

SUBDIVISION CONTROL ORDINANCE
VILLAGE OF LAKEVIEW
MONTCALM COUNTY, MICHIGAN
ORDINANCE NO. 05-03
Adopted: August 8, 2005
Effective: September 8, 2005
AN ORDINANCE TO REGULATE THE
SUBDIVISION OF PROPERTY

THE VILLAGE OF LAKEVIEW ORDAINS:

ARTICLE I TITLE, SCOPE, AND AUTHORITY

Section 1 Short Title

This Ordinance shall be known and may be cited as the "Subdivision Control Ordinance of the Village of Lakeview."

Section 2 Authority

The regulations of this Ordinance are adopted pursuant to Act No. 288 of the Public Acts of 1967, as amended the (the "Act").

Section 3 Scope and Purpose

A. The approvals and requirements of this Ordinance must be satisfied prior to the issuance of any permits for, or construction or installation of, any subdivision or any parts thereof within the Village of Lakeview. The approvals and requirements of this Ordinance shall also be satisfied prior to the replatting of any subdivision.

B. The purpose of this Ordinance is to provide regulations dealing with the platting of land within the Village and to promote and protect the public health, safety, and general welfare of the people of the Village by providing for the orderly development of land within the Village.

Section 4 Administration

This Ordinance shall be administered by the Village Council and Planning Commission in accordance with the procedures of this Ordinance and the Act.

ARTICLE II DEFINITIONS

Section 1 General

The definitions of the Act, as amended, are hereby included and made a part of this ordinance as it fully set forth herein. Additional definitions for purposes of this Ordinance are as follows:

Section 2

- A. Applicant means the proprietor as defined by the Act, as amended.
- B. As-Built Plans means revised construction plans drawn in accordance with all approved field changes.
- C. Clerk means the Village Clerk.
- D. Commission means the Village Planning Commission.
- E. Council means the Village Council.
- F. Improvements means grading, street surfacing, curbs, gutters, sidewalks sanitary sewers, storm drainage systems, culvert, bridges, utilities, cable television, telecommunications, and other infrastructure additions to the natural state of land which increases its value, utility, or habitability.
- G. Master Plan means the Village Master Plan.
- H. Natural features and amenities means, but is not limited to, lakes, ponds, watercourses, floodplains, woodlands, and topography of the land.
- I. Soil Erosion and Sedimentation Control Act means Act No. 347 of the Public Acts of 1972, as amended.
- J. Village means the Village of Lakeview, Montcalm County, Michigan.
- K. Village Attorney means the legal counsel for the Village.
- L. Village Engineer means the professional consulting engineer for the Village.
- M. Zoning Ordinance means the Zoning Ordinance of the Village.

ARTICLE III PRELIMINARY FINAL PLAT

Section 1 Application

- A. An application for tentative Preliminary Plat approval shall be submitted to the Clerk at least thirty (30) days prior to the next regularly scheduled meeting of the Commission.
- B. The application shall consist of the following materials. Applications which do not have all of the materials noted below shall be considered incomplete and shall not be accepted.
 - 1. A completed application form, supplied by the Village.
 - 2. An application fees as set by resolution of the Council from time to time.

3. Ten (10) copies of a Preliminary Plat drawing at a scale of not more than one (1) inch equals one hundred (100) feet that complies with the Act and shows, at a minimum, the following:
- a. A scaled location map showing the location of the proposed preliminary plat with the Village relative to streets, section lines, watercourses, and other subdivisions within one (1) mile of the plat.
 - b. The names of adjoining subdivisions, or the owners and addresses of abutting parcels of land, if not within the subdivision.
 - c. The names, rights-of-way, and pavement widths of adjoining and proposed streets, including the location of all driveways within one hundred (100) feet of the plat on adjoining streets.
 - d. Exterior dimensions of the lot or lots being subdivided.
 - e. The location, type, and dimensions of any easements or streets crossing the lot or lots being subdivided, if any.
 - f. The locations and nature of any natural features and amenities.
 - g. The locations, size, and dimensions of proposed lots.
 - h. The locations, dimension, and use of any land set aside for public or private use, other than that proposed for the plat, if any.
 - i. The location and dimensions of proposed drainage and utility easements.
 - j. The location and size of all existing underground utilities.
 - k. Site topography at two (2) foot intervals.
 - l. The date of preparation, and the names of the plat, applicant, and the firm or individual preparing the plat.
 - m. Scale, north arrow, permanent parcel number, and legal description.

