

SUBDIVISION CONTROL ORDINANCE

Ordinance No. 96-1

Adopted: January 15, 1996

An ordinance regulating the subdivision of land in the Township of Baroda, requiring and regulating the preparation and presentation of pre-preliminary, preliminary and final plats for such purpose; establishing minimum subdivision standards; providing for minimum improvements to be made or guaranteed to be made by the subdivider; setting forth the procedures to be followed by the Baroda Township Board and the Planning Commission in applying these rules, regulations and standards; and prescribing penalties for the violation of its provisions:

THE TOWNSHIP OF BARODA ORDAINS:

ARTICLE I **GENERAL PROVISIONS**

1.101 Short title.

This ordinance shall be known and may be cited as the "Baroda Township Subdivision Ordinance".

1.102 Purpose

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

1. Provide for orderly growth and harmonious development of the community, consistent with orderly growth policies;
2. Secure adequate traffic circulation through coordinated street systems with proper relation to major thoroughfares, adjoining subdivisions and public facilities.
3. Achieve individual property lots of maximum utility and livability.
4. Insure adequate provisions for water, drainage and sanitary sewer facilities and other health requirements.
5. Plan for the provision of adequate recreational areas, school sites, and other public facilities.

1.103 Legal basis.

This ordinance is enacted pursuant to the statutory authority granted by the Subdivision Control Act of 1967, Act 288, Public Acts of 1967, as amended; and Act 246, Public Acts of 1945, as amended.

1.104 Scope

This ordinance shall not apply to any lot or lots forming a part of a subdivision created and recorded prior to the effective date of this ordinance, except for the further dividing of lots.

Where this ordinance imposes a greater restriction upon land than is imposed or required by such existing provision of any other ordinance of the Township of Baroda, the provisions of this ordinance shall control.

1.105 Administration.

The approval provisions of this ordinance shall be administered by the Baroda Township Board in accordance with Act 288, Public Acts of 1967, as amended. The township board further reserves the right to establish additional policies and/or procedures for subdividing land in the township if, in its opinion, such policies and/or procedures are necessary to protect the health, safety, welfare and convenience of the inhabitants of Baorda Township.

1.106 Schedule of fees.

The schedule of fees for review of plats shall be established by the Baroda Township Board.

Fees shall be paid to the township clerk at the time application for approval is submitted. Checks shall be made payable to the "Baorda Township Treasurer".

ARTICLE II **DEFINITIONS**

The following definitions shall apply in the interpretation and enforcement of this ordinance, unless otherwise specifically stated. The word "shall" is always mandatory and not merely directory.

2.101 Alley.

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

2.102 As-built plans.

Revised construction plans in accordance with all field changes.

2.103 Building line or setback line.

A line parallel to the lot line at a distance therefrom equal to the depth of the front, side or rear yard required for the zoning district in which it is located.

2.104 Comprehensive development plan (or master plan).

A plan adopted by the Baroda Township Board as a guide for the physical development of Baroda Township showing the general location for major streets, parks, schools, public building sites, land use and other similar information. The plan may consist of maps, data and other descriptive matter.

2.105 Crosswalkway (pedestrian walkway).

Right-of-way, dedicated to public use, which crosses a block to facilitate pedestrian access to adjacent streets and properties.

2.106 Dedication.

The intentional appropriation of land by the owner to public use.

2.107 Flood plain.

Flood plains may be either riverine or inland depressional areas. Riverine flood plains are those areas continuous with a lake, stream or stream bed whose elevation is greater than the normal waterpool elevation but equal to or lower than the projected 100-year flood elevation. Inland depressional flood plains are flood plains not associated with a stream but which are low points to which surrounding land drains.

2.108 Greenbelts or buffer parks.

A strip or parcel of land, privately restricted or publicly dedicated as open space located between incompatible uses for the purpose of protecting and enhancing the environment.

2.109 Improvements.

Any structure incidental to servicing or furnishing facilities for a subdivision such a grading, street surfacing, curb and gutter, driveway approaches, sidewalks, crosswalks, water mains and lines, sanitary sewers, storm sewers, culverts, bridges, utilities, lagoons, slips, waterways, lakes, bays, canals and other appropriate items, with appurtenant construction.

2.110 Lot.

For the purposes of this ordinance, a lot is a parcel of land of a least sufficient size, exclusive of areas under water, to meet minimum zoning requirements for use, coverage and area, and to provide such yards and open spaces as are required in the Baroda Township Zoning Ordinance. Such lot shall have frontage on a public or private street. In no case of division or combination shall any new or residual lot or parcel be created which does not meet the requirements of the zoning ordinance.

