

**TOWNSHIP OF MILTON  
CASS COUNTY, MICHIGAN**

**32097 Bertrand St, Niles, MI 49120**

**NOTICE OF ORDINANCE ADOPTION**

To: The Residents and Property Owners of the Township of Milton, Cass County, and any other Interested Persons.

**PLEASE TAKE NOTICE** that at a meeting of the Township Board held on October 21, 2013, the Milton Township Board of Trustees adopted Ordinance 2013-06-O, a Civil/Municipal Ordinance titled "Milton Township Subdivision Development Ordinance". A summary of the ordinance is as follows:

**Milton Township Subdivision Development Ordinance**

An ordinance to regulate the subdivision of land in Milton Township, Cass County, Michigan; to require and regulate the preparation and presentation of preliminary and final plats, to establish minimum standards which shall be met or guaranteed by the sub-divider, to set forth a procedure to be followed by the township in applying regulations and standards, and to prescribe sanctions for the violation of the provisions of this ordinance.

**Section 1: Title**

This ordinance shall be known as the Milton Township Subdivision Development Ordinance.

**Section 2: Purpose and Enabling**

The purpose of this ordinance is to promote the public safety, health and general welfare by facilitating the orderly layout and development of land subdivided into plats pursuant to the Land Division Act of the State of Michigan (formerly Subdivision Control Act), Public Act 288 of 1967, as amended, (MCL 560.101, et seq.) and further pursuant to the Township Ordinances Act, Public Act 246 of 1945, as amended (MCL 41.181, et seq.).

**Section 3: Definitions**

The various words and terms used in this ordinance are defined in this section.

**Section 4: Plat Approval Process (Overview)**

This section provides for a proposed plat project to be reviewed by the Township Board and the Planning Commission through a mandatory 3-step process, as follows:

- Step 1. Preliminary plat submitted for tentative approval.
- Step 2. Preliminary plat submitted for final approval.
- Step 3. Final plat submitted for final approval.

**Section 5: Tentative Approval of Preliminary Plat (Step 1 Approval)**

This section provides procedures for the following: A. Submission Requirements; B. Application Fee; C. Planning Commission Review Procedure; D. Planning Commission Standards for Approval; and, E. Effect and Duration of Tentative Approval of Preliminary Plat.

**Section 6: Final Approval of Preliminary Plat (Step 2 Approval)**

This section provides procedures for the following: A. Submission Requirements; B. Application Fee; C. Township Board Review Procedure; D. Township Board Standards for Approval; and E. Effect and Duration of Final Approval of a Preliminary Plat.

**Section 7: Approval of Final Plat (Step 3 Approval)**

This section provides procedures for the following: A. Submission Requirements; B. Application Fee. As established by the Board; C. Township Board Review Procedure; D. Township Board Standards for Approval; and E. Effect of Approval of Final Plat.

**Section 8: Completion of Public Improvements**

This section provides for: A. Completion Required; Alternate Performance Guarantee Agreement; B. Acceptable Types of Performance Guarantees; C. Remuneration from Performance Guarantee Instrument; and, D. Penalty for Failure to Complete Improvements.

**Section 9: Development Required to Conform With Approved Final Plat; Amendment of Approved Final Plat**

This section requires the Development to Conform With Approved Final Plat, and provides a process for Amendment of Approved Final Plat under certain conditions.

**Section 10: Variance Authority and Procedure**

The Township Board may grant variances/waivers from the design and approval requirements of this Ordinance when the Township Board determines that the specific standards are satisfied in the circumstances of each specific case.

**Section 11: Division of Lots in Approved Plat**

This section provides for the following in an approved plat: A. Prohibited Actions; B. Lot Division Authority; C. Application Procedures; and, D. Application Fee.

**Section 12: Violations and Sanctions**

Violation of any of the provisions of this Ordinance or failure to comply with any of its requirements shall be deemed a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine of not less than \$500,

**Section 13: Severability**

This Ordinance and its various parts are hereby declared to be severable.

**Section 14: Repeal**

This Ordinance is intended to repeal in its entirety any existing township subdivision control ordinance regulating the subdivision of land into plats and the division of lots in recorded plats. This Ordinance shall not be construed to repeal a provision of any ordinance regulating the division of land outside of platted subdivisions, or any other ordinance.

