

Chapter 23

SUBDIVISIONS*

* **Editors Note:** Section 1 of Ord. No. 1110, adopted July 28, 1986, amended Ch. 23 to read as herein set forth. Prior to such amendment, Ch. 23 contained subdivision regulations which were adopted with the adoption of this Code.

Cross References: Planning commission, § 2-94 et seq.; buildings and building regulations, Ch. 5; fire prevention and protection, Ch. 8; garbage, refuse and litter, Ch. 10; housing code, Ch. 12; public improvements, Ch. 20; subdivision fees, § 21-7 et seq.; streets and sidewalks, Ch. 22; water, sewers and sewage disposal, Ch. 28; stormwater runoff regulation and control, Ch. 29; downtown development authority, Ch. 30.

State Law References: Subdivision control act of 1967, M.S.A., § 26:430(101) et seq.; municipal planning commission act, M.S.A., § 5.2991 et seq.

Art. I. In General, §§ 23-1--23-9

Art. II. Plat Review Procedures, §§ 23-10--23-23

Art. III. Design Standards, §§ 23-24--23-34

Art. IV. Administration and Enforcement, §§ 23-35--23-44

Art. V. Repealed

Art. VI. Repealed

Art. VII. Repealed

ARTICLE I.

IN GENERAL

Sec. 23-1. Short title.

This chapter shall be known and may be cited as the "City of Midland Subdivision Control Ordinance." (Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 1, 7-11-05)

Sec. 23-2. Purpose.

This ordinance, the adopted zoning ordinance, and the adopted ordinance to regulate division of land, shall be considered the ordinances referred to in section 105(b) of public act 591 of 1996, which have been adopted in part to carry out the provisions of said act 591. These regulations are adopted for the following additional purposes:

1. To provide for the orderly development of the City in furtherance of the Master Plan and consistent with the Zoning Ordinance.
2. To achieve efficient use of the land and a quality living environment.

3. To provide for adequate light, air, and privacy, to minimize danger from fire, flood, and other dangers, and to promote the health, safety and welfare of the general public.
4. To protect the character and social and economic stability of all parts of the City.
5. To encourage the orderly and beneficial development of the City through appropriate control of the timing and sequence of development.
6. Protection of sensitive environmental areas.
7. To protect and conserve the value of land, buildings, and improvements by minimizing conflicts among land uses.
8. To guide public and private policy making and actions in order to achieve adequate and efficient transportation, water, sewerage, parks, playgrounds, open space, police and fire protection, and other public facilities and services.
9. To coordinate land use with street and highway development in the interest of minimizing traffic congestion; accommodating vehicular, pedestrian and other non-motorized transportation; and, providing for the proper location of streets and buildings.
10. To establish reasonable standards for design of subdivisions in order to further the orderly layout and use of land, and to ensure proper survey, legal description, and placement of monuments on subdivided land.
11. To assure the adequacy of drainage facilities and to encourage the wise use and management of natural resources so as to preserve the integrity and stability of the City in addition to protecting the public health, safety and general welfare.
12. To promote subdivision design that conserves energy, in part by creating a network of connected streets and by avoiding excessively long dead end or cul-de-sac streets.
13. To promote subdivision design that is harmonious with the natural character and natural features of the land, including woodlands, wetlands, water courses, natural drainage courses and stream channels, wildlife habitats, and other valuable natural assets.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 1, 7-11-05)

Sec. 23-3. Scope.

1. These regulations apply to all subdivisions, created after the effective date of this ordinance, that are located within the boundaries of the City of Midland, except that proposed subdivisions that have been granted tentative or final preliminary plat approval shall continue to be reviewed under the requirements in place prior to adoption of this ordinance.
2. No land may be subdivided through the use of any legal description other than with reference to a plat or land division approved by the City in accordance with this ordinance.
3. No building permit or certificate of occupancy shall be issued for any parcel or plat of land created by subdivision after the effective date of this ordinance that is not in conformity with the provisions of this ordinance. After the effective date of this ordinance, no construction of any public or private improvements shall take place or be commenced for the purposes of creating a subdivision except in conformity with these regulations.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 1, 7-11-05)

Sec. 23-4. Vested Rights.

Except as otherwise provided in this Ordinance, no vested rights shall accrue to the developer or proprietor of any subdivision *solely* as a result of tentative or final preliminary plat approval. Furthermore,

tentative preliminary plat approval provides no rights or authority to begin improvements or construction related to subdivision development.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 1, 7-11-05)

Editors Note: At the request of the city, the zoning ordinance, Ord. No. 727, is not included in this code but is available in the office of the city clerk.

Sec. 23-5. Rules of Construction.

The following rules of construction shall apply to this ordinance:

1. The particular shall control the general.
2. Words used in the present tense shall include the future.
3. Words used in the singular number shall include the plural and the plural shall include the singular, unless the context clearly indicates the contrary.
4. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
5. The masculine gender includes the feminine and neuter.
6. All measurements shall be to the nearest integer, unless otherwise specified herein.
7. The phrase "used for" includes "arranged for", "designed for", "intended for", "occupied for", and "maintained for".
8. The word "building" includes the word "structure". The word "build" includes the words "erect" and "construct". A "building" or "structure" includes any part thereof.
9. The word "person" includes an individual a corporation, a partnership, an incorporated association, or any similar entity.
10. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be construed as defined herein. Words or terms not herein defined shall have the meaning customarily assigned to them, or as found in the most recent available version of American Heritage Dictionary.
11. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either/or", the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.
 - c. "Either/or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
12. Catch words and catch lines shall in no way by their presence or absence limit or affect the meaning of this Ordinance.
13. Unless the context clearly indicates to the contrary, where an illustration accompanies any item within this Ordinance, the written text shall have precedence over said illustrations.
14. A "building" or "structure" includes any part thereof.
15. Where a specific agency, department, law, or rule is referred to in this Ordinance, such reference shall include any successor agency, department, law or rule.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 1, 7-11-05)

State Law References: Subdivision Control Act of 1967, M.S.A., § 26.430(101) et seq.; municipal planning commission act, M.S.A., § 5.2991 et seq.

Sec. 23-6. Definitions.

The following definitions shall apply in the interpretation and enforcement of this Subdivision Control Ordinance:

Abutting: Two or more lots, uses, or parcels having a common border, or being separated from such a border by a right-of-way, alley, or easement.

Accessible: A parcel is accessible if it meets one or both of the following requirements:

- a. The parcel has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the Michigan Department of Transportation, Midland or Bay County Road Commission or City of Midland pursuant to Michigan Public Act 200 of 1969, as amended, or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards.
- b. The parcel is served by an existing easement that provides vehicular access to an existing road or street and meets all applicable location standards of the Michigan Department of Transportation, Midland or Bay County Road Commission or City of Midland pursuant to Michigan Public Act 200 of 1969, as amended, or can be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable location standards.

Adjacent: Lots are adjacent when at least one boundary line of one lot touches a boundary line or lines of another lot.

Adjoining: For the purposes of giving proper public notice as required in this ordinance, "adjoining" shall include adjacent property and properties across the street from the property being developed.

Alley: A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on another street. An alley is not intended for general traffic circulation.

Applicant: The owner of land proposed to be subdivided or the owner's representative who shall have express written authority to act on behalf of the owner.

Appropriate Road Agency: The road agency having jurisdiction over the road, street, or highway being referenced.

As-Built Plans: Construction plans that have been revised upon completion of construction to illustrate the actual location and details of improvements.

Attorney, City: The City Attorney is the person or firm appointed by the City Council to advise the City Council, other boards and commissions, and City staff on legal matters.