2.111 Outlot.

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

2.112 Parcel or tract.

A continuous area or acreage of land which can be described as provided for in the Subdivision Control Act.

2.113 Planned unit development.

A land area three acres or more which has both individual building sites and common property, such as a park, and which is designated and developed under one owner or organized group as a separate neighborhood or community unit under article 14, planned development district, of the Baroda Township Zoning Ordinance.

2.114 Planning Commission.

The Baorda Township Planning Commission as established under Act 168, P.A. of 1959, as amended.

2.115 Plat.

A map or chart of a subdivision of land.

1. *Pre-preliminary plat (sketch plan)*. An informal plan or sketch, drawn to scale and in pencil, if desired, showing the existing features of a site and its surroundings and the general layout of a proposed subdivision.
2. *Preliminary plat*. A map showing the salient features of a proposed subdivision of land submitted or an approving authority for purposes of preliminary consideration.
3. *Final plat*. A map of a subdivision of land made up in final form ready for approval and recording.

2.116 Proprietor, subdivider or developer.

A natural person, firm, association, partnership, corporation or combination of any of them, which may hold any recorded or unrecorded ownership interest in land. The proprietor is also commonly referred to as the "owner".

2.117 Public utility.

Any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under Federal, State or municipal regulations to the public; gas, steam, electricity, sewage disposal, communications, telegraph, transportation, water or cable TV.

2.118 Public open space.

Land dedicated or reserved for use by the general public. It includes parks, parkways, recreation areas, school sites, community or public building sites, streets and highways and public parking spaces.

2.119 Replat.

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 outlet within a recorded subdivision plat without changing the exterior boundaries of the outlet is not a replat.

2.120 Reserve strip.

A strip of land within the boundaries of a subdivision reserved for the purpose of controlling access to streets.

2.121 Right-of-way.

Land reserved, used, or to be used for a utility, street, alley, walkway, or other public purposes.

2.122 Sight distance.

The unobstructed vision on a horizontal plane along a street centerline.

2.123 Sketch plan.

A pre-preliminary plat.

2.125 Street.

A public dedicated right-of-way or right-of-way meant for public use other than an alley, which provides primary access to abutting properties, and over which the public has easement of vehicular access.

1. *Arterial street.* Those streets of considerable continuity which are used or may be used primarily for fast or heavy traffic.
2. *Collector street.* Those streets used to carry traffic from minor streets to arterial streets, including principal entrance streets to large residential developments.
3. *Cul-de-sac.* A minor street of short length having one end terminated by a vehicular turn-around.
4. *Access street.* A minor street which is parallel and adjacent to arterial streets and which provides access to abutting properties and protection from through traffic and not carrying through traffic.
5. *Minor street.* A street which is intended primarily for access to abutting properties.

2.126 Subdivide or subdivision.

The partitioning or dividing of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale or lease of more than one year, or of building development, where the act of division creates five or more parcels of land each of which is ten acres or less in area; or five or more parcels of land each of which is ten acres or less in area are created by successive divisions within a period of ten years.

2.127 Surveyor.

Either a land surveyor who is registered in the State of Michigan as a registered surveyor, or a civil engineer who is registered in the State of Michigan as a registered professional engineer.

2.128 Topographical map.

A map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

2.129 Township Board.

The Baroda Township Board of Trustees, as elected.

ARTICLE III **PLATTING PROCEDURE AND DATA REQUIRED**

3.101 Pre-application contact and sketch plan.

1. Purpose

A. A pre-preliminary plat or sketch plan may be submitted for information and review only in order to: (1) Provide guidelines for the subdivider concerning development policies, platting procedures and requirements of Baroda Township.

(2) Provide the Baroda Township Planning Commission and other affected agencies with general information concerning the proposed development.

B. Review of the sketch plan does not assure acceptance of the preliminary plat.

2. Requirements.

A. Pre-preliminary plat or sketch plan. The plan shall show the subdivision's entire development in schematic form, identify the area for immediate development, and shall include the following:

- (1) General layout of streets, blocks and lots, drawn to scale.
- (2) Existing conditions and characteristics of the land on and adjacent to the site.
- (3) Any general area set aside for schools, parks and other community facilities.
- (4) Proof of ownership of the land proposed to be subdivided.

3. Procedure.

A. The subdivider shall submit ten copies of the pre-preliminary plat to the township clerk.

B. The township clerk shall promptly transmit copies of the pre-preliminary plat to the planning commission.

C. The planning commission will review the plat with the subdivider or his agent.

D. The planning commission should inform the subdivider or his agent of Baroda Township's development policies and make appropriate comments and suggestions concerning the proposed development scheme.