**Section 15: Effective Date**

This Ordinance shall take effect thirty (30) days after publication as required by law

**PLEASE TAKE FURTHER NOTICE** that the full text of the subject Ordinance will be available for inspection, and may be purchased, at the office of the Milton Township Clerk during regular business hours, on regular business days, from the date of this publication.

**MILTON TOWNSHIP**  
Sue Kronewitter, Clerk  
32097 Bertrand St  
Niles, MI 49120  
(269) 684-7262

## **Milton Township Subdivision Development Ordinance**

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THE TOWNSHIP OF MILTON, CASS COUNTY, MICHIGAN, ORDAINS:

### **Section 1: Title**

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### **Section 2: Purpose and Enabling**

The purpose of this ordinance is to promote the public safety, health and general welfare by facilitating the orderly layout and development of land subdivided into plats pursuant to the Land Division Act of the State of Michigan (formerly Subdivision Control Act), Public Act 288 of 1967, as amended, (MCL 560.101, et seq.) and further pursuant to the Township Ordinances Act, Public Act 246 of 1945, as amended (MCL 41.181, et seq.).

### **Section 3: Definitions**

The various words and terms defined in the Land Division Act shall have the same meaning as used in this ordinance, unless the context indicates otherwise, and subject to the following specific definitions:

"Act" shall mean the Land Division Act of the State of Michigan (formerly Subdivision Control Act), Public Act 288 of 1967, as amended (MCL 560.101, et seq.).

"Applicant," "Owner," "Proprietor" and "Subdivider" are intended to be synonymous terms referring to the person or entity holding an ownership interest in land proposed for plat consideration

"Health Department" shall mean the county health department, district health department, or Michigan Department of Environmental Quality, whichever has jurisdiction in the particular context.

"Outlot" when included within the boundary of a recorded plat, means a lot set aside for purposes other than a development site, park, or other land dedicated to public use or reserved to private use

"Plat" and "Subdivision" are synonymous terms referring to a map or chart of land developed pursuant to this ordinance.

"Surveyor" means a professional surveyor licensed by the State of Michigan as provided by Section 102 of the Act.

### **Section 4: Plat Approval Process (Overview)**

Required Procedural Steps: This Ordinance provides for a proposed plat project to be reviewed by the Township Board and the Planning Commission through a mandatory 3-step process, as follows:

- Step 1. Preliminary plat submitted for tentative approval.
- Step 2. Preliminary plat submitted for final approval.
- Step 3. Final plat submitted for final approval.

The Township Board may, in its discretion, request an advisory recommendation from the Planning Commission at any of the mandatory steps of the process.

The Township Board may, in its sole discretion, hold a public hearing on a proposed plat at any mandatory step(s) of the process. Notice of any such public hearing shall be given by posting in the

manner required by the Open Meetings Act and by such other means as the Township Board may determine.

**B. Optional Pre-Preliminary Plat Conference.** A potential applicant for plat review may submit a generalized conceptual sketch of a potential plat for non-binding review and comment by the Planning Commission. This optional step in the process is recommended to facilitate early contact between the owner/developer and the Township to generally discuss the conceptual layout of the development, compliance with the substantive requirements of this Ordinance and any other applicable Township ordinance, and the mandatory review process prescribed by this Ordinance. There shall be no application fee for this optional conference.

This optional pre-preliminary conference opportunity with the Planning Commission is intended to be available to a potential applicant for approval of a plat regardless of whether the proprietor of the proposed plat has submitted a written request to the chairperson of the county plat board requesting a preliminary review meeting to informally review the proprietor's concept plan for the preliminary plat, as provided by Section 111(3) of the Land Division Act, as amended by Public Act 525 of 2004 [MCL 560.111(3)].

### **Section 5: Tentative Approval of Preliminary Plat (Step 1 Approval)**

**A. Submission Requirements:** The applicant for tentative approval of a preliminary plat shall submit 10 copies of the proposed preliminary plat and all supporting materials to the Township Clerk, along with the required application fee. The proposed preliminary plat shall be prepared by a land surveyor, and shall show at least the following:

