

**WHITEWATER TOWNSHIP BOARD**  
**REVISED May 1, 2023 AGENDA FOR SPECIAL MEETING – MAY 3, 2023**  
**9:00 a.m. at the Whitewater Township Hall**  
**5777 Vinton Road, Williamsburg, MI 49690**  
**Phone 231-267-5141/Fax 231-267-9020**

*At this time, the Board invites everyone to silence their electronic devices.*

Whitewater Zoom is inviting you to a scheduled Zoom meeting.

Topic: Board Special Meeting

Time: May 3, 2023 09:00 AM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/89887010554?pwd=bXR0Z0tFUHh6SHpBVHNXS1lDTU1mQT09>

Meeting ID: 898 8701 0554 Passcode: 043635

One tap mobile: +13092053325,,89887010554#,,, \*043635# US +13126266799,,  
89887010554#,,, \*043635# US (Chicago)

Dial by your location: +1 312 626 6799 US (Chicago), +1 646 558 8656 US (New York)  
+1 301 715 8592 US (Washington DC), +1 720 707 2699 US (Denver)

Find your local number: <https://us06web.zoom.us/u/kuCJto9dN>

*Whitewater Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities upon reasonable advance notice. Contact the Township Clerk at 231.267.5141 Ext. 24 at least 5 days in advance of the meeting.*

A. Call to Order

B. Roll Call of Board Members

C. Set/Adjust Meeting Agenda -

D. Declaration of Conflict of Interest

E. Public Comment. Any person shall be permitted to address a meeting of the township board. Public comment shall be carried out in accordance with the following board rules and procedures:

1. Comments shall be directed to the board, with questions directed to the chair.
2. Any person wishing to address the board shall speak from the lectern and state his or her name and address.
3. Persons may address the board on matters that are relevant to township government issues.
4. No person shall be allowed to speak more than once on the same matter, excluding the time needed to answer board member's questions. The chair shall control the amount of time each person shall be allowed to speak, which shall not exceed five (5) minutes.

## F. Correspondence

### 1. Beam

## G. Agenda Items as Listed in the Special Meeting Notice

### 1. Discuss Hymore Complaint with possible close session to review two confidential legal opinions on the matter. One rafted by attorney Patterson, the other by attorney Matthew Kuschel

#### a) Attorney Kuschel Documents from 4.14.2023

- 1) 20110208 Township Board Minutes
- 2) Excerpts of 2011.02.08 Twp Board Packet (Agenda & New Business No. 3)
- 3) Land Division 2011 Amendment #2
- 4) General Ordinance No. 26 – Land Division and Amendments 1, 2, 3
- 5) LandDivSampleReview Sheet-20210726
- 6) Land Division Act Basics for Landowners
- 7) LDA mcl-Act-288-of-1967

#### b) Attorney Kuschel Documents from 4.21.2023

- 1) Video of March 2, 2022 PC Meeting ([click here](#))
- 2) Land Division Ordinance from the website (appears it has been removed from the website)
- 3) Zoning Ordinance from the website ([click here](#))
- 4) Supervisor Popp's comments on the Land Division Ordinance (Part of the confidential report to legal)
- 5) FOIA documents provided to Connie Hymore – (not provided)
- 6) The Land Division Ordinance provided to Bob Hall upon his arrival in the Township – (not provided)
- 7) A land division ordinance from Connie Hymore from MuniCode – (not provided)
- 8) Frank & Connie Hymore's Code Enforcement Complaint Form (Part of the confidential report to legal)
- 9) Supervisor Popp's Investigation report on the Hymore complaint dated November 7, 2022 (Part of the confidential report to legal)
- 10) Whitewater Township Code Enforcement Policy and Procedures Manual ([click here](#))

#### c) Link to Confidential Documents provided by legal to individual emails

### 2. Discuss/Approve Whitewater Township Boat Ramp Expansion Contract

### 3. Approve Park Rangers –

### 4. Any other camping park opening items needing Board Input or Action

## H. Board Comments/Discussion

## I. Public Comment

## J. Adjournment

Whitewater Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities who are planning to attend. Contact the township clerk at 231-267-5141.



Ron Popp <supervisorwhitewater@gmail.com>

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## My comments from last meeting while preparing for special closed session

1 message

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**Vicki Beam** <vickibeam@gmail.com>

Tue, Apr 25, 2023 at 7:43 AM

To: Ron Popp <supervisorwhitewater@gmail.com>, Ardella M Benak <treasurer@whitewatertownship.org>, "Cheryl A. Goss" <clerk@whitewatertownship.org>, Heidi Vollmuth <heidivyourtrustee@gmail.com>, Don Glenn <trustee02@whitewatertownship.org>

Since not all of you were in attendance at the last board meeting (and because I was going over time you may have missed some) I thought I would provide a copy of my comments along with the layout of the parcel division. I realize the special meeting is next week and you are scheduled to have a closed session - I wanted to make sure you all had my comments and the divisions front and center as you prepare for your meeting.

Note the first survey dated 5-27-2020 - Parcel B - which is the one illegally divided - could have easily been adjusted to meet the Ordinance of maximum of 4 to 1 - depth to width ratio. As you can see, our parcels weren't even in the picture until 4-13-21.

As always, thank you for your time.

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### 2 attachments



**Layout of parcels - 2020 and 2021.pdf**  
2112K



**Board 4-11 (1).docx**  
16K



CERTIFICATE OF SURVEY

... A CERTIFIED COPY ... SHALL BE RECORDED AT THE TIME OF RECORDING THE CONVEYANCE OF TITLE ... THE PART OF (SEC. 1(2), ACT 132 OF 1970 AS AMENDED.)

DRAWN: DES		FILE NO. 3920A	
CHECK: DRF		FD. BK. 267, Pg. 5	
REVISED:		DATE: 4/21/2020	
SHEET: 1 of 2		5/27/2020	
DESCRIPTION		PART OF THE NE 1/4, SECTION 36, T28N-R9W, WHITEWATER TOWNSHIP, GRAND TRAVERSE COUNTY, MICHIGAN	
CLIENT MORRISON ORCHARDS		C:\DATA DRIVE\Carlson Projects\2020\3920A MORRISON.dwg 5/27/2020 8:52:11 AM	

FARRIER SURVEYING INC.  
P.O. BOX 998  
244 S. CEDAR STREET  
KALKASKA, MI 49646  
TEL(231)258-8162 FAX(231)258-3249  
office@farriersurveying.com

BEARING BASIS: PREVIOUS FARRIER SURVEYING PROJECT NO. 2420

DEAN R. FARRIER

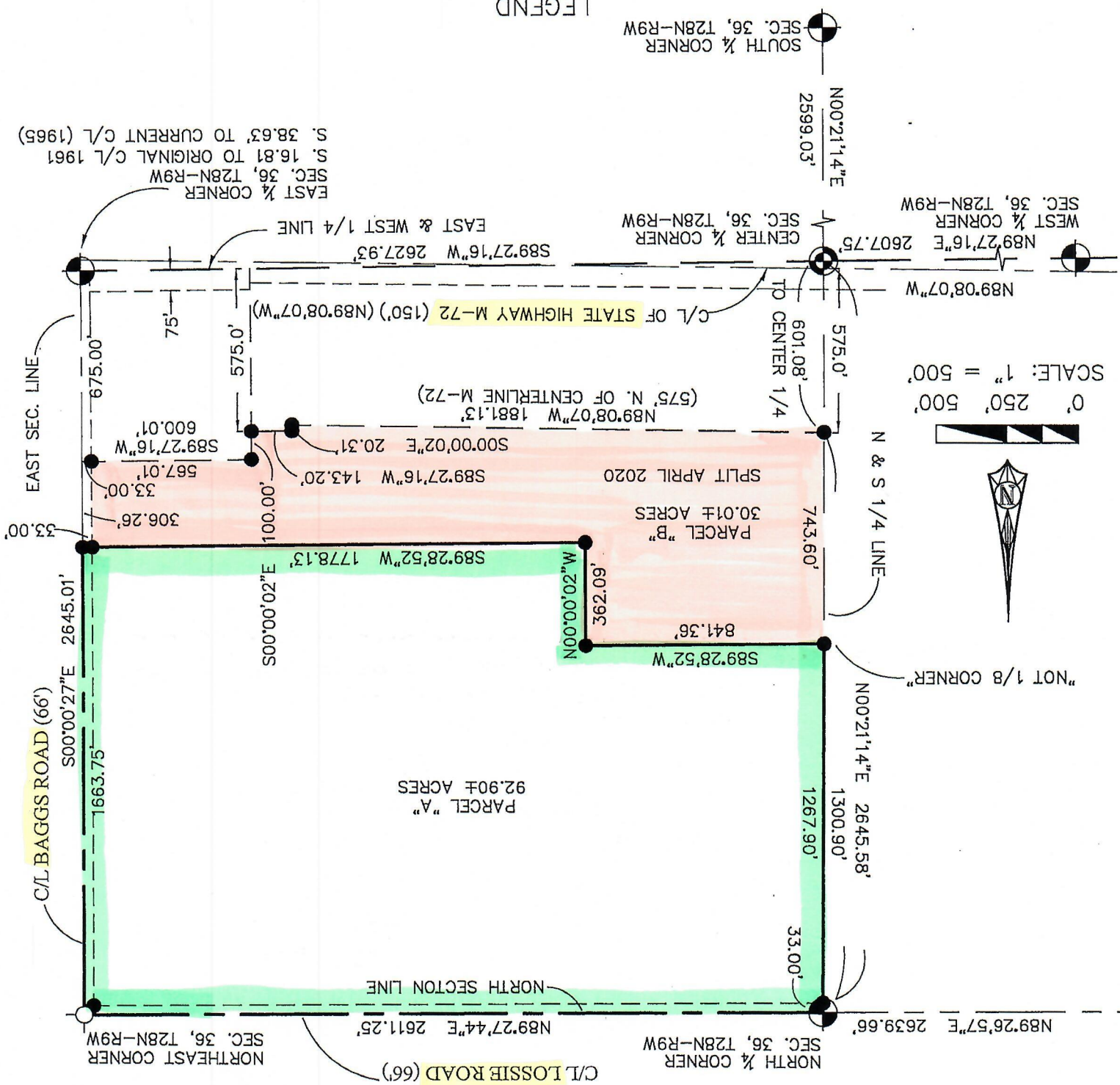
PS# 41098

DATE

5-27-20

I, DEAN R. FARRIER, A PROFESSIONAL SURVEYOR IN THE STATE OF MICHIGAN, CERTIFY THAT I HAVE SURVEYED AND MAPPED THE HEREON DESCRIBED PARCEL OF LAND, AND THE RELATIVE POSITIONAL PRECISION IS WITHIN 0.15 FEET FOR EACH OF THE CORNERS SHOWN HEREIN AND THAT I HAVE FULLY COMPLIED WITH THE SURVEY REQUIREMENTS OF ACT 132 OF 1970 AS AMENDED.

- LEGEND
- = SET 1/2" ROD & CAP
  - ⊙ = FD. CONC. MON.
  - ⊗ = SET CONC. MON.
  - = FD. IRON
  - ▼ = SET NAIL
  - △ = FD. NAIL
  - PR = PRORATED
  - M = MEASURED
  - R = RECORD



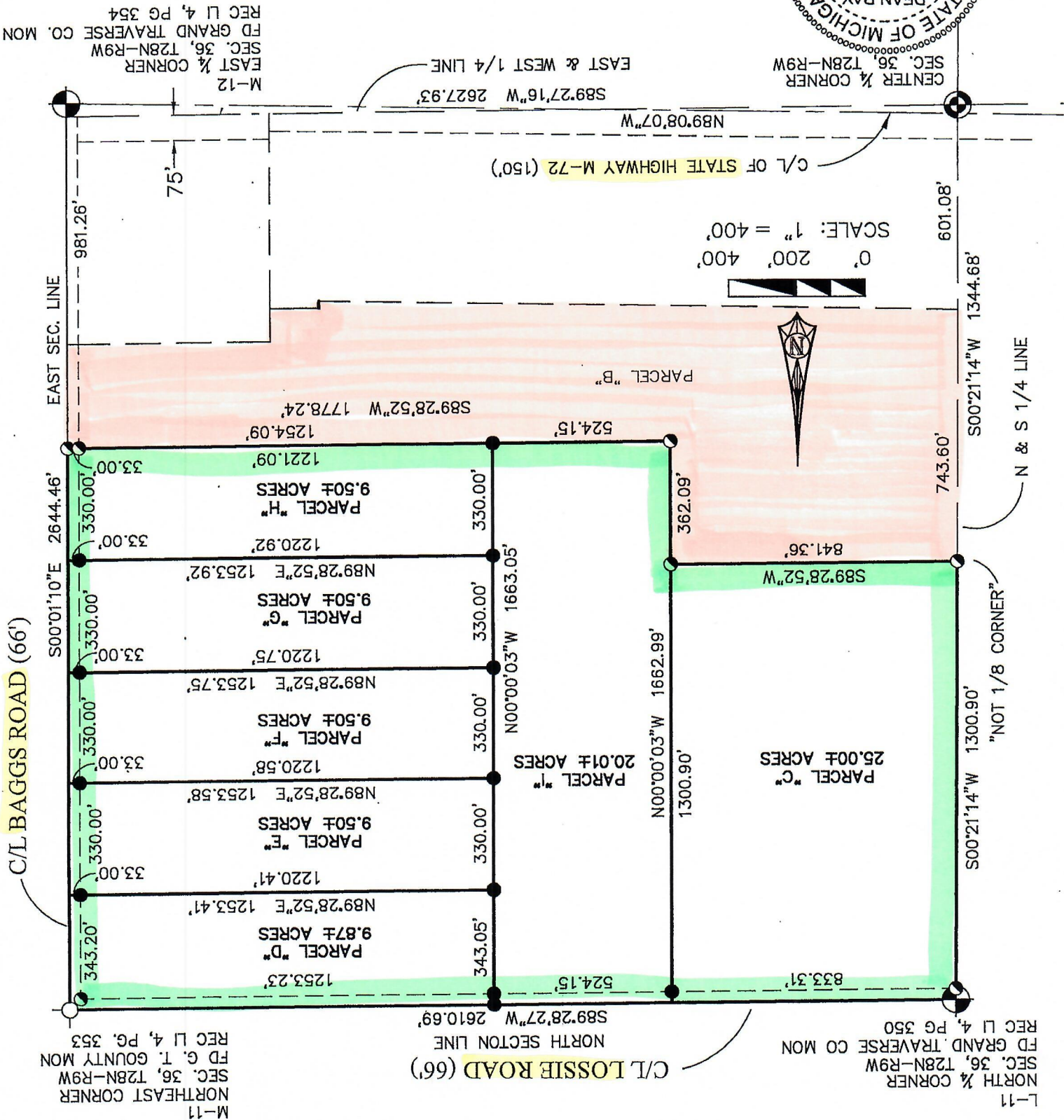
CERTIFICATE OF SURVEY

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  - ▼ = SET NAIL
  - △ = FD. NAIL
  - R = RECORD
  - M = MEASURED
  - PR = PRORATED



M-11  
NORTH EAST CORNER  
SEC. 36, T28N-R9W  
FD G. T. COUNTY MON  
REC LI 4, PG. 353

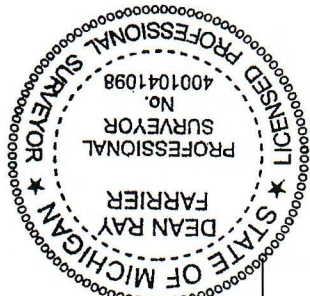
L-11  
NORTH 1/4 CORNER  
SEC. 36, T28N-R9W  
FD GRAND TRAVERSE CO MON  
REC LI 4, PG. 350

C/L LOSSIE ROAD (66')  
NORTH SECTION LINE  
S89°28'27"W 2610.69'

C/L BAGGS ROAD (66')

EAST SEC. LINE

SCALE: 1" = 400'



I, DEAN RAY FARRIER, A PROFESSIONAL SURVEYOR IN THE STATE OF MICHIGAN, CERTIFY THAT I HAVE SURVEYED AND MAPPED THE HEREON DESCRIBED PARCEL OF LAND, AND THE RELATIVE POSITIONAL PRECISION IS WITHIN 0.15 FEET FOR EACH OF THE CORNERS SHOWN HEREIN AND THAT I HAVE FULLY COMPLIED WITH THE SURVEY REQUIREMENTS OF ACT 132 OF 1970 AS AMENDED.  
PS#40010-41098 DATE 4-13-21  
DEAN R. FARRIER

BEARING BASIS: PREVIOUS FARRIER SURVEYING PROJECT NO. 2420

CLIENT MORRISON ORCHARDS		DRAWN: DES	FILE NO. 3920A
DESCRIPTION		CHECK: DRF	FD. BK. 26, Pg. 5
PART OF THE NE 1/4, SECTION 36, T28N-R9W, WHITEWATER TOWNSHIP, GRAND TRAVERSE COUNTY, MICHIGAN		REVISED:	DATE: 4/21/2020
SHEET: 1 of 3		4/13/2021	

C:\DATA DRIVE\Carlson Projects\2020\3920 MORRISON\3920A MORRISON.dwg 4/13/2021 4:54:02 PM

I would like to clear up a few items – and also express my concern if you go into a closed session about the illegal division of the property on Baggs Road today without the entire board present – this is too big of an issue for the township and all members of the board should be involved.

You all campaigned and promised to help protect WWT and the taxpayers of WWT. Do what you were elected to do – I never imagined over a year ago that I would have attended as many meetings as I have and become involved as I have – but it truly is because I love where I live – and I want to hold all of you accountable for what you were elected to do –

I attended a PC meeting on March 2, 2022 – where I learned that our ZA Bob Hall made a huge error. We all know Ordinances are the law. We have heard that over and over. The law (Ordinance) has certain protocols that must be followed when it comes to the division of land. These protocols include a distinct paper trail which needs to be documented and saved if there are variances – and the variance begins with the landowner requesting a variance – Morrison Farms never requested a variance for that parcel.

Bob Hall said he talked to legal and they told him not to worry. Who was the “LEGAL” that he talked to – were any of you aware that he talked to legal? I have never seen a bill that the township paid for his “LEGAL” advice. Was legal aware of General Ordinance 26 of WWT? If they were, did they think the Zoning administrator is above the law? General Ordinance No.26, has procedures to follow, there are consequences, and there are penalties!

During the 3-2-22 PC meeting Bob Hall admits that, in 2020, an error was made in the execution of the land division of Morrison Orchard parcel "B". (You have all been told many times and have copies of the divisions that that division that created Parcel B was long before any of our divisions – so there was NO WAY that a variance was ever needed to create a parcel that did not exceed 4 to 1!!

He states local ordinance supersedes state ordinance. General Ordinance No. 26 states "The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio." This parcel is almost six to one. He admits he made the error, and he "feels" the landowner should not be penalized for the mistake of the Township. This was his error – when he says it was the township error that leads me to believe you were aware of the error?

He says there have been other divisions of the parcel since the original split and LUP's issued. That statement was wrong. In fact, the parcel has not been re-split and it does not have a LUP issued! He blows it off like it's no big deal! It is a big deal! Laws were broken! Breaking the law has consequences! Those consequences are clearly spelled out in the General Ordinance. It includes fines, jail time and the land becomes "unbuildable!".

This could have all been avoided if the ZA had done his job – the 4 to 1 ratio requirement is very clear – as is the documentation and support that is necessary to override that requirement. As I've already mentioned – but it bears repeating - this division was done before any of our's – there was no reason that the property lines could not have been adjusted to make this parcel buildable – but the error was made – and you, our township representatives have no choice but to vote for this to be unbuildable – per the Ordinance.

We count on the board to uphold the ordinances that have been put in place for our township – that is what you have been elected to do. The split on Baggs Road could have happened anywhere else – just

because I live on Baggs Road is not the reason I am here today to voice my comments. I am here to hold all of you accountable to what you were elected to do.

It is very simple – General ordinance 26 is clear – there is to be nothing built on that parcel.

Don Glenn stated in one of the meetings about this complaint – the bell cannot be unrung. It doesn't matter how many times it has been sold – this parcel is not to be built upon. The board and the ZA do not have the authority to allow a land use permit on this parcel.