E. The planning commission shall inform the Baroda Township Board of the results of the review of the pre-preliminary plat, with recommendations.

3.102 Preliminary plats.

1. Requirements.

A. Size and scale. The preliminary plat may be on paper and shall be not less than 24 inches by 36 inches, at a scale of one inch to 100 feet, showing the date and north arrow.

B. Information required. The following shall be shown on the preliminary plat or submitted with it:

- (1) The name of the proposed subdivision.
- (2) Name, address and telephone numbers of the subdivider and the surveyor and/or engineer preparing the plat.
- (3) Location of the subdivision, giving the legal description, including the numbers of section, township and range, and the name of the township and county.
- (4) The names of abutting subdivisions, if any.

- (5) Statement of intended use of the proposed plat, such as residential single family, duplex dwelling or multiple housing, commercial, industrial, recreational or agricultural. Also, proposed sites, if any, for shopping centers, churches, industry and other non-public uses exclusive of single-family dwellings. Also, any sites proposed for parks, playgrounds, schools or other public uses.
- (6) A map of the entire area scheduled for development, if the proposed plat is a portion of a larger holding intended for subsequent development.
- (7) A location map showing the relationship of the proposed plat to the surrounding area.
- (8) The land use and existing zoning of the proposed subdivision and the adjacent lands.
- (9) Streets, street names, right-of-way and roadway widths.
- (10) Lot lines and the total number of lots by block.
- (11) Contours shall be shown on the preliminary plat at five-foot intervals where slope is greater than ten percent, and two-foot intervals where slope is ten per cent or less.
- (12) A site report as described in the rules of the state department of public health shall be required if the proposed subdivision is not to be served by public sewer systems.
- (13) Proposed and existing storm and sanitary sewers, water mains and their respective profiles, or indicate alternate methods.
- (14) Two copies of proposed protective covenants and deed restrictions, or state in writing that none are proposed.
- (15) Easements, showing location, width and purpose.

C. Preliminary engineering plans. The subdivider shall submit six sets of preliminary engineering plans for required public improvements such as streets, water, sewers, sidewalks, and any other improvements required by Baroda Township. The engineering plans shall contain enough information and detail to enable the planning commission to make preliminary determination as to conformance of the proposed improvements to applicable Baorda Township regulations and standards.

2. Procedures.

A. Submittal. The subdivider shall submit to the township clerk at least ten days before the planning commission meeting:

- (1) Ten copies of the preliminary plat on a topographic map.
- (2) Written application for approval on form furnished by township clerk.
- (3) The fee established by this ordinance for review of preliminary plats.

B. Tentative approval. A preliminary plat shall be submitted to the township board by the planning commission for tentative approval or rejection before submitting to other approving authorities

- (1) Purpose. To encourage long-range planning of developments and at the same time offer the subdivider reasonable protection against changes in lot sizes and layout.
- (2) (Tentative approval.) The township board, within 90 days from the date of filing, shall tentatively approve and note its approval on the copy of the preliminary plat to be returned to the proprietor, or set forth in writing its reasons for rejection and requirements for tentative approval.
- (3) (Extension.) Tentative approval shall confer upon the subdivider, for a period of one year from date, approval of lot sizes, lot layout, street layout and street names. Such

tentative approval may be extended if applied for by the subdivider and granted by the township board in writing.

C. Distribution to authorities.

- (1) Following tentative approval of the preliminary plat, the subdivider shall submit to the various authorities the number of identical copies of the preliminary plat required by sections 112 through 119 of the Subdivision Control Act.
- (2) The township clerk shall submit one copy of the preliminary plat to the school board of the respective school district in which the subdivision is to be located, for informational purposes only.
- (3) The subdivider shall file with the township clerk a list of all authorities to whom identical copies of the preliminary plat have been distributed.

3. *Actions for final approval* - Preliminary plat.

A. Letters of conditional approval or rejection.

- (1) (Authorities to secure approvals.) The subdivider shall secure the approvals of the following authorities as required by sections 113 through 118 of the Subdivision Control Act:

- Berrien County Road Commission
- Berrien County Drain Commissioner
- Michigan Department of Transportation (if necessary)
- Michigan State Department of Natural Resources (if necessary)
- Michigan State Water Resources Commission (if necessary)
- Berrien County Health Department (if necessary)

- (2) (Submitting plats.) The subdivider shall submit to the county plat board and to the public utilities serving the area two copies of the preliminary plat for information purposes.
- (3) (Delivery of copies.) The subdivider shall deliver all copies to the township clerk who shall promptly transmit them to the planning commission, along with a statement of approvals not deemed necessary.
- (4) Official filing date. The date all copies are received by the township clerk, in accordance with the above, shall be the official filing date.