1. A scale of not greater than 1 inch equals 100 feet, a north arrow, and a general vicinity map at a scale of 1 inch to 1,000 feet with the appropriate orientation to the proposed development showing section and quarter section lines and any general features located in the vicinity of the proposed development.
2. The topography of the area proposed to be developed with not more than four-foot contour intervals.
3. The location and layout of all streets, intended street names, the width and dimension of all street rights-of-way.
4. The layout of all proposed lots, including the shape and dimensions of same.
5. 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 bodies of water and watercourses.
6. The location of all proposed and the nearest existing public water mains and sanitary/stormwater sewers, and indicate whether the proposed plat will be served by public or private water and/or sewer facilities.
7. The general location and size of any flood plain and wetlands within or adjacent to the proposed plat.
8. The location of stormwater drainage features, with arrows depicting the direction of flow, and indicating in general the methods proposed for stormwater disposal.
9. The minimum required and proposed building setback lines on all lots, indicating the distances from all adjacent street rights-of-way.
10. General site data, including the total acreage of the proposed plat, and the planning and zoning classification(s) of the subject property pursuant to such land use plan and zoning ordinance as may be in effect at the time the proposed preliminary plat is submitted for tentative approval.
11. A title block that includes the following information:
  - a. The name of the proposed plat.
  - b. The name, address and telephone number of each of the following: the applicant, the owner of the subject property, the applicant's land surveyor, and the applicant's engineer or architect licensed in the state of Michigan.
  - c. The location and position of the proposed plat, and an appropriate legal description of the subject property.
  - d. The date the proposed preliminary plat was prepared.
  - e. The seal of the surveyor who prepared the proposed preliminary plat.

12. 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.

**B. Application Fee:** Submission of current Fees and Escrow amounts as established by the township board.

**C. Planning Commission Review Procedure:** Upon receiving an administratively complete application for a preliminary plat submitted for tentative approval, the Township Clerk shall submit same to the Planning Commission for review and approval consideration, which shall occur within the following time period, as applicable, pursuant to the approval standards in subsection D below:

1. Within 60 days after it was submitted to the Clerk, if a pre-application review meeting or optional pre-plan conference was conducted as provided by Section 4.B. herein.
2. Within 90 days after it was submitted to the Clerk, if a pre-application review meeting or optional pre-plan conference was not conducted as provided by Section 4.B. herein.

**D. Planning Commission Standards for Approval:** The Planning Commission shall either tentatively recommend and note its recommendation on the copy of the preliminary plat, or tentatively recommend it subject to conditions and note its recommendation and conditions on a copy of the preliminary plat, or tentatively recommend rejection of the preliminary plat and set forth in writing its reasons for same, based on compliance with all applicable laws, regulations and ordinances, including the following standards:

**1. Streets**

- a. The proposed plat is in compliance with a street plan adopted by the township, if any.
- b. Where the proposed subdivision abuts or contains a county primary road or major thoroughfare as designated by the county road commission or a county or township master plan, the Planning Commission may require marginal access streets approximately parallel to the right-of-way of the primary road or major thoroughfare and may require such other treatment as is deemed necessary for the adequate protection of residential properties and to afford separation of through and local traffic.
- c. Private streets within the plat may be permitted by the Planning Commission if new private streets are otherwise allowed in the township pursuant to applicable ordinances, and if the Township Board finds that the proposed private streets within the plat will not adversely affect public health, safety or welfare.
- d. All new streets shall follow Cass County naming standards.
- e. A subdivision or extension of an existing subdivision creating a total of 50 or more lots shall be developed so as to provide two or more access streets.

**2. Lots/Outlots**

- a. Lots shall have such minimum width and area as required by the Township Zoning Ordinance for the applicable zoning district.
- b. Corner lots generally shall have sufficient extra width to permit appropriate building setback from both streets as provided for in the applicable zoning districts.
- c. Outlots shall be of a size, extent, and location that will not impair the intent of the Act or any applicable ordinance regulations for land development.

**3. General Provisions**

- a. Existing natural features which add value to residential development or that enhance the attractiveness of the community (such as streams, water courses, historic spots and similar irreplaceable assets) shall be preserved insofar as possible in the design of the subdivision.
- b. Lands subject to flooding or otherwise determined by the Planning Commission to be uninhabitable shall not be platted for residential, commercial or industrial development purposes. Such lands may be set aside for other purposes within a subdivision such as parks and/or open space.

**E. Effect and Duration of Tentative Approval of Preliminary Plat:** The Planning Commission shall recommend tentative approval of a preliminary plat confers approval of the lot sizes, lot orientation, and street layout, and application of the then-current plat regulations, to facilitate preparation and submission of a preliminary plat plan for final approval as provided in the next section of this ordinance. Tentative approval of a preliminary plat shall be valid for one year, subject to extension at the discretion of the Planning Commission upon request of the applicant prior to expiration of the one-year period. Such extensions shall be in one (1) year time increments.

