



MEMORANDUM

TO: CARRIE COBURN, CLERK

FROM: MAINSTREET PLANNING COMPANY, Jan Johnson *J.J.*

DATE: FEBRUARY 27, 2007

RE: AMENDMENTS TO THE MARTIN TOWNSHIP ZONING
ORDINANCE AND THE SUBDIVISION ORDINANCE

Enclosed please find copies of the four ordinance amendments recently adopted by the Martin Township Board. Minor changes in the numbering of sections have been made per the comments of Township Attorney John Lohrstorfer. Also per the attorney's comments, the date of adoption of the Subdivision Ordinance amendments has been changed from seven to thirty days after publication.

I have e-mailed copies of the ordinance revisions to John Lohrstorfer.

If you have any further comments or questions do not hesitate to call.

Cc: Margie Smith, Secretary of the Planning Commission

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January 18, 2007

Kim Miller
Penasee News
133 East Superior
Wayland, MI 49348

Via Fax No. 269-792-2030

Re: Legal Notice for Martin Township
Notice of Adoptions

Dear Kim:

Please publish the enclosed Notice for Martin Township on **Monday, January 22, 2007.**

Please also forward two Affidavits of Publication to this office, and two Affidavits and your bill to Carrie Coburn, Clerk, Martin Township, 1023 Hidden Ponds Dr., Martin, MI 49070.

Yours truly,

**BAUCKHAM, SPARKS, ROLFE,
LOHRSTORFER & THALL, P.C.**


John K. Lohrstorfer

JKL:paj
Enc.

cc: Carrie Coburn, Clerk (w/enc)
Ron Zeinstra, Zoning Chairman (w/enc)
Margaret Smith (w/enc.)

MARTIN TOWNSHIP

CERTIFICATE OF ADOPTION

I, CARRIE COBURN, the Township Clerk of Martin Township, Allegan County, Michigan, do hereby certify that in pursuance of law and statute provided, at a regular meeting of the Martin Township Board held on January 10, 2007, commencing at 7:30 o'clock p.m. at the Martin Township Hall, located within the Village of Martin, at which the following members were present, the Board enacted and passed Ordinances 81, 82 and 84, to become effective on January 29, 2007, and Ordinance 83 to become effective on February 21, 2007, all hereinbefore recorded, and that the members of said Board present at said meeting voted on the adoption of said Ordinance, as follows:

83 30 days

I do further certify that a summary of the ordinances were published in the Penasee Globe, a newspaper circulated in Martin Township, on January 22, 2007; that said Ordinances 81, 82, 83 and 84 were recorded in the official Ordinance Book on the 8th day of January, 2007; and that an attested copy of said Ordinance was filed with the Allegan County Clerk on the 29th day of October, 2007.

Date: 10-29, 2007

Carrie Coburn
Carrie Coburn, Clerk
Martin Township

**MARTIN TOWNSHIP
ALLEGAN COUNTY, MICHIGAN**

NOTICE OF ORDINANCE ADOPTION

To: The Residents and Property Owners of Martin Township, Allegan County, Michigan, and Any Other Interested Persons:

PLEASE TAKE NOTICE that the following is a summary of Ordinances 81, 82, 83, and 84, which were adopted by the Martin Township Board at its meeting held **January 10, 2007**; said Zoning Ordinances to take effect 7 days after the publication of the following summary with the Subdivision Ordinance No. 83 to take effect 30 days after publication of said Ordinance.

ORDINANCE NO. 81

SECTION 1: This section provides for a new addition to the Zoning Ordinance, Section VIIA, R-R Rural Residential District, suitable in areas where active AG is declining and the uses will serve as a transition to farm to non-farm uses. Permitted uses are single-family detached dwellings and related uses. Churches, parks and family businesses are special exception uses. Minimum lot area is 30,000 square feet with a lot width of 125 feet and specifies usable floor area by type of dwelling.

SECTION 2: Section 3.1, *Definitions* is amended to include adult daycare homes, adult foster care facilities, family homes and hospice facilities.

SECTION 3: The ordinance deletes sections 4.28, 8. of Article IV General Provisions, and renumbers sections to correspond with the deletions.

SECTION 4: Ordinance amended by the addition of Section 4.30 to Article IV, *General Provisions* to provide for towers and antennas for amateur radio operators.

SECTION 5: The ordinance is amended by the addition of Section 4.7 of Article IV, *General Provisions* to provide that no more than one principal single-family or two-family dwelling can be placed on any lot in the AG, R-1, R-R, R-2, OS-PD or R-3 Districts.

SECTION 6: The ordinance is amended by the addition to Section 14.4 of Article XIV which provides that in most districts real estate signs cannot exceed 10 square feet, identification signs—not more than 18 square feet; and nameplate signs not to exceed one square foot.

SECTION 7: The ordinance is amended by the addition to Section 7.2 of Article VII R-1 Rural Estates that permits parks, public recreation areas and churches.

SECTION 8: This section is amended by the addition of Section 4.9, 5, *General Provisions* that no accessory building shall include residential living quarters except a guest house in a R-1, R-2 or R-R District.

SECTION 9–SEVERABILITY: The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

SECTION 10–EFFECTIVE DATE: This ordinance shall become effective seven days after its publication of a summary of its provisions.

ORDINANCE NO. 82

SECTION 1: Addition of new Article IXA Open Space Planned Unit Development District (OS-PUD) which provides for standards for the approval of the Open Space Planned Unit Developments in order to offer alternatives to traditional subdivision design by encouraging innovation and flexibility in residential developments. The OS-PUD can be located in zones AG-RE, RR MDR, AG, R-1, R-R, R-2. Property must be at least five continuous acres, can be used for single-family, two-family multi-family, golf courses and others. Zoning Commission can increase or decrease the regulations in order to achieve the objectives of the OS-PUD. Standards are provided before making that decision. Dedicated open space standards must be met, 20 percent in the AG-RE, AG or R-1 and 15% of the RR, MDR, R-R or R-2. Areas not counted as dedicated open space are set forth. Standards are also provided for what constitutes an open space. A density table is also provided according to zoning classification. Procedures for review and preparation for preliminary site plan are set forth. Standards for approval, procedures for application which include environmental impact assessment, public hearing and notification, storm water management, the process to amend and approve OS-PUD. Requirements for performance guarantees and time limitations (one year after date of approval with provisions for extensions)

SECTION 2: The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part is adjudged unconstitutional or invalid by a court, the remainder of the Ordinance shall not be affected thereby.

SECTION 3: This ordinance shall become effective seven days after its publication of a summary of its provisions.

ORDINANCE NO. 83 – SUBDIVISION ORDINANCE

This ordinance provides for the regulations for the subdivision of land within Martin Township.

ARTICLE I, GENERAL: Article I sets forth the Purpose, Fee Schedule, and Definitions.

ARTICLE II, PRELIMINARY PLAT APPLICATION AND REVIEW PROCEDURES: Article II sets forth the preliminary plat application and required information; tentative preliminary plat and approval; and preliminary plat final approval procedures.

ARTICLE III, FINAL PLAT APPLICATION AND REVIEW PROCEDURE: Article III sets forth the final plat application and review procedure, including security for completion.

ARTICLE IV, IMPROVEMENTS AND REGULATIONS: Article IV addresses improvement regulations and requirements for all lots, dedication for streets and street names, street design standards, street lighting public utilities and drainage.

ARTICLE V, VARIANCE: Article V provides for a variance procedure from the ordinance and the standards by which a variance would be granted.

ARTICLE VI, ENFORCEMENT: Article VI addresses enforcement and makes a violation a municipal civil infraction.

ARTICLE VII, DIVISION OF PLATTED LOTS: Article VII provides that no lot or other parcel of land can be further partitioned unless it is first approved by the Township Board. This section also addresses the approval of platted division of lots.

ARTICLE VIII, OTHER MATTERS: Article VIII includes the severability and effective date provisions (30 days after publication).

ORDINANCE NO. 84 – SITE CONDOMINIUM REQUIREMENT IN THE ZONING ORDINANCE

SECTION 1: Section 1 provides that a new Article XIII A will be entitled, *Site Condominiums*, which provides for Definitions and required content for off-site condominium plans. The procedures include Preliminary Plan Review, Final Review, Master Deed, Performance Guarantees, Construction issues, changes in Condominium Developments, Time Limits (one year) and provisions for Variances.

SECTION 2: This ordinance shall become effective seven days after its publication of a summary of its provisions.

PLEASE TAKE FURTHER NOTICE that the full text of all these Ordinances may be examined or obtained at the Martin Township Hall or by requesting the same from the Township Clerk, Carrie Coburn at (269) 672-7663.

MARTIN TOWNSHIP
Carrie Coburn, Clerk
P.O. Box 27
958 Lee St.
Martin, MI 49070-9797
(269) 672-7663

**ARTICLE VIIA
R-R RURAL RESIDENTIAL DISTRICT**

MARTIN TOWNSHIP

COUNTY OF ALLEGAN, MICHIGAN

At a regular meeting of the Township Board of the Township of Martin, Allegan County, Michigan, held in the Martin Township Community Building, 998 Templeton Street, within the Village of Martin, on the 10th day of January 2008 at 7:00 p.m.

PRESENT: Members: Susan Tierney, Terry Stukas, James Brenner
Jack Supple & Carter Coburn

ABSENT: Members: None

The following ordinance was offered by Member Jack Supple and supported by Member James Brenner.

ORDINANCE NO. 81

**AN ORDINANCE TO AMEND THE MARTIN ZONING ORDINANCE
(ORDINANCE NO. 30 OF 1986, AS AMENDED)**

THE TOWNSHIP OF MARTIN ORDAINS:

SECTION 1: The Zoning Ordinance of the Township of Martin is hereby amended by the addition of Section VIIA, R-R Rural Residential District, so as to read in its entirety as follows:

7A.01 **STATEMENT OF PURPOSE.** This district is intended to provide for low density residential development with single family detached dwellings as the predominant land use. Rural Residential uses are suitable in areas where active agriculture is declining, where uses will serve as a transition from farm to non-farm uses, where soils are suitable for on-site septic systems, and where roads are adequate for residential and other non-farm uses. Certain non-residential uses such as churches, schools and private recreation areas are allowed as special exception uses depending upon compatibility with adjacent uses as well as the requirements of Article XIII of this ordinance.

7A.02. **PERMITTED USES.** Land buildings, and structures in the R-R zone may be used only for the following purposes:

- (a) Single family detached dwellings.
- (b) Child Day Care Homes (Family) and Adult Day Care Homes with no more than six minor children or six adults.

- (c) State licensed adult foster care family homes with no more than six adults provided that such facilities are at least 1,500 feet apart as measured between property lines.
- (d) Home occupations as regulated by Section 4.19 of this Ordinance.
- (e) Antennas and towers not exceeding 50 feet in height, except that an antenna mounted on a building may extend to a maximum of 10 feet above the highest point of the building.
- (f) Essential public services equipment that is underground subject to the requirements of Section 4.16.
- (g) Single-family housing developments as required by Act No.177 of the Public Acts of Michigan of 2001 are permitted in accordance with the requirements of this Ordinance.
- (h) Uses, buildings, and structures customarily incidental and accessory to the principal use.

7A.03. SPECIAL EXCEPTION USES. The following uses may be permitted as a Special Exception Use subject to the applicable general and specific requirements and standards of Article XIII of this Ordinance:

- (a) Churches, synagogues or other similar places of worship in accordance with Section 4.23 of this Ordinance.
- (b) Public and private non-profit parks, playgrounds, swimming pools, golf courses, athletic fields and community center buildings, except for swimming pools accessory to residential uses.
- (c) Family businesses as regulated by Section 4.20 of this Ordinance.
- (d) Public and private schools and administrative buildings in accordance with Section 4.23 of this Ordinance.
- (e) Libraries, museums, art galleries and similar uses owned and operated by a governmental agency or non-profit organization in accordance with Section 4.23 of this Ordinance.
- (f) Government administration and service buildings.
- (g) Essential public service equipment, structures or buildings which are above ground, subject to the requirements of Section 4.16.
- (h) Antennas and towers exceeding a height of 50 feet except that the provisions of Section 4.30 shall apply.
- (i) Group day care homes which provide care to not less than seven and not more than 12 minor children or adults. Child Day Care Homes (Group) are subject to the regulations of Section 7.3.9. of this Ordinance.

- (j) Nursing homes, senior citizen housing, and similar convalescent or group housing, including state licensed adult foster care facilities with more than six adults.
- (k) Hospice Care Facilities.

7A.04. DISTRICT REGULATIONS. Buildings and structures shall not be erected or enlarged unless the following requirements are met and maintained:

- (a) Minimum lot area: 30,000 square feet.
- (b) Minimum lot width: 125 feet.
- (c) Minimum required useable floor area per dwelling unit:
 - (1) Ranch - a minimum of 960 square feet of floor area for the main floor.
 - (2) Bi-levels - a minimum of 960 square feet of floor area for the upper floor.
 - (3) Tri-levels – a minimum of 960 square feet for the upper two floors combined.
 - (4) Two-story – a minimum of 960 square feet for the first floor.
- (c) Minimum front yard: 35 feet.
- (e) Minimum side yard: 10 feet on each side.
- (f) Minimum rear yard: 25 feet.
- (g) Maximum Height: 35 feet, except as provided in Section 4.13 and Section 7A.02(e).
- (h) Maximum building lot coverage: 30 percent.

7A.05. ADDITIONAL REGULATIONS.

- (a) Parking shall be provided in accordance with the requirements of Article XV.
- (b) Signs shall be regulated in accordance with the requirements of Article XIV.
- (c) Site plan review is required for all Special Exception Uses according to the requirements of Section 4.28.
- (d) Site condominiums shall be regulated by Article XIII.A.
- (e) Open Space Planned Unit Developments shall be regulated by Article IXA.

SECTION 2: The Zoning Ordinance of the Township of Martin is hereby amended by the addition of definitions to Section 3.1:

Adult Day Care Home: A private dwelling in which persons 18 years or older are provided supervision, personal care and protection for periods of less than 24 hours a day, operated by a person who permanently resides in the dwelling.

Adult Foster Care Facility: An establishment for adults who are aged, mentally ill, developmentally disabled or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care.

Adult Foster Care Family Home: A private residence with the state-approved capacity to receive six or fewer adults to be provided with foster care for five or more days a week and for two or more consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence.

Hospice Care Facility: A facility and its staff that provide end of life care and attend to the emotional, spiritual, social, and financial needs of terminally ill patients at a facility or at a patient's home.

SECTION 3: The Zoning Ordinance of the Township of Martin is hereby amended by the deletion in its entirety of Section 4.28, 8. of Article IV General Provisions, and the re-numbering of Sections 4.28, 9., 4.28,10., and 4.28, 11. to Sections 4.29, 10., 4.28, 11., and 4.28, 12. respectively.

SECTION 4: The Zoning Ordinance of the Township of Martin is hereby amended by the addition of Section 4.30 to the Article IV General Provisions:

Section 4.30 Towers and Antennas for Amateur Radio Operators

The provisions of this ordinance and all other applicable ordinances shall apply to towers and antennas owned and operated by a federally licensed amateur operator and used solely for amateur radio communication purposes, but shall not be applied so as to preclude the construction and operation of an antenna or tower for amateur radio communication purposes. If the provisions of this ordinance and all other applicable ordinances prohibit the construction of a particular amateur radio communications antenna or tower, then the Township shall seek to reasonably accommodate the proposed operator's desire to conduct amateur radio communications by considering other feasible designs, locations, methods of accessing repeater systems or the use of existing structures as an alternative to the operator's desired amateur radio communications antenna or tower.

SECTION 5: The Zoning Ordinance of the Township of Martin is hereby amended by the addition of the following language to Section 4.7 of Article IV General Provisions:

4.7 **PRINCIPAL USE:** No more than one principal single family or two family dwelling building shall be placed on any lot in the "AG" Agricultural District, the "R-1" Rural Estates District, the R-R Rural Residential District, the "R-2" Low Density Residential District; the OS-PUD District, or on any lot or mobile home site in the "R-3" Medium Density Residential and Mobile Home Park District.

SECTION 6: The Zoning Ordinance of the Township of Martin is hereby amended by the addition of the following language to Section 14.1 of Article XIV Signs:

14.1 Signs in the AG, R-1, R-R, R-2, R-3, and OS-PUD Districts: In the Ag, R-1, R-2, R-R, R-3, and OS-PUD districts, the following signs shall be allowed:

1. Real estate signs, not exceeding 10 square feet in area.
2. Identifying signs, not exceeding 18 square feet in area.
3. Nameplate signs, not exceeding one square foot in area.

SECTION 7: The Zoning Ordinance of the Township of Martin is hereby amended by the addition of the following language to Section 7.2 of Article VII R-1 Rural Estates District:

7.2 PERMITTED USES:

5. Parks and public recreational areas, and golf courses.
8. Churches.

SECTION 8: The Zoning Ordinance of the Township of Martin is hereby amended by the addition of the following language to Section 4.9, 5. General Provisions

5. No accessory building or structure shall include residential or living quarters for human beings except a permitted guest house located in the "R-1" Rural Estate or "R-R" Rural Residential or "R-2" Low Density Residential zoning district.

SECTION 9: Severability.

The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

SECTION 10: Effective Date.

This Ordinance shall become effective seven days after its publication or seven days after the publication of a summary of its provisions in a local newspaper of general circulation.