B. Planning commission.

- (1) The planning commission shall review the preliminary plat to determine if it meets all requirements.
- (2) If the preliminary plat does not meet all requirements, the planning commission shall notify the subdivider by letter, giving the earliest date for resubmitting of the plat and additional information required.
- (3) The planning commission shall give its report to the township board not more than 60 days after submission of the preliminary plat.
- (4) The 60-day period may be extended if the applicant consents. If no action is taken within the stated period, the preliminary plat shall be deemed to have been approved by the planning commission.

C. Township Board.

- (1) The township board shall not review, approve or reject a preliminary plat until it has received, from the planning commission, its report and recommendations, or time has expired in accordance with B(4) above.
- (2) The township board shall consider the preliminary plat at its next meeting, but no later than 90 days from the date of filing.
- (3) The township board shall, within 90 days from the date of filing, either reject the preliminary plat and give its reasons, or set forth in writing the conditions for granting approval.

D. Conditions and duration of final approval - Preliminary plat.

Conditions. Final approval of a preliminary plat shall not constitute approval of the final plat but, rather, that final plat approval shall be conditioned on all requirements being met.

- (1) Final approval of the preliminary plat by the township board shall be for a period of two years from the date of its approval by the other required authorities.
- (2) The township board may extend the two year period if applied for and granted in writing, but only concerning its own requirements.

3.103 Final plats.

1. *Requirements.*

A. General

- (1) Final plats shall be prepared and submitted as provided for in the Subdivision Control Act.
- (2) A written application for approval, the fee as established by this ordinance for review of final plat, and the recording fee in the amount required by and made payable to the Berrien County Clerk shall accompany all final plats.
- (3) The subdivider shall submit proof of ownership of the land included in the final plat in the form of an affidavit attesting that there are no other owners of interest, recorded or unrecorded, or a policy of title insurance currently in force.
- (4) The township board may require such other information as it deems necessary to establish whether the proper parties have signed the final plat.

B. Time of submittal. Final plats shall be submitted to the township clerk at least ten days before a meeting of the planning commission.

2. *Procedures.*

A. Submittal to approving authorities. The subdivider shall submit the final plat and as-built engineering plans where required for approval to the following:

- (1) Berrien County Road Commission: For approval or rejection.
- (2) Berrien County Drain Commissioner: For approval or rejection.
- (3) Berrien County Health Department: For issuance of a letter of approval or rejection, unless served by public sewer.
- (5) Planning Commission (through the township clerk): For recommendations to the township board.

(6) Township clerk: For approval or rejection by the Township Board.3. *Actions.*

A. Planning Commission.

(1) The planning commission shall examine the final plat at its next regular meeting, or within thirty days of receipt of the final plat, for conformance to:

- (a) The provisions of the Subdivision Control Act.
- (b) The provisions of this ordinance.
- (c) The preliminary plat, as approved.

(2) The time for review and recommendations by the planning commission may be extended by agreement with the subdivider.

(3) If the planning commission recommends disapproval of the final plat by the township board, it shall state its reasons in its official minutes and forward same to the township board, with a copy to the subdivider, and recommend that they disapprove the final plat until the objections causing disapproval have been satisfied to meet with the approval of the planning commission.

(4) Recommendations for approval of the final plat by the township board shall be accompanied by a report.

B. Township Board.

(1) The township board shall review the final plat and the report from the planning commission at its next regular meeting, or at a meeting to be called within 30 days of receipt from the planning commission.

(2) The township board shall approve the final plat or disapprove it. If disapproved, it shall give the subdivider its reasons in writing.

(3) The township board shall instruct the township clerk to record all proceedings in the minutes of the meeting, which shall be open for inspection and to sign the municipal certificate on the approved final plat in behalf of the Baroda Township Board.

C. Improvements and facilities required by Baroda Township.

(1) The township board may require all improvements and facilities to be completed before it approves the final plat.

(2) If improvements and facilities are not required to be completed before the final plat approval, the final plat shall be accompanied by a contract between the subdivider and the township board for completion of all required improvements and facilities.

(3) Performance of the contract shall be guaranteed by a cash deposit, certified check or irrevocable bank letter of credit.

(4) The township board shall not require a surety deposit duplicating any surety deposit required by another governmental agency.

(5) Such surety shall be rebated or credited to the account of the proprietor as the work progresses, as included in a written agreement between the township board and the subdivider.

ARTICLE IV
SUBDIVISION DESIGN STANDARDS

4.101 Trafficways - Streets and roads.

1. *Location.*

A. Street continuation and extension. The arrangement of streets shall provide for the continuation of existing streets from adjoining areas into new subdivisions, unless otherwise approved by the planning commission and the Berrien County Road Commission.