### **Section 6: Final Approval of Preliminary Plat (Step 2 Approval)**

**A. Submission Requirements.** After a preliminary plat has been tentatively approved or approved subject to conditions by the Cass County Road Commission, the Cass County Drain Commissioner, and where applicable the Michigan Department of Transportation, the Michigan Department of Environmental Quality, and the Health Department, the applicant for final approval of a preliminary plat shall submit 10 copies of the tentatively approved preliminary plat and all supporting materials to the Milton Township Clerk, including a list of all authorities required by statute to review the preliminary plat certifying that the list shows all such authorities, and the written approvals of the preliminary plat by such authorities, along with the required application fee. The proposed preliminary plat submitted for final approval shall be prepared by a land surveyor and, along with supporting materials, shall show at least the following:

1. All items required by the Act and by the Township Board pursuant to the tentative approval of the preliminary plat, and all items required pursuant to the tentative approval of the preliminary plat by other governmental agencies.
2. Detailed working drawings showing grades, drainage structures, proposed utilities, and construction plans for streets, pedestrian sidewalks/walkways and bicycle paths/lanes, within and adjoining the plat.
3. Documentation of consultation with the governmental authorities responsible for all public utilities which will be servicing the plat, including the manner of resolving any conflicts in location between public utility facilities and other improvements. To the extent private sewage disposal systems are proposed for any development in the project, a letter from the Health Department shall be provided stating that the proposed systems are acceptable and approvable. To the extent private water supply systems are proposed for the plat, a letter from the Health Department shall be provided stating that the proposed water supply systems are acceptable and approvable.

**B. Application Fee.** As set by the Township Board

**C. Township Board Review Procedure.** Upon receiving an administratively complete application for a preliminary plat submitted for final approval, the Milton Township Clerk shall submit same to the Township Board for review and approval consideration, which shall occur within 20 days from the date of submission, pursuant to the approval standards in subsection D below.

**D. Township Board Standards for Approval.** The Township Board shall approve a preliminary plat submitted for final approval if all conditions specified by the Board for tentative approval of the preliminary plat have been met, and the preliminary plat complies with all applicable laws, regulations and ordinances, including the following standards:

1. As provided for in the Milton Township Private Road Ordinance.
2. All surface waters shall be adequately drained within each plat by a separate system of drainage structures or through the connection of such separate system to an adequate adjoining system. Where storm sewers are used, inlet basins shall not be spaced further apart than 300 feet except as may otherwise be approved by the Township Board, upon recommendation of the township engineer, only where other equivalent and sufficient drainage inlets are provided.

Where such outlets are not thus available, such drainage structures may consist of leaching basins spaced so that water shall not be required to run on the surface of the road further than 250 feet to such basin, or spaced so as to afford equivalent and sufficient drainage. The Township Board shall determine what constitutes equivalent and sufficient drainage, upon the recommendation of the township engineer.

3. Connection to sanitary sewers and/or water mains may be required by the Township Board when the Board determines that sewers and/or water mains are reasonably available to the proposed subdivision.
4. The proprietor shall make arrangements for all distribution lines for telephone, electric, television and other similar services distributed by wire or cable to be placed underground entirely through a residential subdivided area. 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 dedicated public ways shall be planned so as to not conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission or other governmental agency with jurisdiction. Private easements for underground utilities shall be shown on the preliminary plat.
5. Storm water disposal methods proposed for the subdivision shall 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.
6. No land within the subdivision shall be isolated from a public thoroughfare, nor shall any adjoining land of the proprietor or others be isolated from a public thoroughfare, thereby creating land-locked parcels.
7. Street lighting may be required by the Township Board when the Board determines that street lighting is necessary for public health, safety and welfare.
8. Sidewalks may be required by the Township Board when the Board determines that sidewalks are necessary for pedestrian safety, public health and welfare. When required, sidewalks shall be constructed of concrete, four feet in width, four inches in depth, upon a two inch minimum sand base with expansion joints set at a minimum of 50 feet. Sidewalks built across driveways shall be constructed of concrete, six inches in depth.

