no grading, removal of trees or other vegetation, land filling, construction of improvements, or other material change except for that which is required by any of the reviewing agencies for purpose of aiding in their review of the preliminary plat, shall commence on the subject property until the proprietor has:

- (a) Received a written notice from the Township Clerk that the Township Board has given final approval to the preliminary plat.
- (b) Deposited with the Township a bond or other form of security as required by this Ordinance for the provision of improvements.
- (c) Entered into a subdivision agreement with the Township Board for completion of all improvements required in the preliminary plat as finally approved.
- (d) Received a certificate of approval or similar evidence of approval of the engineering plans from the Township Engineer of each improvement to be installed prior to approval of the final plat. Where approval of such plans must be obtained from the County Road Commission, County Drain Commissioner, County Health Department, or other county or state agency, the proprietor shall provide evidence of such approvals to the Township Engineer prior to his report and recommendation to the Township Board. Such plans and approvals shall include those for soil erosion and sedimentation controls.

(4) Staging

Where a subdivision is to be developed in stages, the provisions of this Article shall apply to each stage. However, improvements and financial guarantees may be required to extend beyond the boundaries of a subdivision stage if such extension is necessary to insure the relative self-sufficiency of the stage pending completion of the entire subdivision. Such extension, schedules, and similar arrangements shall be set forth in an agreement between the proprietor and the Township Board prior to final approval of the preliminary plat.

C. *Engineering Drawings of Improvements*

(1) Required Prior To Construction

- (a) Engineering drawings of all required improvements shall be reviewed and approved by the Township Engineer or Building Inspector. Improvements to be made under the jurisdiction of the County Road Commission, County Drain Commissioner, or other county or state agencies shall also be submitted to the appropriate agency for review and approval. Where review and approval of engineering drawings is made by a county or state agency, the Township Engineer or Building Inspector shall obtain written confirmation of such approvals prior to issuance of any approvals or permits.
- (b) No grading, land filling, removal of trees or other vegetation, construction of improvements, or other land development activity shall commence until the engineering drawings of same have been approved by the Township Engineer and all county and state agencies having approval or permit jurisdiction.

(2) Modification During Construction

- (a) All installations and construction shall conform to the approved engineering drawings.
- (b) Modifications to approved construction plans shall require approval by the original approval agency or individual prior to construction or installation of the improvement. Modifications in design and/or specifications during construction are at the proprietor's own risk, without any assurance that the Township or other public agency will accept the completed facility. It shall be the responsibility of the proprietor to notify the appropriate agency of any changes in the approved drawings and secure necessary reviews and/or approvals.

(3) As Built Drawings

The proprietor shall submit to the Township Engineer, Building Inspector, and water department one reproducible set of "as built" engineering drawings of each of the required improvements that have been completed prior to final plat approval. As-built drawings may be provided in digital format (AutoCAD compatible). Each set of drawings shall be certified by the proprietor's engineer. The Township Engineer shall review a copy of the "as-built" engineering drawings to verify compliance with the Checklist of As-Built Drawing Requirements as contained in the Lenox Township Engineering Design Standards.

(4) Construction Schedule

The proprietor shall submit to the Township Engineer or Building Inspector and to all approving agencies and to public utility companies that will service the subdivision, prior to final approval of the preliminary plat, a general schedule of the timing and sequence for the construction of all required improvements. The schedule shall meet the procedural requirements and inspection needs of the Township, county, and state agencies.

D. Required Improvements

The proprietor shall install the following improvements in accordance with the conditions and specifications of this Ordinance.

(1) Monuments

Monuments and iron lot corner markers shall be set in accordance with the Land Division Act and applicable State administrative rules, as from time to time may be promulgated.

(2) Streets and Alleys

All streets, curbs, gutters, and alleys shall be constructed in accordance with the standards and specifications of the County Road Commission and this ordinance. All streets and alleys shall be public.

(3) Public Utilities

Public utilities placed in street rights-of-way shall be located in accordance with County Road Commission requirements and this ordinance.

(4) Storm Drainage

(a) An adequate storm drainage system, including necessary storm sewers, drain inlets, manholes, culverts, bridges and other appurtenances shall be required in all subdivisions. Provisions shall be made by the proprietor for proper drainage of storm water runoff from each residential lot.

(b) All proposed storm drainage construction plans shall be approved by the Township Engineer, County Drain Commissioner and the County Road Commission, where applicable. Construction shall follow the specifications and procedures of the State Drain Code, as amended, and specifications of the County Road Commission where applicable.