Berm: A continuous, raised earthen mound with flattened top and sloped sides, capable of supporting live landscaping materials, and with a height and width that complies with the requirements of this or other applicable ordinances.

Block: An area of land within a subdivision that is entirely bounded by streets, highways, or ways, except alleys, or a combination of streets, highways, or ways and rivers, streams, railroad right-of-way or the exterior boundary or boundaries of the subdivision.

Block Length: The distance between intersections of through streets, such distance being measured along the longest street bounding the block and from right-of-way line to right-of-way line of the two intersection streets.

Bond: Any form of a surety bond in an amount and form satisfactory to the City of Midland.

Buffer: An area occupied by trees, shrubs, fences, and/or berms, designed to separate conflicting uses or limit the view and/or travel of sound between adjacent sites (see also **Greenbelt**). A buffer is often located along a

property line. Plantings may consist of natural vegetation or trees and shrubs planted in accordance with a landscape plan.

Buildable Area: Generally, the area of a lot which is defined by the minimum setback requirements within which building construction is permitted by the terms of this Ordinance.

Buildable Area, Net: The portion of a site that is not encumbered by Michigan Department of Environmental Quality (MDEQ)-regulated wetlands (except as specifically noted), steep slopes, street rights-of-way, easements, structures or lots, or other existing or proposed features that would prevent construction of a building or use of the site for a use permitted in the district in which the site is located.

Building: Any structure, either temporary or permanent, having a roof or other covering and used or built for the shelter or enclosure of persons, animals, property, or materials of any kind. When any portion thereof is completely separated from every other part by division walls without openings extending from the ground up, each such portion shall be deemed a separate building. A building shall not include structures such as signs, fences, or smokestacks. Also defined in the Michigan Building Code.

Building Line or Setback Line: A line that is parallel to the front street right of way line, between which line and the front street right-of-way line no part of a building shall project, except as otherwise provided by this ordinance.

Building Official: The officer or other designated authority charged with the administration and enforcement of this code, or a duly authorized representative.

Capital Improvements Program: A proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

Caption: The name by which the plat is legally and commonly known.

Centerline Offset of Adjacent Intersections: The gap between the centerlines of streets that intersect a common street from opposite or the same sides.

City: The City of Midland, Michigan.

Clerk: The City Clerk of the City of Midland.

Commercial Development: A planned commercial center providing building areas, parking areas, service areas, screen planting, turning movement, and safety lane improvements.

Commission or Planning Commission: The Planning Commission of the City of Midland.

Common Open Space: Land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development. It may include complementary structures and improvements (see also **Private Open Space**).

Construction Plans: The drawings accompanying a subdivision plat that show the specific location and design of improvements to be installed in the subdivision.

Contiguous: See **Adjacent**.

Conventional Development: Development other than Planned Unit Development.

Council or City Council: The City Council of the City of Midland.

Crosswalk or Pedestrian Walkway: A parcel of land, at least ten (10) feet in width, dedicated to public use, which crosses a block to facilitate pedestrian access.

Cul-de-Sac: A local street with only one outlet and having a turnaround for safe and convenient reversal of traffic movement.

Culvert: A structure designed to convey a water course under a street or sidewalk, where the culvert is not incorporated in a closed drainage system.

Date of Filing: The date on which a plat is submitted to the City Clerk in a form that complies with all of the application data requirements in this ordinance for review in accordance with procedures outlined in this ordinance.

Dedication: A conveyance of land by a private owner in the nature of a gift or grant and an acceptance of that land by or on behalf of the public.

Density: The number of dwelling units per acre of land.

- a. Gross Density: The number of units per acre of total land being developed.
- b. Net Density: The number of units per acre of land devoted to residential use, exclusive of road rights of-way, parks, utility easements (if the easements are not useable for recreation purposes), and other areas not used for residential purposes.

Design Standards: Standards that set forth specific improvement requirements.

Detention Basin: A man-made or natural water collection facility designed to restrict the flow of stormwater to a prescribed maximum rate (as established in Chapter 29 of the City of Midland Code of Ordinances), and to concurrently drain the excess waters that accumulate behind the outlet.

Developer: The legal or beneficial owner or owners of land proposed to be subdivided, or the owner's representative (see also **Proprietor**).

Development: The construction of a new building, reconstruction of an existing building, or improvement of a structure on a parcel or lot, the relocation of an existing building to another lot, or the improvement of open land for a new use.

Divided Street: A street having an island or other barrier separating moving lanes.

Division: The partitioning or splitting of a parcel or tract of land for the purposes of sale, or lease of more than one (1) year, or of building development, that results in one (1) or more parcels of less than forty (40) acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of Public Act 288 of 1967, as amended. A Division does not include a property transfer between two (2) or more adjacent parcels, if the property taken from one (1) parcel is added to an adjacent parcel, and a division is not subject to the platting requirements of said Public Act 288.

Drainage: The removal of surface water or groundwater from land by ditches, swales, drains, grading, or other means.

Drainage System: The natural and man-made system through which water flows from the land.

Driveway: A private lane designed primarily for use by vehicles that connect a single building lot or parcel with a street.

Easement: A legal agreement that conveys the right of a specific non-owner to use part of a parcel or land for a specific purpose. Typical easements include the right of the owner of a piece of land with no public street frontage to use a specific strip of another person's land to reach the public street (e.g., a private street easement) or the right of the City to run a water main or sewer main across a specific strip of an owner's land.

Engineer or City Engineer: The staff engineer or consulting engineer designated by the City Council to advise the City administration, City Council, and Planning Commission on drainage, grading, paving, storm water management and control, utilities, and other related site engineering and civil engineering issues.

Escrow: A deed, a bond, money, or interest in a piece of property temporarily deposited with a neutral third party, called the escrow agent, by the agreement of two parties.

Fence: An artificially constructed unroofed barrier of wood, masonry, stone, wire, metal, or similar manufactured material, used to prevent or control entrance, confine within, or mark a boundary.

Finished Grade: See **Grade, Finished**.

Floodplain: That land which can be expected to be inundated with water during times of flooding and that is delineated on the Flood Boundary and Floodway Map prepared by the Federal Emergency Management Agency (FEMA), as may be supplemented, amended, or revised from time-to-time.

Frontage: See **Lot Frontage**.

Governing Body: The City Council of the City of Midland, Michigan.

Grade: The term "grade" shall mean the ground elevation established for the purpose of regulating the number of stories or height of a building. The building grade shall be the level of the ground adjacent to the walls of the structure if the finished grade is level. If the ground is not entirely level, the grade shall be determined by lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet from the building, between the building and a point six (6) feet from the building.

Grade, Finished: For the purposes of this ordinance, the elevation of the surface of the ground, paving, sidewalks or other surface upon completion of excavation, filling and land balancing related to subdivision construction.

Greenbelt: A strip of land of definite width and location reserved for the planting of a combination of shrubs, trees, and ground cover to serve as an obscuring screen or buffer for noise or visual enhancement, in accordance with the requirements of this ordinance.

Half Street: A street containing less than the required right-of-way width.

Household: Any person or persons who reside or intend to reside in the same housing unit.

Impervious Surface: A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

Improvements: Grading, street surfacing, curbs and gutters, sidewalks, cross-walks, water mains, fire hydrants, sanitary sewers, storm sewers, drains, culverts, bridges and other additions to the natural state of land which increases its value, utility, habitability, and use as a subdivision.

Island: In street design, a raised area, usually curbed, placed to guide traffic and separate lanes, or used for landscaping, signs, or lighting.

Land Division Act: Michigan Public Act 288 of 1967, as amended (known as the Subdivision Control Act prior to enactment of Michigan Public Act 591 of 1996).