**E. Effect And Duration Of Final Approval Of Preliminary Plat.** Final approval of a preliminary plat confers a conditional right that the general terms and conditions under which preliminary plat approval was granted will not be changed, to facilitate submission of a final plat for approval as provided in the next section of this ordinance. Final approval of a preliminary plat shall be valid for two years, subject to written extension at the discretion of the Township Board upon request of the applicant prior to expiration of the two-year period. The Clerk shall send written notice of any such extension to the other approving authorities.

### **Section 7: Approval of Final Plat (Step 3 Approval)**

**A. Submission Requirements.** The applicant for approval of a final plat shall submit one true copy of the proposed final plat and all supporting materials to the Township Clerk, along with the required application fee, and the filing/recording fee and state plat review fee required by MCL 560.241. A final plat shall not be accepted for review after the date of expiration of the preliminary plat approval. The proposed final plat shall be prepared by a land surveyor and, along with supporting materials, shall show at least the following:

1. A sworn certificate of the surveyor who made the plat stating all of the following on the final plat:
  - a. The copy is a true copy of the final plat.
  - b. The final plat is subject to the approval of each of the governmental officers and agencies whose approval is required under Sections 162-169 of the Act, with a list of those officers and agencies.
  - c. The date of the certificate.
2. All items required by the Township Board and other governmental agencies pursuant to the approval of the preliminary plat.

3. An abstract of title or a title insurance policy showing the proprietor holds merchantable title to all land included within the plat.
4. Formal irrevocable offers of dedication of all public streets (only where applicable) and other public facilities, in a form approved by the governmental agency with jurisdiction to accept the offers of dedication.
5. Such other information as the Township Board may require to reasonably insure the completion of any unfinished public improvements.

**B. Application Fee.** As established by the Board.

**C. Township Board Review Procedure.** Upon receiving an administratively complete application for a final plat the Township Clerk shall submit same to the Township Board for review and approval consideration at its next regular meeting, or at a special meeting, within 20 days after the date of receiving the administratively complete final plat submission, pursuant to the approval standards in subsection D below.

The Township Board shall instruct the Township Clerk to record all Township Board proceedings on the final plat in the minutes of the meeting, which shall be open for inspection, and to send a copy of the minutes to the county plat board. If the Township Board approves the final plat, it shall instruct the Township Clerk to notify the proprietor of the Township Board's approval and to certify the Township Board's approval, showing the date of the Township Board's approval, the approval of the Health Department, when required, and the date of Health Department approval as shown on the approved preliminary plat. If the Township Board rejects the final plat, it shall instruct the Clerk to give the reasons in writing as set forth in the minutes of the meeting, and to return the unapproved final plat to the proprietor. Upon approval of a final plat the Township Clerk shall also send the filing/recording fee and state plat review fee with the final plat to the clerk of the county plat board.

**D. Township Board Standards for Approval.** The Township Board shall approve a final plat if it conforms to all of the applicable provisions of the Act and this Ordinance, including but not limited to the following requirements:

1. All monuments required to be placed in the subdivision have either been placed or a performance guarantee agreement has been executed pursuant to Section 8 of this Ordinance to insure the placement of same.
2. All roads, streets, bridges and culverts have been completed or a performance guarantee agreement has been executed pursuant to Section 8 of this Ordinance to insure the completion of same.
3. If the subdivision has any waterways or lagoons, etc., as addressed in Section 188 of the Act, all such waterways, etc. have been constructed or a performance guarantee agreement has been executed pursuant to Section 8 of this Ordinance to insure the construction of same.
4. If any flood plains lie within the proposed subdivision, such flood plains shall be restricted as provided by Section 194 of the Act and such restrictions shall be submitted to the Township Board for review and approval prior to recording and thereafter shall be recorded in the office of the register of deeds contemporaneously with the recording of the plat.
5. All utilities serving the plat have either been installed and water and sanitary sewer mains have been stubbed to the lot lines or a performance guarantee agreement has been executed pursuant to Section 8 of this Ordinance to insure the completion of same.
6. All underground 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. These easements shall be recorded on the final plat as private easements for public utilities or easements provided by separate instrument. Easements across lots or centered on rear or side lot lines provided for utilities shall be at least 12 feet wide (preferably one-half from each lot) except side lot easements three feet wide granted for street lighting drop-outs. These easements shall be direct and continuous from block to block.

7. All public improvements such as street lights, fire hydrants, sidewalks, parks, etc., which have been required by the Township Board, have been completed and installed or a performance guarantee agreement has been executed pursuant to Section 8 of this Ordinance to insure the completion of same.
8. The dedication of public streets (only where applicable) and other public facilities has been executed by all required owners.