B. Local or minor streets. such streets shall be so arranged as to discourage their use by through traffic.

C. Stub streets. Where adjoining areas are not subdivided, the arrangements of streets in the new subdivision shall be extended to the boundary line of the tract to make provision for the future projection of streets into adjacent areas, unless topographical conditions make same inadvisable. All stub streets shall be developed with an approved cul-de-sac.

D. Relation to topography. Streets shall be arranged in proper relation to topography so as to result in usable lots, safe streets and reasonable gradients..

E. Access streets. Where a subdivision abuts or contains an arterial street, the township may require such treatment as it deems necessary for the adequate protection of residential properties and to afford separation of through and local traffic.

F. Private streets. Private streets and roads shall be prohibited.

2. *Specifications.*

Specifications for all streets and roads shall conform to the rules of the Berrien County Road Commission and/or the Michigan Department of Transportation. This shall include; right-of-way width, gradients, alignments, intersections, and construction.

3. *Street names.*

A. Street names shall not duplicate any existing street name in the local post office area or the township, except where a new street is a continuation of an existing street.

B. Street names that may be spelled differently but sound the same shall be prohibited.

C. A guide for naming new streets shall be as follows:

- (1) Streets with predominant north-south directions shall be named "avenue" or "road".
- (2) Streets with predominant east-west directions shall be named "street".
- (3) Meandering streets shall be named "drive", "lane", "path", or "trail".
- (4) Cul-de-sacs shall be named "circle", "court", "way" or "place".

D. The use of "north", "south", "east" or "west" words in the street name shall be avoided.

4.102 Pedestrianways.

1. *Sidewalks.* Sufficient right-of-way shall be provided so that sidewalks may be installed on both sides of all streets.
2. *Handicapped Access:* All pedestrianways shall meet state and federal requirements for handicapped access.

4.103 Easements.

1. *Location.* Easements shall be where reasonably required to effectively and efficiently serve the area, and the final location of such easements shall be subject to the approval of the township board.
2. *Drainageway.* The subdivider shall provide drainageway easements as required by the regulations established by the Berrien County Drain Commissioner.

4.104 Lots.

1. *Conform to zoning.* The lot width, depth and area shall not be less than the particular district requirements of the zoning ordinance except where outlots are provided for some permitted purpose.
2. *Lot lines.* Side lot lines shall be essentially at right angles to straight streets and radial to curved streets.
3. *Width related to length.* Narrow, deep lots shall be avoided. The depth of a lot generally shall not exceed two and one-half times the width as measured at the setback line.
4. *Corner lots.* Corner lots shall have extra width as may be required to permit appropriate building setback from both streets or orientation to both streets. Lots abutting a pedestrian mid-block crosswalk shall be treated as corner lots.
5. *Back-up lots.* Lots bordering such features as freeways, arterial streets, shopping centers or industrial properties shall back into same except where there is an access street, unless a secondary access is provided. Such lots shall contain a greenbelt or buffer park along the rear at least 20 feet wide in addition to the utility easement to restrict access to the arterial street, to minimize noise and to protect outdoor living areas.
Lots extending through a block and having frontage on two (2) streets shall be prohibited.
6. *Lot frontage.* All lots shall front upon a publicly dedicated street. Exceptions may be permitted for lots on lakes, rivers or streams.
7. *Lot division.* The division of a lot in a recorded plat is prohibited unless approved by the Baroda Township Board.

4.105 Greenbelts/buffer parks and reserve strips.

1. *Greenbelts/buffer parks.* Greenbelts or buffer parks may be required to be placed next to incompatible features such as highways, railroads, commercial or industrial uses to screen the view from residential properties. Such screens shall be a minimum of 20 feet wide, and shall not be a part of the normal roadway right-of-way or utility easement.
2. *Reserve strip-private.* Privately held reserve strips controlling access to streets shall be prohibited.
3. *Reserve strip-public.* A one-foot reserve strip may be required to be placed at the end of "stub" or "dead-end" streets which terminate at subdivision boundaries and between half streets. These reserves shall be deeded in fee simple to Baroda Township for future purposes.