Level of Service: A qualitative measure describing traffic operational conditions; Level of Service is generally described in terms of speed and travel time, delay, freedom to maneuver, traffic interruptions, comfort and convenience, and safety.

Loop Street: A street or road that has its only ingress and egress at two points on the same collector street.

Lot: A measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.

Lot, Corner: A lot abutting on and at the intersection of two or more streets provided that the streets intersect at an angle of not more than one hundred thirty-five (135) degrees.

Where a lot is on a curve, if the tangents through the extreme point of the street lines of such lot make an interior angle of not more than one hundred thirty-five (135) degrees, it shall be considered a corner lot. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above. A tangent is a straight line extended from the outer edges of a curve which intersect to form a corner.

Lot Area: The total horizontal area within the lot lines of the lot, exclusive of any abutting public street rights-of-way or private road easements, or the area of any lake. The net lot area shall be used in determining compliance with Minimum Lot Area standards.

Lot Depth: The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

Lot, Flag: A lot which is located behind other parcels or lots fronting on a public street, but which has a narrow extension to provide access to the public street. The extension, which provides access to the buildable portion of the lot, shall comply with the lot width standards for the district in which the lot is located.

Lot Frontage: The length of the front lot line measured along the street right-of-way or easement line.

Lot Line: The fixed boundaries of a lot described by a survey and recorded in a plat.

- a. Front Lot Line: The lot line separating said lot from the street. In the case of a corner lot, the line separating the narrowest side of a lot from the street.
- b. Rear Lot Line: Ordinarily, that lot line which is opposite and most distant from the front lot line. In the case of irregular, triangular, wedge-shaped, or lots that are pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet in length, lying farthest from the front lot line and wholly within the lot.
- c. Side Lot Line: Any lot line other than the front or rear lot lines. A side lot line separating a lot from a street right-of-way is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

Lot, Reverse Frontage: A through lot that is not accessible from one of the parallel or nonintersecting streets upon which it fronts (see definition of **Lot, Through**).

Lot, Through (or Double Frontage Lot): A lot, other than a corner lot, that fronts upon two (2) more-or-less parallel streets or upon two (2) streets that do not intersect at the boundaries of the lot. In the case of a row of double frontage lots, one (1) street shall be designated as the front street for all lots in the plat.

Lot Width: The straight line distance between the side lot lines, measured at the two points where the minimum front yard setback line intersects the side lot lines.

Maintenance Guarantee: Any security which may be required and accepted by City of Midland to ensure that necessary improvements will function as required for a specific period of time.

Master Plan: A comprehensive, long-range plan adopted and amended from time to time by the Planning Commission and/or City Council that is intended to serve as a guide for growth and development of the City. The plan consists of maps, text, tables, and graphics with recommendations concerning land use, economic development, housing, recreation and open space, transportation and community facilities.

Median: That portion of a divided street or highway that separates lanes of traffic proceeding in opposite directions.

MDOT: Michigan Department of Transportation (or its successor department or agency).

Mulch: A layer of wood chips, dry leaves, straw, hay, plastic, or other materials placed on the surface of the soil around plants to retain moisture, prevents weeds from growing, hold soil in place, or aid plant growth.

MDCIS: Michigan Department of Consumer and Industry Services (or its successor department or agency).

MDEQ: Michigan Department of Environmental Quality (or its successor department or agency).

Natural Resources: Natural resources shall include land, soils, wetlands, floodplains, surface and ground water, topography, trees and other types of vegetative cover, subsurface strata, geologic formations, animal life, and naturally occurring substances and living organisms that can be useful to people. Natural resources are of two types: renewable (e.g., plants and trees) and nonrenewable (e.g., mineral resources).

Offset: The distance between the centerline of the subject driveway and the centerlines of driveways on the opposite side of the street.

Off-Site: Any premises not located within the area of the property to be subdivided, whether or not in the common ownership of the applicant for subdivision approval.

Off-Street Parking: Parking that is not located within a street or street right-of-way or private road easement, such as parking in a parking lot, parking structure, or private driveway.

On-Street Parking: Parking that is located on a dedicated street right-of-way or private road easement.

Open Space: Any parcel or area of land or water that is generally free of structures and that is set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space may be provided for recreation, resource protection, aesthetics, or other purposes.

Outlot: When included within the boundary of a recorded plat, means a lot set aside for purposes other than those for the rest of the lots in the plat. For example, land set aside for a future street would typically be set aside in an outlot.

Parcel: A continuous area, tract, or acreage of land that has not been divided or subdivided according to the provisions of this ordinance, has frontage on a public or private street and can be described as provided for in the Land Division Act.

Parent Parcel or Parent Tract: A parcel or tract lawfully in existence on the effective date of Public Act 591 of 1996.

Performance Guarantee: A financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with the Ordinance, regulations, and approved plans and specifications of the development.

Person: Any individual, trustee, executor, fiduciary, corporation, firm, partnership, association, organization, or other legal entity acting as a unit.

Pervious Surface: A surface that permits full or partial absorption of storm water.

Planned Unit Development: A planning or construction project involving the use of special zoning requirements and review procedures that are intended to provide design and regulatory flexibility.

Planning and Community Development Director: The staff planner or consulting planner designated by the City Council to advise the City administration, City Council, and Planning Commission on planning, zoning, land use, subdivision, housing and other related planning and development matters.

Plat: A map or chart of a subdivision of land, prepared in conformance with the Land Division Act.

- a. Sketch Plan. An optional plan for initial review by City Staff, drawn to scale, that shows the proposed layout of streets, lots and other features in relation to existing conditions on the site and on adjoining sites and also showing general subdivision information.
- b. Preliminary Plat: A map showing all salient features of a proposed subdivision submitted to the City for the purposes of preliminary consideration, and prepared in accordance with this ordinance and the Land Division Act. The preliminary plan review process is separated into "tentative" and "final" preliminary plat review.

c. **Final Plat:** A map of a subdivision of land prepared in a form that is ready for approval and recording in accordance with the requirements of this ordinance and the Land Division Act.

Preliminary Plat Approval: The conferral of certain rights prior to final approval after specific elements of a development plan has been agreed upon by the Planning Commission, City Council and the applicant.

Private Road: A road that is privately owned and maintained and has not been accepted for maintenance or ownership by the City of Midland or the Midland or Bay County Road Commission.

Proprietor: A natural person, firm, association, partnership, corporation or combination of any of them, which may hold a recorded or non-recorded ownership interest in land on which a subdivision plat is proposed. Sometimes also referred to herein as the "Developer."

Public Sewer: A sewerage system as defined in Michigan Public Act 98 of 1913, as amended.

Public Utility: Any persons, firm, corporation, municipal department, or board, duly authorized to furnish under federal, state, or local regulations a service which is of public consequence and need. The principal distinctive characteristics of a public utility are that:

- a. because of the nature of its business, it has characteristics of natural monopoly, and
- b. it provides a service to an undefined public (or portion of the public) which has a legal right to demand and receive its services. Services for the purpose of this ordinance include gas, electricity, steam, water, sewage, transportation, telephone, and cable television.

Public Walkway: A right-of-way dedicated for the purpose of a pedestrian access.

Record Drawings: Construction plans that have been revised upon completion of construction to illustrate the recorded location and details of improvements.

Re-plat: The process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot within a recorded subdivision plat without changing the exterior boundaries of the outlot is not a re-plat.

Retaining Wall: A structure erected between lands at different levels to protect structures and/or prevent the washing down or erosion of earth from the upper levels.

Retention Basin: A pond, pool, or basin used for the long-term storage of water runoff.