YEAS: Members: Terry Skugis James Brenner Jack Bypple
Carrie Coburn Susan Kemmer

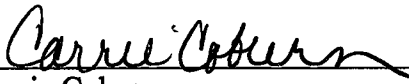
NAYS: Members: None

ORDINANCE DECLARED ADOPTED.

Carrie Coburn
 Carrie Coburn
 Martin Township Clerk

Ordinance becomes effective: 1-29-07

I hereby certify the foregoing to be a true copy of an ordinance adopted at a regular meeting of the Township Board of the Township of Martin held on January 10th, 2006. Public notice of such meeting was given as provided by law.



Carrie Coburn
Martin Township Clerk

**ARTICLE IXA
OPEN SPACE PLANNED UNIT DEVELOPMENT DISTRICT
(OS-PUD)**

MARTIN TOWNSHIP

COUNTY OF ALLEGAN, MICHIGAN

At a regular meeting of the Township Board of the Township of Martin, Allegan County, Michigan, held in the Martin Township Community Building, 998 Templeton Street, within the Village of Martin, on the 10th day of January 2008 at 7:00 p.m.

PRESENT: Members: Susan Temeyer, Terry Stugs, James Brenner,
Jack Sipple & Carrie Hurst
ABSENT: Members: None

The following ordinance was offered by Member Jack Sipple and supported by Member James Brenner.

ORDINANCE NO. 82

**AN ORDINANCE TO AMEND THE MARTIN ZONING ORDINANCE
(ORDINANCE NO. 30 OF 1986, AS AMENDED)**

THE TOWNSHIP OF MARTIN ORDAINS:

SECTION 1: The Zoning Ordinance of the Township of Martin is hereby amended by the addition of Section IXA, Open Space Planned Unit Development District (OS-PUD), so as to read in its entirety as follows:

ARTICLE IXA OPEN SPACE PLANNED UNIT DEVELOPMENTS (OS-PUD)

9A.01 STATEMENT OF PURPOSE: This Section provides enabling authority and standards for the review, and approval of applications for Open Space Planned Unit Developments (OS-PUD's). The intent of Article IXA is to offer an alternative to traditional subdivision design by encouraging innovation and offering flexibility in the design of residential developments, which may incorporate the permanent preservation of open space, agricultural lands and other valuable natural and cultural resources.

The OS-PUD District is intended to achieve the following objectives:

- (a) To require a process for designing residential communities in which the first and most important step is identifying the land that is to be preserved as open space.
- (b) To allow residential developments to have varied lot sizes, and to allow buildings and roads to be placed to preserve natural features.
- (c) To preserve wildlife habitat.
- (d) To encourage the provision of village greens and the development of recreational and other support facilities in a generally central location within reasonable distance of all units.

9A.02 AUTHORIZATION & PROCEDURES: An OS-PUD may be approved by the Township Board following a recommendation from the Zoning Commission in any location master planned AG-RE, Agricultural Rural Estate; RR, Rural Residential; or MDR, Medium Density Residential; or zoned AG Agricultural, R-1 Rural Estates, R-R Rural Residential, or R-2 Low Density Residential in accordance with the procedures of Section 9A.10 of this Ordinance.

The granting of an OS-PUD rezoning application shall require an amendment of the Zoning Ordinance and Zoning Map. An approval granted under this Article shall constitute part of the Zoning Ordinance.

9A.03 QUALIFYING CONDITIONS: Any application for rezoning to an OS-PUD District shall meet the following minimum requirements:

- (a) In order to be eligible for rezoning to OS-PUD the parcel shall consist of five contiguous acres.
- (b) The proposed development shall be under unified ownership or control such that there is one person, group of persons or legal entity having responsibility for the completion and ongoing maintenance of the development in compliance with this Ordinance. This requirement for unified ownership or control shall not prohibit a transfer of ownership or control, so long as there is still unified ownership or control of and for the development as required by this Ordinance.

9A.04 PERMITTED USES: Land and buildings in an Open Space OS-PUD may only be used for the following uses or combination of such uses:

- (a) Single family detached dwelling units.
- (b) Two family attached dwelling units (duplexes) provided that such dwellings do not constitute more than 25 percent of the total dwelling units.

- (c) Multi-family dwelling units but only if the land requested for rezoning to Open Space OS-PUD is recommended for MDR, Medium Density Residential land use in the Martin Township Master Plan, or is zoned R-2 Low Density Residential, and public or community sanitary sewer and water is provided. Multi-family dwellings in an OS-PUD shall contain no more than four dwelling units per building.
- (d) Accessory uses, structures and buildings which are customarily associated with the uses specified above including the following:
 - (1) Limited farming activities are permitted if conducted within the OS-PUD, if the OS-PUD is located in an area master planned for AG-RE Agricultural-Rural Estate. For purposes of this Section, farming activities shall be limited to the growing of crops, fruits, and vegetables and the raising and keeping of farm animals. In permitting farming activities as part of the OS-PUD, the project shall demonstrate that the farming activities will not pose a nuisance or a hazard to the residents of the OS-PUD.
 - (2) Golf courses, tennis courts, ball fields, bike paths, walking paths, playgrounds, community buildings, horse stables and similar recreational facilities as well as day care facilities, provided such uses are in addition to the residential uses in the OS-PUD. Such uses shall be designed to be used primarily by residents of the OS-PUD but in addition may be used by the general public provided the rules for such use are set forth in the Open Space Agreement required by Section 9A.06(d).
 - (3) Accessory buildings in an OS-PUD shall comply with the requirements of Section 4.9 of this Ordinance.

9A.05 DEVELOPMENT REQUIREMENTS

- (a) Modifications of Existing Regulations : The lot area, lot width, building height, setback, yard requirements, general provisions, landscaping, private roads, signs, and parking regulations contained in this Ordinance which would apply for the zoning district in which the uses proposed are normally allowed shall be met except that the Township Board following a recommendation from the Zoning Commission may increase, decrease or otherwise modify these regulations, as may be requested by the applicant, in order to achieve the objectives of the OS-PUD chapter. Other criteria which shall be used in making these determinations shall include the following:
 - (1) Whether the modifications requested will result in a project which better satisfies the intent and objectives of this Section.

- (2) The modification shall be compatible with adjacent existing and future land uses and shall not significantly adversely affect the use and enjoyment of nearby property.
 - (3) The modification will result in the preservation of existing vegetation or other natural features on site.
 - (4) The modification is necessary due to topography, natural features or other unusual aspects of the site.
 - (5) The modification will improve or not impede emergency vehicle and personnel access.
 - (6) The modification will improve or not impede adequate pedestrian circulation.
 - (7) The modification shall not result in traffic or other safety hazards; shall not result in visual blight, distraction, or clutter, and shall not otherwise result in a detriment to the public health, safety or general welfare.
- (b) The proposed development shall also comply with the requirements of Section 9A.11 of this Ordinance.

9A.06 OPEN SPACE REQUIREMENTS:

- (a) The OS-PUD shall provide and maintain the following minimum amount of Dedicated Open Space in accordance with the standards of this Article. For purposes of this Ordinance, Dedicated Open Space shall mean that portion of an OS-PUD which is permanently preserved through an open space preservation agreement as required herein.
 - (1) For land master planned for AG-RE Agricultural-Rural Estate or zoned AG Agricultural or R-1 Rural Estate, 20 percent of the total area of the site shall be preserved as Dedicated Open Space.
 - (2) For land master planned for RR Rural Residential or MDR Medium Density Residential, or zoned R-R Rural Residential or R-2 Low Density Residential, 15 percent of the total area of the site shall be preserved as Dedicated Open Space.
- (b) Areas Not Counted as Dedicated Open Space.
 - (1) The area within all public or private road rights-of-way.
 - (2) Any easement for overhead utility lines.

- (3) The area within a platted lot, site condominium unit, lot equivalent areas, or metes and bounds parcel occupied or to be occupied by a building or structure not permitted to be located in open space.
- (4) Off street parking area.
- (5) Detention and retention ponds created to serve the project.
- (6) Community drain fields.
- (7) 50 percent of the area of all wetlands; creeks; streams; existing ponds, lakes, or other bodies of water; or rain gardens designed for storm water management by a certified landscape professional.
- (8) 50 percent of the area of floodplains and 50 percent of areas of slopes of 20 percent or greater.

(c) Standards for Open Space: The following standards shall apply to the preserved open space required by this Section:

- (1) The open space may include a recreational trail, picnic area, children's play area, community building or other use which, as determined by the Zoning Commission, is substantially similar to these uses. These uses, however, shall not utilize more than 50 percent of the Dedicated Open Space.
- (2) 100 percent of a golf course may apply to the Dedicated Open Space required by this section.
- (3) Dedicated Open Space shall be located along the public road frontage abutting the site. The depth of this area shall be at least 50 feet not including public road right of-way. This area shall be left in its natural condition or landscaped to help reduce the view of houses on site from the adjacent roadway and preserve the rural view, as recommended by the Zoning Commission and approved by the Township Board. Newly established public roads interior to the OS-PUD shall not be subject to the requirement for 50 feet deep area of open space adjacent to the roadway.
- (4) Open space areas are encouraged to be linked with any adjacent open spaces, public parks bicycle paths or pedestrian paths.
- (5) The open space shall be available for all residents of the development, subject to reasonable rules and regulations and shall be reasonably

accessible and useable for the residents of the open space development. Safe and convenient pedestrian access points to the open space from the interior of the open space shall be provided.

- (6) If the land contains a lake, stream or other body of water, the Zoning Commission may require that a portion of the open space abut the body of water.
- (7) Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, and wetlands.

(d) **Methods to Preserve Open Space.**

The applicant shall provide an open space preservation and maintenance agreement to the Township Board stating that all dedicated open space portions of the development shall be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in title to commitments made as part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the OS-PUD plan, unless an amendment is approved by the Township Board.

The agreement must be acceptable to the Township Board and may consist of a recorded deed restriction, covenants that run perpetually with the land or a conservation easement established according to the Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980 as amended.

The legal instrument shall:

- (1) Indicate the proposed permitted use(s) of the open space.
- (2) List the parties who have an ownership interest in the open space. The residents of the OS-PUD by virtue of an association or other similar entity shall at all times maintain an ownership interest in the Dedicated Open Space.
- (3) Require that the open space be maintained and controlled by parties who have an ownership interest in the Dedicated Open Space.
- (4) Provide standards for scheduled maintenance of the open space, including periodic removal of underbrush to reduce fire hazard and the necessary pruning and harvesting of trees and new plantings.

9A.07 DENSITY & NUMBER OF DWELLING UNITS ALLOWED: An area which is requested for rezoning to OS-PUD shall only be developed

in accordance with the density recommended by the Township Master Plan. The permitted number of dwellings for the proposed OS-PUD area shall be based on the density recommendation of the Master Plan designation of the property as set forth in the following Density Table.

The Township Board, following a recommendation from the Zoning Commission, may choose to allow fewer dwellings than permitted by the Density Table if, in the opinion of the Board, a reduction in the number of dwellings proposed would better achieve the intent and objectives of the OS-PUD district.

(a) Density Table

Master Plan Category	Maximum Average Density
AG-RE, Agricultural-Rural Estate	1 dwelling unit/acre (43,560 sq. ft.)
RR, Rural Residential	1 dwelling unit/30,000 sq. ft.
MDR, Medium Density Residential	1 du/8,500 sq. ft. with both public or community water and sewer 1 du/15,000 sq. ft. with either public or community water or sewer 1 du/25,000 sq. ft. with neither public nor community water and sewer

(b) Formula to Determine Number of Dwellings:

The number of dwellings which may be constructed within an OS-PUD shall be determined as follows:

- (1) Determine gross site area. The gross site area may include road right of way if included in legal description.
- (2) Subtract one-half of the Primary Conservation Areas. For purposes of this Ordinance, Primary Conservation Areas shall be defined as existing regulated and non-regulated wetlands, creeks, streams, ponds, lakes or other water bodies, floodplains and slopes of 20 percent or greater.

The determination of the existence of wetlands and floodplain areas on a parcel shall be demonstrated to the satisfaction of the Zoning Commission through a written determination by the Michigan Department of Environmental Quality or by an analysis performed by a professional biologist, ecologist, environmental engineer or similar professional person deemed acceptable to the Zoning Commission.

- (3) Multiply this acreage by the Maximum Average Density from the Density Table to determine the number of dwellings permitted.
 - (4) Additional dwellings above what is allowed by Section 9A.07 above may be permitted at the discretion of the Township Board following a recommendation by the Zoning Commission if the development provides additional amenities or preserves additional open space which would result in a significant recognizable benefit to the Township and residents of the OS-PUD. Items which could be added to a OS-PUD so it may be eligible for consideration for additional dwelling units shall include one or more of the following items as well as similar items:
 - (i) Provision of recreational facilities such as playground areas with play equipment, ballfields, bike path, man-made lake, and community building or similar recreation facility.
 - (ii) Additional landscaping to preserve or enhance the rural view along the roadway.
 - (iii) Enhancement of existing wetlands, subject to applicable regulations.
 - (iv) Provision of a public or community water and/or sanitary sewer system.
- (2) If additional dwelling units are to be permitted beyond the maximum number of dwelling units determined by Section 9A.07, in no case shall the number of dwelling units exceed that which is permitted by multiplying the gross acreage of the site by the Maximum Average Density.

9A.08 PROCEDURES FOR REVIEW AND PREPARATION OF OS-PUD PRELIMINARY SITE PLAN

- (a) **Application.** An applicant for an OS-PUD rezoning shall comply with the submittal and review requirements of Section 9A.10 of this Ordinance.

- (b) OS-PUD Design Process. A site plan for an OS-PUD shall be prepared according to the following process. Approval of an OS-PUD site plan shall be based on how closely the site plan conforms to this design process as well as conformance to the standards for approval of an OS-PUD contained in Section 9A.09 of this Ordinance.

The applicant shall prepare two plans: a Natural Features & Development Area Map and a Preliminary Site Plan using the Four Step design process described below.

STEP 1	Prepare a Natural Features & Development Areas Map
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- 1) The Natural Features & Development Area Map shall illustrate the Primary Conservation Areas and those other areas on the site which are to be preserved as Dedicated Open Space on the site.

Primary Conservation Areas, for purposes of this Ordinance, shall be defined as existing wetlands, creeks, streams, ponds, lakes or other water bodies, floodplains and slopes of 20 percent or greater.

The Dedicated Open Space illustrated on this map shall comply with the requirements for open space per Section 9A.06 of this Ordinance.

Only one half of the Primary Conservation Areas shall be counted toward the required amount of Dedicated Open Space.

- 2) Label other natural site features such as woods, stands of trees, specimen trees, farm lands and fields, meadows and hedgerows, farm buildings and fences.
- 3) The Dedicated Open Space as required by Section 9A.06 of this Ordinance shall be clearly labeled on the map. The areas outside the Dedicated Open Space shall be illustrated on the map as the Development Area which is the only area where house sites may be located.
- 4) Next, determine the number of houses permitted for the site by Section 9A.07 of this Ordinance.

STEP 2	Locate House Sites on Natural Features & Development Area Map
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- 5) On the same Natural Features and Development Area Map illustrate the tentative location of house sites. House sites shall only be located within the Development Area identified in Step 1. A house site shall not be located within the Primary Conservation Areas or other areas illustrated as Dedicated Open Space.

The location of house sites should be done according to the following design standards:

- (i) Houses should be placed so that scenic views are left unblocked or uninterrupted, particularly as seen from the public road right-of-way.
- (ii) In order to maintain scenic views and rural character, dwellings placed directly on hilltops shall be discouraged if the dwelling is unscreened from the view of nearby properties and roads. Dwellings which are three stories as viewed from nearby public streets shall also be discouraged as such dwellings can detract from the rural view.

STEP 3	Locate Conceptual Roads on Natural Features & Development Area Map
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- 6) On the Natural Features & Development Area Map illustrate the conceptual location of streets which shall be designed to serve the house sites identified in Step 2. Trails shall also be illustrated on this plan.

The location of streets should be designed according to the following design standards:

- (i) Avoid crossing wetlands and wildlife habitat areas with streets.
- (ii) Street systems should be designed to produce terminal vistas (views) of open spaces, village greens, water features, meadows or playing fields.
- (iii) Every effort should be made to connect each street with another to minimize deadends, to provide safe and efficient access for emergency and public service vehicles, and to avoid conditions where certain residential streets become collectors that carry the majority of neighborhood traffic.
- (iv) Where cul-de-sacs are unavoidable, they should be provided with pedestrian and bike linkages to nearby streets, adjoining neighborhoods, or adjoining undeveloped parcels.
- (v) Streets serving new developments should be designed to connect with adjoining properties.
- (vi) OS-PUD developments shall, where feasible and appropriate, provide a trail system that provides pedestrian and bicycle linkage throughout the development, that take advantage of the open space areas. Linkage to future neighborhoods and developments that may occur adjacent to the development may be provided and are encouraged.

STEP 4	Prepare Preliminary Site Plan
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- 7) Next, prepare a separate plan to be known as the Preliminary Site Plan in accordance with the requirements of Section 4.28 herein. Draw lot lines for each house site and the road rights-of-way within the Development Area. Illustrate the boundaries of the Development Area on the Preliminary Site Plan.

The lots should be designed according to the following design standards:

- (i) Lots shall be of a size and width necessary to obtain approval from the Allegan County Health Department. If permitted by the ACHD, septic drain fields may be located within the Dedicated Open Space areas outside the lot lines.
 - (ii) As part of the Preliminary Site Plan, the applicant shall provide documentation from the Allegan County Health Department that the soil types in the buildable areas are acceptable for on site well and septic systems.
- 8) The Natural Features Map and Development Area maps prepared according to Steps 1, 2, and 3 above along with the Preliminary Site Plan prepared according to Step 4 shall be submitted to the Zoning Commission for preliminary site plan review according to the procedures of this Ordinance.