**E. Effect Of Approval Of Final Plat.** Approval of a final plat by the Township Board, and by all other governmental officers and agencies whose approval is required, and the recording of the approved final plat as required by the Act, confers approval of the plat to facilitate the construction thereof and the sale and development of lots therein in accordance with the approved final plat and all applicable laws, regulations and ordinances.

### **Section 8: Completion of Public Improvements**

**A. Completion Required; Alternate Performance Guarantee Agreement.** The construction of all public improvements shall be completed by the applicant and approved by the Township Board prior to final plat approval. In the alternative, as to those requirements which are over and beyond the requirements of any other approving agency or any agency responsible for the administration, operation and maintenance of the applicable public improvements, the Township Board may in its discretion require the applicant to guarantee completion of such required improvements as provided in this Section. In such instances the Township and the applicant shall enter into a written agreement specifying in detail the nature of the required improvements, the time in which these improvements are to be completed, provisions for verifying and inspecting the construction of such improvements to determine their conformity to the approved plans and specifications, and the nature of the financial guarantee of performance which is to be provided for each improvement.

**B. Acceptable Types of Performance Guarantees.** Where the Township Board agrees to accept performance guarantees for the completion of public improvements subsequent to final plat approval, the Township Board may require one or more of the following types of guarantees:

1. Performance or surety bond.
2. Cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit.

**C. Remuneration from Performance Guarantee Instrument.** The performance guarantee agreement may provide for progressive remuneration from the applicable financial instruments upon certification by the Township Engineer that the specific required public improvement has been satisfactorily completed/installed.

**D. Penalty for Failure to Complete Improvements.** If the applicant fails to complete a required public improvement within a period of time specified in the performance guarantee agreement the Township Board may, at its option, proceed to have the public improvement completed. In such event the Township shall be reimbursed for all costs associated with the completion of the improvement from the performance guarantee instrument provided for that improvement. The applicant shall be liable to the Township for any amount of such costs exceeding the funds available from the pertinent instrument.

### **Section 9: Development Required to Conform With Approved Final Plat; Amendment of Approved Final Plat**

**A. Development Required to Conform With Approved Final Plat.** All development of an approved plat project shall strictly conform to the final plat approved pursuant to this Ordinance.

**B. Amendment of Approved Final Plat.** Any amendment to or modification of an approved final plat shall be submitted for review and approval consideration pursuant to Sections 5-7 of this Ordinance, and as otherwise required by the Act.

### **Section 10: Variance Authority and Procedure**

**A. Variance Authority and Standards.** The Township Board may grant variances/waivers from the design and approval requirements of this Ordinance when the Township Board determines that the following standards are satisfied in the circumstances of each specific case:

1. Strict compliance with the ordinance requirement would result in a practical difficulty or unnecessary hardship because of the particular physical surroundings, shape, or topographical conditions of the tract of property involved, as distinguished from a mere inconvenience or economic hardship.
2. The variance/waiver may be granted without detriment to the public safety, health, or general welfare, or damage to other property.
3. The ordinance requirement at issue is not applicable to the specific situation at issue; or, the purpose is applicable but may be served even if a variance is granted.
4. The conditions upon which the request for variance is based are unique to the subject property and not applicable generally to property outside of the proposed plat.
5. Approval of a variance/waiver will not in any manner result in a violation of any ordinance, or any other requirement of law.
6. The conditions providing support for the variance/waiver were not created by the applicant or the applicant's predecessors in title.

**B. Variance Application Procedures.** A request for a variance/waiver from any requirement of this Ordinance shall be submitted in writing by the applicant no later than when the preliminary plat is submitted for tentative approval. The request shall state the grounds for the requested variance/waiver and all the facts relied upon in support thereof. The Township Board may, at its discretion, hold a public hearing on a variance/waiver application.

**C. Application Fee.** As set by the Township Board

#### **Section 11: Division of Lots in Approved Plat**

**A. Prohibited Actions.** The following actions are prohibited:

1. The division or partitioning of a lot in a recorded plat without prior approval of the Township Board as required by this Ordinance.
2. The commencing of construction on, or the application for a building permit for such construction, on any portion of a lot in a plat that was divided without prior approval of the Township Board as required by this Ordinance.
3. The submission of any document for recording involving the division or partitioning of a lot in a recorded plat without prior approval of such division or partitioning by the Township Board as required by this Ordinance.