(5) Water Supply System

- (a) When a proposed subdivision is located within, adjacent to or reasonably (in the judgment of the Commission) near the service area of a Township Water supply system, water mains, fire hydrants and required water system appurtenances shall be constructed in such a manner as to adequately serve all lots shown on the subdivision plant, both for domestic use and fire protection. Water lines and appurtenances shall be provided by the proprietor.
- (b) In the event of the non-existence or non-availability of a Township water supply system, a water supply system for the common use of the lots within the subdivision if proposed by the proprietor, shall be designed in accordance with all applicable standards of the Township, State and County Health Departments.
- (c) All easements and improvements for such systems shall be dedicated to the Township for administration, operation, and maintenance.
- (d) Individual wells may be permitted where public water supplies are not available, in accordance with the requirements of the County Health Department.

(6) Sanitary Sewer System

- (a) When a proposed subdivision is located within, adjacent to or reasonably (in the judgement of the Commission) near the service area of a Township Public Sewer system, sanitary sewers and their appurtenances shall be provided by the proprietor in compliance with provisions of Act 451, P.A. 1994, as amended.
- (b) If there is not an existing or accessible public sanitary sewer system, septic tanks and disposal fields on individual lots may be approved in compliance with standards and specifications of the State and County Health Department Environmental Health Division.
- (c) Sewer systems for the common use of lots within a subdivision (community drain fields) shall be permitted only where all of the following conditions are met:
  - 1. Sanitary sewers are not currently available to the site.
  - 2. Sanitary sewers are not planned to be extended or available to the site according to the adopted Master Plan.

3. There exists an environmental pollution problem that may be partially or wholly abated by installation and operation of such a system.
4. The design, construction and maintenance of such a system are determined to be feasible in the judgment of the Township Engineer and the County Health Department Environmental Health Division.
5. Such a system complies with Act 451, P.A. of 1994, as amended.
6. If a permitted system produces under 10,000 gallons per day, it shall be maintained by the homeowner's association under contract with a licensed operator. Approval of systems under 10,000 gallons per day shall include a clause that the Township may intervene if necessary to maintain the health, safety, and general welfare of the community. Systems which may produce over 10,000 gallons per day are classified as treatment systems requiring groundwater discharge permits and are subject to regulation through the Michigan Department of Environmental Quality and or the Macomb County Health Department Environmental Health Division.

(7) Gas, Wire, and Cable Utilities

The proprietor shall arrange for all lines for telephone, electric, television, and other similar services distributed by wire or cable to be installed underground and may arrange for gas distribution facilities throughout a subdivided area.

(8) Oversize Facilities

Facilities installed as a part of a subdivision plat may be designed to accommodate land areas or developments outside the plat. The amount of proprietor responsibility and the means for allocating costs shall be agreed to prior to approval of the preliminary plat by the Township Board.

(9) Outdoor Warning Sirens

The proprietor shall consult with the Township Fire Chief regarding the need for an outdoor warning siren for the proposed development. Subdivisions with 200 or more units shall generally be required to install an outdoor warning siren, unless coverage has already been provided in the vicinity in accordance with the recommendations of the Outdoor Warning Siren Master Plan. If the proposed development requires the installation of a siren as recommended in the Township's Outdoor Warning Siren Master Plan the proprietor shall be responsible for the costs associated with the purchase and installation of the necessary equipment.

(10) Street Name and Traffic Control Signs

Street name and traffic control signs shall be installed in conformance with the design, location and construction standards of the County Road Commission at the expense of the proprietor.

(11) Sidewalks and Non-Motorized Pathways

Sidewalks and non-motorized pathways shall be provided by the proprietor in accordance with Section 4.

(12) Open Space and Public Use Areas

Open space and public use areas shall be provided by the proprietor as set forth on the approved final plat, in accordance with the provisions of this ordinance and the Zoning Ordinance.

(13) Trees

Trees shall be provided by the proprietor in accordance with the provisions of this ordinance and the Zoning Ordinance, where applicable.

(14) Street Lighting

Street lighting, where provided, shall be located and installed in accordance with applicable public utility company, Township and County Road Commission standards.

(15) Driveways

All driveways shall be installed in conformance to standards of the Township, County Road Commission, or, when applicable, to standards of the Michigan Department of Transportation.

(16) Erosion and Sedimentation Control

- (a) The proprietor shall install and maintain erosion and sediment control measures as specified on the approved final preliminary plat.
- (b) Installation and maintenance of soil erosion and sedimentation control measures shall be in conformance with applicable State and County agency requirements. A soil erosion permit must be obtained from the Macomb County Public Works office prior to commencing construction activity.