Clerk Goss told those of us that bought the other parcels that we should have done our due diligence – guess what – we did – on our parcels – so I guess Clerk Goss should tell Baggs Road Properties that they should have done their due diligence on their property.

Treasurer Benak has stated that those of us that have been keeping an eye on what you are doing are using this as a last ditch effort to stop the site condos – to that I state – Treasurer Benak we are simply holding all of you accountable to uphold your campaign promises and ensure the ordinances are followed.

At this point if any of you actually ignore the township ordinance and allow this property to be built upon you are letting all of us taxpayers know that we can do whatever we want – because your ordinances/law mean nothing!

I'm actually wondering if there is some collusion going on in the Township? PC chair at the time, Kim Mangus actually brought up the illegal division to Bob Hall the night of the March 2 meeting – so obviously conversation had already occurred about the division – when was it discovered and who tried to cover it up?

To sum this up - there is an ordinance in place that states our parcels should be a maximum of 4 to 1. Clerk Goss seems to be confused about this – because she has made comments that we have many parcels that are 3 to 1 in depth to width ratio – that is ok – 1 to 1 is ok, 2 to 1 is ok, 3.5 to 1 is ok, but anything over 4 to 1 is against the ordinance. If you choose to not enforce this ordinance – then how can you enforce any of the other ordinances? We are not in Wild Wild Whitewater – and none of us would live here if it was.



Ron Popp <supervisorwhitewater@gmail.com>

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## RE: Hymore

1 message

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**Matthew Kuschel** <MKuschel@fsbirlaw.com>  
To: Ron Popp <supervisorwhitewater@gmail.com>  
Cc: Lindsey Gergel <lgergel@fsbirlaw.com>

Fri, Apr 14, 2023 at 7:02 PM

Ron:

Attached are the documents relied on for the updated opinion. We also looked at the zoning ordinance and the previous material submitted.

I'm happy to answer any questions you may have. We will be in your neck of the woods for the MTA Annual Conference; will we see you there?

Regards,

Matt



### Matthew A. Kuschel

Associate • Fahey Schultz Burzych Rhodes

Direct: 517.381.3162 • Cell: 517.927.7300  
Office: 517.381.0100 • Fax: 517.381.5051  
[fsbirlaw.com](http://fsbirlaw.com) • [mkuschel@fsbirlaw.com](mailto:mkuschel@fsbirlaw.com)

[4151 Okemos Road, Okemos, MI 48864 USA](#)

▼ U.S. News & World Report Ranked Best Law Firm



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**From:** Ron Popp <[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)>  
**Sent:** Friday, April 14, 2023 3:13 PM  
**To:** Matthew Kuschel <[MKuschel@fsbirlaw.com](mailto:MKuschel@fsbirlaw.com)>  
**Subject:** Fwd: Hymore

Hi Matthew - Just following up with you regarding this request. Did you receive it?

Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)

----- Forwarded message -----

From: **Ron Popp** <[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)>

Date: Mon, Apr 10, 2023 at 4:10 PM

Subject: Hymore

To: Matthew Kuschel <[mkuschel@fsbrlaw.com](mailto:mkuschel@fsbrlaw.com)>

Matthew -

Please provide all board members documents used to formulate your opinion dated March 30, 2023.

Thank you

Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)

bcc: Township Board

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**7 attachments**



**20110208 Township Board Minutes.pdf**  
140K



**Excerpt of 2011.02.08 Twp Board Packet (Agenda & New Business No. 3).pdf**  
693K



**Land Division 2011 Amendment #2.docx**  
25K



**General Ordinance No. 26 - Land Division and Amendments 1, 2, 3.pdf**  
12500K



**LandDivSampleReviewSheet-20210726.pdf**  
115K



**Land Division Act basics for landowners.pdf**  
206K



**LDA mcl-Act-288-of-1967.pdf**  
42K



**Whitewater Township Board**  
**Minutes of Regular Meeting held February 8, 2011**

*Approved*  
*3-8-11*  
*cyh*

**Call to Order**

Supervisor Lake called the meeting to order at 7:00 p.m. at the Whitewater Township Hall, 5777 Vinton Road, Williamsburg, Michigan, followed by the Pledge of Allegiance.

**Roll Call**

Board members present: Benak, Boyd, Hockin, Hubbell and Lake

Board members absent: None

Others present: County Commissioner Inman, Planning/Zoning Administrator Meyers and 21 others

**Set/Adjust Meeting Agenda**

The agenda was approved <sup>as</sup> presented *cyh*

**Declaration of Conflict of Interest**

None

**Public Hearing**

None

**Public Comment**

None

**Reports/Presentations/Announcement/Comments**

**Sheriff Department Report**

No report.

**County Board of Commissioners Report**

Commissioner Inman updated the board on the following:

- American Legion Baseball
- Septage Treatment Plant mediation
- DPW position open; Chris Buday serving in National Guard
- Report from 1/22 planning meeting will be sent to townships
- Attempting to cut airfares at Cherry Capital Airport
- Kevin Klein will have 6-9 months evaluation as airport manager
- Introduced Carl Brown, newest member of County Road Commission
- Reminded board of Acme meeting on Shoreline Fruit

**Consent Calendar**

- Draft minutes of 2/1/11 minutes were pulled from the consent calendar.
- Benak asked about vehicle mileage report from fire chief.
- Boyd wants to see miles driven at a minimum on fire chief report.

Moved by Hubbell, supported by Lake to approve the consent calendar items as follows:

Receive and File:

1. Whitewater Township Planning Commission minutes of 01/05/11 regular meeting
2. Treasurer's Cash Balances & Investment Reports April 2010-December 2010

3. Supervisor's report for January 2011
4. Clerk's report for January 2011
5. Planning/Zoning Administrator's report for January 2011
6. Battalion #3 Fire Chief January 2011 Activity Report

Correspondence:

1. Grand Traverse County Road Commission minutes of 12/15/10 regular and 01/05/11 special organizational meetings
2. Grand Traverse County Board of Commissioners 2011-2012 names & contact listing
3. A 12/29/11 copy of a letter from Gerald DeGrazia, Elk Rapids Rotary President re: affirmation of interest in TART Trail through Elk Rapids
4. RecycleSmart 01/24/11 News Release re: Michigan Electronic Waste Takeback Program
5. RecycleSmart February 2011 re: 2010 Accomplishments
6. Notice from State of Michigan Liquor Control Commission re: Saco's Mini-Mart Sunday Sales Permit

Minutes:

1. Approval of minutes 01/11/11 regular and 01/12/11 & 01/18/11 special meetings

Bills for Approval:

1. Approval of Alden State Bank vouchers #33702-33780
2. Approval of Alden State Bank Miami Beach voucher #1101-1102

Revenue/Expenditure Report

Roll call vote: Boyd, yes; Hockin, yes; Hubbell, absent; Lake, yes; Benak, yes. **Motion approved.**

**Unfinished Business**

None

**New Business**

**Land Trade Proposal (Jennie & Bruce Brown)**

Jennie Brown owner of property (former Walker property) adjacent to the Battle Creek Natural Area presented a proposal to swap a small portion of their land with an equal amount of land in the Battle Creek Natural Area; this would be a swap of land with trees for land with a meadow, thus allowing them to plant apple trees.

Lake noted that the land was acquired through a grant from the Michigan Natural Resources Trust Fund. Hockin added that any change to the grant requirements would need to be approved by the MNRTF; additionally the meadow is the habitat for many wildflowers.

The proposal was discussed by the board. Supervisor Lake was instructed to contact the appropriate person at the MNRTF.

**Medical Marihuana Moratorium, Ordinance No. 46**

Planning/zoning administrator Meyers presented an interim Ordinance for a six month moratorium on land uses in connection with the Use of Marihuana for Medical Purposes. This moratorium will allow the planning commission time to develop land use regulations associated with the Use of Marihuana for Medical Purposes.

Moved by Boyd, seconded by Hubbell to adopt Ordinance No. 46, an interim ordinance imposing a Temporary Moratorium on Certain Land Uses Connected with the Use of Marihuana for Medical Purposes. Roll call vote: Hockin, yes; Hubbell, yes; Lake, yes; Benak, yes; Boyd, yes. **Motion approved.**



The ordinance will become effective immediately after publication.

### **Amendment No. 3 to Land Division Ordinance 26**

Meyers presented an amendment to Land Division Ordinance 26; the amendment adds Section VIII, Variances and renumbers the remaining Sections IX-XIV. This amendment was requested by the Zoning Board of Appeals.

Moved by Hubbell, seconded by Boyd to adopt Amendment No. 3 to Land Division Ordinance No.26. Roll call vote: Hubbell, yes; Lake, yes; Benak, yes; Boyd, yes; Hockin, yes. **Motion approved.**

### **Clean Up Day Dates**

Lake reported that it is time to schedule clean up days for 2011. The board discussed dates and instructed the supervisor to contact American Waste and report back to the board.

### **Letter of Support for Shoreline Fruit Tax Abatement**

Lake explained the Agricultural Renaissance Zone tax abatement for 15 years that Shoreline Fruit is applying for in Acme Township. It was the consensus that the supervisor sends a letter of support for the application.

### **Resolution #11-02, Township Board Regular Meeting Dates for 2011/2012 Fiscal Year**

Hockin presented the resolution that was previously discussed.

Moved by Hubbell, seconded by Boyd to adopt Resolution #11-02, Resolution for Whitewater Township Board Regular Meetings for the 2011/2012 Fiscal Year. Roll call vote: Lake, yes; Benak, yes; Boyd, yes; Hockin, yes; Hubbell, yes. **Motion approved and resolution declared adopted.**

A true and complete copy of said resolution is attached to the minutes.

### **02/01/11 Special Meeting Minutes**

Benak asked that the minutes be reviewed; the clerk was instructed to review the minutes, make changes and present them at the next regular meeting.

There was a discussion of disposal of fixed assets. It was the consensus that the procedure in the Administrative Policies and Procedures should be followed.

### **Public Comment**

Mike Jacobsen, Skegemog Point Rd

- Supportive of Medical Marijuana Moratorium
- Gave a brief history of hemp (cannabis)
- Hopes PC is serious about researching & developing a good ordinance
- Hemp is an agricultural commodity
- PC has a chance to be open minded to new industry
- Crop is legal in Canada & Europe
- Favors legal growing, distribution and use

### **Announcements**

Next meeting is budget work session 2/15/11 at 7 p.m.; will deal with Ambulance, Fire, Recreation, General Misc and Board of Review. Rural Fire Dispute Resolution meeting is 03/10/11 at 7 p.m.

**Adjournment**

The meeting was adjourned at 8:37 p.m.

Respectfully submitted,  
Carol Hockin, clerk

**WHITEWATER TOWNSHIP BOARD**  
**AGENDA FOR REGULAR MEETING –Tuesday, February 8, 2011**  
**7:00 p.m. at the Whitewater Township Hall**  
**5777 Vinton Road, Williamsburg, MI 49690**  
**Phone 231-267-5141/Fax 231-267-9020**

**A. Call to Order/Pledge of Allegiance**

**B. Roll Call of Board Members**

**C. Set/Adjust Meeting Agenda**

**D. Declaration of Conflict of Interest**

**E. Public Comment.** Any person shall be permitted to address a meeting of the Township Board. Public comment shall be carried out in accordance with the following board rules and Procedures:

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**F. Public Hearing: None**

**G. Reports/Presentations/Announcements/Comments**

1. Sheriff's Department Report
2. County Board of Commissioners

**H. Consent Calendar**

**Receive and File**

1. Whitewater Township Planning Commission minutes of 01/05/11 regular meeting
2. Treasurer's Cash Balances & Investment Reports April 2010-December 2010
3. Supervisor's report for January 2011
4. Clerk's report for January 2011
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**Correspondence**

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3. A 12/29/11 copy of a letter from Gerald DeGrazia, Elk Rapids Rotary Club President  
Re: affirmation of interest in TART Trail through Elk Rapids
4. RecycleSmart 01/24/11 News Release re: Michigan Electronic Waste Takeback Program

5. Recycle Smart February 2011 re: 2010 Accomplishments
6. Notice from State of Michigan Liquor Control Commission re: Saco's Mini-Mart Sunday Sales Permit

Minutes

1. Recommend approval of 01/11/11 regular, 01/12/11, 01/18/11 and 02/01/11 special meeting minutes

Bills for Approval

1. Approval of Alden State Bank vouchers #33702-33780
  2. Approval of Alden State Bank Miami Beach voucher #1101-1102
- Revenue/Expenditure Report

I. Unfinished Business

J. New Business

1. Land Trade Proposal (Jennie & Bruce Brown)
2. Medical Marijuana Moratorium Proposal (Leslie Meyers)
3. Amendment to Ordinance #26, Land Division Ordinance (Leslie Meyers)
4. Set 2011 Clean-Up Day Dates
5. Letter of Support for Shoreline Fruit Proposal (R-E Article 2/03/11)
6. Resolution #11-02, Regular Meeting Dates for 2011/2012 Fiscal Year

K. Public Comment

- L. Announcements (Next budget special meeting 2/15/11, 7:00 PM)  
Rural Fire dispute- resolution presentation; Special meeting 3/10/2011

M. Adjournment

Whitewater Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities who are planning to attend. Contact the township clerk at 231-267-5141 or the TDD at 231-946-4412.

# Memo

**To:** Whitewater Township Board  
**From:** Leslie Meyers  
**CC:**  
**Date:** 1/25/2011  
**Re:** Amendment to Ordinance #26 Land Division Ordinance

It their last meeting, the ZBA addressed a variance from the Land Division Ordinance. When the Land Division ordinance was updated in 2008, the purpose was to address the width to depth lot ratio issue as well updates from the amended 1997 Land Division Act. At that time, the Township Board directed the ZBA to act as its designated agent.

The ZBA asked that rules be expressly identified for the purpose of granting variances similar to their Section 18 of the Zoning Ordinance. Since the request is the equivalent to a non-use variance, I have utilized that section of Section 18 that pertains with the addition of other requirements found in the Land Division Ordinance. Also, adjustments have been made to take into consideration the addition of a section within the Ordinance.

**Township of Whitewater  
County of Grand Traverse – State of Michigan  
Ordinance 26  
Adopted: May 20, 1997  
Effective: June 26, 1997  
AMENDED NOVEMBER 2008  
AMENDED FEBRUARY 2011**

## **Land Division Ordinance**

An Ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended, and Act 246 of 1945, as amended, being The Township General Ordinance Statute; to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this Ordinance.

**Township of Whitewater  
Grand Traverse County, Michigan,  
Ordains:**

### **Section I**

#### **Title**

This Ordinance shall be known and cited as the Whitewater Township Land Division Ordinance.

### **Section II**

#### **Purpose**

The purpose of this Ordinance is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with the applicable ordinances and said development of the Township, and otherwise provide for the health, safety and welfare of the residents and property owners of the Township by establishing reasonable standards for prior review and approval of the land divisions with the Township.

### **Section III**

#### **Definitions**

For purposes of this Ordinance certain terms and words used herein shall have the following meaning:

- A. "Applicant" – a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land, whether recorded or not.
- B. "Divided" or "Division" – the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act.

- C. "Exempt split" or "exempt division" – the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.
- D. "Forty acres or the equivalent" – either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
- E. "Governing Body" – The Whitewater Township Board.

#### **Section IV**

##### **Prior Approval Requirement for Land Divisions**

Land in the Township shall not be divided without the prior review and approval of the Township Assessor and Township Zoning Administrator, or other official(s) designated by the Governing Body, in accordance with this Ordinance and the State of Michigan Land Division Act; provided that the following shall be exempted from this requirement:

- A. A parcel proposed for subdivision through a recorded plat pursuant to the Township's Subdivision Control Ordinance and the State Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the Township's Subdivision Control Ordinance and the State Land Division Act.
- C. An exempt split as defined in this Ordinance.

#### **Section V**

##### **Application for Land Division Approval**

An applicant shall file all of the following with the Township Clerk or other official designated by the Governing Body for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

- A. A completed form on such form as may be provided by the Township.
- B. Proof of fee ownership of the land proposed to be split.
- C. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of 1970 Public Act 132, as amended, (MCL 54.211) by a land surveyor licensed by the State of Michigan, and showing the dimensions and legal descriptions of the existing parcel and the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from the existing roads.

In lieu of such survey map, at the applicant's option, the applicant may waive the 45 day statutory requirement for a decision on the application until such survey map and legal description are filed with the Township and submit a tentative preliminary parcel map drawn to scale of not less than that provided for on the application form including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads

for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the designated official prior to a final application under Section V.

The Governing Body or its designated agent delegated such authority by the Governing Body, may waive the survey map requirement where the foregoing tentative parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all proposed divisions, however, shall at all times be required.

- D. Proof that all standards of the State Land Division Act and this Ordinance have been met.
- E. The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.
- F. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.
- G. If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- H. Unless a division creates a parcel which is acknowledged and declared to be "not buildable" under Section VIII of the Ordinance, all divisions shall result in "buildable" parcels containing sufficient "buildable" area outside of unbuildable wetlands, flood plains, and other areas where buildings are prohibited there from, and with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, on-site sewage disposal and water well locations (where public water and sewer service is not available), and maximum allowed area coverage of buildings and structures on the site.
- I. The fee as may from time to time be established by resolution of the Governing Body for land division reviews pursuant to this Ordinance to cover the costs of review of the application and administration of this Ordinance and the State Land Division Act.

## **Section VI**

### **Procedure for Review of Applications**

#### **For Land Division Approval**

- A. Upon receipt of a land division application package, the Township Clerk or other official designated by the governing body shall forthwith submit the same to the Township Assessor and Township Zoning Administrator or other designated official(s) for decision. The Township Assessor and Township Zoning Administrator or other designee(s) shall approve, approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within 45 days after receipt of the application package conforming to this Ordinance's decisions and the reasons for any denial. If the application package does not conform to this Ordinance's requirements, the Assessor and Zoning Administrator or other designee(s) shall return the same to the applicant for completion and refilling in accordance with this Ordinance and the State Land Division Act.
- B. Any person or entity aggrieved by the decision of the Assessor and Zoning Administrator or designee(s) may with 30 days of said decision appeal the decision to the Governing



Body or such other board or person designated by the Governing Body which shall consider and resolve such appeal by a majority vote of said board or by the designee at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.

- C. A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such period a document is recorded with the County Register of Deeds office and filed with the Clerk or other designated official accomplishing the approved land division or transfer.
- D. The Township Assessor and the Township Zoning Administrator or designee(s) shall maintain an official record of all approved and accomplished land divisions or transfers.

## **Section VII**

### **Standards for Approval of Land Divisions**

A proposed land division shall be approved if the following criteria are met:

- A. All the parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of the applicable Zoning Ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ration, and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures.
- B. The proposed land division(s) complies with all requirements of the State Land Division Act and this Ordinance.
- C. All parcels created and remaining have existed adequate accessibility or an area available therefore, to a public road for public utilities and emergency and other vehicles not less than the requirements of the applicable zoning ordinance, major thoroughfare plan, road ordinance or this Ordinance. In determining adequacy of accessibility, any ordinance standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create 4 or more parcels.
- D. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-buildable parcels created under ~~Section VIII~~ IX of this Ordinance and parcels added to contiguous parcels that result in all involved parcels complying with said ratio.

The Governing Body or other board or person designated by the Governing Body may approve a land division that creates a resulting parcel with a depth to width ratio greater than four to one if the applicant demonstrates that there are exceptional topographic or physical conditions with respect to the parcel and that the greater ratio would be reasonably compatible with the surrounding lands.

The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right of way to the most remote boundary line point of the parcel from the point of commencement of the measurement.

The permissible minimum lot (parcel) width shall be defined in the Whitewater Township Zoning Ordinance.

### Section VIII

#### Variances

Where there are practical difficulties in the way of carrying out the strict letter of this Ordinance the Township Board, or its designee, shall have the power to vary or modify the application of the provisions of this Ordinance so that the intent and purpose of the Ordinance is observed, public safety secured and substantial justice done. The Township Board, or its designee, may attach reasonable conditions in approving any variance from any provision. The breach of any condition or the failure of any applicant to comply with conditions shall void the variance.