9A.09 STANDARDS FOR APPROVAL: In making a recommendation to approve an OS-PUD, the Zoning Commission must find that the proposed OS-PUD meets the standards for Site Plan approval as contained in Section 4.28 6. B. of this Ordinance and the following standards as applicable:

- (a) Granting the OS-PUD rezoning will result in a recognizable and substantial benefit to ultimate users of the project and to the community, and the benefit would otherwise be unfeasible or unlikely to be achieved.
- (b) The OS-PUD will not result in a significant increase in the need for public services and facilities and will not result in significant adverse effects upon nearby or adjacent lands or the natural environment unless the resulting adverse effects are adequately provided for or mitigated by features of the OS-PUD as approved.
- (c) The OS-PUD will be generally compatible with the Master Plan of the Township and consistent with the intent and purpose of the OS-PUD Section.
- (d) The OS-PUD is designed to substantially comply with the four step design process of Section 9A.08 herein.

- (e) The OS-PUD protects the rural roadside character by preserving or enhancing the existing view along the roadway.
- (f) The individual lots, buildings, roadways, and open space areas are designed to minimize the alteration of environmental site features.
- (g) The OS-PUD includes a pedestrian walkway designed to ensure that pedestrians can walk safely and easily throughout the site.
- (h) The project complies with the requirements of Section of this Ordinance.

9A.10 PROCEDURES

- (a) **Pre-application Conference.** Before submitting an application for a OS-PUD, an applicant may meet with the Zoning Commission or Township Zoning Administrator, Planner or Engineer to submit information regarding a proposed OS-PUD and to confer with the Zoning Commission, or staff, about the proposed application and the OS-PUD.
- (b) **Application for OS-PUD Approval.** An application for an OS-PUD rezoning shall be in accordance with the application procedures for site plan review as required by Section 4.28 of this Ordinance. In addition, the applicant shall submit any fee or escrow requirement as may be adopted by resolution of the Township Board.
- (c) **Preliminary Development Plan.** An applicant for OS-PUD rezoning shall submit a site plan in accordance with the requirements for Site Plan Review as set forth in Section 4.28 of this Ordinance and the requirements of Section 9A.08.

The applicant shall also submit 10 copies of a narrative describing:

- (1) The proposed density, number, and types of dwelling units.
- (2) If the proposed project will be served by water or sanitary sewer systems, a statement from a registered professional engineer describing methods and capacities
- (3) Calculations demonstrating compliance with the ordinance requirements for open space and number of permitted dwellings.
- (d) **Environmental Impact Assessment.** The Zoning Commission may require an environmental impact assessment as part of the Preliminary or Final Site Plan. This assessment shall describe the effect and impact that the proposed OS-PUD will or may have upon or with respect to the following matters:

- (1) The lands involved and the adjacent and nearby lands; streams, rivers, wetlands, and the quality and volume of surface and groundwater; wildlife and trees, and other significant vegetation.
 - (2) Population in the immediate area and the Township; local school systems; traffic congestion.
 - (3) Additional costs to governmental units and school districts; police and fire protection; storm water drainage; water supply and sewage disposal.
 - (4) Noise, vibration, dust and dirt, litter, smoke, odor, light, and glare.
 - (5) Traffic impact study.
 - (6) An economic feasibility study for the principal uses of the proposed OS-PUD.
 - (7) An analysis of the nature and effect of any private utility systems, including septic tanks and drain fields, storm water control and retention facilities, and water supply and distribution systems.
- (e) Review of Preliminary Development Plan. The Zoning Commission shall review the preliminary development plan and make recommendations to the applicant regarding the OS-PUD, together with any recommended changes or modifications thereof. Such review and other consideration of the preliminary plan shall take place at a public meeting or meetings of the Zoning Commission, and at meetings of committees of the Commission, where appropriate.
- (f) Final Development Plan.
- (1) After receiving the recommendations of the Zoning Commission on the preliminary development plan, the applicant for OS-PUD rezoning shall submit a Final Development Plan to the Township office in accordance with the requirements for Site Plan Review as contained in Section 4.28 of this Ordinance. Copies of the plan shall be forwarded to the Zoning Commission.
 - (2) The Final Development Plan shall contain all of the information required for Site Plan review unless the same is waived by the Zoning Commission as not being reasonably necessary for the consideration of the OS-PUD plus the following:
 - (i) All of the drawings, narrative, studies, assessments, and other information, and materials comprising the preliminary

development plan, including all of the recommendations of the Zoning Commission thereon.

- (ii) Projected time for completion of the entire OS-PUD; proposed phasing, if any, of the OS-PUD and the projected time for completion of each phase.
 - (iii) Any other information reasonably required by the Zoning Commission in connection with its review of the -OS-PUD and consideration of the rezoning of the lands in accordance with the OS-PUD plan.
- (g) Zoning Commission Public Hearing on Final Development Plan. The Zoning Commission shall hold a public hearing on the Final Development Plan and the application for rezoning in accordance with the Plan.

A notice concerning the public hearing on the OS-PUD Final Development Plan and application for rezoning shall be published in a newspaper which circulates in the Township. Such notice must be given by 2 publications, the first to be printed not more than 30 days nor less than 20 days and the second not more than 8 days before the date of the hearing. However, applications for rezoning to Open Space Planned Unit Development that are submitted on or after July 1, 2006, shall be subject to the notification requirements of the Michigan Zoning Enabling Act, PA 110 of 2006, which requires notice be given not less than 15 days before the date the application will be considered for approval.

Notification shall be sent by mail or personal delivery to the owners of property for which OS-PUD approval and the rezoning is being considered, and to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet, in accordance with the requirements of PA 184 of 1943 as amended, except that applications for rezoning to Open Space Planned Unit Development that are submitted on or after July 1, 2006, shall be subject to the mailing notification requirements of the Michigan Zoning Enabling Act, PA 110 of 2006.

If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations one occupant of each unit or spatial area shall receive notice.

In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:

- (1) Describe the nature of the OS-PUD and rezoning request.
- (2) Identify the property which is the subject of the OS-PUD and rezoning request.
- (3) State when and where the OS-PUD and rezoning request will be considered.
- (4) Indicate when and where written comments will be received in advance of the public hearing on the request.

An affidavit of mailing shall be filed with the Zoning Commission before the public hearing.

- (h) Consideration of Final Development Plan by Zoning Commission. After the public hearing, the Zoning Commission shall make recommendations concerning the Final Development Plan and the modifications in the Final Development Plan and the rezoning, to the Township Board.
- (i) Standards for Approval. In making a recommendation to approve a OS-PUD, the Zoning Commission must find that the proposed OS-PUD meets the standards for approval as contained in Section 9A.09.
- (j) Final Consideration of OS-PUD by Township Board. The Township Board shall review the Final Development Plan and the recommendations submitted by the Zoning Commission.

The Township Board shall determine whether the Final Development Plan complies with the standards, conditions, and requirements of this Ordinance and, in addition, shall determine whether the proposed project promotes the intent and purpose of this Ordinance; insures that the proposed project will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed project; and insures that the proposed project will be consistent with the public health, safety, and welfare needs of the Township.

Upon a determination that a proposed project meets such standards, conditions, and requirements, the Township Board may approve the final development plan and grant the rezoning request.

- (k) Conditions of Approval. The Township Board may impose reasonable conditions upon its approval. Such conditions may include conditions necessary to insure that public services and facilities affected by a proposed project will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and

energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements.

- (1) They shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the proposed project under consideration, residents, and landowners immediately adjacent to the proposed project and the community as a whole.
- (2) They shall be related to the valid exercise of the police power, and the purposes which are affected by the proposed project.
- (3) They shall be necessary to meet the intent and purpose of this Ordinance, be related to the standards established in the Ordinance for the proposed OS-PUD under consideration, and be necessary to insure compliance with those standards.

The conditions imposed with respect to the approval of a OS-PUD shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the Township Board and the property owner. The Township Board shall maintain a record of conditions which are changed.

- (l) Rezoning. If the Township Board approves the Final Development Plan and the proposed application for rezoning, it may rezone the property in accordance with the Township Zoning Act as amended. Publication of the rezoning ordinance or publication of a summary of the provisions thereof shall be accomplished in the manner provided by law. Following approval of the OS-PUD rezoning the Official Zoning Map of Martin Township shall be changed to reflect the OS-PUD zoning for the parcel.
- (m) Conformance to Final Development Plan. A OS-PUD shall be constructed in strict conformance with the approved Final Development Plan and any conditions of approval. Any changes shall only be allowed in accordance with the requirements of Section 9A.12 herein.

9A.11 DEVELOPMENT REQUIREMENTS FOR ALL OS-PUDs

An OS-PUD permitted under this Section shall comply with the following requirements:

- (a) Sidewalks. For areas recommended for Rural Residential or Medium Density Residential land use in the Master Plan, the Zoning Commission may require sidewalks in accordance with the Township's subdivision and site condominium regulations.

- (b) Grading. To preserve the natural appearance and beauty of the property, all graded areas, cuts and fills will be kept to a minimum. In appropriate cases, retaining walls may be required. Grading within the OS-PUD shall be planned and carried out so as to avoid erosion, pollution, flooding or other adverse effects upon the land, and to have a minimal effect upon the environmental characteristics of the land as reasonably feasible.
- (c) Utilities. The OS-PUD shall be served by either private or community owned well and septic system approved by the Allegan County Health Department or by a public water and sanitary sewer system.
- (d) Storm Water Management.
 - (1) A storm water management plan shall be submitted with both the Preliminary Development Plan for and the Final Development Plan. This plan shall provide information on how storm water will be controlled during and after construction. This plan shall be subject to the review and approval of the Township Engineer and the Allegan County Drain Commission as applicable.
 - (2) Storm water shall be substantially managed with green infrastructure such as vegetated swales, rain gardens, stone weirs or dikes, sediment basins and shallow storm water areas. Storm water shall be minimally managed with conventional storm water management structures such as gutters, catch basins, underground pipes, detention ponds, and retention ponds. Underground detention facilities may be permitted.
 - (3) Storm water detention ponds may be allowed for the containment of storm water run off if it is demonstrated that other stormwater management measures as noted above are not feasible due to soil types, topography or other similar site features.
- (e) Outdoor Lighting. Outdoor lighting shall be designed and located to avoid casting any direct or reflected glare upon neighboring property or upon adjacent structures within the proposed project.
- (f) Signs. Signs shall comply with the sign requirements of this Ordinance.
- (g) Minimum Dwelling Unit Size. The minimum size of a dwelling unit shall be as required by Section 7A.04(c). The minimum size of a multi-family dwelling unit shall be as required by Section 9A.4, 3.D.

9A.12 AMENDMENTS TO APPROVED OS-PUD

- (a) An approved Final OS-PUD Development Plan and any conditions imposed upon Final OS-PUD approval shall not be changed except upon the mutual consent of the Township Board and the applicant except as otherwise noted below.
- (b) Minor Amendments. A minor change may be approved by the Zoning Administrator who shall notify the Zoning Commission and the applicant in writing of the minor change and that such change does not substantially change the basic design or alter the conditions required for the plan by the Commission. The following items shall be considered as minor changes:
 - (1) Reduction of the size of any building and/or sign.
 - (2) Movement of buildings and/or signs by no more than 10 feet.
 - (3) Plantings approved in the site plan landscape plan that are proposed to be replaced by similar types of landscaping.
 - (4) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
 - (5) Changes required or requested by the Township for safety reasons.
 - (6) Changes which will preserve the natural features of the site without changing the basic site layout.
 - (7) Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site plan which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site and which the Zoning Administrator determines would not have any significant adverse effect on adjacent or nearby lands or the public health, safety and welfare.

The Zoning Administrator may refer any decision regarding any proposed change to an approved site plan to the Zoning Commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the Zoning Commission for approval, the Zoning Administrator may consult with the Chairperson of the Zoning Commission.

- (c) A proposed change, other than a minor change as determined by the Zoning Administrator, shall be submitted as an amendment to the OS-PUD and shall be processed in the same manner as an original OS-PUD application except that the OS-PUD zoning shall remain in place.

9A.13 PERFORMANCE GUARANTEES: The Township Board, after recommendation by the Zoning Commission, or in its own discretion, may

require reasonable performance guarantees or assurances deemed satisfactory in the circumstances and authorized by law. The amount of the performance guarantee shall be determined by the Township Board based on a recommendation from the Zoning Commission.

Such arrangements shall be conditioned upon faithful compliance with all of the provisions and requirements of the OS-PUD and construction and placement of all of the improvements therein. In its discretion, the Township Board, upon recommendation by the Zoning Commission, may rebate or refund a proportionate share of the amount specified in a performance bond, letter of credit, or other written assurance, based upon the percent or other portion of improvements completed, as verified by the Zoning Commission or appropriate Township official.

9A.14 TIME LIMITATIONS ON DEVELOPMENT: Each OS-PUD shall be under construction within one year after the date of approval of the final development plan and adoption of a zoning ordinance amendment by the Township Board. If this requirement is not met, the Zoning Commission may, in its discretion, grant an extension not exceeding one year, provided that the OS-PUD applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in commencement of the OS-PUD.

If the OS-PUD has not been commenced within the above-stated period of time, or within any authorized extension thereof, the Final Development Plan shall be of no further effect, and the Zoning Commission and Township Board may then, in their discretion, initiate proceedings for the rezoning of the lands to some other zoning district.

If the property is not rezoned, then the subject property remains zoned as a OS-PUD, but the preliminary or final OS-PUD plans previously approved become null and void. In order to utilize the property as a OS-PUD, an applicant shall submit plans for preliminary and final OS-PUD site plan approval as required by this Section, but OS-PUD rezoning by the Board shall not be required.

SECTION 2: Severability.

The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

SECTION 3: Effective Date.

This Ordinance shall become effective seven days after its publication or seven days after the publication of a summary of its provisions in a local newspaper of general circulation.

YEAS: Members: Terry Stumpf, James Brenner, Jack Biopoli
Carrie Coburn, Susan Tierney

NAYS: Members: None

ORDINANCE DECLARED ADOPTED.

Carrie Coburn
Carrie Coburn
Martin Township Clerk

Ordinance becomes effective: _____

I hereby certify the foregoing to be a true copy of an ordinance adopted at a regular meeting of the Township Board of the Township of Martin held on January 10, 2007. Public notice of such meeting was given as provided by law.

Carrie Coburn
Carrie Coburn
Martin Township Clerk

SUBDIVISION ORDINANCE

ORDINANCE NO. 83
Effective 1-10-07

MARTIN TOWNSHIP SUBDIVISION ORDINANCE

AN ORDINANCE TO PROVIDE REGULATIONS FOR THE
SUBDIVISION OF LAND WITHIN THE TOWNSHIP OF
MARTIN AND TO PROVIDE PENALTIES FOR THE
VIOLATION THEREOF.

THE TOWNSHIP OF MARTIN, ALLEGAN COUNTY, MICHIGAN ORDAINS:

ARTICLE I General

Section 1.01 Legal Basis; Purpose. This Ordinance is enacted pursuant to Public Act 288 of 1967, as amended, the Land Division Act of 1967. ("Act 288") This Ordinance is intended to provide for the proper and orderly subdivision of land in the Township, to provide for adequate and essential public improvements and utilities, and to promote the public health, safety and welfare.

Section 1.02 Fee Schedule. Any person filing a plat pursuant hereto shall pay fees established from time to time by resolution of the Township Board, and until the fee is paid the plat shall not be considered or reviewed.

Section 1.03 Definitions. All terms herein shall have the meanings and definitions given by Act 288.

Section 1.04 Scope and Conflict. The provisions of this Ordinance apply to all platted subdivisions of land within the Township. Where this Ordinance provides a standard stricter than that required by Act 288, this Ordinance shall control.

Section 1.05 Certification of Plats and Drawings. All plats and drawings submitted hereunder shall be prepared and sealed by a registered surveyor and/or engineer, as applicable.

ARTICLE II

Preliminary Plat Application and Review Procedures

Section 2.01 Submission of Plats. The Proprietor of any land proposed to be subdivided shall submit 10 copies of a preliminary plat, together with supplementary documents, containing the information required by Act 288 and this Ordinance, to the Township Clerk who shall forward the plans to the Zoning Commission for its next meeting.

Section 2.02 Preliminary Plat; Required Information.

The following information shall be submitted for tentative approval of the preliminary plat. Maps shall be at a scale of not more than 100 feet to one inch.

- (1) The name or title of the proposed subdivision.
- (2) Legal description of the proposed plat.
- (3) The name, address and telephone number of the Proprietor, developer, record owner and subdivider.
- (4) A statement of the intended use for the proposed plat and showing land intended to be dedicated or set aside for public use or for the common use of property owners in the subdivision, and stating the location, dimensions and purpose of such land.
- (5) A small-scale vicinity map showing location of project within the Township, and the name and location of abutting subdivisions, land divisions, and site condominium developments.
- (6) The location, dimensions and approximate grade and radius of proposed and existing streets, alleys and highways included in the plat.
- (7) The location of all existing features affecting the subdivision, such as railroads, expressways, buildings, trees, ditches, watercourses and other physical features.
- (8) Location and size of all existing and proposed public water, sanitary sewer and storm drainage pipes, equipment, fire hydrants, catch basins and other facilities.
- (9) Location of utility and drainage easements.
- (10) If the proposed plat is contiguous to other lands owned by the applicant, a map showing the street layout and access for subsequent development.