**B. Lot Division Authority.** After a plat has been fully approved and recorded the Township Board may approve the partitioning or division of a lot therein in the following circumstances:

1. **No Intent to Create Separate Buildable Lot.** When the application states that the sole purpose of the requested division is to add land to adjoining existing lots or parcels and not to create a new separate buildable lot, the Township Board may approve the application if the requested division will not cause any remaining portion of the original lot which is developed or intended for development to violate any provision of this Ordinance, or the provisions of such zoning ordinance as may be in effect at the time of such application concerning minimum lot frontage/width, minimum lot area, and minimum setbacks.
2. **Intent to Create New Buildable Lot.** In situations not within the scope of the preceding paragraph, the Township Board may approve the division of a lot into not more than 4 parts upon determining that the following criteria are satisfied:
  - a. all of the resulting lots comply with the applicable requirements of this Ordinance, and such zoning ordinance as may be in effect at the time of said application with respect to minimum lot frontage/width, minimum lot area, and minimum setbacks;
  - b. the resulting lots will each have direct access to a street as required by this Ordinance;

- c. the resulting lots will each have access to public and/or private utility services;
- d. all such resulting lots conform in all respects to all applicable ordinances and the Land Division Act;
- e. the proposed division will not cause an unreasonable detriment to any adjoining property;
- f. the proposed division will not for any other reason be contrary to the public health, safety, or general welfare.

**C. Application Procedures.** A request for lot division approval shall be initiated by filing an application with the Township Clerk setting forth the purpose of the proposed division. The application form shall be accompanied by a survey showing the original lot and all lots proposed to result from the requested division, including all dimensions thereof and the legal descriptions therefore. The Township Board may approve a lot division, deny a lot division, or approve a lot division with appropriate lawful conditions. The Township Board may, at its discretion, conduct a public hearing on a lot division application.

**D. Application Fee.** As set by the Township Board.

### **Section 12: Violations; Sanctions**

Violation of any of the provisions of this Ordinance or failure to comply with any of its requirements shall be deemed a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine of not less than \$500, along with costs which may include all expenses, direct and indirect, to which the township has been put in connection with the municipal civil infraction. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan law. Each day that a violation of this Ordinance continues to exist shall constitute a separate violation of this Ordinance. Nothing herein shall prevent the Township Board or a private citizen from taking such additional lawful action as is necessary to restrain or prevent any violation of this Ordinance or the Michigan Land Division Act.

### **Section 13: Severability**

This Ordinance and its various parts are hereby declared to be severable. If any portion of this Ordinance is declared to be invalid such declaration shall not affect the validity of the remainder of the Ordinance.

### **Section 14: Repeal**

This Ordinance is intended to repeal in its entirety any existing township subdivision control ordinance regulating the subdivision of land into plats and the division of lots in recorded plats. This Ordinance shall not be construed to repeal a provision of any ordinance regulating the division of land outside of platted subdivisions, or any other ordinance.

### **Section 15: Effective Date**

This Ordinance shall take effect thirty (30) days after publication as required by law.

Sue Kronewitter  
Clerk, Milton Township  
Cass County  
32097 Bertrand St  
Niles MI 49120

**NOTICE OF ORDINANCE  
ADOPTION**

To: The Residents and Property Owners of the Township of Milton, Cass County, and any other Interested Persons.

PLEASE TAKE NOTICE that at a meeting of the Township Board held on October 21, 2013, the Milton Township Board of Trustees adopted Ordinance 2013-06-O, a Civil/Municipal Ordinance titled "Milton Township Subdivision Development Ordinance". A summary of the ordinance is as follows:

**Milton Township Subdivision Development Ordinance**

An ordinance to regulate the subdivision of land in Milton Township, Cass County, Michigan; to require and regulate the preparation and presentation of preliminary and final plats, to establish minimum standards which shall be met or guaranteed by the sub-divider, to set forth a procedure to be followed by the township in applying regulations and standards, and to prescribe sanctions for the violation of the provisions of this ordinance.

**Section 1: Title**

This ordinance shall be known as the Milton Township Subdivision Development Ordinance.

**Section 2: Purpose and Enabling**

The purpose of this ordinance is to promote the public safety, health and general welfare by facilitating the orderly layout and development of land subdivided into plats pursuant to the Land Division Act of the State of Michigan (formerly Subdivision Control Act), Public Act 288 of 1967, as amended, (MCL 560.101, et seq.) and further pursuant to the Township Ordinances Act, Public Act 246 of 1945, as amended (MCL 41.181, et seq.).