Right-of-Way: A strip of land reserved and dedicated for a street, alley, walkway, or other public purpose, and which may be occupied by public utilities, such as electric transmission lines, gas pipelines, cable television lines, fiber optics lines, water mains, sanitary sewers, storm sewer mains, shade trees, or other utility uses. Rights-of-way established and shown on the final plat are to be distinct and separate from the lots or parcels adjoining such rights-of-way, and are not to be included in the dimensions or areas of such lots or parcels. Nothing in this definition or ordinance is intended to prevent the establishment of separate easements for utilities.

Right-of-Way Lines: The lines that form the boundaries of a right-of-way.

Screen: A structure or plantings consisting of fencing, berms, and/or evergreen trees or shrubs providing a continuous obstruction reaching 100% obscuration of view within a site or property to a height of six feet with landscaping must reach this standard within three years of planting.

Sedimentation: The movement of soil that has been transported from its site of origin by water, ice, wind, gravity, or other means as a product of erosion.

Setback: The distance between a front, side or rear lot line and the nearest supporting member of a structure on the lot. The *minimum required setback* is the minimum distance between a front, side or rear lot line and the nearest supporting member of a structure in order to conform to the required yard setback provisions of the Zoning Ordinance.

Shade Tree: A tree in a public place, street, easement, or right-of-way adjoining a street (also referred to as Street Tree; see also **Canopy Tree**).

Shoulder, Street: The portion of the street right-of-way between the edge of the traffic lane and the intersection of the shoulder slope and side slope planes. The shoulder facilitates street drainage and provides space for emergency stops and maintenance operations.

Sidewalk: A concrete path provided for pedestrian use and commonly located at the side of a street within the right-of-way.

Sight Zone (Vehicular): Any area located two and a half (2.5) feet above average grade to a height of ten (10) feet:

- a. Street Corners: the triangle formed by legs measured twenty (20) feet on each side of a street corner lot, measured on the property or lot line.
- b. Driveways: the right triangles formed on each side of driveways, measured ten (10) feet along the property or lot line on one leg, and along the outside edge of the driveway for the other leg.

Sketch Plan: A sketch prepared prior to the preliminary plat to enable the subdivider to achieve an understanding of the City's desired form of the plat and the objectives of the regulations contained in this ordinance.

Slope, Steep: A slope with a moderate or a high erosion hazard (often 7% or greater) as defined in the Michigan Soil Erosion and Sedimentation Control Guidebook. Percent slope shall be computed by dividing the change in elevation by the horizontal distance, times 100.

Storm Water Retention: See **Retention Basin**.

Street Classifications: The classification of streets described in the Thoroughfare Plan as follows:

- a. Major Thoroughfare. Major thoroughfares are intended to serve the major centers of activity, the highest traffic volume corridors, and the longest trips. Major thoroughfares serve major traffic movements within the City.
- b. Minor (Secondary) Thoroughfare. Minor thoroughfares interconnect with the major thoroughfare system and provide trips of moderate length with a lower level of traffic mobility. Minor thoroughfares place more emphasis on land access than major thoroughfares.
- c. Collector Streets. Collector streets provide access to abutting properties and traffic circulation within residential, commercial, industrial, and agricultural areas. The purpose of a collector street is to collect traffic throughout the City and channel it to the thoroughfare system.
- d. Local Streets. Local streets primarily provide direct access to abutting land and to collector streets and thoroughfares.

Stub Street: A portion of a street for which an extension has been proposed.

Subdivision Control Act: Michigan Public Act No. 288 of 1967, as amended, now known as the Land Division Act as a result of enactment of Michigan Public Act 591 of 1996.

Subdivide, Subdivision: The partitioning or splitting of a parcel or tract of land for the purpose of sale, or lease of more than one (1) year, or of building development that results in one (1) or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements specified in Public Act 288 of 1967, as amended. Subdivide or subdivision does not include a property transfer between two (2) or more adjacent parcels, if the property taken from one (1) parcel is added to an adjacent parcel.

Surveyor: A person who, by reason of knowledge of law, mathematics, physical sciences, and techniques of measuring acquired by professional education and practical experience, is licensed to engage in the practice of professional surveying and / or engineering.

Topographical Map: A map prepared by a professional surveyor showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

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

Variance: A modification of the literal provisions of the Zoning Ordinance granted by the Zoning Board of Appeals when strict enforcement of the Zoning Ordinance would cause practical difficulties owing to circumstances unique to the individual property on which the variance is granted.

Vested Right: The right to initiate or continue the establishment of a use that will be contrary to a restriction or regulation coming into effect when the project associated with the use is completed.

Zoning Ordinance: The City of Midland Zoning Ordinance.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 1, 7-11-05)

Secs. 23-7--23-9. Reserved.

Section 2. Article II of Chapter 23 is hereby amended to read as follows:

ARTICLE II.

PLAT REVIEW PROCEDURES

Sec. 23-10. Summary of Review Procedures.

The plat review process shall consist of the following steps :

1. Optional **sketch plan** review, involving a preliminary review by City Staff but no formal action. The purpose of sketch plan review is to provide the proprietor with information needed to complete the plat, to explain applicable standards and regulations, and to acquaint the City with the proposed plat. Comments made during sketch plan review about the proposed plat shall not be binding on the City or the proprietor (see Section 23-15).
2. **Tentative preliminary plat** review, involving review and action to recommend approval or denial of the plat by the Planning Commission within sixty (60) days from the date of filing, followed by review and action to approve or deny the plat by the City Council within ninety (90) days from the date of filing (see Section 23-16). When all information required by this and other

ordinances has been submitted, tentative and final preliminary plat approval may be granted concurrently.

3. **Final preliminary plat** review, involving review by outside agencies (State and Midland and Bay County agencies) prior to action by the City Council. The City Council shall approve or deny the final preliminary plat within twenty (20) days from the date of filing (see Section 23-17). When all information required by this and other ordinances has been submitted, tentative and final preliminary plat approval may be granted concurrently.
4. **Final plat** review, involving review and action to approve or deny the plat by the City Council within twenty (20) days of the date of filing (see Section 23-19).

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 2, 7-11-05)

Cross References: Preliminary plat inspection fee, § 21-8.

Sec. 23-11. Extension of Review Deadlines.

Deadlines for the City to take action on a preliminary or final plat, as specified in the Land Division Act and reiterated in this ordinance, may be extended by mutual written consent of the proprietor and the City. A waiver of the review deadlines may be required to permit concurrent processing of related review applications. In the absence of written consent for such a waiver, denial of a plat shall be considered appropriate if the proprietor has been unable to complete submittal requirements and/or bring the plat into compliance with Ordinance regulations within the review deadline.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 2, 7-11-05)

Sec. 23-12. Coordination of Development Options with Subdivision Approval.

1. **Rezoning.** Since proper zoning is required as a condition of plat approval, whenever a development option involves rezoning of the land or application of municipal zoning to the land, approval of the rezoning shall be required prior to any formal action by the City to approve or deny the tentative preliminary plat.
2. **Issuance of Permits.** Within the subdivision, no certificates of occupancy shall be issued until the City has granted final plat approval and the final plat has been properly recorded.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 2, 7-11-05)

Sec. 23-13. Pre-application Review Meeting.

Pursuant to Section 111(3) of the Land Division Act, a proprietor may request that a pre-application review meeting take place by submitting a written request to the chairperson of the county plat board and submitting copies of a concept plan for the preliminary plat to the municipality and to each officer or agency entitled to review the preliminary plat under sections 113 to 118 of the Land Division Act. A pre-application review meeting shall take place not later than 30 days after the written request and concept plan are received. The meeting shall be attended by the proprietor, representatives of each officer or agency entitled to review the preliminary plat under section 113, 114, and 118 of the Land Division Act, and a representative of the municipality. Representatives of each agency entitled to review the preliminary plat under sections 115 to 117 of the Land Division Act shall be informed of the meeting and may attend. The purpose of the meeting is to conduct an informal review of the proprietor's concept plan for the preliminary plat.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 2, 7-11-05)

Cross References: Approval of plat by planning commission, § 2-115.

