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ALAMO TOWNSHIP ORDINANCE NO. 39-M

ALAMO TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN

Adopted: April 9<sup>th</sup>, 2001

Effective: June 1<sup>st</sup>, 2001

An Ordinance to regulate the development of land within the Township through division, subdivision, or condominium projects, and to implement the provisions of the State's *Land Division Act (1967P.A. 288)* and its *Condominium Act (1978P.A. 59)* as each is and may hereinafter be amended; to provide procedures for so doing, and to exercise rights and powers of the Township expressly given it or left with it by the *Public Acts* of this state, including *1967P.A. 288* and *1944P.A. 246*, as amended.

THE TOWNSHIP OF ALAMO, KALAMAZOO COUNTY, MICHIGAN, ORDAINS:

ARTICLE I - TITLE

This Ordinance shall be known and cited as the Alamo Township Land Division, Land Subdivision, and Condominium Subdivision Control Ordinance

ARTICLE II - LAND DIVISIONS

SECTION I  
DEFINITIONS

(a) Statutory Definitions. All definitions applicable to Land Division set forth in the State's *Land Division Act* as hereafter amended (The Act) shall, save as may be hereinafter modified, apply to this Ordinance.

(b) Partitioning or Splitting. These terms, whether used separately or together, shall have a common meaning and shall include but are not limited to parcels created by a recorded conveyance, a completed but unrecorded conveyance, a land contract, whether or not placed of record, or by a survey, whether or not recorded, if prepared for purpose of sale, lease for more than one year, or for building development.

(c) Tract shall mean two or more parent parcels which share a common boundary line and are under the same ownership.

(d) Applicant. This term, if and as used in this Ordinance or in an application proposed to carry out the Act, shall have the same meaning as the term "Proprietor" as defined by the Act.

SECTION II  
SCOPE

No parent parcel shall be split or partitioned after March 31, 1997 save in conformance with the provisions of the *Act* as it now exists or is hereinafter amended, and the provisions of this Ordinance.

(a) Such subsequent splits which result only in parcels which are accessible as defined in the *Act* and are not less than 40 acres or equivalent in size as defined in the *Act* are not subject either to the approval of the Township or the platting requirements of the *Act*.

(b) All other such subsequent splits must be either platted as a subdivision, or approved by the Township as a division, as each is respectively defined in the *Act*.

(c) All splits which result in one or more parcels, which are not accessible as defined in the *Act*, or are less than 40 acres, or the equivalent thereof in size as defined in the *Act*, must either be approved by the Township, or platted in accordance with the *State Land Division Act*.

SECTION III  
PROCEDURE FOR SPLITS REQUIRING TOWNSHIP APPROVAL

(a) All such splits or partitions which require Township approval shall be requested on application forms prepared and approved by the Township and supplied to the public through the Township Clerk.

(b) All such applications shall be signed by the proprietor of the parcel from which the proposed split is requested, and shall be filed, together with all documents required by the *Act* or this Ordinance, with the Township Clerk.

(c) The Township Clerk shall promptly deliver the application and all documents filed with it to the person duly designated by the Township Board to administer and enforce this Ordinance.

(d) Within 30 days after date of filing with the Township Clerk, the Township Enforcement Officer shall approve the application, provided each of the following requirements is met.

(1) That each parcel which results from the proposed split has an adequate and accurate legal description.

(2) That each of said parcels is included in and depicted on a tentative parcel map drawn to scale and shows the area of each, all boundary lines, public utility easements' availability to each, accessibility to each, and any other information necessary to show compliance with the requirements of Sec. 108 of the *Act*.

(3) That each of said parcels has a depth no more than four times its width.

(4) That each of said parcels is accessible, as defined in the *Act*.

(5) If a parcel is or is to be a development site that it has all of the following:

(a) Public Water or Health Department approval for on-site water supply under the rules described in the *Act*;

(b) Public Sewer or City, County, or District Health Department approval for on-site sewage disposal under rules described in the *Act*;

(c) Adequate easements for public utilities from the parcel to existing public utility facilities.

(e) Applicant owns the Land Division Rights necessary for the land division proposed.

(f) Time limitations imposed by Sub-section (d), *supra*, may be extended by an agreement in writing signed by applicant.

(g) If any one of the above-stated requirements is not met within the time as provided or extended, the approval shall be refused by the Township Enforcement Officer in a writing, which shall state the reason approval was refused.

#### SECTION IV BASIC FEE

Each application, when filed or when refiled, shall be accompanied by a basic examination and review fee in such amount as shall be, pursuant to this Ordinance, from time to time established by a resolution duly adopted by the Township.

#### SECTION V CONSEQUENCES

(a) Parcels as to which Township approval is required by the *Act* cannot qualify for the issuance of a building permit until approval under this Ordinance is obtained.

(b) Parcels as to which Township approval is required and obtained cannot be denied the issuance of a building permit for any reason related to the *Act* or this Ordinance.