C. Fees

In addition to the fee required above, the applicant shall be responsible for all costs associated with the review of the proposed subdivision by the Village, including professional fees (including, but not limited to, the Village Attorney and Village Engineer) for such reviews. Such fees shall be paid in full prior to the granting of any approvals issued by the Village associated with the approval or construction of the subdivision.

Section 2 Review Process

- A. Commission Review – Tentative Plat Approval

1. The Commission shall conduct at least one (1) public hearing for the purpose of receiving public comments on the proposed plat. Notification of the public hearing shall be the same as that required for special land uses.
 2. Following the public hearing, the Commission shall recommend to the Council approval, denial, or approval with the conditions. The Commission shall state its reasons for any recommendation. The minutes containing the record of the public hearing and the Commission's recommendation shall be forwarded to the Council and to the applicant prior to the Council's consideration of the plat.
- B. Council Review – Tentative Plat Approval
1. The Council shall not consider the preliminary plat until after receiving the recommendation of the Commission.
 2. The Council shall consider the preliminary plat at its next regularly scheduled meeting after receiving the recommendation of the Commission.
 3. Unless a pre-application review meeting was conducted in accordance with the Act, the Council shall grant tentative approval, approval with conditions, or denial of the preliminary plat within ninety (90) days of filing of a complete application with the Clerk, stating its reasons in writing for such approval, approval with conditions, or denial. Such reasons shall be based upon the standards of this Ordinance and the Act and shall be submitted to the Applicant.
- C. Tentative Preliminary Plat Approval
1. Tentative preliminary plat approval by the Council shall confer upon the applicant approval of the lot sizes, lot orientations, and street layout of the proposed Plat for a period of one (1) year.
 2. A tentative plat approval may be extended by the Village if such extension is applied for in writing prior to the expiration of the tentative plat approval period and is supported by reasonable evidence justifying the extension.
 3. Following tentative approval of the plat, the applicant shall submit copies of the plat for the approval of the authorities noted in the Act within the time period prescribed by the Act.
- D. Council Review – Final Preliminary Plat Review
1. An application for a preliminary plat shall be submitted to the Clerk at least twenty (20) days prior to the next regularly scheduled meeting of the Council.
 2. The application shall consist of the following materials. Applications that do not have all of the materials noted below shall be considered incomplete and shall not be accepted.
 - a. The requirements of Article III, Section (1)(B) of this Ordinance.

b. Proof of approval of the Plat from each of the authorities having jurisdiction as required by sections 113 to 119 of the Act, as amended. These proofs of approval shall include copies of all permits as may be required and issued by these authorities.

3. The Council shall consider the preliminary plat at its next regularly scheduled meeting after the filing of the application, or within twenty (20) days, whichever occurs first.

4. The Council shall grant final approval, approval with conditions, or denial of the preliminary plat, stating in writing its reasons for such approval, approval with conditions, or denial. Such reasons shall be based upon the standards of this Ordinance, other adopted ordinances of the Village and the Act and shall be submitted to the Applicant.

E. Final Preliminary Plat Approval

1. Final preliminary plat approval shall confer upon the applicant for a period of two (2) years from the date of approval, the conditional right that the general terms and conditions under which final preliminary plat approval was granted will not be changed.

2. A final preliminary plat approval may be extended by the Village if such extension is applied for in writing prior to the expiration of the tentative plat approval period and is supported by reasonable evidence justifying the extension.

F. Final Plat Application and Review

1. An application for a final plat approval shall be submitted to the Clerk at least twenty (20) days prior to the next regularly scheduled meeting of the Council.

2. The application shall consist of the following materials. Applications which do not have all of the materials noted below shall be considered incomplete and shall not be accepted.

a. One (1) Mylar copy and three (3) paper copies of the final plat.

b. Two (2) paper copies of as built plans for all improvements.

c. An abstract of the title certified to date, or, at the option of the Applicant, a policy of title insurance for examination in order to ascertain whether or not the proper parties have signed the final plat.

d. Certification by a licensed engineer confirming that any Improvements installed by the Applicant have been constructed in accordance with approved plans and specifications.

e. Cost estimates for any improvements that have not been completed.

3. The Council shall consider the final plat at its next regularly scheduled meeting or within twenty (20) days after the filing of the application, whichever occurs first.