- In order for a variance to be granted, evidence must be presented at a public hearing that all of the following conditions exist:
- Exceptional or extraordinary circumstances exist such as exceptional topographical or physical conditions; or that the greater ratio would be reasonably compatible with the surrounding lands.
- Strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property or will render conformity with the regulations of this Ordinance unreasonably burdensome.
- The requested variance will not cause an adverse impact on the development of surrounding property, property values or the use and enjoyment of property in the immediate area.
- Health, safety and welfare will not be compromised.
- The requested variance is the minimum variance necessary to permit reasonable use of the land.

Further, in the event that a variance is granted under this Section, said variance and any conditions, if applicable, shall be recorded with the Grand Traverse County Register of Deeds by the seller and/or proprietor.

### Section VIII-IX

#### Allowance for Approval of Other Land Divisions

Notwithstanding disqualification from approval pursuant to this Ordinance, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the applicable Zoning Ordinance or this Ordinance may be approved in any of the following circumstances:

- A. Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to the municipality, designating that the parcel as "not buildable." Any such parcel shall also be designated as "not buildable" in the Township records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceed four feet in height.

- B. Where, in circumstances not covered by paragraph A above, the Zoning Board of Appeals has granted a variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.
- C. Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this Ordinance, and applicable Zoning Ordinance, or the State Land Division Act.

**Section ~~IX~~-X**

**Consequences of Noncompliance with  
Land Division Approval Requirements**

Any parcel created in noncompliance with this Ordinance shall not be eligible for any building permits, or zoning approvals, such as special land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this Ordinance shall subject the violator to the penalties and enforcement actions set forth in Section ~~X~~ XI of this Ordinance, and may otherwise be provided by law.

**Section ~~X~~-XI**

**Penalties and Enforcement**

Any person who violates any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the County Jail not to exceed 90 days or by both such fine and imprisonment.

**Section ~~XI~~-XII**

**Severability**

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this Ordinance other than said part of portion thereof.

**Section ~~XII~~ XIII**

**Repeal**

All ordinances or parts of ordinance in conflict with this Ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Township Zoning Ordinance, the Township Subdivision Control Ordinance, or the Grand Traverse County Building Code.

**Section ~~XIII~~-XIV**

**Effective Date**

This Ordinance shall take effect 30 days following its publication after adoption.

Township of Whitewater  
County of Grand Traverse – State of Michigan  
Ordinance 26  
Adopted: May 20, 1997  
Effective: June 26, 1997  
AMENDED NOVEMBER 2008  
AMENDED FEBRUARY 2011

## Land Division Ordinance

An Ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended, and Act 246 of 1945, as amended, being The Township General Ordinance Statute; to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this Ordinance.

Township of Whitewater  
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#### Purpose

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- B. “Divided” or “Division” – the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act.

- C. “Exempt split” or “exempt division” – the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.
- D. “Forty acres or the equivalent” – either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
- E. “Governing Body” – The Whitewater Township Board.

#### **Section IV**

##### Prior Approval Requirement for Land Divisions

Land in the Township shall not be divided without the prior review and approval of the Township Assessor and Township Zoning Administrator, or other official(s) designated by the Governing Body, in accordance with this Ordinance and the State of Michigan Land Division Act; provided that the following shall be exempted from this requirement:

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- B. A lot in a recorded plat proposed to be divided in accordance with the Township’s Subdivision Control Ordinance and the State Land Division Act.
- C. An exempt split as defined in this Ordinance.

#### **Section V**

##### Application for Land Division Approval

An applicant shall file all of the following with the Township Clerk or other official designated by the Governing Body for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

- A. A completed form on such form as may be provided by the Township.
- B. Proof of fee ownership of the land proposed to be split.
- C. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of 1970 Public Act 132, as amended, (MCL 54.211) by a land surveyor licensed by the State of Michigan, and showing the dimensions and legal descriptions of the existing parcel and the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from the existing roads.

In lieu of such survey map, at the applicant’s option, the applicant may waive the 45 day statutory requirement for a decision on the application until such survey map and legal description are filed with the Township and submit a tentative preliminary parcel map drawn to scale of not less than that provided for on the application form including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads

for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the designated official prior to a final application under Section V.

The Governing Body or its designated agent delegated such authority by the Governing Body, may waive the survey map requirement where the foregoing tentative parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all proposed divisions, however, shall at all times be required.

- D. Proof that all standards of the State Land Division Act and this Ordinance have been met.
- E. The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.
- F. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.
- G. If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- H. Unless a division creates a parcel which is acknowledged and declared to be “not buildable” under Section VIII of the Ordinance, all divisions shall result in “buildable” parcels containing sufficient “buildable” area outside of unbuildable wetlands, flood plains, and other areas where buildings are prohibited there from, and with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, on-site sewage disposal and water well locations (where public water and sewer service is not available), and maximum allowed area coverage of buildings and structures on the site.
- I. The fee as may from time to time be established by resolution of the Governing Body for land division reviews pursuant to this Ordinance to cover the costs of review of the application and administration of this Ordinance and the State Land Division Act.

## **Section VI**

### **Procedure for Review of Applications**

#### **For Land Division Approval**

- A. Upon receipt of a land division application package, the Township Clerk or other official designated by the governing body shall forthwith submit the same to the Township Assessor and Township Zoning Administrator or other designated official(s) for decision. The Township Assessor and Township Zoning Administrator or other designee(s) shall approve, approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within 45 days after receipt of the application package conforming to this Ordinance’s decisions and the reasons for any denial. If the application package does not conform to this Ordinance’s requirements, the Assessor and Zoning Administrator or other designee(s) shall return the same to the applicant for completion and refilling in accordance with this Ordinance and the State Land Division Act.
- B. Any person or entity aggrieved by the decision of the Assessor and Zoning Administrator or designee(s) may with 30 days of said decision appeal the decision to the Governing

Body or such other board or person designated by the Governing Body which shall consider and resolve such appeal by a majority vote of said board or by the designee at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.

- C. A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such period a document is recorded with the County Register of Deeds office and filed with the Clerk or other designated official accomplishing the approved land division or transfer.
- D. The Township Assessor and the Township Zoning Administrator or designee(s) shall maintain an official record of all approved and accomplished land divisions or transfers.

## **Section VII**

### Standards for Approval of Land Divisions

A proposed land division shall be approved if the following criteria are met:

- A. All the parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of the applicable Zoning Ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures.
- B. The proposed land division(s) complies with all requirements of the State Land Division Act and this Ordinance.
- C. All parcels created and remaining have existed adequate accessibility or an area available therefore, to a public road for public utilities and emergency and other vehicles not less than the requirements of the applicable zoning ordinance, major thoroughfare plan, road ordinance or this Ordinance. In determining adequacy of accessibility, any ordinance standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create 4 or more parcels.
- D. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-buildable parcels created under ~~Section VIII~~ IX of this Ordinance and parcels added to contiguous parcels that result in all involved parcels complying with said ratio.

The Governing Body or other board or person designated by the Governing Body may approve a land division that creates a resulting parcel with a depth to width ratio greater than four to one if the applicant demonstrates that there are exceptional topographic or physical conditions with respect to the parcel and that the greater ratio would be reasonably compatible with the surrounding lands.

The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right of way to the most remote boundary line point of the parcel from the point of commencement of the measurement.

The permissible minimum lot (parcel) width shall be defined in the Whitewater Township Zoning Ordinance.

## **Section VIII**

### **Variances**

Where there are practical difficulties in the way of carrying out the strict letter of this Ordinance the Township Board, or its designee, shall have the power to vary or modify the application of the provisions of this Ordinance so that the intent and purpose of the Ordinance is observed, public safety secured and substantial justice done. The Township Board, or its designee, may attach reasonable conditions in approving any variance from any provision. The breach of any condition or the failure of any applicant to comply with conditions shall void the variance.

- In order for a variance to be granted, evidence must be presented at a public hearing that all of the following conditions exist:
- Exceptional or extraordinary circumstances exist such as exceptional topographical or physical conditions; or that the greater ratio would be reasonably compatible with the surrounding lands.
- Strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property or will render conformity with the regulations of this Ordinance unreasonably burdensome.
- The requested variance will not cause an adverse impact on the development of surrounding property, property values or the use and enjoyment of property in the immediate area.
- Health, safety and welfare will not be compromised.
- The requested variance is the minimum variance necessary to permit reasonable use of the land.

Further, in the event that a variance is granted under this Section, said variance and any conditions, if applicable, shall be recorded with the Grand Traverse County Register of Deeds by the seller and/or proprietor.

## **Section IX**

### **Allowance for Approval of Other Land Divisions**

Notwithstanding disqualification from approval pursuant to this Ordinance, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the applicable Zoning Ordinance or this Ordinance may be approved in any of the following circumstances:

- A. Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to the municipality, designating that the parcel as “not buildable.” Any such parcel shall also be designated as “not buildable” in the Township records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceed four feet in height.



- B. Where, in circumstances not covered by paragraph A above, the Zoning Board of Appeals has granted a variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.
- C. Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this Ordinance, and applicable Zoning Ordinance, or the State Land Division Act.

## **Section X**

### **Consequences of Noncompliance with Land Division Approval Requirements**

Any parcel created in noncompliance with this Ordinance shall not be eligible for any building permits, or zoning approvals, such as special land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this Ordinance shall subject the violator to the penalties and enforcement actions set forth in Section ~~X~~ XI of this Ordinance, and may otherwise be provided by law.

## **Section XI**

### **Penalties and Enforcement**

Any person who violates any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the County Jail not to exceed 90 days or by both such fine and imprisonment.

## **Section XII**

### **Severability**

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this Ordinance other than said part of portion thereof.

## **Section XIII**

### **Repeal**

All ordinances or parts of ordinance in conflict with this Ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Township Zoning Ordinance, the Township Subdivision Control Ordinance, or the Grand Traverse County Building Code.

## **Section XIV**

### **Effective Date**

This Ordinance shall take effect 30 days following its publication after adoption.

## **ORDINANCE AMENDMENTS**

### **Ordinance Number 26 Land Division Ordinance**

<b>Amendment Number</b>	<b>Effective Date</b>	<b>Section (s) Amended</b>
1	December 12, 2005	Section V, C Section VII, D, 3 Section VII, E (deleted) Section VII, F (deleted)
2	January 26, 2009	Section II Section III, E Section IV Section V, C I Section VII, B, D
3	March 19, 2011	Section VII Section VIII added Section IX renumbered Section X renumbered Section XI renumbered Section XII renumbered Section XIII renumbered

## TOWNSHIP OF WHITEWATER

COUNTY OF GRAND TRAVERSE - STATE of MICHIGAN

## ORDINANCE No.26

Adopted: May 20, 1997

Effective: June 26, 1997

## LAND DIVISION ORDINANCE

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended, and Act 246 of 1945, as amended, being The Township General Ordinance statute; to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this ordinance.

## TOWNSHIP OF WHITEWATER

GRAND TRAVERSE COUNTY, MICHIGAN,

## ORDAINS:

## SECTION I

## TITLE

This ordinance shall be known and cited as the Whitewater Township Land Division Ordinance.

## SECTION II

## PURPOSE

The purpose of this ordinance is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the municipality by establishing reasonable standards for prior review and approval of land divisions within the municipality.

### SECTION III

#### DEFINITIONS

For purposes of this ordinance certain terms and words used herein shall have the following meaning:

A. "Applicant" - a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.

B. "Divided" or "Division" - the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act.

C. "Exempt split" or "exempt division" - the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.

D. "Forty acres or the equivalent" - either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

N. "Governing body" - the legislative body of a township board of a township (Township Board)

### SECTION IV

#### PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land in the municipality shall not be divided without the prior review and approval of the township assessor and township zoning administrator, or other official(s) designated by the governing body, in accordance with this ordinance and the State Land Division Act; provided that the following shall be exempted from this requirement:

A. A parcel proposed for subdivision through a recorded plat pursuant to the municipality's Subdivision Control Ordinance and the State Land Division Act.

B. A lot in a recorded plat proposed to be divided in accordance with the municipality's Subdivision Control Ordinance and the State Land Division Act.

C. An exempt split as defined in this Ordinance.

**SECTION V  
APPLICATION FOR LAND DIVISION APPROVAL**

An applicant shall file all of the following with the municipal Clerk or other official designated by the governing body for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

A. A completed application form on such form as may be provided by the municipality.

B. Proof of fee ownership of the land proposed to be divided.

C. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of 1970 Public Act 132, as amended, (MCL 54.211) by a land surveyor licensed by the State of Michigan, and showing the dimensions and legal descriptions of the existing parcel and the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

In lieu of such survey map, at the applicant's option, the applicant may waive the 45 day statutory requirement for a decision on the application until such survey map and legal description are filed with the municipality and submit a tentative preliminary parcel map drawn to scale of not less than that provided for on the application form including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the locally designated official prior to a final application under Section V.

The governing body of the municipality or its designated agent delegated such authority by the governing body, may waive the survey map requirement where the foregoing tentative parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all the proposed divisions, however, shall at all times be required.

D. Proof that all standards of the State Land Division Act and this Ordinance have been met.

E. The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.

F. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.

G. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.

H. Unless a division creates a parcel which is acknowledged and declared to be "not buildable" under Section VIII of this Ordinance, all divisions shall result in "buildable" parcels containing sufficient "buildable" area outside of unbuildable wetlands, flood plains and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, on-site sewage disposal and water well locations (where public water and sewer service is not available), and maximum allowed area coverage of buildings and structures on the site.

I. The fee as may from time to time be established by resolution of the governing body of the municipality for land division reviews pursuant to this ordinance to cover the costs of review of the application and administration of this Ordinance and the State Land Division Act.

## SECTION VI

### PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

A. Upon receipt of a land division application package, the municipal clerk or other official designated by the governing body shall forthwith submit the same to the township assessor and township zoning administrator or other designated official(s) for decision. The township assessor and township zoning administrator or other designee(s) shall approve, approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within 30 days after receipt of the application package conforming to this Ordinance's requirements, and shall promptly notify the applicant of the decisions and the reasons for any denial. If the application package does not conform to this Ordinance requirements and the State Land Division Act, the assessor and zoning administrator or other designee(s) shall return the same to the applicant for completion and refiling in accordance with this Ordinance and the State Land Division Act.

B. Any person or entity aggrieved by the decision of the assessor and zoning administrator or designee(s) may, within 30 days of said decision appeal the decision to the township board of the municipality or such other board or person designated by the governing body which shall consider and resolve such appeal by a majority vote of said Board or by the designee at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.

C. A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such period a document is recorded with the County Register of Deeds office and filed with the municipal clerk or other designated official accomplishing the approved land division or transfer.

D. The township assessor and township zoning administrator or designee(s) shall maintain an official record of all approved and accomplished land divisions or transfers.

## **SECTION VII**

### **STANDARDS FOR APPROVAL OF LAND DIVISIONS**

A proposed land division shall be approved if the following criteria are met:

A. All the parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of the applicable zoning ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures.

B. The proposed land division(s) comply with all requirements of the State Land Division Act and this Ordinance.

C. All parcels created and remaining have existing adequate accessibility, or an area available therefore, to a public road for public utilities and emergency and other vehicles not less than the requirements of the applicable zoning ordinance, major thoroughfare plan, road ordinance or this Ordinance. In determining adequacy of accessibility, any ordinance standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create 4 or more parcels.

D. The ratio of depth to width of any parcel created by the division does not exceed a three to one ratio exclusive of access roads, easements, or non-buildable parcels created under Section VIII of this Ordinance and parcels added to contiguous parcels that result in all involved parcels complying with said ratio.

The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right of way to the most remote boundary line point of the parcel from the point of commencement of the measurement.

The permissible minimum lot (parcel) width shall be as defined in the Whitewater Township Zoning Ordinance.

## **SECTION VIII**

### **ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS**

Notwithstanding disqualification from approval pursuant to this ordinance, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the applicable zoning ordinance or this Ordinance may be approved in any of the following circumstances:

A. Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to the municipality, designating the parcel as "not buildable". Any such parcel shall also be designated as "not buildable" in the municipal records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceeding four feet in height.

B. Where, in circumstances not covered by paragraph A above, the Zoning Board of Appeals has, previous to this Ordinance, granted a variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.

C. Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this Ordinance, any applicable zoning ordinance, or the State Land Division Act

## **SECTION IX**

### **CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT**

Any parcel created in noncompliance with this ordinance shall not be eligible for any building permits, or zoning approvals, such as special land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this ordinance shall subject the violator to the penalties and enforcement actions set forth in Section X of this ordinance, and as may otherwise be provided by law.



**SECTION X****PENALTIES AND ENFORCEMENT**

Any person who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the county jail not to exceed 90 days or by both such fine and imprisonment.

Any person who violates any of the provisions of this ordinance shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

**SECTION XI  
SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this ordinance other than said part of portion thereof.

**SECTION XII****REPEAL**

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Municipality Zoning Ordinance, the Municipality Subdivision Control Ordinance, or the Municipality Building Code.

**SECTION XIII****EFFECTIVE DATE**

This ordinance shall take effect 30 days following its publication after adoption.

TOWNSHIP OF WHITEWATER

Sandra Beckwith, Clerk  
May 20, 1997

## WHITEWATER TOWNSHIP ORDINANCE CERTIFICATE

State of Michigan                    )  
Township of Whitewater        ) Ss  
County of Grand Traverse        )

I, the undersigned, being the duly elected and qualified clerk of the Township of Whitewater, do hereby certify that the attached Ordinance No. 26 to the Whitewater Township Ordinances is a true and complete copy as adopted by the Whitewater Township Board at a regular meeting of the said Township Board held May 20, 1997.

I do further certify that a summary of Ordinance No. 26 was published on May 26, 1997 in the Traverse City Record-Eagle, a newspaper of general circulation in Whitewater Township, and that Ordinance No. 26 becomes effective 30 days after the date of publication.

I do further certify that the members of the Township Board voted upon Ordinance No. 26 by the following vote:

For the ordinance: Amos, Galligan, Beckwith, Stites, Bak

Against the ordinance: None

Absent: None

I further certify that Ordinance No. 26 was duly filed in the Whitewater Township Book of Ordinances within one week after publication thereof.

In witness whereof, I have hereunto set my hand this 28th day of May, 1997.



Sandra Beckwith

Whitewater Township Clerk

**TOWNSHIP OF WHITEWATER**  
**COUNTY OF GRAND TRAVERSE - STATE OF MICHIGAN**  
**ORDINANCE NO. 26**

**Adopted: May 20, 1997**  
**Effective: June 26, 1997**

**LAND DIVISION ORDINANCE**

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended, and Act 246 of 1945, as amended, being the Township General Ordinance statute; to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this ordinance.

**TOWNSHIP OF WHITEWATER**  
**GRAND TRAVERSE COUNTY, MICHIGAN,**

**ORDAINS:**

**SECTION I**

**TITLE**

This ordinance shall be known and cited as the Whitewater Township Land Division Ordinance.

**SECTION II**  
**PURPOSE**

The purpose of this ordinance is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the municipality by establishing reasonable standards for prior review and approval of land divisions within the municipality.

**SECTION III****DEFINITIONS**

For purposes of this ordinance certain terms and words used herein shall have the following meaning:

**A.** "Applicant" - a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.

**B.** "Divided" or "Division" - the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act.

**C.** "Exempt split" or "exempt division" - the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.

**D.** "Forty acres or the equivalent" - either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

**E.** "Governing body" - the legislative body of a township board of a township (Township Board).

**SECTION IV****PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS**

Land in the municipality shall not be divided without the prior review and approval of the township assessor and township zoning administrator, or other official(s) designated by the governing body, in accordance with this ordinance and the State Land Division Act; provided that the following shall be exempted from this requirement:

**A.** A parcel proposed for subdivision through a recorded plat pursuant to the municipality's Subdivision Control Ordinance and the State Land Division Act.

**B.** A lot in a recorded plat proposed to be divided in accordance with the municipality's Subdivision Control Ordinance and the State Land Division Act.