**Section 3: Definitions**

The various words and terms used in this ordinance are defined in this section.

**Section 4: Plat Approval Process (Overview)**

This section provides for a proposed plat project to be reviewed by the Township Board and the Planning Commission through a mandatory 3-step process, as follows:

Step 1. Preliminary plat submitted for tentative approval.

Step 2. Preliminary plat submitted for final approval.

Step 3. Final plat submitted for final approval.

Section 5: Tentative Approval of Preliminary Plat (Step 1 Approval)

This section provides procedures for the following: A. Submission Requirements; B. Application Fee; C. Planning Commission Review Procedure; D. Planning Commission Standards for Approval; and, E. Effect and Duration of Tentative Approval of Preliminary Plat.

Section 6: Final Approval of Preliminary Plat (Step 2 Approval)

This section provides procedures for the following: A. Submission Requirements; B. Application Fee; C. Township Board Review Procedure; D. Township Board Standards for Approval; and E. Effect and Duration of Final Approval of a Preliminary Plat.

Section 7: Approval of Final Plat (Step 3 Approval)

This section provides procedures for the following: A. Submission Requirements; B. Application Fee; As established by the Board; C. Township Board Review Procedure; D. Township Board Standards for Approval; and E. Effect of Approval of Final Plat.

Section 8: Completion of Public Improvements

This section provides for: A. Completion Required; Alternate Performance Guarantee Agreement;

B. Acceptable Types of Performance Guarantees; C. Remuneration from Performance Guarantee Instrument; and, D. Penalty for Failure to Complete Improvements.

Section 9: Development Required to Conform With Approved Final Plat; Amendment of Approved Final Plat

This section requires the Development to Conform With Approved Final Plat, and provides a process for Amendment of Approved Final Plat under certain conditions.

Section 10: Variance Authority and Procedure

The Township Board may grant variances/waivers from the design and approval requirements of this Ordinance when the Township Board determines that the specific standards are satisfied in the circumstances of each specific case.

Section 11: Division of Lots in Approved Plat

This section provides for the following in an approved and recorded plat: A. Prohibited Actions; B. Lot Division Authority; C. Application Procedures; and, D. Application Fee.

Section 12: Violations and Sanctions

Violation of any of the provisions of this Ordinance or failure to comply with any of its requirements shall be deemed a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine of not less than \$500.

Section 13: Severability

This Ordinance and its various parts are hereby declared to be severable.

Section 14: Repeal

This Ordinance is intended to repeal in its entirety any existing township subdivision control ordinance regulating the subdivision of land into plats and the division of lots in recorded plats. This Ordinance shall not be construed to repeal a provision of any ordinance regulating the division of land outside of platted subdivisions, or any other ordinance.

Section 15: Effective Date

This Ordinance shall take effect thirty (30) days after publication as required by law

PLEASE TAKE FURTHER NOTICE that the full text of the subject Ordinance will be available for inspection, and may be purchased, at the office of the Milton Township Clerk during regular business hours, on regular business days, from the date of this publication.

MILTON TOWNSHIP

Sue Kronawitter, Clerk

32097 Bertrand St

Niles, MI 49120

(269) 684-7262

hspaxlp 11:11:22

**CERTIFICATE OF ORDINANCE ADOPTION**

I Sue Kronewitter, the undersigned, as the duly elected and acting clerk of Milton Township, Cass County, Michigan; do hereby certify that in pursuance of law and statute provided, at a regular meeting of the Milton Township Board held on October 21, 2013, the Board adopted Ordinance No. 2013-06O, to become effective on: December 22, 2013, and that members of said Board present at said meeting voted on the adoption of said Ordinance as follows:

Supervisor, Robert Benjamin	NO
Clerk, Sue Kronewitter	NO
Treasurer, Susan Flowers	YES
Trustee, Eric Renken	YES
Trustee, Kelly Sweeney	YES

I do further certify that a Notice of Adoption with a copy of the proposed Ordinance was published on November 22, 2013 in the South Bend Tribune, a newspaper of general circulation.

December 22, 2013  
Dated

Sue Kronewitter  
Sue Kronewitter, Milton Township Clerk

**Attest**

[Signature]  
Robert Benjamin, Milton Township Supervisor