E. Performance Guarantees

(1) Financial Guarantees

In lieu of the actual installation of improvements, as required in Section 503 above, the Township may require a financial guarantee of performance. Financial guarantees shall be in one or a combination of the following arrangements. Financial guarantees are not required for those improvements for which County or State Agencies obtain performance guarantees, in accordance with the Land Division Act. Township performance guarantees shall be required for those improvements that have not been installed and approved prior to the date of application for final plat approval.

(2) Performance or Surety Bonds shall not be acceptable to Lenox Township.

(3) Cash Deposit, Certified Check, or Irrevocable Bank Letter of Credit

(a) A deposit by the proprietor with the Township Clerk in the form of cash, a certified check or irrevocable letter of credit shall accrue to the Township for administering the construction, operation or maintenance of the improvement.

(b) The amount of the cash deposit, certified check, or irrevocable bank letter of credit, shall be equal to the total estimated cost of construction of the improvement, including contingencies and Township administrative fees, as estimated by the proprietor's engineer and approved by the Township Engineer.

(c) Length of Escrow

- 1. Cash deposits and certified checks shall be deposited in an escrow account by the Township prior to the issuance of permits for the work. Said deposits shall be maintained until the improvements are completed.
- 2. Upon application by the proprietor, irrevocable bank letters of credit issued for a minimum period of two (2) years may be accepted by the Township. Irrevocable bank letters of credit shall be extended annually to cover a new two-year period.
- 3. Progressive Payment - In the case of cash deposits or certified checks, the proprietor may request a partial refund of the cash escrow, to the extent of the estimated cost of the completed, inspected and approved portion of the improvement(s). There shall be no progressive reduction in the amount of the irrevocable bank letter of credit.

## (4) Contingency Fee

In addition to the actual estimate of costs, an amount of twenty (20) percent shall be added to the calculated performance guarantee amount to cover such contingency expenses that might occur due to failure, defects in construction, unforeseen costs, etc., of any improvement required herein.

## (5) Protection and Repair Bond

The Township may also require, in addition to the security and the contingency fee, a bond to cover damage that might occur during construction to existing improvements, facilities, and features on or around the construction site or to adjacent properties. This bond shall include the costs of any cleaning of construction debris from the subdivision and from adjacent parcels that might be necessary.

## (6) Penalty in Case of Failure to Complete the Construction of an Improvement

In the event the proprietor fails to complete the construction, within the period of time required by the conditions of the guarantee, for improvements under the Township jurisdiction, the Township Board may have such work completed. In order to accomplish this, the Board may reimburse itself for the cost and expense thereof by appropriating the cash deposited by the proprietor, or by collecting the irrevocable bank letter of credit.

F. *Inspection of Improvements*

## (1) Inspection Required

All improvements required by this Ordinance shall be inspected by the Township Engineer or Building Inspector, except for improvements made under the jurisdiction of the County Road Commission. Where inspections are made by other agencies the proprietor shall submit the written reports of all such inspections to the Township Engineer and/or Building Inspector.

## (2) Inspection Schedule

It shall be the responsibility of the proprietor to notify the Township or other appropriate public agencies when installations are ready for inspection.

(3) Inspection of Improvements Under Construction

Before approving a final plat and construction plans and specifications for the required improvements, an agreement between the proprietor and the Township Board shall be made to provide for inspecting the construction or installation of each improvement under its jurisdiction and its conformity to the approved plans. The proprietor shall be responsible for all staff and/or consultant expenses associated with construction inspections.

(4) Compliance with Standards

The proprietor shall bear the final responsibility for the installation and construction of all required improvements according to the provisions of this Ordinance, all applicable Township ordinances, and to the standards and specifications of all other applicable public agencies.

(5) Acceptance

Approval of the installation and construction or any improvement(s) shall not constitute acceptance by the Township of any improvement for dedication purposes.

(6) Fees

The proprietor shall pay all inspection costs incurred by the Township according to schedules determined by resolution of the Township Board, by deposit made at the time of the pre-construction meeting. Any funds not used by the Township in its inspections shall be refunded to the proprietor when the subdivision, or stage thereof, is completed. Where the actual inspection costs exceed the deposited fee escrow, the proprietor shall pay to the Township an amount by which the inspection charges exceed the deposited fee prior to Township final approval of the improvements.

(7) Site Cleanup

The proprietor shall remove all equipment, material and general construction debris from the subdivision and from any lot, street, or public way or property therein or adjacent to the subdivision.

