

**111.3100 PORTER TOWNSHIP SUBDIVISION CONTROL AND SITE  
CONDOMINIUM ORDINANCE**

An Ordinance to regulate the subdivision of land in the Township of Porter, Cass County Michigan, by supplementing the provisions of the Subdivision Control Act of 1967 as amended, and the Condominium Act of 1978 for local use in order to prescribe procedures, standards, and rules for the preparation and filing of preliminary and final plats, and to prescribe penalties for the violation of the provisions of this ordinance.

**THE TOWNSHIP OF PORTER, CASS COUNTY, MICHIGAN ORDAINS:**

**111.3101 Short Title:** This ordinance shall be known and may be cited as the Porter Township Subdivision Control and Site Condominium Ordinance.

**111.3102 Purpose.** The purpose of this ordinance is:

- a. To regulate and control the subdivision of land within the Township into plats pursuant to 1967 Public Act 288; as amended, to regulate preliminary and final plats and prescribe the minimum standards to be met by the subdivider; and,
- b. To regulate the development of land within the Township under the provisions of the Condominium Act, PA. 59 of 1978, as amended, and set the minimum standards to be met by the developer to achieve the same land use results as if the development and improvements were being proposed in accordance with general subdivision statutes, to include all requirements of the Township Zoning Ordinance.
- c. This ordinance provides supplementary local procedures, standards and rules for the preparation and filing of preliminary and final plats and site condominiums with the Township in order to promote the public safety, health, and general welfare.

**111.3103 Authority.** This ordinance is enacted pursuant to the authority granted by the Subdivision Control Act of 1967, Act 288 of the Public Acts of 1967, as amended; the Condominium Act of 1978, Act 59 of the Public Acts of 1978 as amended, and Act 246, Public Acts of 1945, as amended, which authorizes Township Boards to adopt ordinances, to secure the public health, safety, and general welfare.

**111.3104 Definitions.**

- a. The definitions contained in Section 102 and following of the Subdivision Control Act apply to this ordinance and terms used are consistent with such definitions.
- b. The definitions used in Sections 103 through 110 of the Condominium Act apply to this ordinance and terms used are consistent with such definitions. The following key definitions are reiterated here for clarity:

**(1) Building Site.** Within a condominium development, that portion of a lot or parcel which is a two dimensional condominium unit of land (i.e. envelope, footprint), along with any and all limited or general common elements designed for the construction of a principal condominium building in addition to accessory condominium buildings. All building sites shall have access to a public or private street or road.

**(2) Common Elements.** The portions of a condominium project other than the condominium units.

**(3) Condominium Project.** A development project consisting of not less than two condominium units established in conformance with, and pursuant to, the Condominium Act, Act No. 59 of the Public Acts of 1978, as amended.

**(4) Condominium Plan.** The plan as required in this Ordinance, including but not limited to, the survey and utility plans, building site, the existing and proposed structures and improvements including their location on the land.

**(5) Condominium Unit.** That portion of a condominium project designed and intended for separate ownership and use, as described in the master deed of the project, regardless of whether it is intended for residential, office, industrial, business, recreational or any other type of use approved by the Michigan Department of Commerce for such projects.

**(6) Consolidating Master Deed.** The final amended master deed for a contractible condominium project, and expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.

**(7) Contractible Condominium.** A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to the expressed provision in the condominium documents and in accordance with this Ordinance and the Condominium Act.

**(8) Limited Common Elements.** The portion(s) of the common elements reserved in the master deed of a condominium project for the exclusive use of less than all the owners of condominium units in the project.

**(9) Lot.** A single unit or division of land contained in a platted subdivision, whether it be numbered, lettered, or otherwise designated, which has frontage on a public or private street or road.

**(10) Master Deed.** The legal document prepared and recorded pursuant to Act 59 of the Public Acts of 1978, as amended, within which are, or to which are attached as exhibits and incorporated by reference, the approved by-laws for the project and the approved condominium subdivision plan for the project.

**(11) Parcel.** A continuous area, tract, or acreages of land which has not been divided or subdivided (i.e. platted) pursuant to, and/ or in accordance with the Land Division Act, 1967 P.A. 288, as amended.