- (11) If the proposed subdivision is not to be served by public or community sewer and water systems, a written statement from the Allegan County Health Department regarding the suitability of the soils for on-site septic systems.
- (12) Location and dimension of lots, including road frontage, radii of all curves and approximate location of all setback lines.
- (13) When any part of the subdivision lies within or abuts a floodplain area:
 - a. The floodplain, as established by the state department of natural resources, shall be shown within a contour line.
 - b. The contour line shall intersect the sidelines of the lots.
 - c. The sidelines shall be dimensioned to the traverse line from the street line and the established floodplain (contour) line.
 - d. The floodplain area shall be clearly labeled on the plat with the words "floodplain area."
- (14) Any proposed covenants and deed restrictions to be imposed upon the use of property in the subdivision or a statement in writing that none are proposed. If common areas are to be reserved for use by the residents of the subdivision, copies of an agreement indicating how the area will be maintained shall be submitted.
- (15) Property lines, dimensions, and building setback distances and all structures, lot lines and wetlands within one hundred (100) feet of the site.
- (16) Existing and proposed topographic elevations at two (2) foot intervals on the site and to a distance of fifty (50) feet outside the boundary lines of the site.
- (17) Direction of storm water drainage and how storm water runoff will be handled as well as a statement describing where storm water will be ultimately discharged such as a creek, stream, lake or wetland.
- (18) Location of abutting streets, rights-of-way, service drives, curb cuts, and access easements serving the site, as well as driveways opposite the site and driveways within one hundred (100) feet on either side of the site. Also driveway width, curb radii and design of proposed deceleration lanes.
- (19) Street lighting, if any, including the type of fixture as well as method of shielding illumination from adjacent properties and roadways. Any lighting of common areas shall also be shown and such lighting shall comply with the outdoor lighting requirements contained in the Township Zoning Ordinance.

- (20) Location and type of significant existing vegetation, water courses, and water bodies including county drains and manmade surface drainage ways, floodplains, and wetlands.
- (21) Location of existing and proposed slopes which are twelve (12) percent or greater, which may be altered by the development or the construction of buildings within the development.
- (22) Zoning and use of the proposed subdivision and on adjacent properties.

Section 2.03 Tentative Preliminary Plat; Tentative Approval Procedure.

- (1) A preliminary plat shall be referred to the Zoning Commission, which shall consider it and make a recommendation to the Township Board. Such consideration and recommendation shall take place following a public hearing by the Zoning Commission on the preliminary plat. For such hearing, notice shall be given no more than 15 nor less than five days before the hearing by ordinary mail, sent to the owners of or parties in interest in the lands within 300 feet of the lands to be included in the plat, as the names of such owners and other parties are given in the current Township tax assessment rolls.

The preliminary plat, together with minutes showing the action of the Zoning Commission thereon, shall be referred to the Township Board.

- (2) The Township Board shall grant tentative approval of or shall disapprove the preliminary plat not later than 90 days after the preliminary plat was first submitted by the proprietor provided all information as required for submission of the preliminary plat has been submitted by the applicant. Such time period may be extended with the consent of the applicant.

If the preliminary plat is not approved, the Township Board shall set forth in writing its reasons for rejection. The Township Board shall record its approval or disapproval on the plat and return one copy to the Proprietor.

- (3) Tentative approval under this section shall confer upon the Proprietor, for a period of one year, approval of lot sizes, lot orientation and street layout. The duration of such tentative approval may be extended by the Township Board.

Section 2.04 Preliminary Plat; Final Approval Procedure.

- (1) Following tentative approval of the preliminary plat by the Township Board, the Proprietor shall:
 - a. Submit the preliminary plat to all other reviewing authorities as required by Act 288.

- b. Submit a list of all such authorities to the Township Clerk, certifying that the list shows all approving authorities as required by Act 288.
 - c. Submit all approvals to the Township Clerk after they have been secured.
- (2) Following a determination that all required approvals have been secured, the Clerk shall forward the approved copies of the preliminary plat, together with all communications from the reviewing agencies, to the Township Board as soon as possible prior to the next regularly scheduled meeting.
 - (3) The Township Board shall, at its next regularly scheduled meeting or within 20 days following submission of the required materials shall:
 - a. Consider and review the preliminary plat and approve it if the Proprietor has met all conditions specified for approval of the preliminary plat.
 - b. Instruct the Township Clerk to notify the Proprietor of approval or rejection in writing.
 - (4) Final approval of the preliminary plat under this section shall confer upon the Proprietor for a period of two years from the date of approval, the rights granted under Act 288. This period may be extended by the Township Board.

ARTICLE III

Final Plat Application and Review Procedure

Section 3.01 Requirements.

- (1) Final plats shall be prepared and submitted as provided in Act 288.
- (2) A written application for approval and all recording and other Township and State fees shall accompany all final plats.
- (3) The Proprietor shall submit proof of ownership of the land included in the final plat in a form satisfactory to the Township.
- (4) The Township may require such other information as it deems necessary to establish whether the proper parties have signed the plat.

Section 3.02 Procedure; Final Plat.

- (1) The final plat shall be submitted not less than 20 days prior to the next regular meeting of the Township Board. For any plat submitted thereafter, the applicant shall pay an additional fee established by resolution, for the cost of calling a special meeting to comply with Section 167 of Act 288, unless the Proprietor waives compliance with Section 167.

- (2) The Township Board shall examine the final plat at the next regularly scheduled meeting or within 20 days after submission of the plat, and the Board shall either approve or disapprove the plat.

Section 3.03 Improvements and Facilities.

- (1) Before final approval of a plat, all required improvements shall be completed, or security shall be given as provided in Section 3.04.
- (2) Monuments shall be set in accordance with Act 288 and the rules of the State Department of Treasury.
- (3) Upon completion of all required improvements, one complete copy of as-built engineering plans for all required public improvements and utilities shall be filed with the Township Clerk coincident with the submission of the final plat.

Section 3.04 Security for Completion.

- (1) In lieu of completion of some or all required improvements, the Township Board may give final plat approval conditioned upon the proprietor providing a financial guaranty for performance as provided in this section.
- (2) Security shall be in an amount equal to the total estimated cost for completion of the improvement, including reasonable contingencies. Security shall not be required for an improvement for which security has been furnished to another governmental agency.
- (3) Security shall remain in force for a time to be specified by the Township Board.
- (4) Security shall be in the form of an irrevocable bank letter of credit issued by a bank, in a form satisfactory to the Township, or in the form of cash escrow or certified check. A performance bond in form satisfactory to the Township, from a surety company authorized to do business in the State of Michigan and acceptable to the Township, may be substituted in lieu of such security only if the applicant can satisfy the Township that an irrevocable letter of credit, cash escrow or certified check cannot reasonably be made available.
- (5) The proprietor may request periodic reductions in the amount of security as public improvements are completed. Township staff may approve such reductions, to an amount estimated to be equal to the remaining cost of improvements, plus a reasonable contingency.

Section 3.05 Certificates on Final Plat. The final plat shall include proper certificates for the Township Clerk to certify the approval of the plat by the Township Board, and the acceptance on behalf of the public of all dedications shown thereon by the governmental body having jurisdiction over such dedication.

ARTICLE IV

Improvements and Regulations

Section 4.01 General. The following standards shall apply to all subdivisions within the Township.

Section 4.02 Lots.

- (1) All lots shall face upon, and have direct access to, a public or private street.
- (2) The side lines of lots shall be approximately at right angles or radial to the street upon which the lots face.
- (3) All lots shall conform to the requirements of the zoning ordinance for the zone in which the plat is located. This Ordinance shall not be construed as providing for lots smaller than as specified in the Zoning Ordinance. If public water and sewer are available, the provisions of the Township Zoning Ordinance shall override Section 186 of Act 288.
- (4) Corner lots for residential use shall have the minimum required frontage on both streets adjacent to the lot.
- (5) The depth of a lot shall not exceed four times the width. The depth of a lot shall be measured along a horizontal line located midway between the side lot lines and connected to the front and rear lines, or the two front lines of a through lot. The width of the lot shall be measured between the side lot lines parallel to the front lot line at the minimum required front setback line.
- (6) Corner lots shall have sufficient extra width so as to permit appropriate building setback from both streets or orientation to both streets. Lots abutting pedestrian mid-block crosswalks shall be treated as corner lots.
- (7) Lots in subdivisions bounded by existing streets shall only have access from internal streets constructed to serve the subdivision and not directly to such existing streets. The Township Board following a recommendation from the Zoning Commission may waive this requirement if it is determined that there is no practical way to provide an internal access street due to insufficient lot depth, topography or other natural features of the land to be subdivided or if the proposed subdivision is located on a local street which has a low volume of traffic.
- (10) Greenbelts or landscaped screen plantings shall be located between a residential subdivision and adjacent major arterial streets, expressways, or railroad rights-of-way. The proposed subdivision plat shall show the location of said greenbelts.

The greenbelt shall contain plantings of sufficient size and number to provide a visual screen for subdivision residents. The greenbelt may contain an earthen berm in conjunction with plantings.

Section 4.03 Usable Land. All land shall be platted such that it is usable for building lots or required improvements. Land may be platted for common or public areas if adequate provision is made for continued maintenance of such areas, unless such provision for continued maintenance is waived or deemed unnecessary by the Township. For private streets and other areas under the control of a subdivision property owners association or similar organization, the Township may require a recorded agreement whereby the Township may maintain the area and charge the cost thereof as a lien against all properties in the subdivision if the association fails to adequately maintain the areas.

Section 4.04 Dedication. Streets and other land areas may be dedicated to the public. Any street not dedicated to the public shall comply with the design standards for private roads as required by the Township Zoning Ordinance, and shall include easements for public utilities within the street and at least fifteen feet on either side thereof.

Section 4.05 Street Names. Street names shall be approved by the Township Board with final approval by the Allegan County Road Commission before printing on the final plat. All streets which are extensions of existing streets must carry the names of such existing streets.

Section 4.06 Street Alignment and Layout.

- (1) The subdivision layout shall conform to the Master Plan of the Township.
- (2) All proposed public and private streets shall be continuous and in alignment with existing, planned or platted streets insofar as practicable. Where streets in new subdivisions are extensions of existing streets, the platted streets shall be at least as wide as the existing streets that are being extended.
- (3) If streets are to be dedicated to the public, a sufficient number of streets shall extend to the boundary of the subdivision so as to provide sufficient access to adjoining property and to future development on contiguous land.
- (4) The Township Board may require, upon a recommendation of the Zoning Commission, that the subdivision shall be served by a secondary means of access. This secondary access shall meet the minimum standards for public or private roads, as the case may be, as required by applicable Martin Township Ordinances.
- (5) Intersections of subdivision streets shall be at least 250 feet from the intersection of a public or private street on either side of the road as measured from centerline to centerline.

Section 4.07 Street Design Standards. Public streets, intersections, and cul-de-sacs in plats shall conform to the design, drainage, grade, layout, right-of-way width and construction requirements of the Allegan County Road Commission.

Section 4.08 Sidewalks.

- (1) Except as otherwise provided in this section, sidewalks at least five feet wide, on both sides of the street, shall be provided for and installed in all plats. A plat shall include right-of-way of sufficient width so as to accommodate such sidewalks.
- (2) Such sidewalks shall be laid out and constructed when streets and other public improvements are made, unless the Township Board, following a recommendation of the Zoning Commission, approves an arrangement for subsequent sidewalk construction, as lots are improved. With any such approval for subsequent sidewalk construction, conditions and time deadlines may be imposed.
- (3) Mid-block crosswalks shall be provided where blocks exceed 800 feet in length.
- (4) The following are exceptions from Section 4.08(1):
 - a. Sidewalks are required on only one side of the street if the other side clearly cannot be developed and if there are no existing or anticipated uses that would generate pedestrian trips on that side.
 - b. In residential subdivisions, sidewalks are required on one side only of a street intended primarily to provide access to abutting properties if the average lot width on the street is greater than or equal to 100 feet.
 - c. In residential subdivisions, no sidewalks are required adjacent to streets intended primarily to provide for access to abutting properties if the average lot width on the street is greater than or equal to 150 feet. Provided, however, that a sidewalk shall be required on one side of the street for such portions of any street located within 1,500 feet of a school site which may be on a walking route to the school.
- (4) Also in their discretion, the Zoning Commission may recommend and the Township Board may approve the waiving, in whole or in part, of the sidewalk requirements of this section. In considering whether to recommend and approve such waiver, the Zoning Commission and Township Board shall consider and make findings upon the following factors:
 - a. Whether the installation of sidewalks would be a reasonably appropriate plat improvement, giving consideration to the convenience of pedestrians, the amount of available land and other applicable circumstances.

- b. The likelihood that pedestrians will make reasonable use of sidewalks in the plat, currently and in the future.
- c. Whether there are other sidewalks already installed on adjacent or nearby lands.
- d. The effect of topography, landscaping, location of streets and other improvements and the effect, if any, of other physical aspects of the platted lands.

Section 4.09 Street Lighting. Adequate street lights may be required to be provided and such lighting shall comply with the applicable requirements for lighting as contained in the Township Zoning Ordinance.

Section 4.10 Public Utilities.

- (1) Public electricity and telephone shall be furnished to each lot in the subdivision.
- (2) All utilities shall be installed and maintained underground and in appropriate easements.
- (3) Utility easements shall be provided adjacent to lot lines. The width of such easements shall be not less than ten feet.
- (4) When a proposed subdivision is to be served by a publicly-owned or privately-owned public water system, fire hydrants and other required water system appurtenances shall be provided by the subdivider.
- (5) If there is no existing or available publicly-owned water supply system, the subdivider may be required to install a privately-owned public water supply system for drinking and fire protection purposes for the common use of the lots within the subdivision in accordance with the requirements of the Safe Drinking Water Act, Act 399 of the Public Acts of Michigan of 1977, as amended, or successor statute of like import, and with the requirements of Township Ordinance.

Section 4.11 Natural Features. The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance.

Section 4.12 Drainage. An adequate storm drainage system, including the necessary storm sewers, drain inlets, manholes, culverts, bridges, and other appurtenances, shall be provided in accordance with the requirements of the Township and the County Drain Commissioner. Such facilities shall be designed and constructed so as to have no adverse affect on adjoining lands, or upon lots within the subdivision.

ARTICLE V

Variance

Section 5.01 A variance from the provisions of this Ordinance may be granted as follows:

- (1) If the Proprietor demonstrates that literal enforcement of this Ordinance would result in a practical difficulty, or would impose an unnecessary hardship in the use of the land, Township Board, upon recommendation of the Zoning Commission, may permit a variance or variances which are reasonable and within the general policy and purpose of this Ordinance. The Township may attach conditions to the variance.
 - (a) For purposes of this section, practical difficulty shall mean a difficulty or impossibility involving the topography or other physical features of the land. Unnecessary hardship shall mean a condition of impracticability or unreasonableness that would result from the application of a provision of this Ordinance.
 - (b) In determining whether to grant a variance under the terms of this subsection, the Township Board may depart from the recommendation thereon made by the Zoning Commission.
 - (c) In considering whether a variance shall be recommended, in the case of the Zoning Commission, and in considering whether a variance shall be granted, in the case of the Township Board, each body shall consider and make findings upon the following:
 - (1) That there are special circumstances or conditions affecting the property, that would make the strict application of a provision of this Ordinance impracticable or unreasonable.
 - (2) That the granting of the requested variance would not be detrimental to the subdivision development or to adjacent or nearby lands.
 - (3) That the granting of the requested variance, when implemented, would not violate or be contrary to a provision of any other chapter of this ordinance.
 - (4) That the granting of the requested variance would not violate any provision of the Michigan Land Division Act.
- (2) A petition for a variance shall be submitted together with the submission of the preliminary plat for consideration of a recommendation on tentative approval by the Zoning Commission. Notice that a request for a variance that has been

received shall be included in the notice of public hearing on the preliminary plat provided in Section 2.03, and the variance shall be considered during the process of considering the preliminary plat. If a request for a variance arises because of unforeseen circumstances after preliminary plat review, a request for a variance may be submitted, and a recommendation made by the Zoning Commission to the Township Board after public hearing following notice given in accordance with Section 2.03.

- (3) A variance from any provisions of the Martin Township Zoning Ordinance, not involving the Subdivision Ordinance, shall be considered by the Zoning Board of Appeals in accordance with the applicable provisions of this ordinance concerning the Zoning Board of Appeals.

ARTICLE VI

Enforcement

Section 6.01 No plat shall be transmitted to any county or state approving authority for official action until each plat shall have been, in the first instance, approved by the Township Board in accordance with the requirements of this Ordinance.

Section 6.02 No person shall sell or convey any lot in any plat by reference thereto until such plat has been duly recorded in the office of the Allegan County Register of Deeds.

Section 6.03 No building permit shall be issued, and no public sewer or water service shall be provided for any dwelling or other structure located on a lot or plot subdivided or sold in violation of these regulations. The fact that final plat approval has not been received from the State of Michigan shall not prevent a building permit from being granted for not more than three buildings, or for the maximum number of land divisions which would be permitted under Act 288 without plat approval, whichever is less. No building may be occupied or used, however, until all required improvements have been completed, and necessary utilities installed.

Section 6.04 Any act or failure to act done in violation of the provisions of this Ordinance is hereby declared to be a nuisance per se.