**C.** An exempt split as defined in this Ordinance.

**SECTION V  
APPLICATION FOR LAND DIVISION APPROVAL**

An applicant shall file all of the following with the municipal Clerk or other official designated by the governing body for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

**A.** A completed application form on such form as may be provided by the municipality.

**B.** Proof of fee ownership of the land proposed to be divided.

**C.** A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of 1970 Public Act 132, as amended, (MCL 54.211) by a land surveyor licensed by the State of Michigan, and showing the dimensions and legal descriptions of the existing parcel and the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

In lieu of such survey map, at the applicant's option, the applicant may waive the 30 day statutory requirement for a decision on the application until such survey map and legal description are filed with the municipality and submit a tentative preliminary parcel map drawn to scale of not less than that provided for on the application form including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the locally designated official prior to a final application under Section V.

The governing body of the municipality or its designated agent delegated such authority by the governing body, may waive the survey map requirement where the foregoing tentative parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all the proposed divisions, however, shall at all times be required.

**D.** Proof that all standards of the State Land Division Act and this Ordinance have been met.

**E.** The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.

**F.** Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.

**G.** If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.

**H.** Unless a division creates a parcel which is acknowledged and declared to be "not buildable" under Section VIII of this Ordinance, all divisions shall result in "buildable" parcels containing sufficient "buildable" area outside of unbuildable wetlands, flood plains and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, on-site sewage disposal and water well locations (where public water and sewer service is not available), and maximum allowed area coverage of buildings and structures on the site.

**I.** The fee as may from time to time be established by resolution of the governing body of the municipality for land division reviews pursuant to this ordinance to cover the costs of review of the application and administration of this Ordinance and the State Land Division Act.

**SECTION VI****PROCEDURE FOR REVIEW OF APPLICATIONS  
FOR LAND DIVISION APPROVAL**

**A.** Upon receipt of a land division application package, the municipal clerk or other official designated by the governing body shall forthwith submit the same to the township assessor and township zoning administrator or other designated official(s) for decision. The township assessor and township zoning administrator or other designee(s) shall approve, approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within 30 days after receipt of the application package conforming to this Ordinance's requirements, and shall promptly notify the applicant of the decisions and the reasons for any denial. If the application package does not conform to this Ordinance requirements and the State Land Division Act, the assessor and zoning administrator or other designee(s) shall return the same to the applicant for completion and refile in accordance with this Ordinance and the State Land Division Act.

**B.** Any person or entity aggrieved by the decision of the assessor and zoning administrator or designee(s) may, within 30 days of said decision appeal the decision to the township board of the municipality or such other board or person designated by the governing body which shall consider and resolve such appeal by a majority vote of said Board or by the designee at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.

**C.** A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such period a document is recorded with the County Register of Deeds office and filed with the municipal clerk or other designated official accomplishing the approved land division or transfer.

**D.** The township assessor and township zoning administrator or designee(s) shall maintain an official record of all approved and accomplished land divisions or transfers.



**SECTION VII****STANDARDS FOR APPROVAL OF LAND DIVISIONS**

A proposed land division shall be approved if the following criteria are met:

**A.** All the parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of the applicable zoning ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures.

**B.** The proposed land division(s) comply with all requirements of the State Land Division Act and this Ordinance.

**C.** All parcels created and remaining have existing adequate accessibility, or an area available therefor, to a public road for public utilities and emergency and other vehicles not less than the requirements of the applicable zoning ordinance, major thoroughfare plan, road ordinance or this Ordinance. In determining adequacy of accessibility, any ordinance standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create 4 or more parcels.

**D.** The ratio of depth to width of any parcel created by the division does not exceed a three to one ratio exclusive of access roads, easements, or non-buildable parcels created under Section VIII of this Ordinance and parcels added to contiguous parcels that result in all involved parcels complying with said ratio.

The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right of way to the most remote boundary line point of the parcel from the point of commencement of the measurement.

The permissible minimum width shall be as defined in the applicable zoning ordinance, or, in the absence thereof, as specified in subparagraph E(1) and (2) of this Ordinance.

**E.** In the absence of applicable zoning or other ordinances providing a different standard, all parcels created by a land division shall comply with the following minimum standards:

**(1)** A minimum road frontage of 100 feet on a public road or municipally approved private road.

**(2)** A minimum width throughout the entire parcel of 100 feet as measured on a line parallel to the abutting road right of way and/or lake frontage.



(3) A minimum lot (parcel) area of 20,000 Square feet.

**F.** In the absence of applicable zoning or other ordinances providing a different standard, all parcels created by a land division shall comply with the following minimum standards:

(1) Where accessibility is to be provided by a proposed new dedicated public road, proof that the county road commission or Michigan Department of Transportation has approved the proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith.

(2) Where accessibility by vehicle traffic and for utilities is permitted through other than a dedicated and accepted public road or easement, such accessibility shall comply with the following:

(a) Where such private road or easement extends for more than 660 feet from a dedicated public road, or is serving or intended to serve more than one separate parcel, unit or ownership, it shall be not less than 66 feet in right of way width, 24 feet in improved roadbed width with at least three feet of improved shoulder width on each side and adequate drainage ditches and necessary culverts on both sides to accumulate and contain surface waters from the road area. It shall further be improved with not less than six inches of a processed and stabilized gravel base over six inches of granular soil, have a grade of not more than seven percent, and if dead-ended, shall have a cul-de-sac with a radius of not less than 50 feet of improved roadbed for the accommodation of emergency, commercial and other vehicles.

(b) Where the private road or easement is 660 feet or less in length, and is serving or intended to serve not more than four separate parcels, units or ownerships, it shall not be less than 40 feet in right of way width, 20 feet in improved roadbed width with at least two feet of improved shoulder width on each side, and adequate drainage ditches on both sides with necessary culverts to accommodate and contain surface waters from the road area. It shall further be improved with processed and stabilized gravel and granular soil, have a grade of not more than seven percent, and a cul-de-sac where dead-ended as specified in subparagraph (5)(a) above. If said private road or easement is serving or intended to serve more than four separate parcels, units or ownerships, the right of way and development standards set forth in (5)(a) above shall apply.

(c) If accessibility is by a private road or easement, a document acceptable to the municipality shall be recorded with the County Register of Deeds and filed with the assessor or designee specifying the method of private financing of all maintenance, improvements, and snow removal, the apportionment

of these costs among those benefitted, and the right of the municipality to assess such costs against those properties benefitted, plus a 25 percent administrative fee, and to perform such improvements in the event of a failure of those benefitted to privately perform these duties for the health, safety and general welfare of the area.

(d) Any intersection between private and public roads shall contain a clear vision triangular area of not less than two feet along each right of way line as measured from the intersecting right of way lines.

(e) No private road or easement shall extend for more than 1,000 feet from a public road.

(f) No private road shall serve more than 25 separate parcels.

## SECTION VIII

### ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS

Notwithstanding disqualification from approval pursuant to this ordinance, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the applicable zoning ordinance or this Ordinance may be approved in any of the following circumstances:

**A.** Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to the municipality, designating the parcel as "not buildable". Any such parcel shall also be designated as "not buildable" in the municipal records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceeding four feet in height.

**B.** Where, in circumstances not covered by paragraph A above, the Zoning Board of Appeals has, previous to this Ordinance, granted a variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.

**C.** Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this Ordinance, any applicable zoning ordinance, or the State Land Division Act

**SECTION IX****CONSEQUENCES OF NONCOMPLIANCE WITH  
LAND DIVISION APPROVAL REQUIREMENT**

Any parcel created in noncompliance with this ordinance shall not be eligible for any building permits, or zoning approvals, such as special land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this ordinance shall subject the violator to the penalties and enforcement actions set forth in Section X of this ordinance, and as may otherwise be provided by law.

**SECTION X****PENALTIES AND ENFORCEMENT**

Any person who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the county jail not to exceed 90 days or by both such fine and imprisonment.

Any person who violates any of the provisions of this ordinance shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

**SECTION XI  
SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this ordinance other than said part of portion thereof.

**SECTION XII****REPEAL**

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Municipality Zoning Ordinance, the Municipality Subdivision Control Ordinance, or the Municipality Building Code.

**SECTION XIII**

**EFFECTIVE DATE**

This ordinance shall take effect 30 days following its publication after adoption.

**TOWNSHIP OF WHITEWATER**

**Sandra Beckwith, Clerk**  
May 20, 1997



2055  
Whitewater Sup

# AFFIDAVIT OF PUBLICATION

STATE OF MICHIGAN  
County of Grand Traverse } SS.

*M.C. Dore*

## SUMMARY OF ORDINANCE NO. 26 WHITEWATER TOWNSHIP LAND DIVISION ORDINANCE

ADOPTED: May 20, 1997  
EFFECTIVE: Thirty days  
after publication

AN ORDINANCE to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended, and Act 246 of 1945, as amended, being the Township General Ordinance statute; to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this ordinance.

A summary/synopsis of the Ordinance follows:

### SECTION I. TITLE

This ordinance shall be known and cited as the Whitewater Township Land Division Ordinance.

### SECTION II. PURPOSE

The purpose of this ordinance is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the municipality by establishing reasonable stan-

dards for prior review and approval of land divisions within the municipality.

### SECTION III. DEFINITIONS

Defines the following words and/or terms used in the ordinance:

- A. "Applicant"
- B. "Divided" or "Division"
- C. "Exempt split" or "exempt division"
- D. "Forty acres or the equivalent"
- E. "Governing body"

### SECTION IV. PRIOR APPROVAL REQUIREMENTS FOR LAND DIVISIONS

Provides that land in the municipality shall not be divided without the prior review and approval of the township assessor and township zoning administrator, or other official(s) designated by the governing body, in accordance with this ordinance and the State Land Division Act; with the exemptions as listed in A-C of this section.

### SECTION V. APPLICATION FOR LAND DIVISION APPROVAL

Provides that an applicant shall file all of the following with the municipal Clerk or other official designated by the governing body for review and approval of a proposed land division before making any division:

- A. A completed application form.
- B. Proof of fee ownership.
- C. A survey map.
- D. Proof that all standards of the State Land Division Act and this Ordinance have been met.
- E. The history and specifi-

cations of any previous divisions of land of which the proposed division was a part.

F. Proof that all due and payable taxes or installments of special assessments are paid in full.

G. If transfer of division rights are proposed in the land transfer, detailed information about the terms.

H. Proof of sufficient "buildable" area unless parcel is acknowledged to be "not buildable" under Section VIII.

I. The fee as may from time to time be established by resolution of the governing body of the municipality.

### SECTION VI. PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

A. Upon receipt of the application, the municipal clerk shall submit the same to the township assessor and township zoning administrator or other designated official(s) for decision.

B. Any person or entity aggrieved by the decision of the assessor and zoning administrator or designee(s) may, within 30 days of said decision appeal the decision to the township board of municipality or such other board or person designated by the governing body.

C. A decision approving a land division is effective for 90 days.

D. The township assessor and township zoning administrator or designee(s) shall maintain an official record.

### SECTION VII. STANDARDS FOR APPROVAL OF LAND

### DIVISIONS

A proposed land division shall be approved if the following criteria are met:

A. All the parcels to be created by the proposed land division(s) fully comply with the applicable lot, yard and area requirements of the applicable zoning ordinance.

B. The proposed land division(s) comply with all requirements of the State Land Division Act and this Ordinance.

C. All parcels created and remaining have existing adequate accessibility.

D. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio.

E. In the absence of applicable zoning, all parcels created by a land division shall comply with the following minimum standards.

(1) A minimum road frontage of 100 feet on a public road or municipally approved private road.

(2) A minimum width throughout the entire parcel of 100 feet.

(3) A minimum lot (parcel) area of 25,000 square feet.

F. In the absence of applicable zoning, all parcels created by a land division shall comply with minimum standards regarding accessibility and for utilities as listed in Sections (a) - (f) herein.

### SECTION VIII. ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS.

A proposed land division which does not fully comply with the applicable lot, yard,

accessibility and area requirements of the applicable zoning ordinance or this Ordinance may be approved in any of the circumstances listed in Sections A-C herein.

### SECTION IX. CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT.

Any parcel created in non-compliance with this ordinance shall not be eligible for any building permits, or zoning approvals, such as special land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this ordinance shall subject the violator to the penalties and enforcement actions set forth in Section X of this ordinance, and as may otherwise be provided by law.

### SECTION X. PENALTIES AND ENFORCEMENT

In addition to any other penalties as provided by the ordinance, this section provides for criminal sanctions of fines and/or imprisonment for violations and also provides for civil actions seeking invalidation of the land division and appropriate injunctive or other relief.

### SECTION XI. SEVERABILITY

Provides for severability of portions of this ordinance and for the continuing validity of the remaining sections.

### SECTION XII. REPEAL

Provides that the land division ordinance shall control over any other conflicting or inconsistent ordinances or provisions thereof.

### SECTION XIII. EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days after publication.

The publication of the summary/synopsis of the Ordinance is intended to meet the requirements for publication as provided by law. No further publication is required or contemplated. This summary/synopsis is not exhaustive of all provisions and requirements of the Ordinance. A true and complete copy of the Ordinance can be inspected or obtained at the office of the Clerk, 5777 Vinton, P.O. Box 159, Williamsburg, MI 49690.

WHITEWATER TOWNSHIP  
Dated: May 20, 1997  
Sandra Beckwith  
Whitewater Township Clerk  
May 26, 1997 - 1T

E. DOLORES BIKEY  
Notary Public, Gr. Traverse County, MI  
My Commission Expires Dec. 14, 2000



2055  
Whitewater Sup

# AFFIDAVIT OF PUBLICATION

STATE OF MICHIGAN }  
County of Grand Traverse } SS.

*M.C. Dow*

being duly sworn

## SUMMARY OF ORDINANCE NO. 26 WHITWATER TOWNSHIP LAND DIVISION ORDINANCE

ADOPTED: May 20, 1997  
EFFECTIVE: Thirty days  
after publication

AN ORDINANCE to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended, and Act 246 of 1945, as amended, being the Township General Ordinance statute; to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this ordinance.

A summary/synopsis of the Ordinance follows:

### SECTION I. TITLE

This ordinance shall be known and cited as the Whitewater Township Land Division Ordinance.

### SECTION II. PURPOSE

The purpose of this ordinance is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the municipality by establishing reasonable standards for prior review

approval of land division within the municipality.

SECTION III. DEFINITION  
Defines the following words and/or terms used in this ordinance:

- A. "Applicant"
- B. "Divided" or "Division"
- C. "Exempt split" or "empty division"
- D. "Forty acres or equivalent"
- E. "Governing body"

### SECTION IV. PRIOR REVIEW REQUIREMENTS FOR LAND DIVISIONS

Provides that land in municipality shall not be divided without the prior review and approval of the town assessor and township administrator, or other official(s) designated by governing body, in accordance with this ordinance and State Land Division Act; the exemptions as listed in C of this section.

### SECTION V. APPLICATION FOR LAND DIVISION PROVAL

Provides that an applicant shall file all of the following with the municipal Clerk or other official designated by the governing body for review and approval of a proposed land division before making any division:

- A. A completed application form.
- B. Proof of fee ownership.
- C. A survey map.
- D. Proof that all standards of the State Land Division Act and this Ordinance have been met.
- E. The history and specifications

### BOX NUMBERS AT RECORD-EAGLE

By observing the following suggestions, your reply to a Record-Eagle Box number will have the chance of best results for you.

Record-Eagle BOX NUMBERS will either be a single letter (eg., Box A) or a letter and number (eg., Box R-3). Be sure the WHOLE BOX NUMBER is in the address when sending it to the Record-Eagle. Example: Record-Eagle Box X-9 P.O. Box 632 Traverse City, MI 49685-0632

Replies can be made to a Record-Eagle Box for 2 WEEKS AFTER THE AD FINISHES RUNNING. For best outcome, EARLY REPLIES are to your advantage.

If the ad does NOT state "RECORD-EAGLE" in it, mail to the address listed, NOT to the Record-Eagle.

NOTE: No information other than what is printed in the advertisement will be given out to the public. This includes the name of the company or person who placed the ad, their address, phone number, etc.\*

ACCOUNTANT AND COMPUTER PERSON For small Traverse City Accounting and tax firm. Minimum: 2 years college accounting and 2 years job experience. Tax season, full time; balance of year 4 days. Mail resume to: G. Jackowski 3229 Logan Valley Rd., Traverse City, MI 49686.

ADMINISTRATIVE ASSISTANT. Great phone and office required. 25 hours/week. Send resume to Eagle, Box K-7, Traverse City MI

### ADMINISTRATIVE



T.C. GOLF & COUNTRY Club outgoing, service individual to fill position. Duties: phone, reservation member services, plus word processing some clerical work of expanded position. Mktg/Advertising programs. Possible round employment and for part time what we're all about person 1725 S. U

ADULT CARE the mentally live-in staff position Salary & insurance

ADULT CARE Group home for adult DD, full time Paid training, including paid 947-4733.

EOE Drug Free ADULT CARE IN HOME SUPERVISOR

says the annexed printed copy of \_\_\_\_\_  
taken from the Traverse City RECORD-  
newspaper printed and circulated in  
Grand County, and that said notice was  
said newspaper on the following

*26, 1997*

\_\_\_\_\_ is the agent of the printers of said  
and knows well the facts stated

\_\_\_\_\_ and sworn to before me

\_\_\_\_\_ day of *May* 19 *97*

\_\_\_\_\_ in and for Grand Traverse County.

Expires \_\_\_\_\_ 19 \_\_\_\_\_

E. DOLORES EIKY

Notary Public, Gr. Traverse County, MI  
My Commission Expires Nov. 14, 2002

## WHITEWATER TOWNSHIP ORDINANCE CERTIFICATE

State of Michigan                    )  
Township of Whitewater        )       §  
County of Grand Traverse        )

I, the undersigned, being the duly elected and qualified clerk of the Township of Whitewater, do hereby certify that the attached Amendment No. 1 to Ordinance No. 26 of the Whitewater Township Ordinances is a true and complete copy as adopted by the Whitewater Township Board at a regular meeting of the said Township Board held on July 19, 2005.

I do further certify that a true and complete copy of Amendment No. 1 to Ordinance No.26 was published on November 11, 2005 in the Traverse City Record Eagle, a newspaper of general circulation in Whitewater Township, and that Amendment No. 1 to Ordinance No.26 becomes effective thirty (30) days after the date of publication.

I do further certify that the members of the Township Board voted upon Amendment No. 1 to Ordinance No. 26 by the following vote:

For the Amendment: Hubbell, Lake, Amos, Couturier, Hockin.

Against the Amendment: None.

Absent: None.

I further certify that Amendment No. 1 to Ordinance No.26 was duly filed in the Whitewater Township Book of Ordinances within one week after publication thereof.

In witness whereof, I have hereunto set my hand this November 18, 2005.

Carol Hockin  
Carol Hockin  
Whitewater Township Clerk

Whitewater Township

Amendment No. 1 to Ordinance No. 26

Whitewater Township Land Division Ordinance

Public notice is hereby given that Amendment No. 1 to Ordinance No. 26 was adopted by the Whitewater Township Board at a regular meeting held on July 19, 2005.

Amend Section V, C to read: may waive the 45 day

Amend Section VII, Standards for Approval of Land Divisions, D, paragraph 3, to read as follows:

D. The permissible minimum lot (parcel) width shall be defined in the Whitewater Township Zoning Ordinance.

E. Delete Section VII, Standards for Approval of Land Divisions, E, in its entirety.

F. Delete Section VII, Standards for Approval of Land Divisions, F, in its entirety.

Amendment No. 1 to Ordinance No. 26 shall become effective 30 days after the date of publication.

Carol Hockin

Whitewater Township Clerk

PO Box 159

Williamsburg MI 49690

(231) 267-5141

November 11 - 1 T



## **Whitewater Township**

### **Amendment No. 1 to Ordinance No. 26 Whitewater Township Land Division Ordinance**

Public notice is hereby given that Amendment No. 1 to Ordinance No. 26 was adopted by the Whitewater Township Board at a regular meeting held on July 19, 2005.

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E. Delete Section VII, Standards for Approval of Land Divisions, E, in its entirety.

F. Delete Section VII, Standards for Approval of Land Divisions, F, in its entirety.

Amendment No. 1 to Ordinance No. 26 shall become effective 30 days after the date of publication.