Sec. 23-14. Pre-application conference.

Prior to submitting an application for plat approval, the proprietor may meet with City staff to achieve an understanding of subdivision regulations and procedures.
(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 2, 7-11-05)

Sec. 23-15. Sketch Plan Review.

1. **Purpose.** Pursuant to Section 107(1) of the Land Division Act, a proprietor may submit a proposed plat for sketch plan review. The purposes of the sketch plan review are as follows:
 - a. To determine if the land is appropriately zoned.
 - b. To acquaint City Staff with the proposed plat.
 - c. To inform the proprietor of the procedures for approval of the plat.
 - d. To inform the proprietor of applicable City ordinances and regulations related to subdivision and improvement of land, including the Subdivision Control Ordinance, Zoning Ordinance, and engineering design and construction standards.
 - e. To inform the proprietor generally about requirements regarding layout of streets, street improvements, and relationship of subdivision streets to the overall City street network and to major thoroughfares.
 - f. To inform the proprietor generally about the requirements for and/or availability of public facilities and services, including water, drainage, sanitary sewers and waste water treatment, fire and police protection, recreation and open space, and schools.
 - g. To determine the impact of floodplains and wetlands on the use of land and design of the plat.
 - h. To identify woodlands, topography, watercourses, and other natural features that should be protected.
 - i. To inform the proprietor about development options that would achieve the planning goals of the City while satisfying the proprietor's objectives.
 - j. To provide the proprietor with any other information to aid in the preparation of the preliminary plat.
2. **Information Required.** The sketch plans should illustrate in conceptual form the proposed subdivision and existing features on the site and on surrounding properties that may affect the design of the subdivision. Accordingly, the following information should be provided for sketch plan review:
 - a. The name, mailing address, and telephone of the proprietor(s).
 - b. The name, mailing address, and telephone of the professional person(s) responsible for the subdivision design, for the design of public improvements, and for surveys.
 - c. The name, mailing address, and telephone of the legal owner(s) or agent(s) of the property.
 - d. The proprietor's interest in the property.

- e. Location of the property by section, town and range, or by other legal description along with a vicinity map showing the general relationship of the proposed subdivision to the surrounding area.
- f. Existing conditions and characteristics of the site and adjacent land, including:
 - (1) Approximate boundaries of woodlands, wetlands, floodplains, and watercourses.
 - (2) The approximate location and intended future use of existing structures on the site.
 - (3) Existing land use on surrounding properties.
 - (4) Location of existing easements on the site.
- g. The proposed approximate layout of streets, blocks, and lots.
- h. The approximate location, dimensions, and area of all parcels of land proposed to be set aside for park or playground use or other public use or for use by property owners in the proposed subdivision.

3. **Sketch Plan Review Procedures.**

- a. **Copies.** The proprietor shall submit a minimum of five (5) copies of each sketch plan design to the City.
- b. **Comments.** City staff may offer comments following a meeting with the proprietor and/or the proprietor’s agent or consultant. Comments and suggestions made during sketch plan review about the proposed plat shall not be binding on the City or the proprietor.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 2, 7-11-05)

Sec. 23-16. Tentative Preliminary Plat Review.

- 1. **Purpose.** Preliminary plat review provides for formal application by a proprietor for City approval of a subdivision plat as described in this ordinance and the Land Division Act. Preliminary plat review also provides the City with the opportunity to review a proposed plat to determine whether it is in compliance with City ordinances and regulations, and to approve or deny the plat on the basis of that determination.

Preliminary plat review involves two steps:

- a. **Tentative preliminary plat review.** This step includes review of all of the salient features of a proposed subdivision, except detailed engineering and approvals from other authorities.
- b. **Final preliminary plat review.** This step includes review of engineering plans and requires approvals from other authorities.

- 2. **Submittal Requirements.** The preliminary plat submitted for tentative approval shall show all of the significant features of the proposed subdivision to allow the City to determine whether the proposal is in compliance with this and other applicable ordinances. The lack of information

related to any item specified herein, or improper information supplied by the applicant, may be cause for denial of a tentative preliminary plat.

The following information shall be provided for tentative preliminary plat review:

- a. **Application.** A completed application for tentative preliminary plat review shall be submitted on a form supplied by the City, which shall contain the following information:
 - (1) The name, mailing address, and telephone of the proprietor(s).
 - (2) The name, mailing address, and telephone of the professional person(s) responsible for the subdivision design, for the design of public improvements, and for surveys.
 - (3) The name, mailing address, and telephone of the legal owner(s) or agent(s) of the property. The citation of the last instrument conveying title to each parcel of property in the proposed subdivision shall be provided.
 - (4) The proprietor shall submit a completed Stormwater Runoff Regulation and Control affidavit of disclosure of property interest to the City of Midland.

- b. **Tentative Preliminary Plat.** The tentative preliminary plat, sealed by the professional surveyor who prepared the plat, shall be submitted to the Director of Planning and Community Development, along with the completed application and the fee authorized by the City Council. The date of submittal shall be recorded on the plat, on the application, and on supporting documentation. These materials must be submitted at least twenty-eight (28) days prior to the Planning Commission meeting where review is desired.

The applicant shall submit eight (8) copies of the tentative preliminary plat on paper at least twenty-four (24) inches by thirty-six (36) inches, drawn at a scale of not more than two hundred (200) feet to one (1) inch, and two (2) copies of the tentative preliminary plat on eleven (11) inch by seventeen (17) inch paper. The plat shall provide a scale, north arrow, and date of original submittal and dates of any revisions. The sheets shall be numbered in sequence if more than one (1) sheet is used.

- c. **Tentative Preliminary Plat -- Existing Conditions.** The tentative preliminary plat shall include one or more sheets containing the following information, at minimum, regarding existing conditions:
 - (1) Location of the property by section, town and range, or by other legal description.
 - (2) An area map showing the general relationship of the proposed subdivision to the surrounding area, to nearby community facilities, such as parks, schools, bicycle paths, existing and planned open space, and to shopping centers.
 - (3) Boundary of the proposed subdivision and the location of any easements with dimensions of the overall property and of the individual easements.
 - (4) The location of the following features located adjacent to and within three hundred (300) feet of the proposed subdivision and across abutting streets:
 - i. Property lines of adjacent land.

- ii. The name, location, and right-of-way width of any existing public, private, or platted streets, roads, highways, or railroads.
 - iii. Existing permanent structures. The plans shall clearly indicate any existing structures to be removed.
 - (5) A site analysis consisting of maps and written analysis which identify, describe, and quantify the following features, at minimum:
 - i. Boundaries and character of any water bodies, watercourses, wetlands and 100-year floodplain datum. Wetland boundaries shall be determined by a qualified wetlands consultant.
 - ii. Existing stormwater drainage patterns, systems, and structures, including approximate locations of farm field drain tiles, if known.
 - iii. Sight zone and horizontal curve limitations along existing and proposed streets.
 - iv. Topographic relief of the site and within two hundred (200) feet of the site at two (2) foot contour intervals, referenced to U.S.G.S. elevation datum.
 - v. Other features uniquely affecting the site.
 - (6) Zoning classification of the proposed subdivision and all adjoining properties.
 - (7) Locations and sizes of all existing sanitary and storm sewers, existing county and private drains, cross culverts under existing streets, and other underground structures within the subdivision site or immediately adjacent to it.
 - (8) Locations of other above- or below-ground utilities within the subdivision site or immediately adjacent to it, including but not limited to gas, electric, telephone, and cable television utilities.
- d. **Tentative Preliminary Plat -- Proposed Improvements.** The tentative preliminary plat shall contain the following information regarding proposed improvements, at minimum:
- (1) Name of the proposed subdivision. The proposed name shall not duplicate the name of any plat previously recorded unless the proposed subdivision is an addition contiguous to a plat with the same name or the proposed subdivision is a part of a previously approved plat of the same name.
 - (2) Layout, right-of-way width, typical cross-section, and names of proposed public or private streets or roads.
 - (3) The locations, width, and type of construction of any sidewalks, bicycle paths, and multi-use paths.
 - (4) The location, width, and purpose of any proposed easements.
 - (5) The location, approximate dimensions, and approximate area of all proposed lots. Lots shall be numbered consecutively beginning with lot number one (1).