Section 6.05

- (1) A violation of this ordinance is a municipal civil infraction, for which the fine shall be not less than \$500 nor more than \$1,000 for the first offense and not less than \$1,000 nor more than \$1,500 for a subsequent offense, in the discretion of the Court, and in addition to all other costs, damages, and expenses provided by law. For purposes of this section, "subsequent offense" means a violation of this ordinance committed with respect to a separate incident by the same person within 12 months of a previous violation of the ordinance for which said person

admitted responsibility or was adjudicated to be responsible. Each day such violation continues shall be considered a separate offense.

- (2) The landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in, or maintains such violation may each be found responsible for a municipal civil infraction and be liable for 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 Land Division Act.

Section 6.06 In addition to any other available remedy, the Township may in its discretion bring an action in its own name to restrain or prevent any violation of this ordinance or any continuance of such violation. In such case the person found violating this ordinance shall pay the Township's costs and expenses in enforcing this Ordinance, including its attorneys' fees.

ARTICLE VII

Division of Platted Lots

Section 7.01 Prohibition. No lot or other parcel of land located within a recorded plat shall be further partitioned or divided, or a building permit issued for a partitioned or divided lot, unless such partition or division is first approved by the Township Board as provided in this article. No partition or division of a lot may result in the creation of a lot that does not satisfy the applicable minimum lot area and dimension requirements of the Township zoning ordinance, this ordinance or Act 288.

Section 7.02 Approval of Platted Division of Lots

- (1) Any proprietor or lot owner who desires to divide, partition or split a lot, outlot, or other parcel of land located in a recorded plat shall complete an application on a form provided by the Township and shall file the same with the Township Clerk, together with payment of any application fee that may be required. The application shall include a drawing, drawn to scale, showing the proposed division or partition and all adjoining lots, streets and other adjoining parcels. If the applicant proposes to construct a dwelling or other building on the resulting or remaining lot, or both of them, and if sanitary sewer service and/or water supply are proposed to be provided by an individual septic tank and/or water supply well, the application shall also include a written approval or other statement from the County Health Department indicating approval of the proposed septic tank and drain field system and/or water supply well.
- (2) Once the application and other materials are complete, the clerk shall forward the same to the Zoning Commission. The Commission shall review the application and other materials at a public meeting and shall make a recommendation thereon to the Township Board.

- (3) In reviewing the application, the Zoning Commission and Township Board shall consider whether the request is consistent with all applicable Township Ordinances, Act 288, and other applicable State laws, and whether the proposed division or partition is consistent with the general public health, safety and welfare.
- (4) On receiving the recommendation of the Zoning Commission, the Township Board shall either approve or deny the application. In approving the application, the Board may include such reasonable terms and conditions as it deems appropriate.

ARTICLE VIII

Other Matters

Section 8.01 Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance will not be affected thereby.

Section 8.02 Effective Date. This Ordinance shall take effect thirty days after its publication in the manner provided by law.

YEAS: Members: Terry Stungis, James Brenner, Jack Bypplé
Carrie Coburn, Susan Turner

NAYS: Members: None

ORDINANCE DECLARED ADOPTED.

Carrie Coburn
 Carrie Coburn
 Township Clerk

First Reading: _____

Second Reading: _____

Ordinance becomes effective: _____

I hereby certify the foregoing to be a true copy of an ordinance adopted at a regular meeting of the Township Board of the Charter Township of Martin held on January 10th 2006. Public notice of such meeting was given as provided by law.

Carrie Coburn
 Carrie Coburn
 Township Clerk

**ARTICLE XIII A
SITE CONDOMINIUM AMENDMENTS**

MARTIN TOWNSHIP

COUNTY OF ALLEGAN, MICHIGAN

At a regular meeting of the Township Board of the Township of Martin, Allegan County, Michigan, held in the Martin Township Community Building, 998 Templeton Street, within the Village of Martin, on the 10th day of January 2007 at 7:00 p.m.

PRESENT: Members: Susan Tierney, Terry Sturgis, James Brenner,
Jack Sipple & Carol Coburn

ABSENT: Members: None

The following ordinance was offered by Member Jack Sipple and supported by Member James Brenner.

ORDINANCE NO. 84

**AN ORDINANCE TO AMEND THE MARTIN ZONING ORDINANCE
(ORDINANCE NO. 30 OF 1986, AS AMENDED)**

THE TOWNSHIP OF MARTIN ORDAINS:

SECTION 1: The Zoning Ordinance of the Township of Martin is hereby amended by the addition of Section XIII A, Site Condominiums, so as to read in its entirety as follows:

ARTICLE XIII A SITE CONDOMINIUMS

13A.01 STATEMENT OF PURPOSE: Site condominiums are developments utilizing land division on the basis of condominium ownership. Such developments are not regulated by the Land Division Act, Public Act 288 of 1967 as amended and therefore the review and approval procedures required by that Act are not applicable. The purpose of these regulations is to set forth the procedures under which site condominiums are to be reviewed in Martin Township.

This chapter regulates both site condominiums and condominiums, whether for residential use or non-residential use. The references herein to site condominiums shall also include condominiums; accordingly, the requirements of this chapter

for submission of condominium plans and for township consideration and approval thereof shall apply to condominium developments as well as to site condominium developments.

13A.02

DEFINITIONS: In addition to the definitions given in Section 3.1, the following words and terms are defined for use in this Section:

Building Envelope - The area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium. In a single-family residential site condominium project, the building envelope refers to the area of each condominium unit within which the dwelling and any accessory structures may be built.

Condominium Act - Public Act 59 of 1978, as amended.

Condominium Project - A plan or project consisting of not less than two condominium units if established and approved in conformance with Condominium Act.

Condominium Structure - The principal building or structure intended for or constructed upon a lot or building envelope, together with any attached accessory structures; e.g. in a residential development, the condominium structure or building envelope would refer to the house and any attached garage.

Condominium Unit - That portion of a condominium project designed and intended for separate ownership and use, as described in the Master Deed, regardless of whether it is intended for residential, office, industrial, business, or recreational use as a time-share unit, or any other type of use.

- (a) In the case of an attached condominium, the minimum requirements of this ordinance, including without limitation, height, area, yard, and density requirements, shall be applied with respect to the building in which the attached condominium is located; provided, however, that a building envelope surrounding the attached condominium unit shall be established and described so as to comply with the minimum area, yard, and density requirements of the zone district in which the condominium is located.

The building envelope surrounding a two-unit condominium building must comply with the minimum lot area, width, and building setback requirements for duplexes in the zoned district in which the two-unit condominium is located. The building envelope for a building that contains more than two attached condominium units must comply with the minimum lot area, width, and building setback requirements for the multi-family dwelling units in the zoned district in which the building is located.

- (b) In the case of a detached condominium, the applicable provisions of this ordinance, including without limitation, height, area, yard, and density

requirements, shall be applied with respect to the building comprising the detached condominium; provided, however, that a building envelope or other equivalent space surrounding the detached condominium unit shall be established so as to comply with the minimum area, yard, and density requirements of the zone district in which the condominium is located.

Convertible Area - A unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created in accordance with the Condominium Act.

Expandable Condominium - A condominium project to which additional land may be added in accordance with the Condominium Act.

General Common Element - The common elements other than the limited common elements

Limited Common Element - An area which is appurtenant to a site condominium unit and which is reserved in the master deed for the site condominium development for the exclusive use of the owner of the site condominium unit.

Lot -

- (a) A condominium unit consisting of the area under a building envelope and the contiguous area around the building envelope which, by itself, meets the minimum area and yard requirements for lots as set forth for the various districts in this Ordinance.
- (b) The contiguous limited common element under and surrounding a condominium unit that is or shall be assigned to the owner(s) of the condominium unit, for the owner(s) exclusive use, and which, together with the condominium unit, meets the minimum area and yard requirements for lots as set forth for the various districts in this Ordinance.

Master Deed - The legal document prepared and recorded pursuant to Public Act 59 of 1978, as amended, to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.

Site Condominium Subdivision - A division of land on the basis of condominium ownership which is not subject to the provisions of the Land Division Act, Public Act 288 of 1967, as amended.

13A.03

ZONING COMPLIANCE: Site condominium projects may be approved in any zoning district. All site condominium lots and structures shall conform to the use, size, height, frontage, lot area, front, side and rear yards, general and special regulations applicable to the use and zoning district in which they are located

For the purposes of determining compliance with this Ordinance, each condominium unit and its appurtenant limited common element or other appurtenant space shall be considered the equivalent of a lot as defined in Section 3.1, 37, and Section 13A.02.

13A.04

SITE CONDOMINIUM PLANS – REQUIRED CONTENT: All site condominium plans submitted for approval shall include the following:

- (a) The information required for site plan review as required by Section 4.28 of this ordinance.
- (b) A description which describes the nature and intent of the proposed project.
- (c) A complete legal description of all included property.
- (d) An ownership disclosure statement which gives the names of all parties which have ownership interests in the project or other written evidence that the applicant has the right to purchase the property from the owners of record.
- (d) A minimum of 10 copies of a preliminary site condominium development plan which complies with the requirements of Section 2.02 of the Township Subdivision Ordinance and which also illustrate the location, size, shape, area and identification of each condominium unit, including limited common areas appurtenant to each site condominium unit and appurtenant lot equivalent areas. The location, size, shape, area and intended use of general common elements within the site condominium should also be shown.
- (e) A utility plan showing all sanitary sewer, water and storm sewer lines along with all easements for the installation, repair, and maintenance of all utilities.
- (f) A storm drainage and storm water management plan, including all lines, drains, basins, and other facilities.
- (g) The use, occupancy restrictions, and maintenance provisions for all general common elements as will be contained in the Master Deed.
- (h) A street construction, paving and maintenance plan for all streets within the proposed development.
- (i) A statement from the Martin Township Treasurer that all applicable site plan review fees have been properly paid.

13A.05

STREETS

- (a) Private Streets - All private streets in a site condominium shall be constructed to the standards as required by Section 4.29 of this Ordinance.
- (b) Public Streets - All public streets in a site condominium shall be constructed to the standards required by the Allegan County Road Commission for platted streets.

13A.06

UTILITIES: Extension and provision of utilities shall be provided as may be required by the Township Board as conditions of approval. The site condominium plans shall include all the necessary easements granted to Martin Township, Allegan County or others for the purpose of constructing, operating, inspecting, maintaining and repairing all utilities.

Martin Township may require the developer to enter into an agreement with the Township for the imposition of a special assessment for the construction of sewer and water lines and street lights within the site condominium project.

13A.07

PROCEDURES TO REVIEW A SITE CONDOMINIUM: The Martin Township Board must review and approve all site condominium projects before improvements are initiated and before the Master Deed is recorded. The review process shall consist of the following steps:

(a) Step 1- Preliminary Plan Review by Zoning Commission

- (1) An application for review of a preliminary site condominium plan shall be initiated by submitting a minimum of 10 copies of the plan to the Township Clerk along with an application and fee schedule established by the Township Board. Plans submitted for the preliminary review shall include the information required in Section 13A.04 herein.
- (2) As part of the review, the Zoning Commission shall hold a public hearing on the preliminary plan. The Commission, may, however, review the plan prior to the public hearing in order to provide direction to the applicant in preparing the plan for the hearing.

For such hearing, notice shall be given no more than 15 nor less than five days before the hearing by ordinary mail, sent to the owners of or parties in interest in the lands within 300 feet of the lands to be included in the site condominium project, as the names of such owners and other parties are given in the current Township tax assessment roll.

- (3) The Zoning Commission shall review the preliminary site condominium plan in accordance with the standards and requirements contained in Sections 13A.05 and 13A.06 of this Section, the requirements of Article IV of the Township

Subdivision Ordinance and the applicable requirements of the Township Zoning Ordinance. All of the requirements for plats, as set forth in Article IV of the Township Subdivision Ordinance, shall be requirements for site condominium projects.

In its review of a site condominium plan, the Zoning Commission may consult with the Zoning Administrator, Township Attorney, Township Engineer, Township Fire Chief, Township Planner or other appropriate persons regarding the adequacy of the proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, development, layout and design, and other aspects of the proposed project.

- (4) Preliminary plans as applicable shall be submitted to the Allegan County Health Department, Allegan County Road Commission, Allegan County Drain Commissioner, Michigan Department of Natural Resources and other appropriate agencies having direct approval or permitting authority over all or any part of the plan. Approval of a site condominium plan shall not be considered to be final until the plan is fully in compliance with the requirements of the reviewing agencies.
- (5) After reviewing the preliminary site condominium plan, the Zoning Commission shall prepare a written statement of recommendations regarding the proposed site condominium project, including any suggested or required changes in the plan. The Zoning Commission shall provide a copy of its written recommendations to the applicant and to the Township Board.

Any revisions to the preliminary plan as required by the Zoning Commission shall be made by the applicant and reviewed by the Zoning Commission before the plan is forwarded to the Township Board.

(b) Step 2- Final Plan Review by Township Board

- (1) After revising the plan according to the Zoning Commission's recommendations, the applicant shall submit to the Township Clerk a minimum of 10 copies of the final site condominium plan. The Township Clerk shall forward the copies of the final plan to the Township Board.
- (2) The Township Board shall review and may approve, deny or approve with conditions the plan in accordance with the standards and requirements provided by Article IV of the Township Subdivision Ordinance and other applicable procedures, standards and requirements provided by this section.

Approval of a site condominium project shall serve as conditional authorization to proceed with the division of the land on the basis of condominium ownership and the construction of the required improvements to the land in conformity with the approved plans. Site condominium approval shall not serve as the authorization of land uses and construction on individual units within the site condominium. Uses and construction on individual units are subject to authorization under applicable provisions in this Ordinance.

- 13A.08** MASTER DEED CONTENTS: All provisions of the site condominium plans which are approved by the Martin Township Board must be incorporated as part of the approved Master Deed for the site condominium. A copy of the Master Deed as recorded with the Allegan County Register of Deeds must be provided to the Martin Township Clerk within ten (10) days after recording.
- 13A.09** PERFORMANCE GUARANTEES: In addition to the requirements given in Section 4.28, 6.C., a deposit in the form of cash, certified check, or irrevocable bank letter of credit shall be deposited with the Township of Martin to guarantee the installation and completion of common improvements associated with the project such as public and private streets, street lights, sanitary sewer, water supply, drainage facilities, and sidewalks. The amount of the deposit shall be not less than the estimated cost of the improvements.
- 13A.10** CONSTRUCTION IN COMPLIANCE WITH APPROVED FINAL SITE CONDOMINIUM PLAN: No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a proposed site condominium project except in compliance with a final site condominium plan as approved by the Township Board, including any conditions of approval.
- 13A.11** COMMENCEMENT OF CONSTRUCTION; ISSUANCE OF PERMITS: No building permit shall be issued, and no public sewer or public water service shall be provided for any dwelling or other structure located on a parcel of land established or sold in violation of this chapter. The sale, or the reservation for sale, of site condominium units shall be as regulated by the Condominium Act. No building in a site condominium may be occupied or used until all required improvements in the site condominium project have been completed and all necessary utilities installed.
- 13A.12** EXPANDABLE OR CONVERTIBLE CONDOMINIUM DEVELOPMENTS: Approval of a final site condominium plan shall not constitute approval of expandable or convertible portions of a site condominium project unless the expandable or convertible areas were specifically reviewed and approved by the Zoning Commission and Township Board in compliance with the procedures, standards and requirements of this section.

13A.13

CHANGES IN CONDOMINIUM DEVELOPMENTS: Any change proposed in connection with a development for which a final site condominium plan has previously been approved shall be regulated by this section.

(a) The following definitions shall apply:

(1) “Exempt change” means a change to a site condominium project (other than a major or minor change) that is exempt from review and approval as required for major or minor changes under this chapter. Exempt changes shall be limited to the following:

(i) a change in the name of the project; in the name of a street within the project; or in the name of the developer;

(ii) a change in the voting rights of co-owners or mortgagees; or

(iii) any other change in the site condominium which, as determined by the Zoning Administrator, does not constitute a major or minor change or will not otherwise change the site configuration, design, layout, topography or any other aspect of a which is subject to regulation.

(2) “Major change” means a major change in the site configuration, design, layout or topography of a site condominium project (or any portion thereof), including any change that could result in:

(i) an increase in the number of site condominium units;

(ii) any other change in the site configuration, design, layout, topography, or other aspect of the project which is subject to regulation under this Zoning Ordinance, including, without limitation, a change in the location of streets and utilities, or in the size, location, area, horizontal boundaries or vertical boundaries of a site condominium unit, and which is determined by the Zoning Administrator to constitute a major change to the site condominium project.

(3) “Minor change” means a minor change in the site configuration, design, layout or topography of a site condominium project (or any portion thereof), including any changes that will result in:

(i) a decrease in the number of site condominium units;

(ii) a reduction in the area of the building site for any site condominium unit;

- (iii) a reduction of less than 10 percent in the total combined area of the general common elements of the site condominium;
 - (iv) a reduction in the total combined area of all limited common elements of the site condominium;
 - (v) any other minor variation in the site configuration, design, layout, topography or other aspect of the development which is subject to regulation under this Zoning Ordinance, and which, as determined by the Zoning Administrator, does not constitute a major change.
- (b) Any change which constitutes a major change shall be reviewed by the Zoning Commission, at a public hearing and with the notice required for an original approval of the site condominium, and shall also be reviewed and approved by the Township Board, as provided in this section for the original review and approval of preliminary and final plans.
- (c) Any change which constitutes a minor change shall be reviewed and approved by the Zoning Administrator, but in the discretion of the Administrator, any such minor change may be reviewed and approved by the Zoning Commission, at a public meeting, but without the public hearing or mailed notice requirement otherwise provided in this section for an original approval.
- (d) Any change which constitutes an exempt change shall not be subject to review by the Township under this chapter, but a copy of the exempt change shall be filed with the Township Clerk.