(c) Approval obtained under this Ordinance does not waive nor otherwise affect any other requirement that may be essential to the issuance of a building permit.

**SECTION VI**  
**PARCEL ACCESS, FRONTAGE, DIMENSION AND AREA REQUIREMENTS**

All parcels resulting from division under the *Act* shall, as to access, frontage, depth to width ratio, width, and area, comply with the requirements of Articles Four and Seven of the Township's Zoning Ordinance (Ordinance 46).

**ARTICLE III – LAND SUBDIVISIONS**

**SECTION I**  
**DEFINITIONS**

The definitions of and the meaning given to all terms applicable to Land Subdivisions within the Township shall be identical, save as may be hereinafter modified, to those stated by the *State's Land Division Act* as it now exists.

**SECTION II**  
**BASIC FEE**

The basic fee for examination and inspection of all proposed subdivision plats and for all other expenses related thereto, including but not limited to the assistance of an attorney and an engineer, shall be in an amount for each lot in the subdivision proposed as established by a duly adopted Resolution of the Township Governing Board.

**SECTION III**  
**PROCEDURE**

The Township shall timely consider, approve, or reject all proposed subdivision projects when and if properly filed with the Township Clerk, and it shall do so in accordance with the requirements and parameters imposed upon it by the *State's Land Division Act* as enacted, amended, or hereinafter amended.

**SECTION IV**  
**LOT ACCESS, FRONTAGE, DIMENSION AND AREA REQUIREMENTS**

All lots within a subdivision under the Act shall, as to access, frontage, depth to width ratio, width, and area comply with the requirements of Articles Four and Seven of the Township Zoning Ordinance (Ordinance 46).

**ARTICLE IV – CONDOMINIUM DEVELOPMENT**

**SECTION I**  
**DEFINITIONS**

Terms defined in the State's Condominium Act 1978 P.A. 59 (Exh. I) and in the Condominium Administrative Rules (Exh. J) adopted by the State's Department of Commerce shall have the same meanings when used in this Article. Additionally, the following terms, when so used, shall have the meaning hereinafter respectively ascribed to them.

"Land Condominium Unit" -- a condominium unit composed solely of vacant land described and limited by horizontal boundaries only.

"Space Condominium Unit" -- a condominium unit within a structure composed solely of air space described and limited by both horizontal and vertical boundaries.

"Land/Space Condominium Unit" -- a condominium unit composed of both vacant land and air space described and limited by both horizontal and vertical boundaries.

"Land Condominium Project" -- a condominium project consisting only of land condominium units.

"Space Condominium Project" -- a condominium project comprised solely of space condominium units.

"Site Condominium Project" -- a condominium project which consists of one or more land and/or land-space condominium units.

**SECTION II**  
**BASIC FEES**

The basic fee for examination, inspection, and processing of all site condominium projects, and for all other expenses related thereto, including but not limited to the assistance of an attorney and an engineer shall be in an amount for each

condominium unit as established by a duly adopted Resolution of the Township Governing Board.

### SECTION III PROCEDURE

(a) Filing. The developer of a site condominium project proposed for land within the Township of Alamo shall file with the Township Clerk six copies of all condominium documents, before the aforesaid documents or any one of them are recorded.

(b) Additional filings. The developer of such a project shall also file one copy of all said contract documents with each of the following:

1. The Kalamazoo County Road Commission;
2. The Kalamazoo County Drain Commissioner;
3. The Kalamazoo County Department for Environmental Health; and
4. The State Department of Transportation, if any of the project includes or abuts upon a State Trunkline Highway, or includes streets or roads that connect with or lie within the right-of-way of such a highway.

(c) Agency approvals – The developer shall procure and file with the Township Clerk a written approval from each agency named in paragraph (b) (supra). Each agency's approval shall, at minimum, certify that all condominium project documents (1) have been filed with it, (2) have been reviewed by it, and (3) have been approved by it, if approved or, if not approved, its reason, in writing, for disapproval.

(d) Affidavits of compliance – The developer shall also procure and file with the Township Clerk affidavits from a duly qualified engineer and a duly qualified attorney, each duly licensed by the State of Michigan. Each affidavit shall state, at minimum, (1) that all project contract documents have been submitted to or prepared by the affiant, (2) that the said documents have been reviewed by the affiant, and (3) that they comply with the law and all regulations pertaining to condominiums as enacted by the State or adopted by its Department of Commerce and with the Township Ordinances.

(e) Agency approvals and compliance affidavits shall be filed within 90 days from the date the condominium documents are filed. This filing date may be extended by the Township Board at its discretion upon developer's written request filed with the Township Clerk.

(f) Township review – The Township's Governing Board shall review the condominium project documents, approvals, and the affidavits filed with it. It may also, at its option, have those documents reviewed by an attorney and/or an engineer of its choice, if it finds such to be reasonably necessary to determine and confirm

compliance.