Carol Hockin

Whitewater Township Clerk

PO Box 159

Williamsburg MI 49690

(231) 267-5141

November 11 – 1 T

To: Whitewater Township Board

From: Rob Larrea Planning/Zoning

Date: July 12, 2005

RE: Whitewater Township Land Division Ordinance no.26 amendment proposal

Over the past few months I have been reviewing all of our ordinances as they pertain to my office. As time goes by all ordinances need updating, after reviewing the Land Division Ordinance no.26 I feel it needs to be amended.

The areas listed below tend to cause confusion and in some cases contradict our Zoning Ordinance. Section D, E & F. state ... "in the absence of applicable zoning..." For this reason the standards should be removed, as they are addressed in the zoning ordinance.

1. To Amend Section V, C to change the following:  
.....may waive the 45 day
2. To Amend Section VII, Standards for Approval of Land Divisions, D, paragraph 3, to read as follows:  
D. The permissible minimum lot (parcel) width shall be as defined in the Whitewater Township Zoning Ordinance.
3. To Amend Section VII, Standards for Approval of Land Divisions, E in its entirety.
4. To Amend Section VII, Standards for Approval of Land Divisions, F in its entirety.

**Comment [ZWT1]:** The 30 day was changed to 45 days in the statute several years ago, thus should be updated

**Comment [ZWT2]:** This section should be eliminated due to the fact that we have a zoning ordinance.

**Comment [ZWT3]:** This section should be eliminated due to the fact that we have private road standards and these County standards violate the road plan adopted by the township board.

2055  
Whitewater Twp.

# AFFIDAVIT OF PUBLICATION

STATE OF MICHIGAN  
County of Grand Traverse

WHITEWATER TOWNSHIP  
Amendment No. 1 to  
Ordinance No. 26  
Whitewater Township Land  
Division Ordinance  
Public notice is hereby giv-  
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Township Board at a regu-  
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Amendment No. 1 to Ordi-  
nance No. 26 shall become  
effective 30 days after the  
date of publication.  
Carol Hockin  
Whitewater Township Clerk  
PO Box 159  
Williamsburg MI 49690  
(231) 267-5141  
November 11, 2005-1T

Michael C. Nau being duly sworn deposes and  
says the annexed printed copy of notice was  
taken from the Traverse City RECORD-EAGLE,  
a newspaper printed and circulated in said  
State and County, and that said notice was  
published in said newspaper on the following  
dates:

Nov 11, 2005

that he or she is the agent of the printers of said  
newspaper, and knows well the facts stated  
herein

Subscribed and sworn to before

this 15th day of Nov 20 05

E. Dolores Eikey

E. Dolores Eikey  
Notary Public, State of MI  
County of Grand Traverse

My Commission Expires September 14, 2011  
Acting in County of Grand Traverse

## WHITEWATER TOWNSHIP ORDINANCE CERTIFICATE

State of Michigan                    )  
Township of Whitewater        )       §  
County of Grand Traverse       )

I, the undersigned, being the duly elected and qualified clerk of the Township of Whitewater, do hereby certify that the attached Amendment No. 2 to Ordinance No. 26 of the Whitewater Township Ordinances is a true and complete copy as adopted by the Whitewater Township Board at a regular meeting of the said Township Board held on December 16, 2008.

I do further certify that a true and complete copy of Amendment No. 2 to Ordinance No. 26 was published on December 27, 2008 in the Traverse City Record Eagle, a newspaper of general circulation in Whitewater Township, and that Amendment No. 2 to Ordinance No. 26 becomes effective thirty (30) days after the date of publication.

I do further certify that the members of the Township Board voted upon Ordinance No. 43 by the following vote:


For the Ordinance:       Hockin, Hubbell, Lake, Benak, Boyd

Against the Ordinance: None

Absent:                       None.

I further certify that Amendment No. 2 to Ordinance No. 26 was duly filed in the Whitewater Township Book of Ordinances within one week after publication thereof.

In witness whereof, I have hereunto set my hand this December 30, 2008.



---

Carol Hockin  
Whitewater Township Clerk

WHITEWATER TOWNSHIP  
AMENDMENT NO 2 TO ORDINANCE NO 26  
WHITEWATER TOWNSHIP LAND DIVISION ORDINANCE

Public Notice is hereby given that Amendment No. 2 to Ordinance No 26, Whitewater Township Land Division Ordinance was adopted by the Whitewater Township Board at a regular meeting held on December 16, 2008.

The amendment makes the following changes:

Change: community to Township

Section II

Change: Municipality, Municipal to Township

Section II

Section IV

Section V

Section VI

Section VIII

Section XII

Change:

Section III, E

the legislative body of a township board of a township (Township Board) to

The Whitewater Township Board

Delete: of the municipality

Section V, C, I

Section VI

Change: 30 to 45

Section VI, A

Change: Township Board to Governing Body

Section VI, B

Change: three to four

Section VII, D

Add:

Section VII, D

The Governing Body or other board or person designated by the Governing Body may approve a land division that creates a resulting parcel with a depth to width ratio greater than four to one if the applicant demonstrates that there are exceptional topographic or physical conditions with respect to the parcel and that the greater ratio would be reasonably compatible with the surrounding lands.

Delete: previous to this ordinance

Section VIII, B

Change:

Section XII

or the Municipality Building Code to Grand Traverse County Building Code

Amendment No. 2 to Ordinance No. 26 shall become effective thirty days after publication.

Whitewater Township  
2055

## AFFIDAVIT OF PUBLICATION

STATE OF MICHIGAN  
County of Grand Traverse

**LEGAL NOTICE**  
**WHITEWATER TOWNSHIP**  
**PUBLIC NOTICE**

**AMENDMENT NO 2 TO ORDINANCE NO 26**  
**WHITEWATER TOWNSHIP LAND DIVISION ORDINANCE**

Public Notice is hereby given that Amendment No. 2 to Ordinance No 26, Whitewater Township Land Division Ordinance was adopted by the Whitewater Township Board at a regular meeting held on December 16, 2008.

The amendment makes the following changes:

Change: community to Township, Section II

Change: Municipality, Municipal to Township, Section II, Section IV, Section V, Section VI, Section VIII, Section XII

Change: Section III, E. the legislative body of a township board of a township (Township Board) to The Whitewater Township Board

Delete: of the municipality Section V, C, I, Section VI

Change: 30 to 45, Section VI, A

Change: Township Board to Governing Body, Section VI, B

Change: three to four, Section VII, D

Add: Section VII, D

The Governing Body or other board or person designated by the Governing Body may approve a land division that creates a resulting parcel with a depth to width ratio greater than four to one if the applicant demonstrates that there are exceptional topographic or physical conditions with respect to the parcel and that the greater ratio would be reasonably compatible with the surrounding lands.

Delete: previous to this ordinance, Section VIII, B

Change: Section XII

or the Municipality Building Code to Grand Traverse County Building Code

Amendment No. 2 to Ordinance No. 26 shall become effective thirty days after publication.

Carol Hockin

Whitewater Township Clerk

P O Box 159

Williamsburg, MI 49690

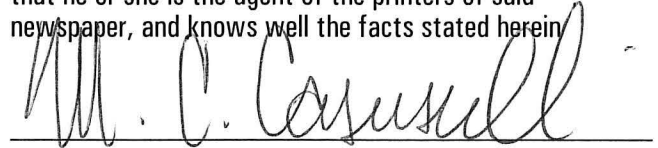
(231) 267-5141

December 27, 2008-1T

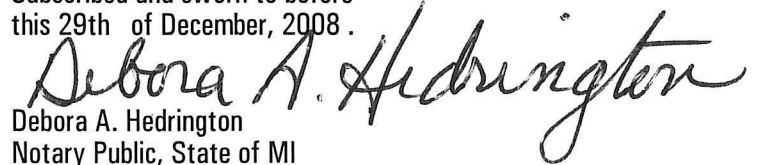
Mike Casuscelli being duly sworn deposes and says the annexed printed copy of notice was taken from the Traverse City RECORD EAGLE, a newspaper printed and circulated in said State and County, and that said notice was published in said newspaper on the following dates:

12/27/2008

that he or she is the agent of the printers of said newspaper, and knows well the facts stated herein



Subscribed and sworn to before  
this 29th of December, 2008.



Debora A. Hedrington

Notary Public, State of MI

County of Grand Traverse

My Commission Expires November 22, 2012

Acting in County of Grand Traverse

## WHITEWATER TOWNSHIP ORDINANCE CERTIFICATE

State of Michigan                    )  
Township of Whitewater        )       §  
County of Grand Traverse       )

I, the undersigned, being the duly elected and qualified clerk of the Township of Whitewater, do hereby certify that the attached Amendment 3 to Ordinance No. 26 of the Whitewater Township Ordinances is a true and complete copy as adopted by the Whitewater Township Board at a regular meeting of the said Township Board held on February 8, 2011

I do further certify that a summary of Amendment 3 to Ordinance No. 26 was published on February 17, 2011 in the Traverse City Record Eagle, a newspaper of general circulation in Whitewater Township, and that Amendment No. 3 Ordinance No. 26 becomes effective thirty (30) days after the date of publication.

I do further certify that the members of the Township Board voted upon Amendment No.3 Ordinance No. 26 by the following vote:


For the Ordinance:               Hubbell, Lake, Benak, Boyd, Hockin

Against the Ordinance: None

Absent:                               None

I further certify that Amendment No. 3 to Ordinance No. 26 was duly filed in the Whitewater Township Book of Ordinances within one week after publication thereof.

In witness whereof, I have hereunto set my hand this 18th day of February, 2011.

  
\_\_\_\_\_  
Carol Hockin  
Whitewater Township Clerk



WHITEWATER TOWNSHIP  
PUBLIC NOTICE  
AMENDMENT NO 3 to ORDINANCE NO 26  
WHITEWATER TOWNSHIP LAND DIVISION ORDINANCE

Public Notice is hereby given that Amendment No. 3 to Ordinance No. 26, Whitewater Township Land Division Ordinance was adopted by the Whitewater Township Board at a regular meeting held on February 8, 2011. The amendment makes the following changes:

Section VII D, changes VIII to IX; adds Section VIII, Variances; changes Section VIII to IX; changes Section IX to X; changes Section X to XI; changes Section XI to XII; changes Section XII to Section XII; changes Section XII to XIII; changes Section XII to XIV. Amendment No. 2 to Ordinance 26 shall become effective thirty days after publication.

Carol Hockin

Whitewater Township Clerk

P O Box 159

Williamsburg, MI 49690

231 267-5141 Ext 24

February 17 – 1 t



2055  
Whitewater Twp. - Clerk

## AFFIDAVIT OF PUBLICATION

LEGAL NOTICE  
WHITEWATER TOWNSHIP  
PUBLIC NOTICE  
AMENDMENT NO 3 to ORDINANCE NO 26  
WHITEWATER TOWNSHIP LAND DIVISION ORDINANCE

Public Notice is hereby given that Amendment No. 3 to Ordinance No. 26, Whitewater Township Land Division Ordinance was adopted by the Whitewater Township Board at a regular meeting held on February 8, 2011. The amendment makes the following changes:

Section VII D, changes VIII to IX; adds Section VIII, Variances; changes Section VIII to IX; changes Section IX to X; changes Section X to XI; changes Section XI to XII; changes Section XII to Section XII; changes Section XII to XIII; changes Section XII to XIV. Amendment No. 2 to Ordinance 26 shall become effective thirty days after publication.

Carol Hockin  
Whitewater Township Clerk  
P O Box 159  
Williamsburg, MI 49690  
231 267-5141 Ext 24

February 17, 2011-1T

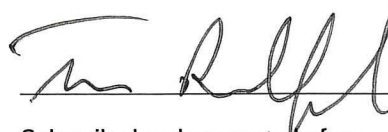
246536

STATE OF MICHIGAN  
County of Grand Traverse

Tom Rochford being duly sworn deposes and says the annexed printed copy of notice was taken from the Traverse City RECORD EAGLE, a newspaper printed and circulated in said State and County, and that said notice was published in said newspaper on the following dates:

02/17/2011

that he or she is the agent of the printers of said newspaper, and knows well the facts stated herein



Subscribed and sworn to before  
this 17th of February, 2011.



Dennis Thayer  
Notary Public, State of MI  
County of Grand Traverse  
My Commission Expires October 8, 2016  
Acting in County of Grand Traverse

Name:

Yes No NA

**4. Municipal Land Division Ordinance Review:** \_\_\_\_\_ (municipality; effective date)

- \_\_\_\_ A. Is a municipal Land Division Ordinance applicable? \_\_\_\_\_  
\_\_\_\_ B. Complies with minimum parcel size of: \_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_ C. Complies with minimum parcel width of: \_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_ D. Complies with minimum depth-to-width ratio (if less than 10 acres) of: \_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_ E. Definition of "accessible" is applicable: \_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_ F. Definition of "width" is applicable: \_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_ G. Complies with maximum road length requirements: \_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_ H. Complies with other applicable provisions of: \_\_\_\_\_ \$ \_\_\_\_\_

**5. Ordinance Requirements for Dividing Residential Lots in a Platted Subdivision:** \_\_\_\_\_ (name of plat)

- \_\_\_\_ A. A municipal ordinance provides for division of existing lots (§263). \_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_ B. Proposed new lot complies with width dimension requirements: \_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_ C. Proposed new lot complies with depth dimension requirements: \_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_ D. Depth of a proposed new lot complies with depth-to-width: \_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_ E. Proposed new lot (or lots creating a single new parcel) at a corner have extra width, for building setback and clear site distance at a corner: \_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_ F. There is **no** record (deed restrictions, covenants, plat review minutes) or known factors that resulted in requiring the original lot to contain a greater than usual area in the initial creation of the subdivision: \_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_ G. Proposed new lot has a public water and/or a public sewer system available and accessible, or the proposed new lot consists of not less than 7,200 sq. ft. and the ground water supply on the lot meets or exceeds water supply rules of the state (MI Administrative Code R560.401-560.428).

**6. State Statute Division Review:**

- \_\_\_\_ A. Property owner, applicant, agent information provided (§109(1)).  
\_\_\_\_ B. Proposed division(s) complies with §108 of the statute (see Part 2 above).  
\_\_\_\_ C. Each proposed parcel, 10 acres or smaller, does not exceed a depth of 4 to a width of 1, (or a depth-to-width required by municipal ordinance) (§109(1)(b)).  
\_\_\_\_ D. Easements are adequate for public utilities from each new division to existing public utility facilities (§109(1)(g)).  
\_\_\_\_ E. Each proposed division has an area not less than required by the municipal land division ordinance OR zoning ordinance (§109(1)(d)) [as checked in Parts 3, 4 and 5 above].  
\_\_\_\_ F. Each proposed division has a minimum width not less than required by the municipal land division ordinance OR zoning ordinance (§109(1)(c)) [as checked in numbers 3, 4 and 5, above].  
\_\_\_\_ G. The County Road Commission, MDOT, or respective village/city street administrator, has approved each proposed new road, easement or shared driveway (§109(1)(e)).  
\_\_\_\_ H. Proposed new road or easement is "accessible" (§109(1)(e)) OR a copy of the proposed deed(s) for any parcel that is 20 or more acres in size and is not accessible includes the following statement: "This parcel is not accessible as defined in the Land Division Act, 1967 PA 288, MCL 560.101 to 560.293." (§109b(2)).  
\_\_\_\_ I. The division does not land-lock or prevent access to a cemetery (§109(1)(h)).  
\_\_\_\_ J. Proof that all due and payable taxes and special assessments have been paid (§109(1)(i)).  
\_\_\_\_ K. Proposed legal description(s) for each new division(s) is(are) adequate (§109(1)(a)).  
\_\_\_\_ L. A copy of the proposed deed(s) includes the following statement: "This property may be located within the vicinity of farm land 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." (§109(4)).  
\_\_\_\_ M. A copy of the proposed deed(s) includes a statement that substantially reads: "The grantor grants to the grantee the right to make [insert "zero", a number, or "all"] division(s) under section 108 of the Land Division Act, 1967 PA 288, MCL 560.108." OR the right to make further divisions stays with the parent parcel. (§109(3))  
\_\_\_\_ N. The notice of approval of a proposed division resulting in a parcel of less than 1 acre in size includes a statement to the effect: "In approving a proposed division resulting in a parcel less than 1 acre in size, \_\_\_\_\_ [unit of government] and its officers and employees are not liable if a building permit is not issued for the parcel for the reasons set forth in MCL 560.109a." (§109a(2))  
\_\_\_\_ O. Future division rights have been transferred to (§109(3)): \_\_\_\_\_

**7. Conclusion**

- \_\_\_\_ A. Are any of the above marked "NO"? A letter of denial giving reason has been sent.  
\_\_\_\_ B. Approved. Conditions (per local ordinance standards): \_\_\_\_\_

(Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.)

Date: \_\_\_\_\_; Time: \_\_ \_\_ : \_\_ \_\_ am/pm; Reviewer's Initials: \_\_\_\_\_



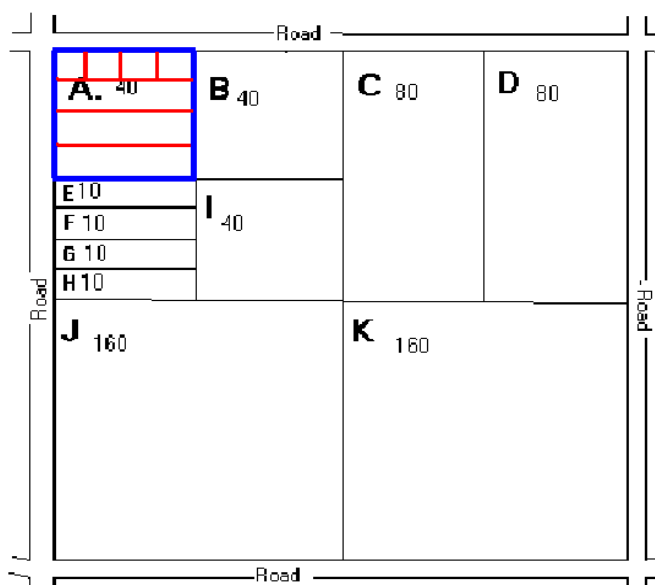
## Land Division Act basics for landowners

**Current and prospective owners of land in Michigan will benefit from understanding some basics of the Land Division Act.**

March 24, 2020 | Brad Neumann, Michigan State University Extension

As the name suggests, the [Land Division Act](#), MCL 560.101 *et seq.* (formerly known as the Subdivision Control Act), regulates the separation of land into two or more small parcels as well as sets standards for creating subdivision lots. The statute includes numerous details – the most significant of which will be highlighted here. This article is not a substitute for reading and understanding the entirety of the statute, but rather to inform landowners of the basics.

[Michigan State University Extension](#) states that the first thing a landowner should know about the Land Division Act is that any division of land that will result in one or more of the parcels being less than 40 acres (or the equivalent) is subject to local government review. Only after that review can the owner market, sell or record the property with the county Register of Deeds. The review is at the township, village or city (and sometimes county) level. A local official, not a committee or board, is assigned the responsibility to approve or deny proposed land divisions. Most often, it is the local government tax assessor or the zoning administrator.



A 640 acre section of land showing proposed divisions of the northwest quarter of the northwest quarter (parent parcel A).

The second thing landowners should know is that the number of allowable divisions depends on the size of the 'parent parcel.' The 'parent parcel' is whatever the shape and size of the parcel was as of March 31, 1997. If, on that date, there were two or more adjacent parcels under identical ownership, then the entire land area under common ownership is considered the parent tract. In addition, land held under land contract, or land professionally surveyed and actively marketed for sale, but not recorded with the Register of Deeds as of March 31, 1997, would be considered the parent parcel. Again, the Land Division Act prescribes the number of allowable divisions based on the size of the parent parcel. For example, a 40-49.9 acre parent parcel is allowed 7 divisions; a 30-39.9 acre parent parcel is allowed 6 divisions; and a 20-29.9 acre parent parcel is allowed 5 divisions.