4.106 Public sites and open spaces.

1. *Public uses.* Where a proposed park, playground, school or other public use shown on the comprehensive development plan is located in whole or in part within a subdivision, a suitable area for this purpose may be dedicated to the public or reserved for public purchase. If within two years of plat recording the purchase is not consummated, the reservation may be cancelled by the township board.
2. *Natural features.* Existing natural features which add value to residential development and enhance the attractiveness of the community (such as trees, watercourses, historic spots and similar irreplaceable assets) shall be preserved, insofar as possible, in the design of the subdivision.
3. *Lands subject to flooding or otherwise determined by the Township Board to be uninhabitable should not be platted for residential, commercial or industrial purposes.* Such lands within a subdivision may be set aside for other purposes such as parks and/or open space.
4. *Riparian properties.* It shall be unlawful to offer existing or potential buyers of non-riparian lots riparian access to any body of water as a condition or term of sale except as permitted in this subsection. Where a parcel of land contiguous to a lake, river, stream, or pond is presented for subdividing under the provisions of this ordinance or where lake access is offered to potential purchasers as a condition or term of sale of any lot situated within an existing or proposed subdivision, a recreational park bordering on said body of water may be dedicated for the purposes of gaining riparian access to said body of water, the privileges of which are to be reasonably enjoyed by the owners and occupants of lots included within the plat only subject to the following conditions and limitations:
 - A. Said recreational park is dedicated at the time of recording of said plat or subdivision for use solely by the owners and occupants of lots contained within said subdivision.

B. That said recreational park shall contain at least 20 lineal feet of water frontage for each lot and owner thereof to whom said privileges are dedicated and the depth of the park shall not be less than 150 feet.

C. That in no event shall said recreational park have less than 150 lineal feet of water frontage regardless of the number of lots to which such privileges are extended. There shall be no full or part-time residence in this park.

D. That in no event shall the frontage used as a recreational park as providing herein consist of a swamp, marsh, or bog as shown on the most recent United States geological survey maps or U.S.D.A. Soil Survey, or man-made canals.

E. That in no event shall the launching of boats or the construction of docks therefrom be permitted from any recreational park.

F. That in no event shall any such recreational park be developed as provided herein unless the same is part of a recorded and developed subdivision or plat.

G. The title to said recreational park shall remain with the plat proprietor or, in the alternative, title to the same may be conveyed to one grantee only consisting of an individual person, a husband and wife jointly, a partnership, corporation, or association. The purpose of this provision is to prevent conveyances of undivided interests in said recreational park so as to facilitate real tax assessments.

ARTICLE V

SUBDIVISION IMPROVEMENTS

5.101 Purpose.

It is the purpose of this section to establish and define the public improvements which will be required to be constructed by the subdivider as conditions for final plat approval and also to outline the procedures and responsibilities of the subdivider and the various public officials and agencies concerned with the administration, planning design, construction and financing of public facilities, and to further establish procedures for assuring compliance with these requirements.

5.102 Responsibility for plans.

It shall be the responsibility of the subdivider of every proposed subdivision to have prepared by a registered engineer a complete set of construction plans, including profiles, cross-section, specifications and other supporting data for the hereinafter required public streets, utilities and other facilities. Such construction plans shall be based on preliminary plans which have been approved with the preliminary plat, and shall be prepared in conjunction with the final plat. Construction plans are subject to approval by the responsible public agencies shown. All construction plans shall be prepared in accordance with their standards.

5.103 Procedure.

Submittal. When construction has been completed at the time of filing the final plat, one copy of the as-built engineering plans of each required public improvement shall be filed with the township clerk coincident with the filing of the final plat.

5.104 Required public improvements.

Every subdivider shall be required to install the following public and other improvements in accordance with the conditions and specifications as follows:

1. *Monuments.* Monuments shall be set in accordance with the State Subdivision Control Act of 1967, Act No. 288 of Public Acts of 1967, as amended, and the rules of the Michigan Department of Treasury.
2. *Streets.* All streets shall be constructed in accordance with the standards and specifications adopted by the Berrien County Road Commission and/or Michigan Department of Transportation.
3. *Sidewalks.* Sidewalks shall be constructed in accordance with the standards and specifications of the Berrien County Road Commission or the Michigan Department of Transportation.
4. *Crosswalks.* When required, crosswalks shall be constructed in accordance with the standards and specifications of the Berrien County Road Commission or the Michigan Department of Transportation. Crosswalks shall have easements at least ten feet in width and include a paved walk at least five feet in width, located generally along the centerline of the easement, dedicated as a public pedestrian walkways.
5. *Driveways.* All driveways and driveway openings in curbs shall be as specified by the Berrien County Road Commission or the Michigan Department of Transportation.
6. *Street name signs.* Street name signs shall be installed in the appropriate locations at each street intersection in accordance with the requirements of the Berrien County Road Commission.
7. *Street lights.* Street lights shall be required to be installed throughout the subdivision according to a plan acceptable to the township board. A subdivider shall conform to the requirements of Baroda Township. Said lighting to be paid by special assessment of the property owner(s) unless otherwise provided. This restriction is to appear in each and every abstract of lot within the subdivision.
8. *Traffic signs.* Traffic signs, in addition to those required by the Berrien County Road Commission, may be required by the township. All traffic signs shall be provided by the subdivider and be in accordance with the rules and regulations of the Berrien County Road Commission.
9. *Storm drainage.* As adequate storm drainage system, including necessary storm sewers, drain inlets, manholes, culverts, bridges and other appurtenances shall be required in all subdivisions.