**(12) Plat.** A map or chart of a subdivision of land.

**(13) Setback.** The minimum horizontal distance a building or structure, or any portion thereof, is required to be located from the property lines of the lot, parcel or building site upon which the same is situated from adjacent buildings or structures or from public or private rights of way.

**111.3105 SUBDIVISIONS -PROCESSING PROCEDURES.**

**111.3106 Flow Chart.** The procedures for submitting subdivision preliminary and final plats for approval to various township, county, and state authorities are contained in the applicable statutes and this ordinance. As a guide, a flow chart depicting these procedures is available from the Zoning Administrator.

**111.3107 Subdivision Preliminary Plats, Tentative Approval, Applications and Processing.**

1. A proprietor shall submit 14 copies of the preliminary plat prepared in accordance with Section 111 of the Subdivision Control Act and the provisions of Section 203 of this Ordinance to the Township Clerk, who shall record the date of filing.
2. The Township Clerk shall immediately refer 1 copy of the preliminary plat to the Township Zoning Administrator, and seven copies to the Chairman of the Planning Commission and one copy to the chairman of the Sewer Board.
3. The Planning Commission and Zoning Administrator shall jointly review the preliminary plat and provide advice to the Township Board within 90 days of filing, recommending whether the preliminary plat should be approved or rejected, in the latter case setting forth in writing the reasons for recommending rejection and requirements for tentative approval. The Zoning Board Chairman shall also be informed of the recommendations for possible zoning change consideration.
4. The Township Board shall act upon the Planning Commission's recommendation within 90 days from filing, in accordance with Section 112 of the Subdivision Control Act.

**111.3108 Subdivision Preliminary Plats, Conditions for Tentative Approval.**

1. Privately held reserve strips controlling access to streets shall be prohibited.
2. Existing natural features which add value to residential development, that enhance the attractiveness of the community, (such as streams, water courses, wetlands, wooded areas, historic spots, and similar irreplaceable assets) should be preserved insofar as possible in the design of the subdivision.
3. Wetlands, lands subject to flooding, or otherwise determined by the Township Board to be uninhabitable shall not be platted for residential, commercial, or industrial purposes.
4. Open space shall be required as part of the total sub-division area and shall comprise ten (10) percent of the total parcel. Area's outlined in section 203.3 above shall not be included in the open space area unless approved by the Planning Commission and Township Board.

**111.3109 Subdivision Preliminary Plats, Granting Tentative Approval.** If the Township Board determines, based on recommendations of a Township Engineer, or Planning Commission, that the proposed preliminary plat complies with all applicable ordinances and statutes and the provisions set forth above, it shall grant tentative approval of the preliminary plat. Zoning changes to bring the plat in compliances shall be undertaken at this time. This tentative approval shall confer upon the proprietor for a period of one year from date of approval, lot size, lot orientation, and street layout. Such tentative approval may be extended at the discretion of the Township Board upon application of the proprietor.

**111.3110 Subdivision Preliminary Plats, Procedures for Final Approval.**

1. After approvals of all authorities as outlined in Sections 113 through 118 of the Subdivision Control Act have been obtained, the approved copies shall be submitted to the Township Clerk.
2. Upon receipt, the Clerk shall immediately notify the Zoning Administrator and Chairman of the Planning Commission for further review or recommendations and compliance with the conditions of Section 206 below.
3. The Township Board shall review the preliminary plat at its next meeting, or within 60 days from the date of submission.