4. The Council shall grant final plat approval provided that the standards of this Ordinance and the Act are met.
5. In lieu of completion of all or a portion of all Improvements and with the specific consent of the Council, final plat approval may be granted, provided that as a condition of such approval, the Applicant shall deposit with the Village a performance guarantee, of a nature and amount satisfactory to the Village, to guarantee to the Village the satisfactory construction, installation, completion and dedication of required Improvements.
 - a. The amount of such deposit shall represent one hundred percent (100%) of the estimated construction costs of completion of the required Improvements, as determined by the Village Engineer. The applicant shall be responsible for providing a cost estimate to the Village Engineer for review.
 - b. Such deposit shall comply with all statutory requirements and shall be satisfactory to the Village Attorney as to form, sufficiency and manner of execution, as set forth in this Ordinance.
 - c. The Village shall not accept the dedication of required Improvements, or release the guarantee or surety until:
 - (1) The Applicant or its engineer has certified in a manner approved by the Village Attorney that the Improvements have been completed and are free and clear of all liens and encumbrances;
 - (2) The Village Engineer has certified that the required Improvements have been satisfactorily completed as required by this Ordinance, and;
 - (3) The applicant or its engineer shall have provided certification indicating that construction of required Improvements has been satisfactorily completed. This certification shall include evidence of all inspections as required by the Act.
 - d. The performance guarantee may be reduced and refunded upon actual completion and certification of the required Improvements in the ratio that the completed Improvement bears to the total Improvements for the plat. In no event shall the surety be reduced below ten percent (10%) of the principal amount before final acceptance of all Improvements by the Council.
 - e. Building permits shall not be issued for the construction of buildings or structures within the plat, as regulated by the building code, except for signs permitted by the Zoning Ordinance, until the Applicant complies with all provisions of this article.

Section 3 Standards

A. Tentative Preliminary Plat Approval

The Commission and Council shall grant tentative preliminary plat approval upon reaching the following findings:

1. That the proposed lots comply with the requirements of the Zoning Ordinance.
2. That the design of the streets and other Improvements within the plat provide adequate and safe vehicular and pedestrian circulation within the plat and that sufficient consideration has given to providing access to adjacent vacant parcels within the same zoning district.
3. That lots are oriented to ensure safety of access to any street, to take best advantage of existing topography, storm water drainage, and to preserve existing natural features and amenities.
4. That the plat conforms to the requirements of this Ordinance and any other applicable federal, state, or local laws or ordinances.
5. That the plat will be served by public water and sewer and that all streets within the plat will meet or exceed required public road standards.
6. That the Council has received the recommendation of the Commission regarding the preliminary plat.

B. Preliminary Plat Approval

The Council shall grant tentative preliminary plat approval upon reaching the following findings:

1. That the preliminary plat substantially conforms to the tentative preliminary plat approval, including any condition placed on such approval.
2. That all required reviews have been completed and appropriate documentation of such approvals is provided.
3. That the plat conforms to the requirements of this Ordinance and any other applicable federal, state, or local laws or ordinances.

C. Final Plat Approval

The council shall grant Final Plat approval upon reaching the following findings:

1. That the final plat substantially conforms to the preliminary plat approval, including any conditions placed on such approval.
2. That all required reviews have been completed and appropriate documentation of such approvals is provided.

3. That the plat conforms to the requirements of this Ordinance and any other applicable federal, state, or local laws or ordinances.

4. That construction of all improvements as required by this Ordinance has been completed and financed, or a bond shall be submitted in accordance with the provisions of this Ordinance.

Section 4 Required Improvements – Engineering and Design

A. Streets and Access

1. All streets within the plat shall be dedicated to the public, and all streets and improvements to streets adjoining the plat shall be constructed to the standards required by the Village and the Montcalm County Road Commission.

2. Any plat shall be designed so that no lots have direct access to a County Primary or County Local Road. Access to lots within the plat shall only be provided by streets proposed as part of the plat. The Council, upon recommendation of the Commission, may grant direct access to County roads provided that all of the following conditions are met:

- a. Approval for such direct access is obtained from the Montcalm County Road Commission for each lot,
- b. The proposed plat contains fewer than five (5) lots,
- c. The proposed plat has less than four hundred (400) feet of frontage on the existing County Primary or County Local Road,
- d. The entire property under the ownership or control of the Applicant, including any portion which is excluded from the plat, has less than three hundred (300) feet of lot depth.

B. Utilities

1. Public sanitary sewer and/or water shall be extended at the Applicant's expense to serve the proposed plat where an appropriate connection is available within one thousand (1,000) feet of the boundary of the plat.