The requirements for each particular subdivision shall be established by the Berrien County Drain Commissioner. Construction shall follow the specifications and procedures established by the Berrien County Drain Commissioner. All proposed storm drainage construction plans for proposed plats shall be approved by the Berrien County Drain Commissioner.

10. *Water systems.* All subdivisions shall be connected to a public water supply system. Fire hydrants and other required water system appurtenances shall be provided by the subdivider. Public water systems shall comply with the requirements of Act 98, Public Acts of 1913, as amended, and with procedures established by the township board. The township board may wave this requirement for subdivisions located 1/2 mile or more from the existing water systems.

11. *Sanitary sewer systems.* All subdivisions shall be connected to a public sanitary sewer system if available and accessible. In determining availability and accessibility, the following shall be given consideration by the township board:

- A. Distance to the nearest sanitary sewer system from the proposed subdivision (less than one-quarter mile shall warrant consideration).
- B. Planned sanitary sewer services that are to be installed and ready for use within a two-year period.
- C. Topography between the subdivision and the sanitary sewer system.
- D. Capacity of existing public system.
- E. Current policy of the township board on service extensions.
- F. Population density of surrounding area to determine need for public sanitary sewer system.
- G. Factors affecting public health.
- H. Proposed lot sizes.
- I. Potential financial obligations likely to be created for the township and private persons.
- J. Any other factors relevant to the health, safety, welfare and convenience of the inhabitants of Baroda Township.

When a proposed subdivision is to be serviced by a public sanitary sewer system, sanitary sewers and other required appurtenances thereto shall be provided by the subdivider. Sewer lines shall be stubbed to the property line. Public sanitary sewer systems shall comply with the requirements of Act 98, Public Acts of 1913, as amended, and with procedures established by the township board.

Where it is determined that a subdivision cannot be connected with an existing public sewer system, then approved septic systems which shall comply with the requirements of the Berrien County Health Department may be allowed.

12. *Subdividers responsibilities.*

- A. Shall be responsible for the prevention of damage to any adjacent public or private property, including any and all public utilities, during the course of subdividing.
- B. Not cause interference with any existing drainage course as a result of subdividing.

C. Shall be responsible for the proper preparation of resulting vacant lots after subdividing so that there shall be no deposit of debris or sediment on any public or private property or waterway. Where necessary, ground shall be seeded in order to comply with this section.

5.106 Guarantee of completion of improvements required by Baroda Township.

In lieu of the actual installation of required public improvements, the township board, on recommendation of the planning commission may permit the subdivider to provide guarantee of performance in one or a combination of the following arrangements for those requirements which are over and beyond the requirements of the Berrien County Road Commission, Berrien County Drain Commissioner or any other agency responsible for the administration, operation and maintenance of the applicable public improvement.

1. Performance bond.

A. Accrual. The bond shall accrue to Baroda Township, covering construction, operating and maintenance of the specific public improvement.

B. Amount. The bond shall be in amount equal to the total estimated cost for completing construction of the specific public improvement, including contingencies, as estimated by the township board.

C. Term length. The term length in which the bond is in force shall be for a period to be specified by the township board for the specific public improvement.

D. Bonding company. The bond shall be with a company authorized to do business in the State of Michigan, acceptable to the township board.

E. The escrow agreement shall be drawn and furnished by the township board.

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

A. Treasurer, escrow agent or trust company. A cash deposit, negotiable bond, or an irrevocable bank letter of credit (surety acceptable by the township board) shall accrue to the township. These deposits shall be made with the township treasurer, or deposited with a responsible escrow agent or trust company, subject to the approval of the township board.

B. Dollar value. The dollar value of the acceptable surety shall be equal to the total estimated cost of construction of the specific public improvement, including contingences, as estimated by the township board.

C. Escrow time. The escrow time for the acceptable surety shall be for a period to be specified by the township board. The escrow agreement shall be drawn and furnished by the township board.

D. Progressive payment. In the case of cash deposits or certified checks, an agreement between the township and the subdivider may provide for progressive payment out of the cash deposit or

reduction of the certified check, negotiable bond, or irrevocable bank letter of credit, to the extent of the cost of the completed portion of the public improvement in accordance with a previously entered into agreement.