**111.3111 Subdivision Preliminary Plats, Conditions for Final Approval**

1. **Lot Depth to Width Ratio.** Lots proposed for a subdivision shall not exceed a depth to width ratio of 4:1, exclusive of access roads, easements or non-development sites. The depth of a lot shall be the average of the two lot sidelines.
2. **Roads.** All roads shall comply with existing Porter Township Private Road ordinance No 12-04 Effective 4/3/05.
3. **Drainage.** Proper drainage shall be provided within the road right-of-way.
  - a. Grading and clearing of the right-of-way will be the minimum required to provide adequate drainage and safety. All surface waters shall be adequately drained within a plat by a separate system of drainage structures, or through the connections of such separate system to an adequate adjoining system.
  - b. Storm water disposal methods proposed for the subdivision must be adequate to insure each building site and roadway will not be flooded and that all necessary easements for storm sewers or open drains can feasibly be dedicated to the public for such purposes.
  - c. Where storm sewers are used, inlet basins must not be spaced further apart than 300 feet, except as approved by the Township Board upon recommendation of a Township Engineer, or Planning Commission.
  - d. The determination of proper and adequate drainage shall be left to the Township Board, upon recommendation of a Township Engineer, or Planning Commission, or, when the Planning Commission deems it advisable, by a consulting engineer hired by the Township to make such determination at the expense of the proprietor
4. **Sewers and Water Supply.** Connection to sanitary sewer and/ or water supply mains may be required by the Township Board, or if mandated by state statute, if it determines that said sewer and/ or water mains are reasonably available to the proposed subdivision.
5. **Underground Utilities.** Unless exceptions have been granted by the Township Board, upon recommendation of the Township Engineer, or Planning Commission, the proprietor shall arrange for all distribution lines for electricity, telephone, television, or similar services distributed by wire or cable to be placed entirely underground throughout the residential subdivision area. Electrical distribution lines shall be defined in accordance with the rules and regulations of the Michigan Public Service Commission. Such conduits or cables shall be placed

within private easements provided to such service companies by the proprietor, or within dedicated public ways. All such facilities placed in public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards approved by the Michigan Public Service Commission. Private easements for underground utilities shall be shown on the preliminary plat.

**6. Street Lighting.** Street lighting may be required by the Township Board when recommended by a Township Engineer, Planning Commission for reasons of public health, safety, and welfare.

**7. Pedestrian Paths.** Pedestrian paths or sidewalks may be required by the Township Board when recommended by a Township Engineer, Planning Commission for reasons of public health, safety, or welfare.

**8. Street Frontage.** All lots intended for residential use within a subdivision must be provided the minimum street frontage required by the zoning district in which the plat is situated. Land designated, as open space, parks, or conservation areas need not have street frontage.

#### **111.3112 Subdivision Plats, Notice of Final Approval.**

If the Township Board determines, based upon recommendations of a Township Engineer, or Planning Commission, that the preliminary plat has received the required statutory approval of other governmental agencies and complies with the requirements of Section 206 above and the applicable portions of the Subdivision Control Act, the Township Board shall grant final approval of the preliminary plat. The Township Clerk shall notify the proprietor of approval or rejection according to the requirements of Section 120 of the Subdivision Control Act. Final approval shall confer upon the proprietor for a period of two years from date of approval the conditional right that the general terms and conditions under which the approval was granted will not be changed. This two-year period may be extended at the discretion of the Township Board upon application of the proprietor.

#### **111.3113 Submission of Final Subdivision Plat for Final Approval**

1. Proposed final plats submitted for final approval by the Township Board shall be submitted to the Township Clerk, who shall immediately notify the Township Engineer, if appointed, Zoning Administrator and chairman of the Planning Commission.

2. Final Plats submitted for Final Approval must be accompanied by:

a. An abstract of title or title insurance policy showing merchantable title in the proprietor of the subdivision as required by Section 245 of the Subdivision Control Act.

b. A filing and recording fee as prescribed by Section 241 of the Subdivision Control Act, and any other fees that the Township Board may prescribe in its schedule of fees.

#### **111.3114 Subdivision Final Plat, Final Approval, Review by the Township Board**

1. The Township Board shall have the proposed final plat reviewed by the Township Engineer or Planning Commission in order to confirm its conformance with the requirements of the Subdivision Control Act and applicable Township Ordinances. This will include recorded restriction of floodplains, if any, as provided by the Subdivision Control Act.

2. The Zoning Administrator will have the property inspected to determine the status of completion or installation of all required roads, streets, bridges, waterways, utilities, public improvements etc. Work that is found to be incomplete shall be completed by the proprietor. Building or occupancy permits shall not be issued until all work is completed.