13A.14 TIME LIMIT: No approval of a final site condominium project plan shall be effective for a period of more than one (1) year, unless construction of the project commences within that one (1) year period and is diligently pursued to completion in accordance with the terms and conditions of the approval. This one (1) year period may be extended for additional periods of time as determined appropriate by the Township Board if the extension is applied for by the applicant within the effective period of the approval.

13A.15 VARIANCES: As stated in subsection 13A.7(a)(3) of this section, site condominiums are subject to the requirements for platted subdivisions as stated in Article IV of the Township subdivision ordinance. Further, as stated in section 13A.7(b)(2) of this section, the Township Board is to review, and then approve, deny or approve with conditions, a site condominium plan in accordance with the standards and requirements stated in Article IV of the Township subdivision ordinance.

A variance, however, may be granted from the provisions of said Article IV of the Township subdivision ordinance, with respect to a site condominium project or

any part thereof. Such a variance may be granted by the Township Board after recommendation thereon by the Zoning Commission, and upon a determination that practical difficulty or unnecessary hardship would result from compliance with a provision of said Article IV.

- (a) For purposes of this section, practical difficulty shall mean a difficulty or impossibility involving the topography or other physical features of the land. Unnecessary hardship shall mean a condition of impracticability or unreasonableness that would result from the application of a provision of said Article IV with respect to a site condominium project, site condominium unit or any part thereof.
- (b) In determining whether to grant a variance under the terms of this subsection, the Township Board may depart from the recommendation thereon made by the Zoning Commission.
- (c) In considering whether a variance shall be recommended, in the case of the Zoning Commission, and in considering whether a variance shall be granted, in the case of the Township Board, each body shall consider and make findings upon the following:
 - (1) That there are special circumstances or conditions affecting the property that would make the strict application of a provision of said Article IV impracticable or unreasonable.
 - (2) That the granting of the requested variance would not be detrimental to the site condominium development or to adjacent or nearby lands.
 - (3) That the granting of the requested variance, when implemented, would not violate or be contrary to a provision of any other chapter of this ordinance.
 - (4) That the granting of the requested variance would not violate any provision of the Michigan Condominium Act.
- (d) A variance from any other provision of this section, not involving said Article IV of the subdivision ordinance, shall be considered by the Zoning Board of Appeals, in accordance with the applicable provisions of this ordinance concerning the Zoning Board of Appeals.

SECTION 2. This Ordinance shall become effective seven days after its publication or seven days after the publication of a summary of its provisions in a local newspaper of general circulation.

YEAS: Members: Terry Stungis, James Brenner, Jack Sepple
Carrie Coburn, Susan Temmer

NAYS: Members: None

ORDINANCE DECLARED ADOPTED.

Carrie Coburn
Carrie Coburn
Township Clerk

Ordinance becomes effective: _____

I hereby certify the foregoing to be a true copy of an ordinance adopted at a regular meeting of the Township Board of the Township of Martin held on 1-10, 2007. Public notice of such meeting was given as provided by law.

Carrie Coburn
Carrie Coburn
Township Clerk

BAUCKHAM, SPARKS, ROLFE, LOHRSTORFER & THALL, P.C.

ATTORNEYS AT LAW

**458 WEST SOUTH STREET
KALAMAZOO, MICHIGAN 49007-4621**

**TELEPHONE (269) 382-4500
FAX (269) 382-2040**

**JOHN H. BAUCKHAM
JOHN K. LOHRSTORFER
CRAIG A. ROLFE
ROXANNE C. SEEBER
KENNETH C. SPARKS
ROBERT E. THALL**

**HARRY F. SMITH
1908-1972**

**JAMES W. PORTER
OF COUNSEL**

John K. Lohrstorfer
E-mail: Lohr@bsrlt.com

February 20, 2007

Missy Ulberg
Advance/Penasee Globe
2141 Port Sheldon
Genison, MI 49428

Via Fax: 616-669-1162
retailsales@advancenewspapers.com

Re: Notice of Adoption for Martin Township

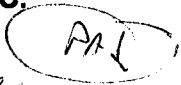
Dear Missy:

Please publish the enclosed Notice for Martin Township on **Monday, February 26, 2007.**

Please also forward one Affidavits of Publication to this office, and two Affidavits and your bill to Carrie Coburn, Clerk, Martin Township, 1023 Hidden Ponds Dr., Martin, MI 49070.

Yours truly,

**BAUCKHAM, SPARKS, ROLFE,
LOHRSTORFER & THALL, P.C.**

John K. Lohrstorfer 

John K. Lohrstorfer

JKL:paj

Enc.

cc: Carrie Coburn, Clerk (w/enc)
Ron Zeinstra, Zoning Chairman (w/enc)
Margaret Smith (w/enc.)
Janis Johnson (w/enc.)

**MARTIN TOWNSHIP
ALLEGAN COUNTY, MICHIGAN**

NOTICE OF ORDINANCE ADOPTION

To: The Residents and Property Owners of Martin Township, Allegan County, Michigan,
and Any Other Interested Persons:

PLEASE TAKE NOTICE that the following is a summary of Ordinances 85, 86, 87, and 88, which were adopted by the Martin Township Board at its meeting held February 14, 2007; said Zoning Ordinances to take effect 7 days after the publication of the following summary and Amendment to Subdivision Ordinance No. 85 to take effect 30 days after publication of said Ordinance.

SUBDIVISION ORDINANCE-NO 85

Section 1: Section 2.03 is amended to provide a notice not less than 15 days before a hearing for tentative preliminary plat review.

Section 2: This section provides for severability.

Section 3. Effective Date: This ordinance becomes effective 30 days after publication.

ZONING ENABLING ACT COMPLIANCE-NO 86

Section 1: This section amends sections 17.2, 17.5, 18.1, 18.2, 18.6, and 21.3 by inserting the new public act, PA 110 of 2006.

Section 2: This section amends Section 13A.07(a)2, Site Condominiums, to require that notice shall be given not less than 15 days before a hearing.

Section 3: This section amends Section 9A.10 regarding Open Space PUD and requires that notice be given not less than 15 days before the hearing.

Section 4: This section amends Section 17.7 and provides for the removal of a zoning board member for misfeasance, malfeasance or nonfeasance after a public hearing.

Section 5: This section amends Section 3.1 64, "Definitions", that modifies the definition for a variance where enforcement would cause a practical difficulty not an undue hardship.

Section 6: This section amends Section 18.2 and 18.3 to delete the term, "Undue Hardship".

Section 7: This section amends Section 18.3 "Variances" to require a public hearing subject to PA 110 of 2006. Section 18.10 requires a public hearing after a notice not less than 15 days before the hearing. Section 18.11 sets forth reasons for removal of a ZBA member. Section 18.12 references PA 110 of 2006 and that an appeal of a ZBA decision must be made to the circuit court within 30 days of the decision.

Section 8: This section amends Sections 17.3, "Meetings" whereby the zoning board must hold two regular meetings annually and give notice not less than 15 days before any meeting.

Section 9: Section 13.2 3 requires that a decision on a special use permit must contain a statement of findings and basis for a decision.

Section 10: The section amends Section 16.7 which states that an aggrieved party can seek review in circuit court in accordance with PA 110 of 2006.

Section 11: This amends Section 19.3 regarding public notification requirements which shall comply with PA 110 of 2006 and specifies: notice requirements (15 days before date of public hearing); mailing a notice to persons within 300 feet of the subject property; record of mailing and contents of the notice.

Section 12: The section deletes Appendix A.

Section 13, Severability: If any part or section is ruled invalid, the remainder of the ordinance shall not be affected.

Section 14, Effective Date: This amendment becomes effective seven days after publication.

R-2 LOW-DENSITY RESIDENTIAL DISTRICT-NO 87

Section 1: This section amends the zoning ordinance, Section 8.4, Minimum Lot Area, for lots and lot widths and to provide for public or community water and sewer. Section 8.5 provides that roadways be paved.

Section 2, Severability: If any part or section is ruled invalid, the remainder of the ordinance shall not be affected.

Section 3, Effective Date: This amendment becomes effective seven days after publication.

RIPARIAN LOT USE REGULATIONS–NO 88

Section 1: This section amends the zoning ordinance with the addition of Section 4.31 in Article IV to provide for the regulations of any riparian lot. The terms "access property", "public easement" and "ordinary high water mark" are defined. The ordinance provides that whenever a parcel of land is contiguous to a Lake, it must have 100 feet of frontage on the water for each dwelling unit or single-family dwelling but frontage cannot consist of a swamp, bog or wetland or a canal or channel and the property must be vacant and not used as a residential lot. Public easements can be used by pedestrian traffic only. No dock or raft can be placed in the lake except within the boundaries of the easement.

Section 2: The effective date is seven days after publication.

PLEASE TAKE FURTHER NOTICE that the full text of these Ordinances may be examined or obtained at the Martin Township Hall or by requesting the same from the Township Clerk, Carrie Coburn at (269) 672-7663.

MARTIN TOWNSHIP
Carrie Coburn, Clerk
P.O. Box 27
958 Lee St.
Martin, MI 49070-9797
(269) 672-7663

PRINT OR TYPE

DATE: JANUARY 25, 2007

PART I (To be completed by Township Planning Commission & forwarded to Allegan County Planning Commission)

TOWNSHIP: MARTIN
Vogeler

FOR REZONING REQUESTS:

Current Zoning _____ Requested Zoning _____

Property Description / Parcel Number(s) _____
(attach additional page(s) or map(s) as necessary)

FOR ZONING ORDINANCE AMENDMENT(S): Attach copy of proposed Ordinance Text changes

Approved Denied by Township Planning Commission on JANUARY 9, 2007
(date)

Vote Tally: Ayes: 5 Nays: 0 Absent: 2 Abstaining: 0

This Zoning Change does comply / does not comply with the Township Master Plan.
(Circle one)

List reasons for Action taken:

- MICHIGAN ZONING ENABLING ACT MANDATES CHANGES TO EXISTING ORDINANCES REGARDING APPEAL PERIODS AND NOTICE REQUIREMENTS.
- SUBDIVISION ORDINANCE REQUIRES NECESSARY CHANGE TO TENTATIVE PRELIMINARY PLAT APPROVAL PROCEDURE.
- R-2 LOW DENSITY RESIDENTIAL ORDINANCE APPROVES CHANGES TO "PAVED ROAD REQUIREMENT" AND DENSITY, AREA, BULK & PLACEMENT REQUIREMENTS.
- RIPARIAN LOT USE REGULATIONS ARE NEEDED TO REGULATE ACCESS TO LAKES BY NON-RIPARIAN OWNERS AS PART OF RECENTLY ADOPTED MASTER PLAN.

Contact person: MARGARET A. SMITH Title: ZONING COMMISSION SECRETARY

Phone: Daytime 269-672-5377 Evening 269-672-5377

PART II (To be completed by County Planning Commission & returned to Township Board)

The Allegan County Planning Commission, having considered all information as presented, makes the following recommendation:

Approval of the action of the Township Planning Commission

Disapproval of the action of the Township Planning Commission

Reconsideration by the Township Planning Commission of their action for the following reasons: _____

Vote Tally: Ayes: 7 Nays: 0 Absent: 4 Abstaining: 0 See comments on back

Dated: 2/12/07 Signed: [Signature]

PART III - Final Action (To be completed by Township Board and returned to Allegan County Planning Commission c/o Rec. Secy.)

Final Action taken by Township Board on February 16, 2007
(date)

(Circle One) Adopted/Enacted
Denied

Mailed 2-16-07

Vote Tally: Ayes: 5 Nays: _____ Absent: 0 Abstaining: _____

Signed: [Signature] Title: Martin Township Clerk

SUBDIVISION ORDINANCE

MARTIN TOWNSHIP

COUNTY OF ALLEGAN, MICHIGAN

At a regular meeting of the Township Board of the Township of Martin, Allegan County, Michigan, held in the Martin Township Community Building, 998 Templeton Street, within the Village of Martin, on the 14th day of February, 2007 at 7:00 p.m.

PRESENT: Members: Turner, Sturges, Brenner, Sipple Coburn

ABSENT: Members: None

The following ordinance was offered by Member Brenner and supported by Member Sipple.

ORDINANCE NO. 85

**AN ORDINANCE TO AMEND THE MARTIN TOWNSHIP SUBDIVISION
ORDINANCE
(ORDINANCE NO. ___ OF 2006)**

THE TOWNSHIP OF MARTIN ORDAINS:

SECTION 1: The Subdivision Ordinance of the Township of Martin is hereby amended by changes to the following language from Section 2.03:

Section 2.03 Tentative Preliminary Plat; Tentative Approval Procedure.

- (1) A preliminary plat shall be referred to the Zoning Board, which shall consider it and make a recommendation to the Township Board. Such consideration and recommendation shall take place following a public hearing by the Zoning Board on the preliminary plat. For such hearing, notice shall be given no less than fifteen (15) days before the hearing by ordinary mail, sent to the owners of or parties in interest in the lands within 300 feet of the lands to be included in the plat, as the names of such owners and other parties are given in the current Township tax assessment rolls.

SECTION 2: Severability.

The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

SECTION 3: Effective Date.

This Ordinance shall become effective thirty days after its publication or thirty days after the publication of a summary of its provisions in a local newspaper of general circulation.

YEAS: Members: Brunener, Lipple, Coburn, Turneyer, Sturgis

NAYS: Members: None

ORDINANCE DECLARED ADOPTED.

Carrie Coburn
Carrie Coburn
Martin Township Clerk

Ordinance becomes effective: 3-5-07

I hereby certify the foregoing to be a true copy of an ordinance adopted at a regular meeting of the Township Board of the Township of Martin held on February 14, 2007. Public notice of such meeting was given as provided by law.

Carrie Coburn
Carrie Coburn
Martin Township Clerk

AMENDMENTS FOR COMPLIANCE WITH THE MICHIGAN ZONING ENABLING ACT: PA 110 OF 2006 AND DELETION OF APPENDIX A: CLASSIFICATION OF LANDS

MARTIN TOWNSHIP

COUNTY OF ALLEGAN, MICHIGAN

At a regular meeting of the Township Board of the Township of Martin, Allegan County, Michigan, held in the Martin Township Community Building, 998 Templeton Street, within the Village of Martin, on the 14th day of February, 2007 at 7:00 p.m.

PRESENT: Members: Tiemeyer, Sturgis, Brenner, Sipple, Coburn

ABSENT: Members: None

The following ordinance was offered by Member Brenner and supported by Member Sipple.

ORDINANCE NO. 86

AN ORDINANCE TO AMEND THE MARTIN ZONING ORDINANCE (ORDINANCE NO. 30 OF 1986, AS AMENDED)

THE TOWNSHIP OF MARTIN ORDAINS:

SECTION 1: The Zoning Ordinance of the Township of Martin is hereby amended by the replacement of references to Public Act No. 184 of 1943 to read as follows:

Ordinance No. 30

An Ordinance to establish zoning districts, provisions and regulations for the unincorporated portions of the Township of Martin; to set forth regulations and minimum standards for the use and protection of lands and structures within each district; to establish provisions for the administration, enforcement and amendment of this Ordinance; to establish a Zoning Board of Appeals; to prescribe penalties for the violation of the provisions herein; and to repeal all ordinances or parts of ordinances in conflict herewith; pursuant to the provisions of the Michigan Zoning Enabling Act, PA 110 of 2006, as amended.

17.2 **JURISDICTION AND POWERS:** The Zoning Board shall have all powers and jurisdiction granted by Public Act 110 of 2006, as amended, all powers and jurisdiction prescribed in other Articles of this ordinance, and the following specific powers and jurisdiction:

17.5 **ELECTION OF OFFICERS, ADOPTION OF RULES OF PROCEDURE:** The Zoning Board shall elect from its members a chairperson, a secretary and other officers or committees as it considers necessary. The election of officers shall be held not less than once in every two year period. The

Zoning Board may fix rules and regulations governing its procedures so as to supplement, but not be in conflict with, the provisions of Public Act No. 110 of 2006, as amended.

- 18.1 **CREATION:** There is hereby created under Public Act 110 of 2006, as amended, a Township Zoning Board of Appeals, consisting of three members, constituted and appointed as provided by said Act. One member of the Zoning Board of Appeals shall be a member of the Zoning Board, and no elected official shall serve as chairperson.
- 18.2 **JURISDICTION AND POWERS:** The Zoning Board of Appeals shall have all powers and jurisdiction granted by Public Act No. 110 of 2006, as amended, all powers and jurisdiction prescribed in other Articles of this ordinance, and the following specific powers and jurisdiction:
- 18.6 **ELECTION OF OFFICERS, ADOPTION OF RULES OF PROCEDURE:** The Zoning Board of Appeals shall elect a chairperson and a secretary. The Zoning Board of Appeals may establish rules and regulations governing its procedures which are supplementary to, but not in conflict with, the provisions of Public Act 110 of 2006, as amended.
- 21.3 **AMENDMENT PROCEDURE:** After initiation, amendments to this Ordinance shall be considered as provided in Public Act No. 110 of 2006, as amended.