- (6) The tentative preliminary plat shall have a table that provides the following information for each lot: lot area (in square feet), street frontage, and lot width measured at the front setback line.
 - (7) The location, approximate dimensions, approximate area, and proposed use of all parcels of land proposed to be set aside for park or playground use or other public use, or for the use of property owners in the proposed subdivision. The conditions, if known, of any such dedication, reservation, or conservation easement shall be specified.
 - (8) Where a proprietor proposes to subdivide land in phases, the tentative preliminary plat shall include a general layout for the entire development. The initial phase and the method of temporary construction and permanent access to subsequent phases shall be clearly identified.
 - (9) An indication of the ownership and existing and proposed uses of any parcels identified as "excepted" on the tentative preliminary plat. If the proprietor has an ownership interest in any excepted parcel, the tentative preliminary plat shall indicate how this parcel could be developed in accordance with the requirements of the existing zoning district in which it is located and in a manner that is compatible with and relates to the proposed plat in terms of utilities, streets, and land uses.
 - (10) A legend indicating the total acreage contained within the plat and acreage and the percentage of total acreage of the plat in lots, street allowances, and in public uses such as parks, playgrounds, schools, etc., if any.
- e. **Tentative Preliminary Plat -- Other Submittals.** The following additional information shall be provided, unless otherwise indicated, with the application for tentative preliminary plat review:

If the intended use of the proposed plat is not entirely residential single family then a written statement specifying the intended use shall be submitted. The location and size of proposed multiple family dwellings, shopping centers, churches, commercial or industrial facilities shall be noted.

3. **Planning Commission Review Procedures.**

- a. **Application Review.** Upon receipt of the tentative preliminary plat, the Planning and Community Development Director or his/her designee shall check it for completeness. If required data specified in this ordinance has been omitted, the proprietor shall be notified of the additional data required and that the application will be delayed until the required data are received. The "date of filing" shall be considered the date on which a plat containing all required data is received by the City.
- b. **Placement on Planning Commission Agenda.** When the information is complete, the public hearing for the proposed tentative preliminary plat shall held at the first opportunity possible, but not less than fifteen (15) days from the date of submission. Copies of the proposed plat shall be distributed to appropriate City staff and consultants to obtain planning, preliminary engineering and public safety review.

- c. **Notice of Public Hearing.** Prior to action on the tentative preliminary plat by the Planning Commission, notice shall be published in the local newspaper and sent to all property owners within three hundred (300) feet of the boundary of the proposed subdivision, based on the most current assessment records on file with the City. Such notice shall be mailed at least fifteen (15) days prior to the Planning Commission meeting. The notice shall explain that a subdivision has been proposed, give the location and general information, and note the time and place where the public can attend the public hearing when the subdivision proposal will be discussed.
- d. **Planning Commission Review.** The Planning Commission shall review the tentative preliminary plat with respect to the requirements of this ordinance, the Zoning Ordinance, and other applicable ordinances and standards.
- e. **Planning Commission Recommendation.** The Planning Commission shall recommend approval, conditional approval, or denial of the proposed tentative preliminary plat, as indicated below.
 - (1) Conditional approval shall be granted only if the proprietor has waived the review deadlines in writing, pursuant to Section 23-11, in which case the tentative preliminary plat shall not be forwarded to the City Council until said conditions have been properly addressed on a revised tentative preliminary plat and with supporting documentation. At its discretion, the Planning Commission may waive its right to review the revised plat in lieu of administrative review by City staff or Planning and Community Development Director.
 - (2) Upon determination that the tentative preliminary plat does not comply with the standards and regulations in this ordinance and other applicable ordinances, standards, and plans, the Planning Commission shall recommend denial. The reasons for recommending denial shall be forwarded to the City Council and proprietor.
 - (3) Upon determining that the tentative preliminary plat is in compliance with the standards and regulations in this ordinance and other applicable ordinances, standards, and plans, the Planning Commission shall recommend approval, and the Planning and Community Development Director or his/her designee shall make a notation to that effect on the tentative preliminary plat. The Planning and Community Development Director or his/her designee shall keep one copy of the approved tentative preliminary plat on file.

4. **City Council Review Procedures.**

- a. **Notification of Planning Commission Action.** The City Council shall not receive or take action on a preliminary plat until it has received the review and recommendations from the Planning Commission.
- b. **Review Deadline.** Following receipt of the Planning Commission's action, the City Council shall take action on the preliminary plat within sixty (60) days of the date of filing of the tentative preliminary plat with the City Planning and Community Development Department if a pre-application review meeting was conducted in accord with section 111(3) of the Land Division Act or within ninety (90) days if such meeting

was not conducted, unless the proprietor has waived the review deadlines in writing, pursuant to Section 23-11.

- c. **City Council Action.** The City Council shall approve, conditionally approve, or deny the proposed plat, as follows:
 - (1) Conditional approval shall be granted only if the proprietor has waived the review deadlines in writing, pursuant to Section 23-11. The proprietor may re-submit the plat to the City Council for approval after the conditions have been properly addressed. At its discretion, the City Council may waive its right to review the revised plat in lieu of administrative review by the Planning and Community Development Director or his/her designee.
 - (2) Upon determination that the preliminary plat does not comply with the standards and regulations in this ordinance and other applicable ordinances, standards, and plans, the City Council shall deny the tentative preliminary plat.
 - (3) Upon determining that the preliminary plat is in compliance with the standards and regulations in this ordinance and other applicable ordinances, standards, and plans, the City Council shall approve the tentative preliminary plat.
- d. **Notification.** The proprietor shall be promptly notified in writing of approval or denial, and the reasons if the plat was denied. One copy of the approved or denied plat shall become a matter of the permanent records of the Planning and Community Development Department and the Building Department. One copy appropriately designated “Approved” or “Denied” shall be transmitted to the proprietor.
- e. **Effect of Approval.**
 - (1) Approval of the tentative preliminary plat by the City Council shall confer upon the proprietor for a period of one (1) year from the date of approval, approval of lot sizes, lot orientation, and street layout. The one (1) year period may be extended if applied for in writing by the proprietor prior to the expiration date and granted by the City Council in writing. If the extension is granted, the City Clerk shall notify the other approving authorities.
 - (2) Tentative approval of the preliminary plat shall not grant to the proprietor rights to begin installation or construction of improvements.
- f. **Concurrent Final Preliminary Plat Review.** Final Preliminary Plat review may be considered concurrently if all of the provisions of Section 23-17 are met.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 2, 7-11-05)

Sec. 23-17. Final Preliminary Plat Review.

- 1. **Submittal Requirements.** The final preliminary plat, sealed by the engineer or professional surveyor who prepared the plat, shall be submitted to the Director of Planning and Community Development. The date of submittal shall be recorded on the plat, on the application, and on supporting documentation. These materials must be submitted at least twenty-one (21) days prior to the Planning Commission meeting where review is desired.