## **111.3115 SITE CONDOMINIUMS PROCESSING PROCEDURES**

### **111.3116 Preliminary Condominium Plan Tentative Approval**

**1. Plan Requirements.** Every person, firm or corporation who shall hereafter submit a proposed preliminary condominium plan to the Porter Township Board for tentative approval shall submit 14 copies of the proposed plan to the Township Clerk. Condominium plans should be drawn by a Registered Professional Civil Engineer. Plans must contain as a minimum, the following information and fees:

- a. Proposed name of the project.
- b. Full legal description to adequately describe the building sites comprising the project.
- c. Names and addresses of the applicant, owners, and professionals who designed the project.
- d. The names and addresses of the proprietors and the ownership interest in each in the land included in the preliminary plan, including a legal opinion showing the legal and equitable owners of the land to be developed, plus all grants, reservations, deed restrictions and easements of record which condition the use of the property.
- e. Scale of the plan, which shall not be smaller than 1 inch equals 100 feet.
- f. Property lines of adjacent tracts of subdivided and unsubdivided land shown in relation to the tract being proposed for site condominium development, including those areas across abutting roads.
- g. Topography of the area proposed to be developed with contour intervals of not more than four feet in elevation.
- h. Road layout and the type of street construction and drainage structures/facilities planned.
- i. Lot layout, showing size and shape of proposed building sites.
- j. Indication of whether proposed site condominium will be served by sanitary sewer and/or public water supply.
- k. Location of any existing sewers, water mains, storm drains, and other underground utilities with or adjacent to the tract being proposed for development.
- l. Location of significant natural features, such as water courses, bodies of water, wetlands, stands of trees, and individual trees within the project area having a caliper of 12 inches or greater at a height of 2 feet above existing grade.
- m. Location of any flood plain located within the area to be developed.

- n. Indication of general methods of storm water disposal.
- o. If the proprietor owns and anticipates developing adjoining land, he or she shall submit a tentative plan showing the feasibility of developing adjoining land along with the preliminary plan for tentative approval.
- p. Letters from the Cass County Road Commission and the State Highway Department, where applicable, containing their recommendations to the township as to the suitability of the proposed street layout and conforming to the location, alignment, and construction requirements of the county or state.
- q. Location and type of proposed streetlights, if planned, conforming with the exterior lighting requirements of the Township Zoning Ordinance.

**2. Conditions for Tentative Approval.** The conditions for tentative approval of a subdivision preliminary plat, as outlined in Section 203 of this Ordinance, also apply to preliminary site condominium plans.

**3. Processing Procedures for Tentative Approval.** The procedures for processing a preliminary plan for tentative approval are as outlined in Sections 201 and 204 of this Ordinance.

**4. Processing Procedures for Final Approval.** The procedures for granting final approval of a preliminary site condominium plan are the same as outlined in Sections 205 and 207 of this Ordinance.

**5. Conditions for Final Approval.** The conditions for obtaining final approval of preliminary site condominium plan are the same as outlined in Section 206 of this Ordinance.

**111.3117 Final Plans for Final Approval.**

**1. Information to Accompany Final Plans.** Proposed final plans for a site condominium development being submitted to the Township Board for final approval shall be accompanied by the following information and fees:

- a. An abstract of title, or title insurance policy showing merchantable title in the proprietor of the development.
- b. Evidence that all requirements imposed by the Township Board at the time of preliminary approval have been incorporated into the proposed final plan.
- c. Letter from the District Board of Health confirming that the installation of septic disposal fields, if no sewer is available, is generally feasible and practicable on the site of the proposed development.

**111.3118 REVIEW AND FINAL APPROVAL BY TOWNSHIP BOARD, SUBDIVISIONS OR CONDOMINIUMS**

**111.3119 Review Assistance.** In reviewing a proposed final subdivision plat or site condominium project for final approval the Township Board shall seek the advice and assistance of the Zoning Administrator, the Planning Commission, the Township Attorney, and/ or a registered civil engineer or other professionals or inspectors as it deems appropriate.

**111.3120** **Items to be Determined.** In reviewing a proposed final plat or condominium development plan, the Township Board shall determine:

**1. Monuments.** All monuments required to be placed in the plat or condominium project have been placed, if not, final approval shall be withheld.