(g) Within no less than twenty days from the date the last of the above-described affidavits or approvals are filed, the Township's Governing Board shall either approve or reject the condominium project proposed. It shall approve said project if it finds it to be in compliance with applicable state law and regulations, and the Township's Ordinances, and it shall reject it if it does not. If rejected, the reasons for rejection shall be stated, and the developer shall be promptly notified in writing whether approved or rejected.

(h) Project completion

(1) A site condominium project shall be completed within 5 years from the date condominium documents were first filed with the Township Clerk.

(2) Completion shall be established by filing with the Township Clerk an affidavit in writing executed by the project's engineer, which, at minimum, affirms in fact that he/she has (1) reviewed the condominium contract documents, (2) inspected the condominium project, and (3) that all work required to complete the condominium project in accordance with the condominium contract documents has been completed. The Township may, at its option, document and verify completion through a duly licensed, qualified engineer of its own choice.

(3) The completion date for the project may be extended at the sole discretion of the Township Board on written request by the developer filed with the Township Clerk, provided the Board is first given written proof that the extension will not terminate or otherwise adversely affect the obligations of any surety which has executed a performance bond covering the project's completion.

(4) The developer shall not enter into purchase agreements nor proceed with the construction of the project until it first files with the Township Clerk estimates, proposals, contracts or other documents which, taken together, reasonably establishes the cost of completion, and a cash or cash equivalent deposit or performance bond, each in an amount no less than the project's cost of completion.

(5) If a performance bond is filed to fulfill the requirements of the preceding paragraph it shall be executed by (1) the developer as principal and (2) by a corporate surety licensed and authorized to conduct such business within the State. Such a bond shall by its terms be enforceable by the Township, and it shall be conditioned upon the developer's faithful performance of all obligations and actions necessary to fully complete the condominium project.

SECTION IV  
UNIT ACCESS, FRONTAGE, DIMENSION AND AREA REQUIREMENTS

All land and land space condominium units, shall as to access, frontage, depth to width ratio, width, and area comply with the lot requirements of Articles Four and Seven of the Township Zoning Ordinance (Ordinance 46).

ARTICLE V  
CLUSTERED AND OPEN SPACE DEVELOPMENT

Clustered and Open Space Development. The clustering and concentration of future development coupled with permanent preservation of open space in its natural state is a carefully studied and approved planning and zoning concept encouraged for all forms of development under Articles II, III or IV. To promote such development, a parcel, lot or unit frontage and area requirements may be reduced in accordance with the Township's Zoning Ordinance (Ordinance 46, as amended), provided that the preservation, protection and care of open space areas is assured as a part of the Township's consideration and approval of all such projects. This assurance requires at minimum, the following:

1. Proof filed with the Township Clerk that a marketable, fee-simple title rests with the owner or the developer.
2. Proof filed with the Township Clerk that a recordable instrument containing an enforceable covenant running with the land restricting it from any future use that could alter its natural state has been executed. The covenant must be perpetual and must benefit and be enforceable by those persons and their successors who acquire ownership interests in parcels within the development.
3. The instrument above described must be approved by the Township and a certified copy thereof filed with the Township Clerk thereafter.

ARTICLE VI  
REIMBURSEMENT OF ACTUAL EXPENSES

The actual expenses which the Township incurs in reviewing and administering land development under Articles II, III, or IV, in excess of all amounts charged and received as a basic fee, shall be the ultimate responsibility of the owner or developer.



The Township may at any time require the owner or developer to deposit with the Township Clerk such additional funds it believes necessary to cover all of its actual costs of administration. Funds so deposited shall be held by its Clerk in escrow and shall be applied and administered in accordance with its Reimbursable Expense Escrow Fee Ordinance.

ARTICLE VII

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 or portion thereof.

ARTICLE VIII

ENFORCEMENT, VIOLATION AND PENALTIES

Any person or entity that violates or refuses to comply with any provision of this Ordinance shall be subject to a fine of not less than \$25.00 but not more than \$100.00. Each day a violation is permitted to exist or continue shall constitute a separate violation. Failure to pay the fine or costs will also subject the violator to imprisonment in the County Jail for a period not to exceed 30 days until said fine or costs are paid. The penalties above stated shall be in addition to any other remedy the Township has under law to enforce the provisions of this Ordinance.

ARTICLE IX

REPEAL

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed specifically including, but not limited to, Ordinance 7-M and Ordinance 37-M.

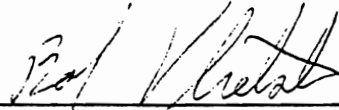
ARTICLE X

EFFECTIVE DATE

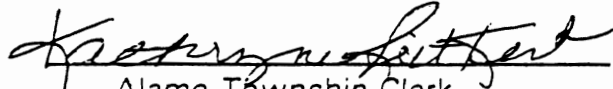
This Ordinance shall take effect June 1st, 2001.

ARTICLE XI

The foregoing Ordinance was duly adopted at a regular meeting of the Alamo Township Board held on April 9<sup>th</sup>, 2001.



Alamo Township Supervisor



Alamo Township Clerk