SECTION 2: Section 13A.07 of the Zoning Ordinance of the Township of Martin (Site Condominium) is hereby amended to read as follows:

- 13A.07 (a) (2) As part of the review, the Zoning Board shall hold a public hearing on the preliminary plan. The Commission, may, however, review the plan prior to the public hearing in order to provide direction to the applicant in preparing the plan for the hearing.

For such hearing, notice shall be given no less than 15 days before the hearing by ordinary mail, sent to the owners of or parties in interest in the lands within 300 feet of the lands to be included in the site condominium project, as the names of such owners and other parties are given in the current Township tax assessment roll. Such hearing shall be subject to the provisions of Section 19.3 of this ordinance.

SECTION 3: Section 9A.10 of the Zoning Ordinance of the Township of Martin (Open Space Planned Unit Development District) is hereby amended to read as follows:

- 9A.10 (g) **Zoning Board Public Hearing on Final Development Plan.** The Zoning Board shall hold a public hearing on the Final Development Plan and the application for rezoning. Such hearing shall be subject to the provisions of Section 19.3 of this ordinance.

A notice concerning the public hearing on the OS-PUD Final Development Plan an application for rezoning shall be published in a newspaper which circulates in the Township. Such notice shall be subject to the notification requirements of the Michigan Zoning Enabling Act, PA 110 of 2006, which requires notice be given not less than 15 days before the date of the hearing.

Notification shall be sent by mail or personal delivery to the owners of property for which OS-PUD approval and the rezoning is being considered, and to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the property. Such notice shall be subject to the

mailing notification requirements of the Michigan Zoning Enabling Act, PA 110 of 2006, which requires notice be given not less than 15 days before the date the application will be considered for approval.

SECTION 4: The Zoning Ordinance of the Township of Martin is hereby amended by the addition of the following language to ARTICLE XVII ZONING BOARD:

17.7 The legislative body shall provide for the removal of a member of the Zoning Board for misfeasance, malfeasance or nonfeasance in office upon written charges and after public hearing.

SECTION 5: The Zoning Ordinance of the Township of Martin is hereby amended by the deletion of the following language from Section 3.1 64. (Definitions):

3.1 64. **Variance:** A modification of the literal provision of a dimension requirement, as opposed to the use of the property, which is granted when strict enforcement would cause ~~undue hardship~~ or practical difficulty owing to circumstances unique to the individual property on which the variance is granted.

SECTION 6: The Zoning Ordinance of the Township of Martin is hereby amended by the deletion of the following language from ARTICLE XVIII ZONING BOARD OF APPEALS:

18.2 3. The jurisdiction and power to authorize, upon appeal and subject to Sections 18.3-18.5 of this Article, a variance or modification of this Ordinance where there is practical difficulty ~~or unnecessary hardship~~ in the way of carrying out the strict letter of this Ordinance so that the spirit of this Ordinance shall be observed, public safety secured and substantial justice done.

18.3 2. Where it is alleged that by reason of the exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions or other extraordinary situation of the land or building or of the use of property immediately adjoining the property in question, the literal enforcement of this ordinance would involve practical difficulty ~~or would cause undue hardship~~; provided that the Zoning Board of Appeals shall not grant a variance on a lot if the owner or members of his family own or owned adjacent land which could, without undue hardship, be included as part of the lot; or,

3. Where it is alleged that there is practical difficulty ~~or unnecessary hardship~~ in carrying out the strict letter of this ordinance; provided that the spirit of this ordinance shall be observed, public safety secured and substantial justice done.

SECTION 7: The Zoning Ordinance of the Township of Martin is hereby amended by the addition of the following language to ARTICLE XVIII ZONING BOARD OF APPEALS:

18.3 **VARIANCES:** Subject to the provisions of Section 18.4 of this Ordinance, and in addition to other duties and powers specified herein, the Zoning Board of Appeals, after a public hearing held according to the requirements of Public Act 110 of 2006 as amended and Section 19.3 of this Ordinance, shall have the power to decide applications for dimension variances in the following situations:

18.10 PUBLIC HEARING REQUIRED

1. Upon receipt of a written request for a variance, a public hearing shall be held in accordance with the provisions of Section 19.3 of this Ordinance. The notice of the public hearing shall include the nature of the variance request.
2. Upon receipt of a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, a notice of a public hearing shall be published in a newspaper of general circulation within the Township and shall be sent to the person seeking the interpretation or appeal not less than 15 days before the public hearing. In addition, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and notice of the public hearing on the interpretation request shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

18.11 A member of the Zoning Board of Appeals may be removed by the legislative body for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

18.12 The decision of the Zoning Board of Appeals shall be final, and any party aggrieved by any such decision may appeal to the Circuit Court for Allegan County, as provided under PA 110 of 2006 as amended. The records of the Zoning Board of Appeals shall be made available for the court's review. Such appeal shall be filed within 30 days after the Zoning Board of Appeals certifies its decision in writing or approves the minutes of this decision.

SECTION 8: The Zoning Ordinance of the Township of Martin is hereby amended to read as follows:

17.3 **MEETINGS:** The Zoning Board shall hold at least two regular meetings annually, giving notice of the time and place by publication in a newspaper of general circulation in the Township. Notice shall be given not less than 15 days before the meeting. Any person having interests in the Township, or their duly appointed representatives, may be heard relative to any matters that should properly come before the Zoning Board. Additional meetings may be held at other times as the Zoning Board deems necessary for the efficient conduct of its business, giving notice as required by law and according to the provisions of Section 19.3 of this ordinance. The Zoning Board is subject to the Open Meetings Act, PA 267 of 1976.

SECTION 9: The Zoning Ordinance of the Township of Martin is hereby amended by the addition of the following language to Section 13.2 3.:

13.2 3. Following such hearing, said Zoning Board shall either grant or deny a permit for such Special Exception Use. The decision on a Special Exception Use shall be incorporated in a written statement of findings and conclusions relative to the Special Exception Use which specifies the basis for the decision and any conditions imposed. All conditions, limitations, and requirements upon which any such permit is granted shall be specified in detail by said Zoning Board in its decision and shall be filed with the Zoning Administrator of the Township.

SECTION 10: The Zoning Ordinance of the Township of Martin is hereby amended by the addition of the following language to ARTICLE XVI NONCONFORMING USES, BUILDINGS OR STRUCTURES:

16.7 Any party aggrieved by any order, determination, or decision made under this Article by any officer, agency, board, commission, zoning board of appeals, or legislative body of Martin Township may obtain a review in the circuit court of Allegan County. This review shall be in accordance with PA 110 of 2006 as amended.

SECTION 11: The Zoning Ordinance of the Township of Martin is hereby amended by the addition of Section 19.3 PUBLIC NOTIFICATION REQUIREMENTS:

19.3 **PUBLIC NOTIFICATION REQUIREMENTS:** All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006 and the other provisions of this Section with regard to public notification.

1. **Responsibility for Public Notice:** The Clerk or their agent shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in Martin Township and mailed or delivered as provided in this Section.
2. **Notice Requirements:** Notice of a public hearing for a rezoning, special exception use, text amendment, planned unit development, variance, appeal, ordinance interpretation, or for any other hearing required in the Zoning Ordinance shall be given not less than 15 days before the date of the public hearing. The notice shall be given as follows.
 - A. **Newspaper Notice:** The notice shall be published in a newspaper that circulates in Martin Township.
 - B. **Mail and Personal Notice:** Except for a text amendment or ordinance interpretation which does not apply to a specific property, the notice shall be sent by first class mail or personal delivery to:
 - (1) The owner of property for which approval is being considered, and the applicant, if different from the owner(s) of the property.
 - (2) Except for rezoning requests that are proposed for 11 or more adjacent parcels, the notice shall be sent to all persons to whom property is assessed within 300 feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of Martin Township. If the name of the occupant is not known, the term "occupant" may be used in making notification.

In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

(3) All neighborhood organizations, public utility companies, airports, railroads, and other persons, which have requested to receive notice pursuant to Section 19.3, 3. Registration to Receive Notice by Mail.

C. Record of Mailing: The clerk shall prepare an affidavit of mailing which shall include those to whom the notice was mailed and the date of mailing

D. Content of Notice: The public notice shall:

(1) Describe nature of request: Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.

(2) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when 11 or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.

(3) Indicate the date, time and place of the public hearing(s).

(4) Include a statement describing when and where written comments will be received concerning the request and a statement that the public may appear at the public hearing in person or by counsel.

3. Registration to Receive Notice by Mail: Any neighborhood organization, public utility, company, railroad or any other person may register with the clerk to receive written notice of all applicants for development approval as described by these Public Notification Requirements.

SECTION 12: The Zoning Ordinance of the Township of Martin is hereby amended by the deletion of **APPENDIX A CLASSIFICATION OF LANDS** in its entirety.

SECTION 13: Severability.

The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.


SECTION 14: Effective Date.

This Ordinance shall become effective seven days after its publication or seven days after the publication of a summary of its provisions in a local newspaper of general circulation.

YEAS: Members: Brenner, Supple, Coburn, Temeier, Sturgis

NAYS: Members: None


ORDINANCE DECLARED ADOPTED.



Carrie Coburn
Martin Township Clerk

Ordinance becomes effective: 3-5-07

I hereby certify the foregoing to be a true copy of an ordinance adopted at a regular meeting of the Township Board of the Township of Martin held on February 14, 2007. Public notice of such meeting was given as provided by law.



Carrie Coburn
Martin Township Clerk

**ARTICLE VIII
R-2 LOW DENSITY RESIDENTIAL DISTRICT
MARTIN TOWNSHIP
COUNTY OF ALLEGAN, MICHIGAN**

At a regular meeting of the Township Board of the Township of Martin, Allegan County, Michigan, held in the Martin Township Community Building, 998 Templeton Street, within the Village of Martin, on the 14th day of February, 2007 at 7:00 p.m.

PRESENT: Members: Tiemeyer, Sturgis, Brenner, Sipple, Coburn

ABSENT: Members: None

The following ordinance was offered by Member Brenner and supported by Member Sipple.

ORDINANCE NO. 87

**AN ORDINANCE TO AMEND THE MARTIN ZONING ORDINANCE
(ORDINANCE NO. 30 OF 1986, AS AMENDED)**

THE TOWNSHIP OF MARTIN ORDAINS:

SECTION 1: The Zoning Ordinance of the Township of Martin is hereby amended by the addition of the following language to Article VIII R-2 Low Density Residential District, so as to read as follows:

8.4 DENSITY, AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS:

No building or structure or any enlargement thereof shall be hereafter erected in this zoning district except in conformance with the following lot area, lot width, setback, height, and building area requirements:

1. Minimum lot area:
 - A. Single family dwelling: 8,500 square feet for lots served with public or community water and sewer; 15,000 square feet for lots served with public or community water or sewer; 25,000 square feet for lots not served with public or community water and sewer.
 - B. Two family dwelling: 15,000 square feet for lots served with public or community water and sewer; 30,000 square feet for lots not served with public or community water and sewer.

2. Minimum lot width:

- A. Single family dwelling: 85 feet for lots served with public or community water and sewer; 100 feet for lots served with public or community water or sewer; 125 feet for lots not served with public or community water and sewer.
- B. Two family dwelling: 100 feet for lots served with public or community water and sewer; 125 feet for lots not served with public or community water and sewer.

8.5 PAVED ROADWAY REQUIRED: A plat or site condominium proposed after the effective date of this section () shall be served by paved internal public or private roadways.

SECTION 2: Severability.

The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

SECTION 3: Effective Date.

This Ordinance shall become effective seven days after its publication or seven days after the publication of a summary of its provisions in a local newspaper of general circulation.

YEAS: Members: Brenner, Sipple, Coburn, Turneyer, Sturgis
NAYS: Members: None

ORDINANCE DECLARED ADOPTED.

Carrie Coburn
Carrie Coburn
Martin Township Clerk

Ordinance becomes effective: 3-5-07

I hereby certify the foregoing to be a true copy of an ordinance adopted at a regular meeting of the Township Board of the Township of Martin held on February 14, 2007. Public notice of such meeting was given as provided by law.

Carrie Coburn
Carrie Coburn
Martin Township Clerk

KEY HOLE REGULATIONS

MARTIN TOWNSHIP

COUNTY OF ALLEGAN, MICHIGAN

At a regular meeting of the Township Board of the Township of Martin, Allegan County, Michigan, held in the Martin Township Community Building, 998 Templeton Street, within the Village of Martin, on the 14th day of February 2007 at 7:00 p.m.

PRESENT: Members: Therreyer, Sturges, Brenner, Sippl, Cohen

ABSENT: Members: None

The following ordinance was offered by Member Brenner and supported by Member Sippl.

ORDINANCE NO. 88

AN ORDINANCE TO AMEND THE MARTIN ZONING ORDINANCE (ORDINANCE NO. 30 OF 1986, AS AMENDED)

THE TOWNSHIP OF MARTIN ORDAINS:

SECTION 1: The Zoning Ordinance of the Township of Martin is hereby amended by the addition of Section 4.31 to Article IV General Provisions so as to read as follows:

SECTION 4.31 **RIPARIAN LOT USE REGULATIONS**

1. **Purpose:** The purpose of this article is to promote the integrity of the lakes within Martin Township while preserving the quality of recreational use of the inland water; to protect the quality of the lakes by discouraging excessive use; to promote the ecological balance of the waters by limiting incompatible land use of the wetlands associated with the lakes; and to maintain the natural beauty of the lakes by minimizing man-made adjustments to the established shorelines.

Nothing within this Ordinance shall be construed to limit access to the lakes or waterways by the general public by way of a public park or public access site provided or maintained by any unit of state, county or local government. Further, this Ordinance shall not apply to any private access site which legally existed and served as access property before the effective date of this section regulating access to a lake or waterway.

2. **Definitions:**

- A. **“Access property”** shall mean a property, parcel, or lot abutting a lake or pond, either natural or man-made, and used or intended to be used for the purpose of providing access to a lake or pond by pedestrian or vehicular traffic to and from offshore land regardless of whether said access to the water is gained by easement, common fee ownership, single fee ownership, lease, license, gift, business invitation or any other form or dedication or conveyance.
- B. **“Public Easement”** shall mean the right to cross or the right of way across any parcel of land from a public or private road to any lake or pond within Martin Township provided such easement has been granted to the public for that parcel.
- C. **“Ordinary High Water Mark”** shall mean the ordinary high water mark of the body of water as determined by the State of Michigan Department of Environmental Quality, or if the Department has not made such a finding, the ordinary high water mark location shall be determined by the Township Engineer or other qualified entity. The measurement of the ordinary high water mark location shall be made only along a natural shoreline, and shall not include any man made channel, lagoon, canal or the like unless the entire lake has been artificially created.

3. **Regulations:** In any zoning district where a parcel of land is contiguous to a lake, pond or similar body of water, either natural or man-made, such parcel of land may only be used as access property if the following conditions are met:

- A. A parcel created after the effective date of this section which is to be used as access property shall have a minimum depth of 100 feet and shall contain at least 100 feet of frontage on the water for each dwelling unit, single-family dwelling, condominium unit, site condominium unit, apartment unit or family utilizing the water frontage for access to the lake. Frontage shall be measured by a straight line which intersects each side lot line at the ordinary high water mark.
- B. That in no event shall water frontage of such parcel of land consist of swamp, marsh, or bog as shown on the most recent U.S. Geological Survey maps, or the Michigan Department of Natural Resources MIRIS map, or have otherwise been determined to be wetland by the Michigan Department of Natural Resources; and that in no event shall a swamp, marsh, or bog be altered by the addition of earth or fill material or by drainage of water for the purpose of increasing the water frontage required by this article.
- C. A canal or channel shall not be excavated for the purpose of increasing the water frontage required by this section.

- D. Access property, as provided for in and meeting the conditions of this Ordinance, regardless of total area, shall not be used as a residential lot for the purpose of constructing a dwelling and/or accessory structure(s), or for any commercial or business use.
 - E. Docks, boat ramps and boat launches, excluding concrete ramps and concrete launches, which are for the exclusive use of persons with legal access to the property, are permitted. Picnic shelters and picnic areas including picnic tables which are for the exclusive use of persons with legal access to the property, are permitted.
4. **Use of existing public easements:** For public easements as defined herein the following regulations shall apply:
- 1. Use shall be by pedestrian traffic only.
 - 2. No person shall place anything on any easement.
 - 3. No person shall be prevented from crossing any easement to gain access to any lake within Martin Township.
 - 4. No dock, raft, boat cradle or similar equipment shall be placed in any lake within the boundaries of any easement.
 - 5. No watercraft shall be moored at the end of any easement.
 - 6. These rules shall not apply to any easement within Martin Township where a court of law has previously established operating regulations.

SECTION 2: Effective Date.

This Ordinance shall become effective seven days after its publication or seven days after the publication of a summary of its provisions in a local newspaper of general circulation.

YEAS: Members: Brenner, Sipple, Coburn, Turneyer, Sturges


NAYS: Members: None

ORDINANCE DECLARED ADOPTED.

Carrie Coburn
 Carrie Coburn
 Martin Township Clerk

Ordinance becomes effective: 3-5-07

I hereby certify the foregoing to be a true copy of an ordinance adopted at a regular meeting of the Township Board of the Township of Martin held on February 4, 2007. Public notice of such meeting was given as provided by law.


Carrie Coburn
Martin Township Clerk

**TOWNSHIP OF MARTIN
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. 89

PUBLIC NUDITY ORDINANCE

An Ordinance to protect and secure the public health, safety and general welfare of persons and property through the prohibition of public nudity; to provide penalties for the violation of the provision of this Ordinance; to repeal any ordinances or parts of ordinances in conflict herewith and to provide for an effective date of said ordinance.