**SECTION 6     Variances**

A.     *General*

Variances from the provisions of this Ordinance shall apply only to improvements, standards, and specifications set forth in this Ordinance in accordance with Section 601 below. No variances shall be granted on procedures required herein. Variances from the specifications, standards and procedures under the jurisdiction of other agencies shall be in accordance with the policies of those agencies. Written verification and certification of any such variances shall be provided to the Township prior to Township approval of any aspect of the subdivision which includes or relates to the improvements which are the subject of said variance.

B     *Variances*

(1)     Variances may be granted if the proprietor can show that strict compliance with the provisions of this Ordinance, as they apply to the subject property, will result in extraordinary hardship or practical difficulty. The proprietor shall make a formal request for such variance to the Township Board, in which the reasons for the request are clearly stated.

(2)     No variance shall be granted unless the following findings are made:

- (a)     There are such special circumstances or conditions affecting said property that strict application of the provisions of this Ordinance would clearly be impractical or unreasonable.
- (b)     The conditions requiring the variance were not created by the proprietor.
- (c)     The variance is necessary for the preservation and enjoyment of a substantial property right of the proprietor, and is not primarily intended for his economic gain.
- (d)     The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
- (e)     The variance will not have the effect of nullifying the intent and purpose of this Ordinance, the adopted Master Plan, and the Zoning Ordinance.
- (f)     The variance will not violate the provisions of the Land Division Act.

- (3) The Township Board may request review of the requested variance by the Township's consultants or other reviewing agencies. A copy of these reports shall be made part of the record of the meeting at which action is taken and one copy of the report shall be transmitted to the proprietor.
- (4) In granting a variance the Township Board may attach conditions to the variance which will substantially secure the objectives of this Ordinance, and which will further the adopted policies expressed in the Township's Master Plan, or part or parts thereof, and in various ordinances and resolutions.
- (5) Variances from the provisions of the Zoning Ordinance shall be granted only by the Zoning Board of Appeals.
- (6) Application for any such variance shall be submitted in writing by the proprietor to the Township Board at the time the preliminary plat is filed for tentative approval by the Planning Commission. The petition shall state fully the grounds for the application and all the facts relied upon by the petitioner.

**SECTION 7     Enforcement**

**A     *Building and Occupancy Permits***

(1)     Building Permits

Building permits shall not be issued until the final plat has received approval, except as provided in Section 303.D, and until the building inspector has been officially notified of such approval by the Township Board.

(2)     Occupancy Permits

Permits for the occupancy of structures or any parts thereof shall not be issued until all improvements required by this Ordinance and agreed to in the preliminary plat as finally approved have been completed or otherwise provided for according to this Ordinance. Completion shall constitute inspection, approval, and acceptance of improvements, where applicable, by the Township. A certificate of completion shall be issued by the Township Building Inspector or Engineer as evidence of adequate and complete installation of facilities.

**B     *Presumption of Civil Infraction***

A violation of the Lenox Township’s Subdivision Regulations Ordinance shall be deemed to be a municipal civil infraction.

**C     *Violation and Penalties.***

(1)     The following civil fines shall apply in the event of a determination of responsibility for a municipal civil infraction, unless a different fine is specified in connection with a particular ordinance provision:

(a)     The First Offense

The civil fine for a first offense violation shall be in an amount of seventy-five dollars (\$75.00), plus costs and other sanctions, for each offense.

(b)     First Repeat of Offense

The civil fine for any offense which is a first repeat offense shall be in an amount of one hundred fifty dollars (\$150.00), plus costs and other sanctions, for each offense.

(c) Second (or any subsequent) Repeat of Offense

The civil fine for any offense which is a second or subsequent repeat offense shall be in an amount of five hundred dollars (\$500.00), plus costs and other sanctions, for each offense.

(2) In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages and expenses, the Judge or Magistrate shall be authorized to issue any judgment, writ or order necessary to enforce, or enjoin violation of, this ordinance.

(3) Continuing Offense

Each act of violation and each day, upon which any such violation shall occur, shall constitute a separate offense.

(4) Remedies Not Exclusive

In addition to any remedies provided for in this ordinance, any equitable or other remedies available may be sought.

(5) Judge or Magistrate

The Judge or Magistrate shall also be authorized to impose costs, damages and expenses as provided by law.