Fourteen (14) copies of the final preliminary plat shall be on paper that is at least twenty-four (24) inches by thirty-six (36) inches, and shall be drawn at a scale of not more than two hundred (200) feet to one (1) inch, and five (5) copies of the final preliminary plat shall be on paper that is eleven (11) by seventeen (17) inches. The plat shall provide a scale, north arrow, and date of original submittal and dates of any revisions. The sheets shall be numbered in sequence if more than one (1) sheet is used. Digital copies of the plat shall be provided to the City if available.

2. **Final Preliminary Plat -- Required Information.** The final preliminary plat submittal shall contain all of the information required for the tentative preliminary plat listed in Section 23-17, plus the following information:
 - a. Copies of proposed restrictive or protective covenants and deed restrictions (required to determine compliance with this ordinance, the zoning ordinance, and other applicable ordinances and regulations). The covenants shall indicate that maintenance of private improvements illustrated on the approved final plat and in supporting documentation shall be a continuing responsibility of the subdivision association and individual owners of lots on which the improvements are located.
 - b. A written explanation of any proposed restrictions on construction traffic.
 - c. Preliminary engineering plans shall be provided as follows:
 - (1) The preliminary engineering plans shall be submitted in sufficient detail to enable the Planning Commission, City Council, City Engineer, and other reviewing authorities to make a preliminary determination that the proposed improvements comply with applicable regulations and standards of the City and other agencies.
 - (2) At minimum, the preliminary engineering plans shall show the general locations of and provide preliminary specifications for sewage disposal systems, water supply systems (including fire hydrants), stormwater retention and drainage systems in compliance with all applicable requirements in Chapter 29 of the City of Midland Code of Ordinances (Stormwater Runoff Regulation and Control), site grading, street lighting, and sidewalks. Stormwater runoff calculations shall be provided to analyze the adequacy of proposed drainage facilities.
 - d. A detailed drawing to scale of any proposed entry features including specifications and locations of walls, fences, landscaping, signs, and lighting.
 - e. The proprietor shall submit a list of all agencies to which the proprietor has sent copies of the final preliminary plat, certifying that the list shows all authorities listed in this subsection. The proprietor shall also submit copies of the final preliminary plat bearing the necessary approvals of all authorities as required by the Land Division Act and this ordinance, including:
 - (1) Midland and Bay County Road Commission.
 - (2) Midland and Bay County Drain Commissioner.
 - (3) Michigan Department of Transportation, if any of the proposed subdivision abuts a state trunk line highway, or includes streets or roads that connect with or lie within the right-of-way of state trunk line highways.

- (4) Michigan Department of Environmental Quality, if the land proposed to be subdivided abuts a lake or stream, or abuts an existing or proposed channel or lagoon affording access to a lake or stream where public rights may be affected, or contains regulated wetlands, or lies wholly or in part within a flood plain of a river, stream, creek or lake.
- (5) Midland and Bay County Health Department, if public water or sanitary sewers are not available and accessible to the land proposed to be subdivided, and for appropriate comment on matters under the Health Division's jurisdiction.
- (6) The plat shall also be submitted to the county plat board and public utilities serving the area.

3. **Conformance to Tentative Preliminary Plat.** The final preliminary plat shall conform substantially to the tentative preliminary plat as approved. In determining whether the final preliminary plat satisfies this requirement, the City Council shall consider the following:

- a. A final preliminary plat shall be considered *no longer substantially conforming* to the tentative preliminary plat if any of the following revisions have been made, provided that the City Council may exercise discretion in applying these criteria where changes to the plat beyond the limits described below were required by an outside agency having jurisdiction over some portion of the plat.
 - (1) An increase in the number of lots.
 - (2) Realignment of proposed streets and intersections.
 - (3) Change in the basic layout of the subdivision relative to roads and lots.
 - (4) Deletion of sidewalks, bicycle paths or nature trails.
- b. A final preliminary plat shall still be considered *substantially conforming* to the tentative preliminary plat if any of the following revisions have been made, provided that the City Council may determine that several of the following revisions implemented in combination may be deemed no longer substantially conforming.
 - (1) Decrease in the number of lots without changing the basic layout.
 - (2) Revisions to horizontal or vertical alignment of streets to satisfy City Engineering standards, provided that such revisions do not affect the overall arrangement of streets.
 - (3) Adjustment to lot lines or setbacks due to a more precise wetland or floodplain boundary where such an adjustment has an insignificant impact on lot area, setbacks, or buffer zone requirements.
 - (4) Change in location of monuments or lot markers to correct surveying errors.
 - (5) Increase in the amount of landscaping.
 - (6) The addition of sidewalks, bicycle paths, and nature trails.
 - (7) A change in entranceway design that still meets ordinance requirements.

- (8) Minor relocation of a stormwater detention or retention basin. A minor relocation could include but is not limited to:
 - i. Moving any bank of the basin less than ten (10) feet.
 - ii. An increase in the volume or surface coverage of the basin by less than twenty five percent (25%)

4. **Review Procedures.**

- a. **Application Review.** Upon receipt of the final preliminary plat, the Planning and Community Development Director or his/her designee shall check it for completeness. Should any of the required data specified in this ordinance be omitted, the proprietor shall be notified of the additional data required and that the application will be delayed until the required data are received. The “date of filing” shall be considered the date on which a plat containing all required data is received by the City.
- b. **Placement on City Council Agenda.** When the information is complete, the proposed final preliminary plat shall be submitted for consideration at the next available regular City Council meeting.
- c. **Distribution for Review.** Copies of the plat shall be distributed to the Planning Commission and appropriate City staff and consultants to obtain planning, engineering, and public safety review and to determine if the final preliminary plat conforms substantially to the approved tentative preliminary plat. The Planning Commission shall review the final preliminary plat and make a recommendation to approve, approve with conditions, or deny the plat.
- d. **Review Deadline.** The City Council shall take action on the final preliminary plat at its next regular meeting or within twenty (20) days of the date of filing the plat with the City, unless the proprietor has waived the review deadlines in writing, pursuant to Section 23-11.
- e. **City Council Action.** The City Council shall approve, conditionally approve, or disapprove the proposed final preliminary plat, as follows:
 - (1) Conditional approval shall be granted only if the proprietor has waived the review deadlines in writing, pursuant to Section 23-11. The proprietor may re-submit the plat to the City Council for approval after the conditions have been properly addressed. At its discretion, the City Council may waive its right to review the revised plat in lieu of administrative review by the Planning and Community Development Director.
 - (2) Upon determination that the final preliminary plat does not comply with the standards and regulations in this ordinance and other applicable ordinances, standards, and plans, the City Council shall deny the final preliminary plat.
 - (3) Upon determining that the final preliminary plat is in compliance with the standards and regulations in this ordinance and other applicable ordinances, standards, and plans, the City Council shall approve the final preliminary plat.
- f. **Notification.** The proprietor shall be promptly notified in writing of approval or denial, and the reasons if the plat was denied. One copy of the approved or denied plat shall

become a matter of the permanent records of the Planning and Community Development Department and the Building Department. One copy appropriately designated “Approved” or “Denied” shall be transmitted to the proprietor.

- e. **Effect of Approval.** Approval of the final preliminary plat by the City Council shall confer upon the proprietor for a period of two (2) years from the date of approval, the conditional right that the general terms and conditions under which preliminary approval was granted will not be changed. The two (2) year period may be extended if applied for in writing by the proprietor prior to the expiration date and granted by the City Council in writing. If the extension is granted, the City Clerk (or Planning and Community Development Director if so designated by the Clerk) shall notify the other approving authorities.