5.107 Condition of township approval of final plat - Financial guarantee.

With respect to financial guarantees, the approval of all final subdivision plats shall be conditioned on the accomplishment of one of the following:

- 1) The construction of improvements required by this ordinance shall have been completed by the subdivider and approved by the township board.
- 2) Surety acceptable to the township shall have been filed in the form of a cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit.

5.108 Inspection of public improvements under construction.

Before approving a final plat and construction plans and specifications for public improvements, an agreement between the subdivider and the township board shall be made to provide for checking or inspecting the construction and its conformity to submitted plans.

5.109 Penalty in case of failure to complete the construction of public improvements.

In the event the subdivider shall, in any case, fail to complete such work within such period of time as required by the conditions of the guarantee for the completion of public improvements, it shall be the responsibility of the township board to proceed to have such work completed. In order to accomplish this, the township board shall reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check, irrevocable bank letter of credit or negotiable bond, or may take such steps as may be necessary to require performance by the bonding company, and as included in a written agreement between the township board and the subdivider.

ARTICLE VI VARIANCES

6.101 General.

The planning commission may recommend to the township board a variance from the provisions of this ordinance on a finding that undue hardship may result from strict compliance with specific provisions or requirements of the ordinance or that application of such provision or requirement is impracticable. The planning commission shall only recommend variances that it deems necessary to or desirable for the public interest. In making its findings, as required herein below, the planning commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity; the number of persons to reside or work in the proposed subdivision; and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variances shall be recommended unless the planning commission finds:

- 1) That there are such special circumstances of conditions affecting said property that the strict application of the provisions of this ordinance would clearly be impracticable or unreasonable. In such cases the subdivider shall first state his reasons in writing as to the specific provision or requirement involved and submit them to the planning commission.
- 2) That the granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
- 3) That such variance will not violate the provisions of the State Subdivision Control Act.
- 4) The planning commission shall include its findings and the specific reasons therefor in its report of recommendations to the township board and shall also record its reasons and actions in its minutes.
- 5) That such variance will not have the effect of nullifying the interest and purpose of this ordinance and the comprehensive development plan adopted as a guide by this township.

6.102 Topographical-physical limitation variance.

Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this ordinance would result in extraordinary hardship to the subdivider because of unusual topography, other physical conditions, or other such conditions which are not self-inflicted, or that these conditions would result in inhibiting the achievement of the objectives of this ordinance, the planning commission may recommend to the township board that variance modification or a waiver of these requirements be granted.

6.103 Planned unit development variance.

The developer may request a variance from specified portions of this ordinance in the case of a planned unit development. If in the judgement of the planning commission such a plan provides adequate public spaces and includes provisions for efficient circulation, light and air and other needs, it shall make findings, as required herein below. The planning commission shall take into account the nature of the proposed use of land and existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probably effect of the proposed subdivision upon traffic conditions in the vicinity. The planning commission shall report to the township board whether:

- 1) The proposed project will constitute a desirable and stable community development.
- 2) The proposed project will be in harmony with adjacent areas.

ARTICLE VII **ENFORCEMENT AND PENALTIES FOR FAILURE TO COMPLY** **WITH THIS ORDINANCE**

7.101 Enforcement

No subdivision plat required by this ordinance or the Subdivision Control Act shall be admitted to the public land records of Berrien County or received or recorded by the Berrien County Register of Deeds until such subdivision plat has received final approval by the township board. No public board, agency, commission, official or other authority shall proceed with the construction of or authorize the construction of any of the public improvements required by this

ordinance unless such public improvement shall have already been accepted, opened or otherwise received the legal status of a public improvement prior to the adoption of this ordinance unless such public improvement shall correspond to its location and to the other requirements of this ordinance.

7.102 Building permits.

Building permits shall not be issued for construction on property subdivided in violation of this ordinance.

7.103 Penalties.

Penalties for failure to comply with the provisions of this ordinance shall be as follows: Violation of any of the provisions of this ordinance or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 30 days, or both. Each such day such violation continues shall be considered a separate offense. The land owner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall; prevent the township board or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this ordinance or of the Subdivision Control Act .

ARTICLE VIII AMENDMENTS

8.101 Procedures.

The township board may, from time to time, amend, supplement, or repeal the regulations and provisions of this ordinance in the manner prescribed by Act 246, Public Acts of 1945, as amended. A proposed amendment, supplement or repeal may be originated by the township board, planning commission or by petition. All proposals not originating with the planning commission shall be referred to it for a report there on before any action is taken on the proposal by the township board.

ARTICLE IX MISCELLANEOUS PROVISIONS

9.101 Validity.

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