If the parent parcel has already been divided, a landowner might wish to determine if additional divisions can be made. One would need to determine:

- The total number of divisions allowed for the parent parcel
- Minus the number of divisions that have already been approved by the local government (even if not yet sold)
- Minus the number of divisions transferred to a resulting parcel (i.e. the number of divisions the original owner transferred to buyers of any already sold divisions)

The resulting sum is the number of divisions allowed for the remainder of the parent parcel. A landowner should explore his/her property's deed or chain of title and consult with the local assessor to confirm the number of divisions that are available, if any. If divisions are available, has sufficient time passed in order to begin exercising the division rights (i.e. 10 years since being recorded)? If no divisions are available, because all have already



been made, or because no divisions were assigned from the parent parcel, or insufficient time has passed (i.e. at least 10 years since being recorded), the parcel cannot be further divided unless 10 years have elapsed since the parcel was recorded with the county Register of Deeds. After that time, the division can be split further (referred to as re-divisions). The total number of re-divisions allowed within a division (parcel) is based on another sliding scale related to the size of the division.

The local unit of government where the parcel is located should have a detailed application form for reviewing land division requests. An application form is needed to determine the number of divisions and re-divisions allowed. This also helps maintain detailed property records. The form requires property information and history so that the land division official conducting the review can ensure that the resulting divisions or re-divisions will (from MCL 560.109):

- Have an adequate and accurate legal description;
- Not be narrower than 4:1 (parcel depth to width ratio for parcels less than 10 acres);
- Meet the minimum parcel width required in the zoning ordinance, if applicable;
- Meet the minimum parcel size required in the zoning ordinance, if applicable;
- Be accessible by a public road, private road, easement or other similar means (as required by the local land division or zoning ordinance);
- Not exceed the maximum number of divisions for the parent parcel, or the number of re-divisions for the division;
- Have adequate easements for public utilities from the parcel to existing public utility facilities;
- Not result in land-locking a cemetery; and
- Not have any unpaid property taxes and/or special assessments due for the last five years.

Based solely on the Land Division Act, the local government review of divisions and re-divisions is for the above nine things. In a local government jurisdiction with zoning and/or a separate local land division ordinance, proposed land divisions must also satisfy the standards of those local ordinances. Again, any division can be re-divided after the passage of 10 years.

From many years of experience responding to Land Division Act questions, [Michigan State University Extension land use educators](#) have found that not all local units of government follow a thorough procedure and do the necessary research to verify whether divisions or re-divisions are allowed. It is in a landowner's best interest to complete a detailed application to facilitate having clear title to one's land and avoid legal battles after the fact. If interested in dividing your land, contact your local unit of government at the number provided on your tax bill or local government website.

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## LAND DIVISION ACT

### Act 288 of 1967

AN ACT to regulate the division of land; to promote the public health, safety, and general welfare; to further the orderly layout and use of land; to require that the land be suitable for building sites and public improvements and that there be adequate drainage of the land; to provide for proper ingress and egress to lots and parcels; to promote proper surveying and monumenting of land subdivided and conveyed by accurate legal descriptions; to provide for the approvals to be obtained prior to the recording and filing of plats and other land divisions; to provide for the establishment of special assessment districts and for the imposition of special assessments to defray the cost of the operation and maintenance of retention basins for land within a final plat; to establish the procedure for vacating, correcting, and revising plats; to control residential building development within floodplain areas; to provide for reserving easements for utilities in vacated streets and alleys; to provide for the filing of amended plats; to provide for the making of assessors plats; to provide penalties for the violation of the provisions of this act; to repeal certain parts of this act on specific dates; and to repeal acts and parts of acts.

**History:** 1967, Act 288, Eff. Jan. 1, 1968;—Am. 1982, Act 529, Eff. Mar. 30, 1983;—Am. 1991, Act 59, Imd. Eff. June 27, 1991;—Am. 1996, Act 591, Eff. Mar. 31, 1997.

**Popular name:** Plat Act

**Popular name:** Subdivision Control

*The People of the State of Michigan enact:*

### GENERAL PROVISIONS

#### 560.101 Short title.

Sec. 101. This act shall be known and may be cited as the “land division act”.

**History:** 1967, Act 288, Eff. Jan. 1, 1968;—Am. 1996, Act 591, Eff. Mar. 31, 1997.

**Compiler's note:** For transfer of powers and duties of the State Treasurer relative to subdivision control to the Department of Commerce, see E.R.O. No. 1980-1, compiled at MCL 16.732 of the Michigan Compiled Laws.

**Transfer of powers:** See MCL 16.732.

**Popular name:** Plat Act

**Popular name:** Subdivision Control

#### 560.102 Definitions.

Sec. 102. As used in this act:

- (a) "Plat" means a map or chart of a subdivision of land.
- (b) "Land" means all land areas occupied by real property.
- (c) "Preliminary plat" means a map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration.
- (d) "Division" means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her 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 satisfies the requirements of sections 108 and 109. 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 of an applicable local ordinance.
- (e) "Exempt split" means the partitioning or splitting of a parcel or tract of 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. For a property transfer between 2 or more adjacent parcels, if the property taken from 1 parcel is added to an adjacent parcel, any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this act or the requirements of an applicable local ordinance.
- (f) "Subdivide" or "subdivision" means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her 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 exempted from the platting requirements of this act by sections 108 and 109. "Subdivide" or "subdivision" 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 of an applicable local ordinance.

(g) "Parcel" means a continuous area or acreage of land which can be described as provided for in this act.

(h) "Tract" means 2 or more parcels that share a common property line and are under the same ownership.

(i) "Parent parcel" or "parent tract" means a parcel or tract, respectively, lawfully in existence on the effective date of the amendatory act that added this subdivision.

(j) "Accessible", in reference to a parcel, means that the parcel meets 1 or both of the following requirements:

(i) Has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department or county road commission under 1969 PA 200, MCL 247.321 to 247.329, and of the city or village, or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards.

(ii) Is served by an existing easement that provides vehicular access to an existing road or street and that meets all applicable location standards of the state transportation department or county road commission under 1969 PA 200, MCL 247.321 to 247.329, and of the city or village, or can be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable location standards.

(k) "Development site" means any parcel or lot on which exists or which is intended for building development other than the following:

(i) Agricultural use involving the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.

(ii) Forestry use involving the planting, management, or harvesting of timber.

(l) "Forty acres or the equivalent" means 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

(m) "Lot" means a measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.

(n) "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.

(o) "Proprietor" means a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.

(p) "Governing body" means the legislative body of a city or village or the township board of a township.

(q) "Municipality" means a township, city, or village.

(r) "County plat board" means the register of deeds, who shall act as chairperson, the county clerk, who shall act as secretary, and the county treasurer. If the offices of county clerk and register of deeds have been combined, the chairperson of the board of supervisors shall be a member of the plat board and shall act as chairperson. In a county where a board of auditors is authorized by law such board may elect to serve on the county plat board by adopting a resolution so ordering. A copy of the recorded resolution shall be sent to the director of the department of energy, labor, and economic growth.

(s) "Public utility" means all persons, firms, corporations, copartnerships, or municipal or other public authority providing gas, electricity, water, steam, telephone, sewer, or other services of a similar nature.

(t) "Caption" means the name by which the plat is legally and commonly known.

(u) "Replat" means the process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot within a recorded subdivision plat without changing the exterior boundaries of the outlot is not a replat.

(v) "Surveyor" means a professional surveyor licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014.

(w) "Engineer" means a civil engineer who is a professional engineer licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014.

(x) "Government survey" means the land surveyed, subdivided and monumented by the United States public land survey.

(y) "Michigan coordinate system" means the system defined in 1964 PA 9, MCL 54.231 to 54.239.

(z) "Alley" means a public or private right of way shown on a plat which provides secondary access to a lot, block, or parcel of land.

(aa) "Health department" means the department of environmental quality, a city health department, a county health department, or a district health department, whichever has jurisdiction.

(bb) "Public sewer" means a sewerage system as defined in section 4101 of the natural resources and

environmental protection act, 1994 PA 451, MCL 324.4101.

(cc) "Public water" means a system of pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes, and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water to the public for household or drinking purposes.

(dd) "Topographical map" means a map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

(ee) "Flood plain" means that area of land adjoining the channel of a river, stream, water course, lake, or other similar body of water which will be inundated by a flood which can reasonably be expected for that region.

**History:** 1967, Act 288, Eff. Jan. 1, 1968;—Am. 1990, Act 156, Imd. Eff. June 28, 1990;—Am. 1996, Act 78, Imd. Eff. Feb. 27, 1996;—Am. 1996, Act 591, Eff. Mar. 31, 1997;—Am. 2010, Act 63, Imd. Eff. May 6, 2010.

**Popular name:** Plat Act

**Popular name:** Subdivision Control

### **560.103 Subdivisions of land; surveys and plats, requirements.**

Sec. 103. (1) An exempt split is not subject to approval under this act so long as the resulting parcels are accessible. A division is not subject to the platting requirements of this act but subject to the requirements of sections 108 and 109. A subdivision is subject to the platting requirements of this act.

(2) Plats of retracement or boundary surveys made by a department or agency of the United States or of state-owned lands made by a department or agency of the state for the retracement and division of public lands according to the survey instructions issued by the United States department of the interior may be recorded with the register of deeds of the county in which the lands represented on the plats are situated and need not otherwise comply with this act, except that plat size shall be as provided in section 132.

(3) A survey and plat shall be made when any amendment, correction, alteration or revision of a recorded plat is ordered by a circuit court.

(4) Urban renewal plats authorized by the governing body of a municipality as provided in Act No. 344 of the Public Acts of 1945, being sections 125.71 to 125.84 of the Michigan Compiled Laws, shall conform to this act.

**History:** 1967, Act 288, Eff. Jan. 1, 1968;—Am. 1996, Act 591, Eff. Mar. 31, 1997.

**Popular name:** Plat Act

**Popular name:** Subdivision Control

### **560.104 Replats; requirements; vacation of original plat.**

Sec. 104. A replat of all or any part of a recorded subdivision plat may not be approved or recorded unless proper court action has been taken to vacate the original plat or the specific part thereof, with the following exceptions:

(a) When all the owners of lots which are to be part of the replat agree in writing thereto and record the agreement with the register of deeds, and proof that notice to the abutting property owners has been given by certified mail and the governing body of the municipality in which the land included in the recorded plat is situated, has adopted a resolution or other legislative enactment vacating all areas dedicated to public use within the proposed replat.

(b) Assessors plats made, approved and recorded as provided for in sections 201 to 213.

(c) Urban renewal plats authorized by the governing body of a municipality, as provided in Act No. 344 of the Public Acts of 1945, as amended. Roads, streets, alleys and other public places shall be vacated in accordance with the provisions of law.

**History:** 1967, Act 288, Eff. Jan. 1, 1968;—Am. 1969, Act 308, Imd. Eff. Aug. 14, 1969.

**Popular name:** Plat Act

**Popular name:** Subdivision Control

### **560.105 Preliminary or final plat; approval; conditions.**

Sec. 105. Approval of a preliminary plat, or final plat shall be conditioned upon compliance with all of the following:

(a) The provisions of this act.

(b) Any ordinance or published rules of a municipality or county adopted to carry out the provisions of this act.

(c) Any published rules of a county drain commissioner, county road commission, or county plat board



adopted to carry out the provisions of this act.

(d) The rules of the state transportation department relating to provisions for the safety of entrance upon and departure from the abutting state trunk line highways or connecting streets and relating to the provisions of drainage as required by the department's then currently published standards and specifications.

(e) The rules of the department of consumer and industry services for the approval of plats, including forms, certificates of approval, and other required certificates, captioning of plats, and numbering of lots.

(f) The rules of the department of environmental quality for the determination and establishment of floodplain areas of rivers, streams, creeks, or lakes, as provided in this act, as published in the state administrative code.

(g) The rules of the department of environmental quality relating to suitability of groundwater for on-site water supply for subdivisions not served by public water or to suitability of soils for subdivisions not served by public sewers. The department of environmental quality may authorize a city, county, or district health department to carry out the provisions of this act and rules promulgated under this act relating to suitability of groundwater for subdivisions not served by public water or relating to suitability of soils for subdivisions not served by public sewers. The department of environmental quality may require percolation tests and boring tests to determine suitability of soils. When such tests are required, they shall be conducted under the supervision of a registered engineer, registered land surveyor, or registered sanitarian in accordance with uniform procedures established by the department of environmental quality.

**History:** 1967, Act 288, Eff. Jan. 1, 1968;—Am. 1996, Act 591, Eff. Mar. 31, 1997;—Am. 1997, Act 87, Imd. Eff. July 28, 1997.

**Popular name:** Plat Act

**Popular name:** Subdivision Control

**Administrative rules:** R 560.101 et seq. and R 560.401 et seq. of the Michigan Administrative Code.

#### **560.106 Approving authorities; limitation on powers of approval or rejection.**

Sec. 106. No approving authority or agency having the power to approve or reject plats shall condition approval upon compliance with, or base a rejection upon, any requirement other than those included in section 105.

**History:** 1967, Act 288, Eff. Jan. 1, 1968.

**Popular name:** Plat Act

**Popular name:** Subdivision Control

#### **560.107 Preliminary plat; submission, discretion.**

Sec. 107. (1) Nothing contained in this act shall prohibit a proprietor from submitting a prepreliminary plat to a governing body for the proprietors information and review.

(2) Nothing contained in this act shall allow a municipality, county, or state agency to require an approval of a preliminary plat or plan other than those provided for in sections 112 to 120.

**History:** Add. 1969, Act 308, Imd. Eff. Aug. 14, 1969.

**Popular name:** Plat Act

**Popular name:** Subdivision Control

#### **560.108 Parent parcel or parent tract; number of parcels resulting from division; limitations; requirements.**

Sec. 108. (1) A division is not subject to the platting requirements of this act.

(2) Subject to subsection (3), the division, together with any previous divisions of the same parent parcel or parent tract, shall result in a number of parcels not more than the sum of the following, as applicable:

(a) For the first 10 acres or fraction thereof in the parent parcel or parent tract, 4 parcels.

(b) For each whole 10 acres in excess of the first 10 acres in the parent parcel or parent tract, 1 additional parcel, for up to a maximum of 11 additional parcels.

(c) For each whole 40 acres in excess of the first 120 acres in the parent parcel or parent tract, 1 additional parcel.

(3) For a parent parcel or parent tract of not less than 20 acres, the division may result in a total of 2 parcels in addition to those permitted by subsection (2) if 1 or both of the following apply:

(a) Because of the establishment of 1 or more new roads, no new driveway accesses to an existing public road for any of the resulting parcels under subsection (2) or this subsection are created or required.

(b) One of the resulting parcels under subsection (2) and this subsection comprises not less than 60% of the area of the parent parcel or parent tract.

(4) A parcel of 40 acres or more created by the division of a parent parcel or parent tract shall not be

counted toward the number of parcels permitted under subsections (2) and (3) and is not subject to section 109, if the parcel is accessible.

(5) A parcel or tract created by an exempt split or a division is not a new parent parcel or parent tract and may be further partitioned or split without being subject to the platting requirements of this act if all of the following requirements are met:

(a) Not less than 10 years have elapsed since the parcel or tract was recorded.

(b) The partitioning or splitting results in not more than the following number of parcels, whichever is less:

(i) Two parcels for the first 10 acres or fraction thereof in the parcel or tract plus 1 additional parcel for each whole 10 acres in excess of the first 10 acres in the parcel or tract.

(ii) Seven parcels or 10 parcels if one of the resulting parcels under this subsection comprises not less than 60% of the area of the parcel or tract being partitioned or split.

(c) The partitioning or splitting satisfies the requirements of section 109.

(6) A parcel or tract created under the provisions of subsection (5) may not be further partitioned or split without being subject to the platting requirements of this act, except in accordance with the provisions of subsection (5).

**History:** Add. 1996, Act 591, Eff. Mar. 31, 1997.

**Popular name:** Plat Act

**Popular name:** Subdivision Control

**560.109 Approval or disapproval of proposed division; requirements; exemption from platting requirements; notice of transfer; form; sale of unplatted land; statement contained in deed; ordinance; approval not determination of compliance; effect of failure to comply.**

Sec. 109. (1) A municipality shall approve or disapprove a proposed division within 45 days after the filing of a complete application for the proposed division with the assessor or other municipally designated official. However, a municipality with a population of 2,500 or less may enter into an agreement with a county to transfer to the county authority to approve or disapprove a division. An application is complete if it contains information necessary to ascertain whether the requirements of section 108 and this section are met. The assessor or other municipally designated official, or the county official, having authority to approve or disapprove a proposed division, shall provide the person who filed the application written notice whether the application is approved or disapproved and, if disapproved, all the reasons for disapproval. A complete application for a proposed division shall be approved if, in addition to the requirements of section 108, all of the following requirements are met:

(a) Each resulting parcel has an adequate and accurate legal description and is included in a tentative parcel map showing area, parcel lines, public utility easements, accessibility, and other requirements of this section and section 108. The tentative parcel map shall be a scale drawing showing the approximate dimensions of the parcels.

(b) Each resulting parcel has a depth of not more than 4 times the width or, if an ordinance referred to in subsection (5) requires a smaller depth to width ratio, a depth to width ratio as required by the ordinance. The municipality or county having authority to review proposed divisions may allow a greater depth to width ratio than that otherwise required by this subdivision or an ordinance referred to in subsection (5). The greater depth to width ratio shall be based on standards set forth in the ordinance referred to in subsection (5). The standards may include, but need not be limited to, exceptional topographic or physical conditions with respect to the parcel and compatibility with surrounding lands. The depth to width ratio requirements of this subdivision do not apply to a parcel larger than 10 acres, unless an ordinance referred to in subsection (5) provides otherwise, and do not apply to the remainder of the parent parcel or parent tract retained by the proprietor.

(c) Each resulting parcel has a width not less than that required by an ordinance referred to in subsection (5).

(d) Each resulting parcel has an area not less than that required by an ordinance referred to in subsection (5).

(e) Each resulting parcel is accessible.

(f) The division meets all of the requirements of section 108.

(g) Each resulting parcel that is a development site has adequate easements for public utilities from the parcel to existing public utility facilities.

(h) The division does not isolate a cemetery so that it does not meet the requirements of either section 102(j)(i) or (ii).

(i) One of the following are satisfied:

(i) All property taxes and special assessments due on the parcel or tract subject to the proposed division for the 5 years preceding the date of the application have been paid, as established by a certificate from the county treasurer of the county in which the parcel or tract is located. If the date of the application is on or after March 1 and before the local treasurer of the local tax collecting unit in which the parcel or tract is located has made his or her return of current delinquent taxes, the county treasurer shall include with his or her certification a notation that the return of current delinquent taxes was not available for examination. The official having authority to approve or disapprove the application shall not disapprove the application because the county treasurer's certification includes such a notation. The county treasurer shall collect a fee for a certification under this subdivision in an amount equal to the fee payable under section 1(2) of 1895 PA 161, MCL 48.101, for a certificate relating to the payment of taxes under section 135 of the general property tax act, 1893 PA 206, MCL 211.135.

(ii) If property taxes or special assessments due on the parcel or tract subject to the proposed division have not been paid, the unpaid property taxes or special assessments have been apportioned by the township or city assessing officer as provided by section 53 of the general property tax act, 1893 PA 206, MCL 211.53. Any apportioned property taxes or special assessments are a lien against the parcels or tracts as apportioned by the assessing officer and shall be treated in the same manner as property taxes and special assessments of the year of the original assessment for the purpose of collection and sale for delinquent taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(2) The right to make divisions exempt from the platting requirements of this act under section 108 and this section can be transferred, but only from a parent parcel or parent tract to a parcel created from that parent parcel or parent tract. A proprietor transferring the right to make a division pursuant to this subsection shall within 45 days give written notice of the transfer to the assessor of the city or township where the property is located on a form prescribed by the state tax commission. The form shall include substantially the following questions in the mandatory information portion of the form:

(a) "Did the parent parcel or parent tract have any unallocated divisions under the land division act, 1967 PA 288, MCL 560.101 to 560.293?"

(b) "Were any unallocated divisions transferred to the newly created parcel? If so, state whether all were transferred or, if not, how many?"