**THE TOWNSHIP OF MARTIN
ALLEGAN COUNTY, MICHIGAN**

ORDAINS:

SECTION I

PURPOSE

The purpose of this ordinance is to protect and secure the public health, safety, morals, and general welfare of person and property by prohibiting public nudity within the Township of Martin.

SECTION II

TITLE

This Ordinance shall be known and cited as the "Township Public Nudity Ordinance".

SECTION III

DEFINITION

As used herein "public nudity" is hereby defined as knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person, including but not limited to payment or promise of payment of an admission fee, of any individual's genitals or anus with less than a fully opaque covering, or a female individuals' breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include: breast feeding of a baby; material as defined in Section 2 of Act No. 343 of 1984 (MCL 762.352); or, sexually explicit visual material as defined in Section 3 of Act No. 33 of the Public Acts of 1978, (MCL 722.673). This ordinance is adopted pursuant to MCL 41.181.

SECTION VII

REPEAL OF CONFLICTING ORDINANCES AND EFFECTIVE DATE

Any and all ordinances or parts of ordinances in conflict herewith are hereby repealed. This Ordinance shall become effective thirty (30) days following publication after adoption.

MARTIN TOWNSHIP


Carrie Coburn, Clerk
Martin Township
958 Lee St.
Martin, Michigan 49070-9797
269-672-7663

CERTIFICATE OF ADOPTION

The within Ordinance was adopted by the Martin Township Board on the 8th day of August, 2007.


Carrie Coburn, Clerk

Attested:


Terry Sturgis, Supervisor

SECTION IV

PROHIBITION OF PUBLIC NUDITY

No person shall engage in public nudity. No business establishment, including but not limited to owners, officers, or persons in charge of, or in control of premises, shall permit persons to engage in public nudity.

SECTION V

SANCTIONS

Any person, firm, association, partnership, corporation or governmental entity who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine determined in accordance with the following schedule:

	<u>Minimum Fine</u>	<u>Maximum Fine</u>
- 1st Offense within 3-year period*	\$ 75.00	\$500.00
- 2nd Offense within 3-year period*	150.00	500.00
- 3rd Offense within 3-year period*	325.00	500.00
- 4th or More Offense within 3-year period*	500.00	500.00

* Determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Martin Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9 nor more than \$500 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation exists shall constitute a separate offense.

SECTION VI

SEVERABILITY

Should any section, subsection, sentence, clause, phrase, or portion of this Ordinance be held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions of this Ordinance.

SECTION VII

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Any and all ordinances or parts of ordinances in conflict herewith are hereby repealed. This Ordinance shall become effective thirty (30) days following publication after adoption.

MARTIN TOWNSHIP
Carrie Coburn, Clerk
Martin Township
958 Lee St.
Martin, Michigan 49070-9797
269-672-7663

CERTIFICATE OF ADOPTION

The within Ordinance was adopted by the Martin Township Board on the 8th day of August, 2007.

Carrie Coburn
Carrie Coburn, Clerk

Attested:

Terry Sturgis
Terry Sturgis, Supervisor

**TOWNSHIP OF MARTIN
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. 89

PUBLIC NUDITY ORDINANCE

Adopted: August 8, 2007

Effective: September 19, 2007

An Ordinance to protect and secure the public health, safety and general welfare of persons and property through the prohibition of public nudity; to provide penalties for the violation of the provision of this Ordinance; to repeal any ordinances or parts of ordinances in conflict herewith and to provide for an effective date of said ordinance.

**THE TOWNSHIP OF MARTIN
ALLEGAN COUNTY, MICHIGAN**

ORDAINS:

SECTION I

PURPOSE

The purpose of this ordinance is to protect and secure the public health, safety, morals, and general welfare of person and property by prohibiting public nudity within the Township of Martin.

SECTION II

TITLE

This Ordinance shall be known and cited as the "Township Public Nudity Ordinance".

SECTION III

DEFINITION

As used herein "public nudity" is hereby defined as knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person, including but not limited to payment or promise of payment of an admission fee, of any individual's genitals or anus with less than a fully opaque covering, or a female individuals' breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include: breast feeding of a baby; material as defined in Section 2 of Act No. 343 of 1984 (MCL 762.352); or, sexually explicit visual material as defined in Section 3 of Act No. 33 of the Public Acts of 1978, (MCL 722.673). This ordinance is adopted pursuant to MCL 41.181.

SECTION IV

PROHIBITION OF PUBLIC NUDITY

No person shall engage in public nudity. No business establishment, including but not limited to owners, officers, or persons in charge of, or in control of premises, shall permit persons to engage in public nudity.

SECTION V

SANCTIONS

Any person, firm, association, partnership, corporation or governmental entity who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine determined in accordance with the following schedule:

	<u>Minimum Fine</u>	<u>Maximum Fine</u>
- 1st Offense within 3-year period*	\$ 75.00	\$500.00
- 2nd Offense within 3-year period*	150.00	500.00
- 3rd Offense within 3-year period*	325.00	500.00
- 4th or More Offense within 3-year period*	500.00	500.00

* Determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Martin Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9 nor more than \$500 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation exists shall constitute a separate offense.

SECTION VI

SEVERABILITY

Should any section, subsection, sentence, clause, phrase, or portion of this Ordinance be held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions of this Ordinance.

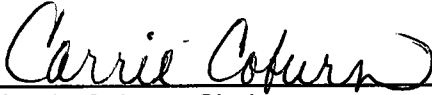
**TOWNSHIP OF MARTIN
ALLEGAN COUNTY, MICHIGAN**

CERTIFICATE OF ADOPTION

I, Carrie Coburn, the Township Clerk of Martin Township, Allegan County, Michigan, do hereby certify that in pursuance of law and statute provided, at a regular meeting of the Martin Township Board held on August 8, 2007, commencing at 7:30 o'clock p.m. at the Martin Township Hall, located within the Village of Martin, at which the following members were present, the Board enacted and passed Ordinance 89, to become effective on September 19, 2007, and Ordinance 90 to become effective on August 20, 2007, all hereinbefore recorded, and that the members of said Board present at said meeting voted on the adoption of said Ordinance, as follows:

I do further certify that a summary of the ordinances were published in the Penasee Globe, a newspaper circulated in Martin Township, on August 20, 2007; that said Ordinances 89 and 90 were recorded in the official Ordinance Book on the 8th day of August, 2007; and that an attested copy of said Ordinance was filed with the Allegan County Clerk on the 10th day of October, 2007.

Date: October 10th, 2007



Carrie Coburn, Clerk
Martin Township

**TOWNSHIP OF MARTIN
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. 90

HAZARDOUS MATERIALS COST RECOVERY ORDINANCE

Adopted: August 8, 2007

Effective: August 20, 2007

An Ordinance to establish charges for Township emergency services responding to an incident involving hazardous materials under P.A. 102 of 1990, as amended, (MCL 41.806a); to define hazardous materials subject to such charges; and to provide for the collection of such charges.

**MARTIN TOWNSHIP
ALLEGAN COUNTY, MICHIGAN**

ORDAINS:

SECTION I

PURPOSE

The purpose of the within Ordinance is to provide for defraying a portion of expenses of the Township resulting from the Township or a designated agent of the Township responding with emergency equipment and personnel to a hazardous materials accident or incident involving the release or threatened release of hazardous materials into the environment which requires emergency attention to protect the health, safety and general welfare of the public.

SECTION II

DEFINITIONS

- A. "Hazardous materials" include, but are not limited to explosives, pyrotechnics, flammable gas, flammable compressed gas, non-flammable compressed gas, flammable liquid, combustible liquid, oxidizing material, poisonous gas, poisonous liquid, irritating material, etiologic material, radioactive material, corrosive material, liquified petroleum gas, methamphetamine or any other controlled substance as defined under MCL 222.7104(2) or chemicals and/or equipment being used for the illegal production of such a controlled substance, and other materials customarily considered dangerous to living beings or contaminating to the environment.
- B. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping or deposit into the environment.
- C. "Responsible party" means any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any

other legal entity that is responsible for a release of a hazardous material, either actual or threatened, or methamphetamine or other controlled substances or released chemicals, or is an owner, tenant, occupant or party in control of property onto which or from which hazardous materials are released.

SECTION III

CHARGES IMPOSED UPON A RESPONSIBLE PARTY OR PARTIES

Where the Township's fire department responds to a release of hazardous materials or a threatened release of such materials, the responsible party or parties shall be liable to the Township for the following costs incident to such Township response:

Where the Township or its designated provider incurs costs related to a release of hazardous materials or a threatened release of such materials, or costs caused by the illegal presence at the site of (1) methamphetamine or any other controlled substance as defined under MCL 222.7104(2) or (2) chemicals and/or equipment being used for the illegal production of such a controlled substance, the responsible party or parties shall be liable to the Township for its designated provider for the following costs:

- A. All personnel costs of all personnel attending on behalf of and with the authority of the Township including their current hourly rate, fringe benefits, and salary apportioned to the length of time in attendance, calculated commencing one hour after receipt of the signal to respond and continuing for each personnel until that personnel has concluded his or her incident related responsibilities.
- B. The equipment costs of all equipment attending as established by an itemized resolution of the Township Board setting forth the costs attributable to each piece of Township equipment which might be involved in such a response. This resolution may be amended from time to time to reflect changes in equipment, inflation factors, and accounting records of past occurrences.
- C. Other expenses incurred by the Township including but not limited to rental or purchase of additional machinery or equipment, retention of consultants, medical and hospitalization costs, replacement costs related to disposable personnel protective equipment required to be disposed of, extinguishing chemicals, supplies and water purchased from water systems, and meals and refreshments for emergency personnel while responding to the hazardous materials incident.
- D. Additional charges imposed by any other local, state or federal government entities, related to the incident.
- E. Administrative costs incurred in accounting for all expenditures and for billing and collection of such expenditures which shall not exceed 25 percent of the foregoing costs.
- G. Fires caused by the illegal presence at the site of (1) methamphetamine or any other controlled substance as defined under MCL 333.7104(2) or (2) chemicals

and/or equipment being used for the illegal production of such a controlled substance.

- H. Emergency Fire Department standby requested by the County Sheriff Department or other law enforcement agency at a site where methamphetamine or any other controlled substance as defined under MCL 333.7104(2) is being illegally kept or produced.

SECTION IV

BILLING PROCEDURES

Following the conclusion of the hazardous materials incident, the fire chief shall submit a detailed listing of all known expenses to the Township treasurer, who shall prepare an invoice to the responsible party for payment. The treasurer's invoice shall demand full payment within forty-five (45) days of the receipt of the bill. Any additional expenses that become known to the Township fire chief following the transmittal of the bill to the responsible party shall be billed in the same manner on a subsequent bill to the responsible party. For any amounts due that remain unpaid after forty-five (45) days, the Township shall impose a late charge of one (1%) percent per month or fraction thereof.

SECTION V

NON-EXCLUSIVE CHARGES

The foregoing rates and charges shall not be exclusive of other charges that may be made by the Township for the costs and expense of maintaining a fire and/or police department, but shall only be supplemental thereto. Charges may additionally be collected by the Township through general taxation after a vote of the electors approving the same, or by special assessments established under Michigan statutes pertinent thereto.

SECTION VI

OTHER REMEDIES

The Township may pursue any other remedy, or may institute any appropriate action or proceeding, in a court of competent jurisdiction to collect charges imposed under this Ordinance. The recovery of charges imposed under this Ordinance does not limit the further liability of responsible parties under local ordinance or state or federal law, rule or regulation.

SECTION VII

SEVERABILITY

Should any provision or part of the within Ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of the balance of this Ordinance which shall remain in full force and effect.

SECTION VIII

EFFECTIVE DATE AND REPEAL OF CONFLICTING ORDINANCES

This Ordinance shall take effect upon its publication following its adoption by the Township Board. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

MARTIN TOWNSHIP

Carrie Coburn, Clerk

Martin Township

958 Lee St.

Martin, Michigan 49070-9797

269-672-7663

**TOWNSHIP OF MARTIN
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. 90

HAZARDOUS MATERIALS COST RECOVERY ORDINANCE

Adopted: August 8, 2007

Effective: August 20, 2007

An Ordinance to establish charges for Township emergency services responding to an incident involving hazardous materials under P.A. 102 of 1990, as amended, (MCL 41.806a); to define hazardous materials subject to such charges; and to provide for the collection of such charges.

MARTIN TOWNSHIP

ALLEGAN COUNTY, MICHIGAN

ORDAINS:

SECTION I

PURPOSE

The purpose of the within Ordinance is to provide for defraying a portion of expenses of the Township resulting from the Township or a designated agent of the Township responding with emergency equipment and personnel to a hazardous materials accident or incident involving the release or threatened release of hazardous materials into the environment which requires emergency attention to protect the health, safety and general welfare of the public.

SECTION II

DEFINITIONS

- A. "Hazardous materials" include, but are not limited to explosives, pyrotechnics, flammable gas, flammable compressed gas, non-flammable compressed gas, flammable liquid, combustible liquid, oxidizing material, poisonous gas, poisonous liquid, irritating material, etiologic material, radioactive material, corrosive material, liquified petroleum gas, methamphetamine or any other controlled substance as defined under MCL 222.7104(2) or chemicals and/or equipment being used for the illegal production of such a controlled substance, and other materials customarily

considered dangerous to living beings or contaminating to the environment.

- B. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping or deposit into the environment.
- C. "Responsible party" means any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity that is responsible for a release of a hazardous material, either actual or threatened, or methamphetamine or other controlled substances or released chemicals, or is an owner, tenant, occupant or party in control of property onto which or from which hazardous materials are released.

SECTION III

CHARGES IMPOSED UPON A RESPONSIBLE PARTY OR PARTIES

Where the Township's fire department responds to a release of hazardous materials or a threatened release of such materials, the responsible party or parties shall be liable to the Township for the following costs incident to such Township response:

Where the Township or its designated provider incurs costs related to a release of hazardous materials or a threatened release of such materials, or costs caused by the illegal presence at the site of (1) methamphetamine or any other controlled substance as defined under MCL 222.7104(2) or (2) chemicals and/or equipment being used for the illegal production of such a controlled substance, the responsible party or parties shall be liable to the Township for its designated provider for the following costs:

- A. All personnel costs of all personnel attending on behalf of and with the authority of the Township including their current hourly rate, fringe benefits, and salary apportioned to the length of time in attendance, calculated commencing one hour after receipt of the signal to respond and continuing for each personnel until that personnel has concluded his or her incident related responsibilities.
- B. The equipment costs of all equipment attending as established by an itemized resolution of the Township Board setting forth the costs attributable to each piece of Township equipment which might be involved in such a response. This resolution may be amended from time to time to reflect changes in equipment, inflation factors, and accounting records of past occurrences.
- C. Other expenses incurred by the Township including but not limited to rental or purchase of additional machinery or equipment, retention of consultants,

medical and hospitalization costs, replacement costs related to disposable personnel protective equipment required to be disposed of, extinguishing chemicals, supplies and water purchased from water systems, and meals and refreshments for emergency personnel while responding to the hazardous materials incident.

- D. Additional charges imposed by any other local, state or federal government entities, related to the incident.
- E. Administrative costs incurred in accounting for all expenditures and for billing and collection of such expenditures which shall not exceed 25 percent of the foregoing costs.
- G. Fires caused by the illegal presence at the site of (1) methamphetamine or any other controlled substance as defined under MCL 333.7104(2) or (2) chemicals and/or equipment being used for the illegal production of such a controlled substance.
- H. Emergency Fire Department standby requested by the County Sheriff Department or other law enforcement agency at a site where methamphetamine or any other controlled substance as defined under MCL 333.7104(2) is being illegally kept or produced.

SECTION IV

BILLING PROCEDURES

Following the conclusion of the hazardous materials incident, the fire chief shall submit a detailed listing of all known expenses to the Township treasurer, who shall prepare an invoice to the responsible party for payment. The treasurer's invoice shall demand full payment within forty-five (45) days of the receipt of the bill. Any additional expenses that become known to the Township fire chief following the transmittal of the bill to the responsible party shall be billed in the same manner on a subsequent bill to the responsible party. For any amounts due that remain unpaid after forty-five (45) days, the Township shall impose a late charge of one (1%) percent per month or fraction thereof.

SECTION V

NON-EXCLUSIVE CHARGES

The foregoing rates and charges shall not be exclusive of other charges that may be made by the Township for the costs and expense of maintaining a fire and/or police department, but shall only be supplemental thereto. Charges may additionally be collected

by the Township through general taxation after a vote of the electors approving the same, or by special assessments established under Michigan statutes pertinent thereto.

SECTION VI

OTHER REMEDIES

The Township may pursue any other remedy, or may institute any appropriate action or proceeding, in a court of competent jurisdiction to collect charges imposed under this Ordinance. The recovery of charges imposed under this Ordinance does not limit the further liability of responsible parties under local ordinance or state or federal law, rule or regulation.

SECTION VII

SEVERABILITY

Should any provision or part of the within Ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of the balance of this Ordinance which shall remain in full force and effect.

SECTION VIII

EFFECTIVE DATE AND REPEAL OF CONFLICTING ORDINANCES

This Ordinance shall take effect upon its publication following its adoption by the Township Board. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

MARTIN TOWNSHIP
Carrie Coburn, Clerk
Martin Township
958 Lee St.
Martin, Michigan 49070-9797
269-672-7663