(6) Default on Payment of Fines and Costs

A default in the payment of a civil fine, costs, damages or expenses ordered under Subsection A or B or an installment of the fine, costs, damages or expenses as allowed by the court, may be collected by the Township of Lenox by a means authorized for the enforcement of a judgment under Chapters 40 or 60 of the Revised Judicature Act, MCL 600.101, *et. seq.*, MSA 27A.101, *et. seq.*, as amended.

(7) Failure to Comply With Judgment or Order

If a defendant fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court, the court may proceed under Section I.

(8) Failure to Appear in Court

A defendant who fails to answer a citation or notice to appear in court for a violation of this ordinance is guilty of a misdemeanor, punishable by a fine of not more than Five Hundred Dollars (\$500.00), plus costs and/or imprisonment not to exceed ninety (90) days.

(9) Civil Contempt

- (a) If a defendant defaults in the payment of a civil fine, costs, damages, expenses, or installment as ordered by the district court, upon motion of the Township of Lenox or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.
- (b) If a corporation or an association is ordered to pay a civil fine, costs, damages or expenses, the individuals authorized to make disbursements shall pay the fine, costs, damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this subsection.
- (c) Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.
- (d) If it appears that the default in the payment of a civil fine, costs, damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment or revoking the fine, costs, damages or expenses.
- (e) The term of imprisonment on civil contempt for nonpayment of a civil fine, costs, damages or expenses shall be specified in the order of commitment and shall not exceed one day for each Thirty Dollars (\$30.00) due. A person committed for nonpayment of a civil fine, costs, damages or expenses shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of Thirty Dollars (\$30.00) per day.

- (f) A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, damages or expenses shall not be discharged from custody until one of the following occurs:
  - 1. Defendant is credited with an amount due pursuant to Subsection I (5).
  - 2. The amount due is collected through execution of process or otherwise.
  - 3. The amount due is satisfied pursuant to a combination of subdivisions I (6)(a) and (b).
- (g) The civil contempt shall be purged upon discharge of the defendant pursuant to Subsection I (6).

(10) Lien against Land, Building or Structure

If a defendant does not pay a civil fine, costs or installment ordered under Subsection A or B within 30 days after the date upon which the payment is due for a violation of this ordinance involving the use or occupation of land, a building or other structure, the Township of Lenox may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fine and costs with the Register of Deeds for Macomb County. The court order shall not be recorded unless a legal description of the property is incorporated in or attached to the court order.

- (a) The lien is effective immediately upon recording of the court order with the Register of Deeds.
- (b) The court order recorded with the Register of Deeds shall constitute the pendency of the lien. In addition, a written notice of lien shall be sent by Lenox Township by first class mail to the owner of record of the land, building, or structure at the owner's last known address.
- (c) The lien may be enforced and discharged by Lenox Township in the manner described by its Charter, by the General Property Tax Act, Act No. 206 of the Public Acts of 1893, being Sections 211.1, 211.157 of the Michigan Compiled Laws, or by an ordinance duly passed by the Township. However, property is not subject to sale under Section 60 of Act No. 206 of the Public Acts of 1893, being Section 211.60 of the Michigan Compiled Laws, for nonpayment of a civil fine or costs or an installment ordered under Subsections A or B unless the property is also subject to sale under Act No. 206 of Public Acts of 1893 for delinquent property taxes.

- (d) A lien created under this section has priority over any other lien unless one or more of the following apply:
  - 1. The other lien is a lien for taxes of special assessments.
  - 2. The other lien is created before the effective date of the amended ordinance that added this section.
  - 3. Federal law provides the other lien has priority.
  - 4. The other lien is recorded before the lien under this section is recorded.
- (e) The Township may institute an action in a court of competent jurisdiction for collection of the fines and costs imposed by a court order for a violation of this ordinance. However, an attempt by the Township to collect the fines or costs does not invalidate or waive the lien upon the land, building, or structure.
- (f) A lien provided for by this subsection shall not continue for a period longer than 5 years after a copy of the court order imposing a fine or cost is recorded unless within that time an action to enforce the lien is commenced.

**SECTION 8     Amendments**

A.     *Amendment Procedures*

The Township Board may, from time to time, amend, supplement, or repeal the regulations and provisions of this Ordinance in the manner prescribed by law. A proposed amendment, supplement, or repeal may be originated by the Township Board, Planning Commission, or by petition. All proposals regarding changes in this Ordinance not originating with the Planning Commission shall be referred to it for a report thereon before any action is taken on the proposal by the Board.

**SECTION 9     Miscellaneous Provisions**

A.     *Validity*

Should any section, clause or provision of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

B.     *Effective Date*

This ordinance shall become effective 30 days after publication as provided by law.