2. Where such connections are not available, the Applicant may either pay for the extension of such utilities, or provide suitable private utility systems, subject to the approval of the Village and the Montcalm County Health Department.

3. All utilities shall be installed underground at the applicant's expense. All such utilities shall be placed within private easements provided to such utility agencies, or within dedicated public rights-of-way, as permitted by the agencies governing such rights-of-way.

4. All utilities shall conform to the construction standards of the Village or the Montcalm County Board of Public Works, or other appropriate agency or ordinance.

C. Sidewalks

1. Sidewalks may be required by the Council in any of the following circumstances at their discretion:
 - a. Where other public sidewalks are available within five hundred (500) feet of the boundary of the proposed plat and on the same side of a road as the plat, or
 - b. Sidewalks may be required within the plat where the length of any portion of a street within such plat exceeds six hundred (600) feet, or
 - c. Where the Council determines that sidewalks are necessary to ensure the safety of pedestrians.
2. Sidewalks shall be constructed according to the Village's standards.

D. Storm Drainage

1. All storm drainage systems shall be designed, constructed, and maintained to the standards required by the Montcalm County Drain Commissioner, the Michigan Department of Natural Resources, and any applicable Village ordinance.
2. The Applicant shall comply with the Soil Erosion and Sedimentation Control Act and shall include a notation to this effect on the plat.

E. Existing Natural Features and Amenities

1. To the extent possible, existing natural features and amenities shall be preserved, or where appropriate, replaced within the plat.
2. Where such features are required to be removed or altered as part of the plat design, the applicant shall certify to the Council:
 - a. That the properties of the land which is part of the plat are such that no practical alternative design is possible that would preserve such features.
 - b. That the removal or alteration of such features will not have an adverse effect on adjacent properties with respect to drainage, views, or other significant environmental effect.
 - c. That the removal or alteration of such features complies with all applicable federal, state, local laws and ordinances.
 - d. That financial considerations alone are not used to justify the removal or alteration of such features.

3. The Council may require the installation and maintenance of such trees or other landscaping or other action to compensate for the removal or alteration of natural features or amenities or to provide screening from adjacent properties where deemed appropriate by the Council.

F. Street Lighting

1. Street lighting may be required by the Council.

2. If required, street lighting shall be installed in accordance with the standards of the Village, Montcalm County Road Commission, or other appropriate agency or utility.

ARTICLE IV ADMINISTRATION

Section 1 Severability

The sections and portions of this Ordinance shall be deemed severable. Should any section, clause, sentence, or provision of this Ordinance be declared to be invalid, in whole or in part, by a court of competent jurisdiction and the same shall not affect the validity of this Ordinance as a whole or any part thereof other than the section, clause, sentence, or provision declared to be invalid.

Section 2 Penalties

Any person, firm, corporation, trust, partnership, or other legal entity which violates or refuses to comply with any provision of this Ordinance shall be responsible for a municipal civil infraction and shall be punished by a civil fine of Two Hundred Fifty Dollars (\$250.00) for a first violation; Five Hundred Dollars (\$500.00) for a second violation; and One Thousand Dollars (\$1,000.00) for a third or any subsequent violation and shall be liable for the payment of the costs of prosecution in an amount of not less than Nine Dollars (\$9.00) and not more than Five Hundred Dollars (\$500.00).

a. Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of a fine for each day.

b. The foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief prescribed by the laws of the State of Michigan for the abatement of a public nuisance or the violation of a Village ordinance designated as a municipal civil infraction.

Section 3 Effective Date

This Ordinance shall take thirty (30) days after the date that this Ordinance or a summary thereof is published in the newspaper as provided by law.

The foregoing Ordinance was offered by Village Councilmember Schuttle, supported by Village Councilmember Collard, the vote being as follows

YEAS: Winter, Earhart, Farrell, Lund, Collard and Schuttle

NAYS: None

ABSENT: Lobert

ORDINANCE NO. 05-03 DECLARED ADOPTED.

Ed Winter, President

Wally Delamater, Clerk

CERTIFICATION

I hereby certify the foregoing to be a true copy of an Ordinance adopted by the Village Council of the Village of Lakeview, Montcalm County, at a regular meeting held on August 8, 2005, at the Village offices, pursuant to the applicable statutory procedures.

Wally Delamater, Clerk

06950. (001) 13768.02