**2. Roads, Bridges, Culverts.** All roads, streets, bridges and culverts have been completed and installed, if not, final approval shall be withheld.

**3. Waterways, Lagoons.** If the plat or condominium project has any waterways or lagoons, or similar features, that all such waterways etc shall be completed or installed, if not, final approval shall be withheld.

**4. Flood Plains.** If any flood plains are involved in the proposed plat or condominium project, then such flood plain shall be restricted as provided by this ordinance and the Condominium Act, and such restrictions shall be submitted to the Township Board for review and approval prior to recording, and thereafter shall be recorded with the Cass County Register of Deeds as part of the Plat or Master Deed or contemporaneously with the recording of the Master Deed.

**5. Utilities.** All utilities servicing the plat or project have been installed and water and sanitary sewer mains, if applicable, have been stubbed to the lot line or building site line, if not, final approval shall be withheld.

**6. Utility Easements.** All underground utility installations, including lines for street lighting systems if used, which traverse privately owned property, shall be protected by easements granted by the proprietor and approved by the public utility. These easements shall be recorded as part of the Plat or Master Deed as private easements for public utilities or easements proved by separate instrument. Easements provided for utilities, either across lots or centered on rear or side lot lines shall be at least 12 feet wide, usually having 6 feet dedicated from each adjoining lot or parcel except that side lot easements 3 feet wide may be granted for street lighting dropouts. These easements shall be direct and continuous from block to block or neighborhood, where applicable.

**7. Public Improvements.** All public improvements, such a fire hydrants, sidewalks, street lights, parks, which may have been required by the Township Board, have been completed and installed and reviewed and approved by the Zoning Administrator or a designated engineer, if not, final approval shall be withheld.

**8. Open Space.** All open space requirements outlined in section 203.3 above as approved by the Planning Commission, or designated engineer shall be in place and complete, if not, final approval shall be withheld.

**9. Statutory Compliance.** The proposed final plat or condominium project complies with all applicable state statutes and Township Ordinances and has received the required statutory approval of all other governmental agencies.

**10. Execution and Recording of Plat or Deed.** That the Plat or Master Deed is executed by all required owners and recorded with the Cass County Register of Deeds and filed with the Township Clerk before issuance of any building permits.

- 111.3121**     **AMENDMENTS TO PLANS.** Any and all proposed amendments to a plat or condominium project shall be submitted for review and approval as were the initial plans as outlined in Articles II and III of this ordinance.
- 111.3122**     **VARIANCE PROCEDURE** Where there are practical difficulties or undue hardships in carrying out the strict letter of this Ordinance, the Township Board, after review and recommendations by the Planning commission, in passing upon any proposed plat or condominium project, shall have the power to modify any of the terms and provisions of this Ordinance so that the spirit of the Ordinance shall be observed and public health, safety, and welfare secured.
- 111.3123**     **ENFORCEMENT; VIOLATIONS AND PENALTIES**   **Infractions and Fines.** Any person, firm, or corporation or other entity, who, violates, disobeys, omits, neglects, or refuses to comply within a reasonable length of time, any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and shall pay a fine in accordance with the schedule of fees adopted by the Porter Township Board. Amended 08/09/2006.
- If a determination of responsibility is made by the Court, the Court may impose costs as provided for by law in addition to the fines called for above. The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.
- 111.3124**     **AMENDMENT PROCEDURES.** The Township Board may from time to time, upon recommendation of the Planning Commission, Zoning Administrator, other official, or on its own initiative, amend, supplement or repeal the regulations and provisions of this Ordinance in the manner prescribed by law for the amendment of Ordinances.
- 111.3125**     **SEVERANCE AND VALIDITY.** Sections of this Ordinance shall be deemed to be severable and should any article, section, paragraph or provisions hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.
- 111.3126**     **EFFECTIVE DATE.** This Ordinance shall take effect 30 days after publication. All Ordinances or parts of Ordinances in conflict herewith are hereby rescinded.

This ordinance shall be effective July 3, 2006