(3) A person shall not sell a parcel of unplatted land unless the deed contains a statement as to whether the right to make further divisions exempt from the platting requirements of this act under this section and section 108 is proposed to be conveyed. The statement shall be in substantially the following form: "The grantor grants to the grantee the right to make [insert "zero", a number, or "all"] division(s) under section 108 of the land division act, 1967 PA 288, MCL 560.108." In the absence of a statement conforming to the requirements of this subsection, the right to make divisions under section 108(2), (3), and (4) stays with the remainder of the parent tract or parent parcel retained by the grantor.

(4) All deeds for parcels of unplatted land within this state executed after March 31, 1997 shall contain the following statement: "This property may be located within the vicinity of farm land 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."

(5) The governing body of a municipality or the county board of commissioners of a county having authority to approve or disapprove a division may adopt an ordinance setting forth the standards authorized in subsection (1)(b), (c), and (d). The ordinance may establish a fee for a review of an application under this section and section 108. The fee shall not exceed the reasonable costs of providing the services for which the fee is charged.

(6) Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.

(7) Compliance with this section is not a requirement for a deed to be received for record or recorded by a register of deeds.

**History:** Add. 1996, Act 591, Eff. Mar. 31, 1997;—Am. 1997, Act 87, Imd. Eff. July 28, 1997;—Am. 2012, Act 525, Imd. Eff. Dec. 28, 2012;—Am. 2017, Act 196, Eff. Mar. 13, 2018;—Am. 2019, Act 23, Eff. Sept. 16, 2019.

**Popular name:** Plat Act

**Popular name:** Subdivision Control

### **560.109a Parcel less than 1 acre.**

Sec. 109a. (1) If a parcel resulting from a division is less than 1 acre in size, a building permit shall not be issued for the parcel unless the parcel has all of the following:

(a) Public water or city, county, or district health department approval for the suitability of an on-site water supply under the same standards as set forth for lots under rules described in section 105(g).

(b) Public sewer or city, county, or district health department approval for on-site sewage disposal under the health department standards as set forth for lots under rules described in section 105(g).

(2) The municipality or county approving a proposed division resulting in a parcel less than 1 acre in size and its officers and employees are not liable if a building permit is not issued for the parcel for the reasons set forth in this section. A notice of approval of a proposed division resulting in a parcel of less than 1 acre in size shall include a statement to this effect.

(3) A city, county, or district health department may adopt by regulation a fee for services provided under this section. The fees shall not exceed the reasonable costs of providing the services for which the fees are charged.

**History:** Add. 1997, Act 87, Imd. Eff. July 28, 1997.

**Popular name:** Plat Act

**Popular name:** Subdivision Control

#### **560.109b Parcels of 20 or more acres.**

Sec. 109b. (1) An exempt split or other partitioning or splitting of a parcel or tract that only results in parcels of 20 acres or more in size is not subject to approval under this act if the parcel or tract is not accessible and 1 of the following applies:

(a) The parcel or tract was in existence on March 31, 1997.

(b) The parcel or tract resulted from an exempt split or other partitioning or splitting under this section.

(2) The proprietor shall provide the purchaser of a parcel resulting from an exempt split or other partitioning or splitting under subsection (1) with the following written statement before closing:

“This parcel is not accessible as defined in the land division act, 1967 PA 288, MCL 560.101 to 560.293.”.

**History:** Add. 1997, Act 87, Imd. Eff. July 28, 1997.

**Popular name:** Plat Act

**Popular name:** Subdivision Control

### **PRELIMINARY PLATS**

#### **560.111 Preliminary plat; specifications; requirements; preapplication review meeting.**

Sec. 111. (1) Before making or submitting a final plat for approval, the proprietor shall make a preliminary plat and submit copies to authorities as provided in this section and sections 112 to 119. A preliminary plat shall show the name, location, and position of the subdivision and the subdivision plan and layout in sufficient detail on a topographic map to enable a determination of whether the subdivision meets requirements for lots, streets, roads, and highways including drainage and floodplains.

(2) The preliminary plat shall be drawn to a scale of not more than 200 feet to 1 inch and may be an original drawing or reproduction, on unbacked paper. It shall contain proper identification of the parcel of land to be divided, the name of the plat and proposed division of the land, the name and address of the proprietor and the name, address and seal of the surveyor who prepared it, all legibly printed or typewritten. Additional preliminary land development plans may be made by other qualified persons to assist approving authorities to visualize the type and scope of the development planned.

(3) The proprietor may request that a preapplication review meeting take place by submitting a written request to the chairperson of the county plat board and submitting copies of a concept plan for the preliminary plat to the municipality and to each officer or agency entitled to review the preliminary plat under sections 113 to 118. A preapplication review meeting shall take place not later than 30 days after the written request and concept plan are received. The meeting shall be attended by the proprietor, representatives of each officer or agency entitled to review the preliminary plat under sections 113, 114, and 118, and a representative of the municipality. Representatives of each agency entitled to review the preliminary plat under sections 115 to 117 shall be informed of the meeting and may attend. The purpose of the meeting is to conduct an informal review of the proprietor's concept plan for the preliminary plat.

**History:** 1967, Act 288, Eff. Jan. 1, 1968;—Am. 2004, Act 525, Eff. July 1, 2005.

**Popular name:** Plat Act

**Popular name:** Subdivision Control

#### **560.112 Preliminary plat; tentative approval; time period; extension.**

Sec. 112. (1) The proprietor shall submit 4 but not more than 10 copies of the preliminary plat and other data to the clerk of the municipality.

(2) The governing body shall tentatively approve and note its approval on the copy of the preliminary plat, or tentatively approve it subject to conditions and note its approval and conditions on the copy of the



Ron Popp <supervisorwhitewater@gmail.com>

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## RE: Hymore

1 message

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**Matthew Kuschel** <MKuschel@fsbirlaw.com>

Fri, Apr 21, 2023 at 5:52 PM

To: Ron Popp <supervisorwhitewater@gmail.com>, "heidivourtrustee@gmail.com" <heidivourtrustee@gmail.com>

Cc: Lindsey Gergel <lgergel@fsbirlaw.com>

Supervisor Popp and Trustee Vollmuth:

We reviewed several documents from Mr. Hall and the Township in forming our initial opinions and the need for more information. Those include:

1. Video of the March 2, 2022 P.C. meeting.
2. Land Division ordinance from the website
3. The Zoning Ordinance from the website
4. Supervisor Popp's comments on the Land Division Ordinance
5. FOIA documents provided to Connie Hymore
6. The Land Division Ordinance provided to Bob Hall upon his arrival in the Township
7. A land division ordinance from Connie Hymore from MuniCode
8. Frank & Connie Hymore's Code Enforcement Complaint Form
9. Supervisor Popp's Investigation report on the Hymore complaint, dated November 7, 2022
10. Whitewater Township Code Enforcement Policy and Procedures Manual

If you have any questions or would like further insight on any of the materials, I am happy to review and discuss further. Also, if there are additional materials that have not been supplied, we can review those at your request.

Regards,

Matt



### Matthew A. Kuschel

Associate • Fahey Schultz Burzych Rhodes

Direct: 517.381.3162 • Cell: 517.927.7300

Office: 517.381.0100 • Fax: 517.381.5051

[fsbirlaw.com](http://fsbirlaw.com) • [mkuschel@fsbirlaw.com](mailto:mkuschel@fsbirlaw.com)

4151 Okemos Road, Okemos, MI 48864 USA

▼ U.S. News & World Report Ranked Best Law Firm



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**From:** Ron Popp <[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)>  
**Sent:** Wednesday, April 19, 2023 11:15 AM  
**To:** Matthew Kuschel <[MKuschel@fsbrlaw.com](mailto:MKuschel@fsbrlaw.com)>; [heidivourtrustee@gmail.com](mailto:heidivourtrustee@gmail.com)  
**Subject:** Fwd: Hymore

Matthew - here is a follow up question from Trustee Vollmuth.

Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)

bcc: Township Board

----- Forwarded message -----

**From:** Heidi Vollmuth <[heidivourtrustee@gmail.com](mailto:heidivourtrustee@gmail.com)>  
**Date:** Tue, Apr 18, 2023 at 9:00 AM  
**Subject:** Re: Hymore  
**To:** Ron Popp <[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)>

Any reason why the attorney doesn't have any of Bobs paperwork or documents from the county?? It appears he just used the ones the Clerk sent him. The lack of Bobs documentation is not good.

H

On Tue, Apr 18, 2023 at 7:51 AM Ron Popp <[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)> wrote:

All - I requested Matthew provide the documents he used in generating the second Hymore opinion. This is his response.

Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)

bcc: Township Board

----- Forwarded message -----

**From:** Matthew Kuschel <[MKuschel@fsbrlaw.com](mailto:MKuschel@fsbrlaw.com)>  
**Date:** Fri, Apr 14, 2023 at 7:03 PM  
**Subject:** RE: Hymore

To: Ron Popp <[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)>  
Cc: Lindsey Gergel <[lgergel@fsbriaw.com](mailto:lgergel@fsbriaw.com)>

Ron:

Attached are the documents relied on for the updated opinion. We also looked at the zoning ordinance and the previous material submitted.

I'm happy to answer any questions you may have. We will be in your neck of the woods for the MTA Annual Conference; will we see you there?

Regards,

Matt



**Matthew A. Kuschel**

Associate • Fahey Schultz Burzych Rhodes

Direct: 517.381.3162 • Cell: 517.927.7300  
Office: 517.381.0100 • Fax: 517.381.5051  
[fsbriaw.com](http://fsbriaw.com) • [mkuschel@fsbriaw.com](mailto:mkuschel@fsbriaw.com)

[4151 Okemos Road, Okemos, MI 48864 USA](#)

▼ U.S. News & World Report Ranked Best Law Firm



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**From:** Ron Popp <[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)>  
**Sent:** Friday, April 14, 2023 3:13 PM  
**To:** Matthew Kuschel <[MKuschel@fsbriaw.com](mailto:MKuschel@fsbriaw.com)>  
**Subject:** Fwd: Hymore

Hi Matthew - Just following up with you regarding this request. Did you receive it?

Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)

----- Forwarded message -----

From: **Ron Popp** <[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)>

Date: Mon, Apr 10, 2023 at 4:10 PM

Subject: Hymore

To: Matthew Kuschel <[mkuschel@fsbriaw.com](mailto:mkuschel@fsbriaw.com)>

Matthew -

Please provide all board members documents used to formulate your opinion dated March 30, 2023.

Thank you

Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)

bcc: Township Board



# Memo

**To:** Whitewater Township Board of Trustees  
**CC:** None  
**Date:** 4.26.2023  
**Re:** Boat Ramp Expansion Final Documents

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Board Members –

Attached are final construction documents to get the boat ramp expansion project underway. They include:

- 1) 842850 Contract Manual as highlighted by RMP ([click here](#))
- 2) Agreement SP005200 as highlighted by RMP
- 3) 842850 Change Order No.1 as highlighted by RMP.
- 4) Legal review of 842850 Contract Manual by Patterson
- 5) Email string between Stout and Patterson.

I have highlighted and commented many sections in the various documents. Some highlights are questions that need some attention, some need signatures, and others may require the township to provide certain items, like water. The contract manual forbids water withdrawal from the lake. You will also note some text appears in boxes. These boxes are internal document hyperlinks that will take the reader to a specific reference in the document. Before clicking on the box please note the document page you are currently on, making returning to this page easier once the hyperlink information has been viewed.

Of special note is the dollar amount of the contract. It appears to be off by \$207.00 when compared to the Molon letter dated 2.13.2023 and the F&V letter dated 2.14.2023. I believe the math is correct on the construction documents and that error was created when the Board used the letters to create the motion to approve the project. The Board could decide to simply reconsider or redo the original motion allowing for the proper contract value to be recorded in the minutes.

On page 25 of the Contract Manual the township will have to name a designated representative for the project. The Board may see value in making this a 3<sup>rd</sup> party as not to further overload administration. I believe about 30K was budgeted for this duty.

Because time is short for everyone to review this information, the following is a summary of Contract Manual highlights the Board maybe interested in.

On page 55 of the Contract Manual, it appears the township needs to supply the contractor with insurance certificates. Also on this page is a schedule of items that need to take place within a certain number of days of the contract execution.

Contract Manual page 94 appears to indicate all change orders must be accepted by the owner leaving the township exposed with no limits.

Contract manual page 102 needs some additional explanation regarding what costs are not covered by the contract.

Contract manual page 108 also needs additional explanation regarding the engineer's approval for payment. The 3<sup>rd</sup> party could be useful to protect the township.

Contract manual page 126 should be reviewed by the Board. This provision is hole in our policy with Metro Act Permit holders. We need to set annual reviews of those contractors who supply us with insurance certificates. As attorney Patterson pointed out we need actual polices not just certificates.

Contract Manual Page 127 is a new requirement for the contractor to supply the owner with protective liability insurance coverage.

Contract Manual page 133 it is unclear if the insurance limits are met and if the umbrella or pollution coverage have been provided. F&V could help explain?

Contract Manual page 156 the township needs to supply temporary water service. This maybe an issue as later in the contract irrigation is required to establish turf surfaces. As for the sanitary services required on this page, does the Board agree construction workers can use the porta johns already in place at the park?

Contract Manual page 157 looks at construction worker parking. The Board may want to think about a location. Also on this page is debris removal. During the tree removal process, I believe the wood and stumps will be burned on site. We should ask the Fire Department for advice on this matter. On page 170 the burning is prohibited. I do believe they will be burned.

Beginning on Contract page 159 and continuing in at least two additional provisions the amount rain that causes site damage is defined. There are at least three different values for this number. I recommend a single number should established.

Contract page 160 reference fines established by the City of Portage.

Contract page 184 talks about grubbing out tree roots. What level will be used in the parking area?

Contract page 186 gives to the contractor any spoils removed. The Township has lots of use for this material and it should be stock piled on site.

Contract page 213 talks about fertilizers and herbicides to be used in turf areas. The parking area will a turf area. The Township should approve the products before use.

Contract page 214 talks about 4" of topsoil under all turf areas. I am not sure if this provision applies to this project. I do not recall topsoil on the bid and it may not provide a suitable parking surface.

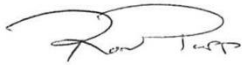
Contract page 217 talks about turf establishment. This are should be reviewed for several items of concern.

Contract page 229 calls out for 24 precast planks. The bid quantity was 22? Will this result in a second change order before the project begins?

%%%

If anyone has difficulty viewing the comments or highlights in the files please let me know and we will get you the technical help required.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ron Tully". The signature is stylized with a large, looping "R" and a cursive "Tully".

Whitewater Township FOIA Coordinator  
Supervisor, Whitewater Township

## SECTION 00 52 00

### AGREEMENT

- 1.1 This Agreement is by and between **Whitewater Township, 5777 Vinton Road, P.O. Box 159 Williamsburg, MI 49690** ("Owner") and **Molon Excavating, Inc. 125 Buckshot Dr, Traverse City, MI 49685** ("Contractor").

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

#### ARTICLE 1 - WORK

- 1.2 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: **Whitewater Township Park Improvements**  
F&V Project No. 842850

#### ARTICLE 2 - THE PROJECT

- 2.1 Project, of which the Work under the Contract Documents is a part, is generally described as follows:  
**Whitewater Township Park Improvements**  
F&V Project No. 842850

#### ARTICLE 3 - ENGINEER

- 3.1 The Owner has retained **Fleis & VandenBrink Engineering, Inc.** ("Engineer") to act as Owner's representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.
- 3.2 The part of the Project that pertains to the Work has been designed by Engineer.

#### ARTICLE 4 - CONTRACT TIMES

- 4.1 *Time of the Essence*
- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 4.2 Contract Times: Dates
- A. The Work will be substantially complete as set forth in section 4.03 Milestones, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before **November 15, 2023**
- 4.3 *Milestones*
- A. Parts of the Work shall be substantially completed on or before the following Milestone(s):
1. All work on boat trailer parking area and drives must be completed must be substantially completed by **July 28, 2023**.
  2. All work on boat launch area shall not commence prior to **September 11, 2023** and must be substantially completed by **November 1, 2023**.

#### 4.4 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. *Substantial Completion*: Contractor shall pay Owner \$900 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
  2. *Completion of Remaining Work*: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$900 for each day that expires after such time until the Work is completed and ready for final payment.
  3. *Milestone 1*: Contractor shall pay Owner \$900 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for achievement of Milestone 1, until Milestone 1 is achieved, or until the time specified for Substantial Completion is reached, at which time the rate indicated in Paragraph 4.05.A.1 will apply, rather than the Milestone rate.
  4. *Milestone 2*: Contractor shall pay Owner \$900 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for achievement of Milestone 2, until Milestone 2 is achieved, or until the time specified for Substantial Completion is reached, at which time the rate indicated in Paragraph 4.05.A.1 will apply, rather than the Milestone rate.
  5. Liquidated damages for failing to timely attain Milestones, Substantial Completion, and final completion are not additive, and will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

#### ARTICLE 5 - CONTRACT PRICE

- 5.1 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract.
- A. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item).

Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Amount
1	General Conditions, Bonds, Insurance, and Mobilization (5% max)	Lsum	1	\$23,900	\$23,900.00
2	Soil Erosion Control	Lsum	1	\$9,166	\$9,166.00
3	Tree Removal	Lsum	1	\$30,492	\$30,492.00



4	Miscellaneous Removals	Lsum	1	\$14,988	\$14,988.00
5	Site Preparation & Grading	Lsum	1	\$50,250	\$50,250.00
Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Amount
6	8" Aggregate Base	Syd	5,322	\$15.23	\$81,054.06
7	HMA, 13A	Ton	130	\$110	\$14,300.00
8	HMA, 36A	Ton	130	\$120	\$15,600.00
9	Geotextile Fabric	Syd	375	\$5.44	\$2,040.00
10	Turbidity Curtain	Lsum	1	\$5,442	\$5,442.00
11	A.R.E.A. #4 Crushed Stone	Cyd	275	\$61.49	\$16,909.75
12	Conc. Pav't., 8 inch	Sft	2,115	\$13.86	\$29,313.90
13	4'x18'x8" Precast Concrete Planks - New	Ea	22	\$4,009	\$88,198.00
14	Precast Concrete Planks - Salvaged	Ea	11	\$654	\$7,194.00
15	Rubber Belt	Lsum	1	\$1,763	\$1,763.00
16	Skid Pier	Ea	2	\$22,098	\$44,196.00
17	3 Inch Dia. SCH 40 Conduit	Ft	360	\$18	\$6,480.00
18	Slope Restoration	Lsum	1	\$27,700	\$27,700.00
19	Turf Establishment, Performance	Lsum	1	\$15,948	\$15,948.00
<b>Total of All Unit Price Bid Items</b>					<b>\$484,934.17</b>

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

## ARTICLE 6 - PAYMENT PROCEDURES

### 1.1 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

### 6.1 Progress Payments; Retainage

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
  1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
    - a. 90 percent of the value of the Work completed (with the balance being retainage).
      - 1) If 50 percent or more of the Work has been completed, as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work



- remain satisfactory to Owner and Engineer, there will be no additional retainage; and
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.2 Final Payment

- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.
- B. Final payment will not be recommended by ENGINEER until MDNR Waterways Division has completed their audit of the required documentation and has accepted the Project.

6.3 Consent of Surety

- A. Owner will not make final payment or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.
- B.

6.4 Interest

- A. All amounts not paid when due will bear interest at the percent per annum rate 2.0% higher than the Prime Rate on the date of bid opening.

**ARTICLE 7 - CONTRACT DOCUMENTS**

1.2 Contents

- A. The Contract Documents consist of all of the following:
1. This Agreement.
  2. Bonds
    - a. Performance bond (together with power of attorney).
    - b. Payment bond (together with power of attorney).
  3. General Conditions.
  4. Supplementary Conditions.
  5. Specifications as listed in the table of contents of the project manual.
  6. Drawings (not attached but incorporated by reference) consisting of 9 sheets with each sheet bearing the following general title: Whitewater Township Park Improvements
  7. Addenda (numbers 1 to 2, inclusive).
  8. Exhibits to this Agreement (enumerated as follows):
    - a. Contractor's Bid.
    - b. Documentation submitted by Contractor prior to Notice of Award.
  9. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
    - a. Notice to Proceed.
    - b. Work Change Directives.
    - c. Change Orders.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.

- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

## **ARTICLE 8 - REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS**

### **8.1 Contractor's Representations**

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
  2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
  3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
  4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, if any, with respect to the Technical Data in such reports and drawings.
  5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
  6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
  7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
  8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
  9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
  10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
  11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

### **8.2 Contractor's Certifications**



A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution.
2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition.
3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.3 *Standard General Conditions*

A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C 700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on March 10, 2023 (which is the Effective Date of the Contract).

Owner: Whitewater Township

\_\_\_\_\_  
(typed or printed name of organization)

By: \_\_\_\_\_  
(individual's signature)

Date: \_\_\_\_\_  
(date signed)

Name: \_\_\_\_\_  
(typed or printed)

Title: \_\_\_\_\_  
(typed or printed)

Attest: \_\_\_\_\_  
(individual's signature)

Title: \_\_\_\_\_  
(typed or printed)

Address for giving notices:

Designated Representative:

Name: \_\_\_\_\_  
(typed or printed)

Title: \_\_\_\_\_  
(typed or printed)

Address:

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Contractor: Molon Excavating, Inc.

Molon Excavating, Inc.  
\_\_\_\_\_  
(typed or printed name of organization)

By: \_\_\_\_\_  
(individual's signature)

Date: 3.1.2023  
\_\_\_\_\_  
(date signed)

Name: Scott Porter  
\_\_\_\_\_  
(typed or printed)

Title: President  
\_\_\_\_\_  
(typed or printed)

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: \_\_\_\_\_  
(individual's signature)

Title: Controller  
\_\_\_\_\_  
(typed or printed)

Address for giving notices:

125 Buckshot Dr.  
Traverse City, MI 49685

Designated Representative:

Name: ~~Mike Walton~~ Mike Walton  
\_\_\_\_\_  
(typed or printed)

Title: Project Manager/Vice President  
\_\_\_\_\_  
(typed or printed)

Address:

125 Buckshot Dr.  
Traverse City, MI 49685

Phone: 231-218-9357

Email: mwalton@molonexcavating.net

License No.: \_\_\_\_\_  
(where applicable)

State: Michigan

END OF SECTION

**CHANGE ORDER NO.: 01**


Owner: Whitewater Township      Owner's Project No.: N/A  
 Engineer: Fleis & VandenBrink Engineering      Engineer's Project No.: 842850  
 Contractor: Molon Excavating, Inc.      Contractor's Project No.: N/A  
 Contract Name: Whitewater Township Park Improvements  
 Date Issued: 04/10/23

The Contract is modified as follows upon execution of this Change Order:

Description: Addition of Bid Alternate Items A, B, D & E per bid form dated 01/30/23 submitted by Molon Excavating outlined as follows:

Item No.	Description	Unit	Est. Qty	Unit Price	Bid Amount
A	Site Preparation & Grading – Boat Wash Area	Lsum	1	\$3,780.00	\$3,780.00
B	8" Aggregate Base– Boat Wash Area	Syd	1,000	\$15.23/Syd	\$15,230.00
D	4'x18'x5" Precast Concrete Planks - New	Ea	11	\$1,452.00/Ea	\$15,972.00
E	Conc. Pav't., 8 inch	Sft	324	\$13.86/Sft	\$4,490.64

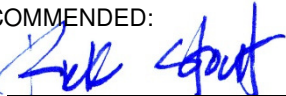
**Change in Contract Price****Change in Contract Times**

Original Contract Price:  \$ <u>484,934.71</u> 	Original Contract Times: Substantial Completion: 11/01/23 Ready for final payment: 11/15/23
Change from previously approved Change Orders No. 0 to No. 1  \$ 0.00	Times change from previously approved Change Orders No.0 to No. 1 Substantial Completion: N/A Ready for final payment: N/A
Contract Price prior to this Change Order:  \$ 484,934.71	Contract Times prior to this Change Order: Substantial Completion: 11/01/23 Ready for final payment: 11/15/23
Increase this Change Order:  \$ 39,562.64	Contract Times this Change Order: Substantial Completion: 11/01/23 Ready for final payment: 11/15/23
Contract Price incorporating this Change Order:  \$ 524,497.35	Contract Times with all approved Change Orders: Substantial Completion: 11/01/23 Ready for final payment: 11/15/23

RECOMMENDED:

APPROVED:

ACCEPTED:

By:   
 ENGINEER (Authorized Signature)

By: \_\_\_\_\_  
 OWNER (Authorized Signature)

By: \_\_\_\_\_  
 CONTRACTOR (Authorized Signature)

Date: 4/10/23

Date: \_\_\_\_\_

Date: \_\_\_\_\_



Ron Popp <supervisorwhitewater@gmail.com>

---

## RE: Contract Book - Whitewater Township Park

1 message

---

**Christopher Patterson** <cpatterson@fsbrlaw.com>

Sun, Apr 9, 2023 at 9:59 PM

To: Ron Popp <supervisorwhitewater@gmail.com>

Cc: Jamy Staffeld <jstaffeld@fsbrlaw.com>

Ron:

I reviewed the contract agreement, contract change order, and the contract document PDF that contained the bid terms and general conditions. In reviewing the general conditions, I found all of the relevant facets of covering a potential contract, dispute, and engineer's authority to be included based on the time available to review. The contract agreement itself also covers the bonding, insurance, retainage, performance milestones, and payment schedule based on the same. Thus, I have no changes to the contracts. I have a few comments that may require no action, but are based on my limited involvement and the time frame provided to review. I didn't want to not send you my thoughts prior to Tuesday's meeting. I am happy to talk to F&V or you directly on any of the following:

1. The bid submission within the contract documents reflects a list of sub-contractors. Not all are Molon Excavating. Molon Excavating is then referenced in part as a subcontractor, but otherwise through the remainder of the general conditions, contract, second and third bonds in the packet, and insurance, as the contractor. I don't know if other agreements will be issued for the subcontractors or if Molon Excavating is handling all of the work. The contract documents appear correct, but the bid submission table left me confused (and for instance, the material lists appear to reference the pre-cast planks that are noted from one of the subcontractors). It is also maybe that not all items bid are being done.
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4. F&V's change order for 4/10/23 has no contractor or owner signature. See also my comment above regarding the bonds, which are shown for the original contract price in the contract documents package.

Let me know if you have any questions or concerns regarding the same.

Sincerely,

Chris





## Christopher S. Patterson

Member • Fahey Schultz Burzych Rhodes

Direct: 517.381.3205 • Cell: 269.744.4807

Office: 517.381.0100 • Fax: 517.381.3185

[fsbriaw.com](http://fsbriaw.com) • [cpatterson@fsbriaw.com](mailto:cpatterson@fsbriaw.com)

[4151 Okemos Road, Okemos, MI 48864 USA](#)

▼ U.S. News & World Report Ranked Best Law Firm

---

**From:** Ron Popp <[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)>  
**Sent:** Thursday, April 6, 2023 6:23 PM  
**To:** Christopher Patterson <[cpatterson@fsbriaw.com](mailto:cpatterson@fsbriaw.com)>  
**Subject:** Re: Contract Book - Whitewater Township Park

If two weeks is your schedule. I will ask the board if they wish to waive the review 4.11.2023.

On Thu, Apr 6, 2023, 6:12 PM Christopher Patterson <[cpatterson@fsbriaw.com](mailto:cpatterson@fsbriaw.com)> wrote:

Ron:

Although a form contract, it is a long one with material edits throughout. I don't want to slow anything down, so what is the anticipated date to execute it? We can work around that. Our only upcoming impediment is being out of the office for the MTA in two weeks.

Chris

Christopher S. Patterson

Member

Fahey Schultz Burzych Rhodes PLC

---

**From:** Ron Popp <[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)>  
**Sent:** Thursday, April 6, 2023 3:35:19 PM  
**To:** Christopher Patterson <[cpatterson@fsbriaw.com](mailto:cpatterson@fsbriaw.com)>  
**Subject:** Fwd: FW: Contract Book - Whitewater Township Park

Chris - As has been customary all contracts and agreements get reviewed by legal. Please schedule a review of these documents as soon as possible. If you would be so kind to advise of a completion date that would be appreciated.

Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)

bcc: Township Board

----- Forwarded message -----

From: Cheryl A. Goss <[clerk@whitewatertownship.org](mailto:clerk@whitewatertownship.org)>

Date: Wed, Apr 5, 2023 at 2:37 PM

Subject: FW: Contract Book - Whitewater Township Park

To: Cheryl A. Goss <[clerk@whitewatertownship.org](mailto:clerk@whitewatertownship.org)>

All -

These are the contract documents for the Whitewater Township Park Improvements Project. They require township signatures.

bcc Township Board

*Cheryl A. Goss, MiPMC*

Whitewater Township Clerk

[5777 Vinton Road](#), P.O. Box 159

Williamsburg, Michigan 49690

Telephone: 231.267.5141 X 24

Fax: 231.267.9020

[clerk@whitewatertownship.org](mailto:clerk@whitewatertownship.org)

**Office Hours: Mon/Tue/Wed/Thurs 9:00 am to 5:00 pm**

**I Pledge Allegiance to the Flag of the United States of America, and to the REPUBLIC for which it stands, one Nation, under God, Indivisible, with Liberty and Justice for All.**

---

**From:** Rick Stout <[rstout@fveng.com](mailto:rstout@fveng.com)>

**Sent:** Tuesday, April 4, 2023 1:02 PM

**To:** Cheryl A. Goss <[clerk@whitewatertownship.org](mailto:clerk@whitewatertownship.org)>

**Cc:** Andrew Filler <[afiller@fveng.com](mailto:afiller@fveng.com)>

**Subject:** Contract Book - Whitewater Township Park

Cheryl,

Here is Contract document and corresponding change order. I also included agreement form for signature.

**Rick Stout | LLA, LEED AP BD+C**

**Land Development & Enhancement Group**

**FLEIS & VANDENBRINK**

2960 Lucerne Drive SE, Suite 100 | Grand Rapids | MI | 49546

O: 616.977.1000 | D: 616.942.3606 | C: 616.291.2357 | F: 616.977.1005

[www.fveng.com](http://www.fveng.com)



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### 3 attachments



**842850 CONTRACT MANUAL 04.03.23.pdf**  
18880K



**842850 Change Order. No 1 04.10.23.pdf**  
34K



**SP 00 52 00 Whitewater Twp Agreement.pdf**  
1341K



Ron Popp <supervisorwhitewater@gmail.com>

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## FW: Contract Book - Whitewater Township Park

1 message

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**Rick Stout** <rstout@fveng.com>

Fri, Apr 21, 2023 at 12:46 PM

To: Ron Popp <supervisorwhitewater@gmail.com>, "Cheryl A. Goss" <clerk@whitewatertownship.org>, Heidi Vollmuth Gmail <heidivourtrustee@gmail.com>, Township Trustee - Vacant <trustee02@whitewatertownship.org>, Ardella Benak <treasurer@whitewatertownship.org>

Cc: Don Glenn <dglenn419@gmail.com>

Hi all,

See below from Twp Attorney. Also attached is signed change order no. 1 from Molon Excavating. Next step is for the Township to execute agreement form in the contract book and the change order.

**Rick Stout | LLA, LEED AP BD+C**

**Land Development & Enhancement Group**

**FLEIS & VANDENBRINK**

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O: 616.977.1000 | D: 616.942.3606 | C: 616.291.2357 | F: 616.977.1005

[www.fveng.com](http://www.fveng.com)

---

**From:** Christopher Patterson <[cpatterson@fsbrlaw.com](mailto:cpatterson@fsbrlaw.com)>

**Sent:** Friday, April 21, 2023 12:34 PM

**To:** Rick Stout <[rstout@fveng.com](mailto:rstout@fveng.com)>

**Subject:** Re: Contract Book - Whitewater Township Park

**CAUTION:** \*\*EXTERNAL EMAIL\*\* DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

Rick:

**Thanks. I have nothing further.**

Chris

Christopher S. Patterson

Member

Fahey Schultz Burzych Rhodes PLC

---

**From:** Rick Stout <[rstout@fveng.com](mailto:rstout@fveng.com)>  
**Sent:** Friday, April 21, 2023 12:15:34 PM  
**To:** Christopher Patterson <[cpatterson@fsbrlaw.com](mailto:cpatterson@fsbrlaw.com)>  
**Subject:** FW: Contract Book - Whitewater Township Park

Chris,

See below in **RED**. If you have any comments, please feel free to reach out to me.

*Thus, I have no changes to the contracts. I have a few comments that may require no action, but are based on my limited involvement and the time frame provided to review. I didn't want to not send you my thoughts prior to Tuesday's meeting. I am happy to talk to F&V or you directly on any of the following:*

1. The bid submission within the contract documents reflects a list of sub-contractors. Not all are Molon Excavating. Molon Excavating is then referenced in part as a subcontractor; but otherwise through the remainder of the general conditions, contract, second and third bonds in the packet, and insurance, as the contractor. I don't know if other agreements will be issued for the subcontractors or if Molon Excavating is handling all of the work. The contract documents appear correct, but the bid submission table left me confused (and for instance, the material lists appear to reference the pre-cast planks that are noted from one of the subcontractors). It is also maybe that not all items bid are being done. **All items on bid form are part of contract and ultimate Molon Excavators responsibility. This is outlined in the General Conditions Section 7.07 Concerning Subcontractors and Suppliers. F&V did not see any issues with the sub's proposed as part of the bid form.**
2. The performance bond and payment bond are rather extensive. It seems that given the immediate change order increasing the amount in excess of the full bid because of a selection of alternates that you may want to consider adjusting the bonds immediately. **Molon Excavating has been notified upon acceptance of the change order that the contract amount and subsequent bonding levels would be subject to increase.**
3. The certificate of insurance has appropriate additional insured information and subrogation, also identified F&V as the certificate holder. However, under Michigan law, you have to verify that the insurance policy has that information to actually know that the coverage regarding additional insured, etc, is being provided. Thus, if F&V doesn't want to request copies of the policy verifying the sections that indicate the coverage on the certificate, you need to at least require an additional statement from Molon Excavating that all of the information set forth in the certificate is being provided to the Township and it is understanding that the Township is relying on the same in executing the contract. I will note that many individuals never seek information beyond the certificate of insurance, which you will hear anytime you request the policies. But Michigan cases indicate that the Township may have limited recourse if the certificate is not accurate or doesn't reflect the actual coverage. It is something you have to decide how best to balance the review and work of obtaining the insurance policy with the potential inaccuracies or lack of coverage as reflected on the certificate (which only become relevant if an incident/occurrence arises under the policy). **This verification statement has been requested from Molon Excavating.**
4. F&V's change order for 4/10/23 has no contractor or owner signature. See also my comment above regarding the bonds, which are shown for the original contract price in the contract documents package. **Typically, we would address change orders once the base contract is signed and executed from a procedural perspective. Molon Excavating did provide a signed change order and now both original contract and change order re pending Township approval and signature. Copy attached.**

Let me know if you have any questions or concerns regarding the same.

**Rick Stout | LLA, LEED AP BD+C**

**Land Development & Enhancement Group**

**FLEIS & VANDENBRINK**

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O: 616.977.1000 | D: 616.942.3606 | C: 616.291.2357 | F: 616.977.1005

[www.fveng.com](http://www.fveng.com)

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**From:** Ron Popp <[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)>  
**Sent:** Thursday, April 13, 2023 9:33 AM  
**To:** Rick Stout <[rstout@fveng.com](mailto:rstout@fveng.com)>; Andrew Filler <[afiller@fveng.com](mailto:afiller@fveng.com)>; [cpatterson@fsbrlaw.com](mailto:cpatterson@fsbrlaw.com)  
**Subject:** Fwd: Contract Book - Whitewater Township Park

**CAUTION:** \*\*EXTERNAL EMAIL\*\* DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

Rick & Andrew - Here are the legal concerns presented in regards to the boat ramp expansion project. In the interest of time, it may be best if one of you gets with Chris directly to find resolution.

If you will let me know what schedule the 3 of you can pull together, I will call a special meeting of the Board for that date.

Thank you,

Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)

bcc: Township Board

----- Forwarded message -----

From: **Christopher Patterson** <[cpatterson@fsbrlaw.com](mailto:cpatterson@fsbrlaw.com)>  
Date: Sun, Apr 9, 2023 at 10:00 PM  
Subject: RE: Contract Book - Whitewater Township Park  
To: Ron Popp <[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)>  
Cc: Jamy Staffeld <[jstaffeld@fsbrlaw.com](mailto:jstaffeld@fsbrlaw.com)>

Ron:

I reviewed the contract agreement, contract change order, and the contract document PDF that contained the bid terms and general conditions. In reviewing the general conditions, I found all of the relevant facets of covering a potential contract, dispute, and engineer's authority to be included based on the time available to review. The contract agreement itself also covers the bonding, insurance, retainage, performance milestones, and payment schedule based on the same. Thus, I have no changes to the contracts. I have a few comments that may require no action, but are based on my limited involvement and the time frame provided to review. I didn't want to not send you my thoughts prior to Tuesday's meeting. I am happy to talk to F&V or you directly on any of the following:

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Let me know if you have any questions or concerns regarding the same.

Sincerely,

Chris



**Christopher S. Patterson**

Member • Fahey Schultz Burzych Rhodes

Direct: 517.381.3205 • Cell: 269.744.4807

Office: 517.381.0100 • Fax: 517.381.3185

[fsbirlaw.com](http://fsbirlaw.com) • [cpatterson@fsbirlaw.com](mailto:cpatterson@fsbirlaw.com)

4151 Okemos Road, Okemos, MI 48864 USA

▼ U.S. News & World Report Ranked Best Law Firm



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**From:** Ron Popp <[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)>  
**Sent:** Thursday, April 6, 2023 6:23 PM  
**To:** Christopher Patterson <[cpatterson@fsbrlaw.com](mailto:cpatterson@fsbrlaw.com)>  
**Subject:** Re: Contract Book - Whitewater Township Park

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On Thu, Apr 6, 2023, 6:12 PM Christopher Patterson <[cpatterson@fsbrlaw.com](mailto:cpatterson@fsbrlaw.com)> wrote:

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Christopher S. Patterson

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Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

[supervisorwhitewater@gmail.com](mailto:supervisorwhitewater@gmail.com)

bcc: Township Board

----- Forwarded message -----

From: Cheryl A. Goss <[clerk@whitewatertownship.org](mailto:clerk@whitewatertownship.org)>  
Date: Wed, Apr 5, 2023 at 2:37 PM

Subject: FW: Contract Book - Whitewater Township Park  
To: Cheryl A. Goss <[clerk@whitewatertownship.org](mailto:clerk@whitewatertownship.org)>

All -

These are the contract documents for the Whitewater Township Park Improvements Project. They require township signatures.

bcc Township Board

*Cheryl A. Goss, MiPMC*

Whitewater Township Clerk

[5777 Vinton Road](#), P.O. Box 159

Williamsburg, Michigan 49690

Telephone: 231.267.5141 X 24

Fax: 231.267.9020

[clerk@whitewatertownship.org](mailto:clerk@whitewatertownship.org)

**Office Hours: Mon/Tue/Wed/Thurs 9:00 am to 5:00 pm**

**I Pledge Allegiance to the Flag of the United States of America, and to the REPUBLIC for which it stands, one Nation, under God, Indivisible, with Liberty and Justice for All.**

---

**From:** Rick Stout <[rstout@fveng.com](mailto:rstout@fveng.com)>  
**Sent:** Tuesday, April 4, 2023 1:02 PM  
**To:** Cheryl A. Goss <[clerk@whitewatertownship.org](mailto:clerk@whitewatertownship.org)>  
**Cc:** Andrew Filler <[afiller@fveng.com](mailto:afiller@fveng.com)>  
**Subject:** Contract Book - Whitewater Township Park

Cheryl,

Here is Contract document and corresponding change order. I also included agreement form for signature.

**Rick Stout | LLA, LEED AP BD+C**

**Land Development & Enhancement Group**

**FLEIS & VANDENBRINK**

[2960 Lucerne Drive SE, Suite 100 | Grand Rapids | MI | 49546](#)

O: 616.977.1000 | D: 616.942.3606 | C: 616.291.2357 | F: 616.977.1005



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**842850 Whitewater Change order no. 1 - 04.10.23.pdf**  
376K