(Ord. No. 1603, § 2, 7-11-05)

Sec. 23-18. Completion of Subdivision Improvements.

1. **Condition of Final Plat Approval.** The proprietor shall be required to complete all of the following improvements at his/her expense and without reimbursement from any public agency or any improvement district (except as may be permitted by state law), and in accordance with the conditions and specifications contained in this ordinance, except as provided in Section 23-18(3) before the final plat is approved by the City.

Where applicable, the proprietor shall dedicate these improvements to the City or other applicable governmental unit, free and clear of all liens and encumbrances on the dedicated property and public improvements. These improvements shall be completed in accordance with the approved final preliminary plat, the approvals of other authorities, the regulations in this ordinance (particularly Article 4.00), and the requirements of other applicable ordinances, laws and regulations. Improvements shall be subject to inspection by the City Engineer and other authorities having jurisdiction over such improvements. Required improvements include, where applicable:

- a. **Monuments.** Monuments shall be set in accordance with Michigan Public Act 288 of 1967, as amended (the Land Division Act), and the rules of the Michigan Department of Consumer and Industry Services.
- b. **Streets.**
- c. **Utility lines.**
- d. **Storm drainage.**
- e. **Water supply system.**
- f. **Sanitary sewer system.**
- g. **Sidewalks.**
- h. **Required Landscaping.**
- i. **Soil Erosion and Sedimentation Control Measures.**
- j. **Other Improvements.** Other improvements proposed by the proprietor and made a part of the approved final preliminary plat; including, but not limited to improvements in

common areas, bicycle paths, sidewalks and crosswalks, playground or recreation facilities, creation of conservation easements, etc.

2. **Construction Plans and Specifications.** No installation or construction of any improvements shall be made before construction/engineering plans and specifications have been approved by the City Engineer and by other authorities that have jurisdiction over the improvements.
3. **Alternative to Completing Improvements -- Subdivision Improvement Agreement.** In lieu of completion of all required improvements prior to approval of the final plat, the City Council may permit the proprietor to enter into a Subdivision Improvement Agreement by which the proprietor covenants to complete all required public improvements no later than two (2) years following the date on which the final plat is signed by the City. The Subdivision Improvement Agreement shall provide for the following:
 - a. **Performance Guarantee.** The proprietor shall agree to furnish a performance guarantee in an amount not to exceed 110 percent of the cost of installation of the improvements. The performance guarantee shall be in a form specified in Section 23-39. A performance guarantee shall not be required by the City for improvements covered by a performance guarantee required by another agency.
 - b. **Subdivision Improvement Agreement.** The Subdivision Improvement Agreement shall provide that the covenants contained in the agreement shall run with the land and bind all successors, heirs and assignees of the proprietor. The Subdivision Improvement Agreement shall be authorized by the City Council and recorded pursuant to applicable state and local laws and ordinances.
 - c. **Completion of Improvements.** Upon substantial completion of all required improvements, the proprietor shall notify the City Engineering Department in writing of the completion or substantial completion of improvements. The City Engineer shall inspect all improvements identified in the notice that are under the jurisdiction of the City.
 - d. **Approval of Improvements.** The City Engineer shall either approve, partially approval, or reject the improvements and shall notify the proprietor in writing of the contents of the report and the action taken no later than thirty (30) days after receipt of the notice from the proprietor of the completion of the improvements.
 - e. **Partial Approval.** Where partial approval is granted, the proprietor shall be released from all liability except for that portion of improvements not yet approved.
4. **Review of Construction Plans and Specifications.** Review of the construction plans and specifications by the City shall be initiated by submitting the plans and specifications in the form and quantity and according to the process specified by the Engineering Department.
 - a. **Required Plans.** Plans and specifications shall be submitted for all proposed improvements including, where applicable: sanitary sewers; public water; storm sewers; sidewalks; bicycle paths; soil erosion and sedimentation control measures; site grading (including all information required by the City Engineer); and streets (including street and paving cross-sections and profiles). Cost estimates for each such improvement shall be included.

- b. **Review by Other Authorities -- Proprietor's Responsibility.** It shall be the responsibility of the proprietor to obtain review and approval of construction plans and specifications for public improvements that are under the jurisdiction of authorities other than the City. Evidence of all approvals required from other authorities shall be submitted in the form specified by the City prior to issuance of any permits for construction.
5. **Inspections.** No work on water mains, sanitary sewers, storm drains and retention basins, and paving shall proceed without prior notification of the City Engineering Department to allow the City to schedule inspections, as deemed necessary. The contractor or proprietor shall contact the City Engineering Department at least forty-eight (48) hours prior to the start of construction to arrange for the inspection and to deposit the required inspection fee.

Work installed without required inspections may not be accepted for dedication to the City and may not be allowed to connect to the public system and/or be issued a certificate of occupancy.

6. **Escrow Deposits for Seasonal Improvements.** If certain improvements cannot be completed because of the season of the year, the City Building Official may issue a Certificate of Occupancy, provided there is no danger to health, safety or general welfare, upon accepting a cash escrow deposit or certified letter of credit for the full cost of the uncompleted improvements. All required seasonal improvements for which escrow funds have been accepted shall be installed by the proprietor within a period of nine (9) months from the date of deposit and issuance of the Certificate of Occupancy. If the improvements have not been properly installed at the end of this time period, the Building Official shall give notice to the proprietor that the improvements shall be installed within two (2) weeks. If the improvements are not properly installed after two (2) weeks, the Building Official may request the City Council to authorize proceeding to contract out the work for installation of the improvements for a cost not to exceed the amount of the escrow deposit. At the time of issuance of the certificate of occupancy for which escrow monies are being deposited, the proprietor shall file a notarized statement from the purchaser or purchasers of the premises authorizing the City to install the improvements at the end of the nine (9) month period if the improvements have not been properly installed by the proprietor.
7. **Final Inspections and Acceptance.**
 - a. **Final Inspection and Tests.** Prior to acceptance of public facilities or utilities for use and maintenance by the City or other public entity having jurisdiction, all improvements shall have been completed and equipment removed from the site, and the final inspection and all required tests shall be completed. Any tests which fail shall be repeated after repairs have been made. Any portions of the work found to be unacceptable shall be repaired or replaced prior to acceptance.
 - b. **As-Built Drawings.** As-built (record) drawings and associated computer aided drawing files showing the final locations and grades of all utilities and other improvements shall be submitted to the City for review and acceptance.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 2, 7-11-05)

Cross References: Final plat fee, § 21-9.

Sec. 23-19. Final Plat Approval.

1. **Submittal Requirements.** The following information shall be included on the proposed final plat submitted to the City, along with the completed application, the review fee authorized by Chapter 21. These materials shall be submitted at least twenty-one (21) days prior to the City Council meeting at which review is desired.
 - a. The final plat shall be prepared and submitted in a form that is consistent with the requirements in the Land Division Act, Michigan Public Act 288 of 1967, as amended by Michigan Public Act 591 of 1996, as amended.
 - b. The final plat shall conform substantially to the final preliminary plat as approved. In determining whether the final plat satisfies this criterion, the City Council shall use the criteria set forth in Section 23-17(3).
 - c. The proprietor shall submit an abstract of title, a policy of title insurance, or an attorney's title opinion based on the abstract of title, in accordance with Section 245 of Michigan Public Act 288 of 1967, as amended.
 - d. All easements and utility agreements shall be executed by the City and/or appropriate utility authority and the subdivider, setting forth the terms of utility arrangements and the use and/or development of any land reserved for the use of the public and/or future subdivision property owners.
 - e. The proprietor shall submit, where applicable, recorded copies of the declaration of covenants and restrictions, conservation easements, and deeds of any common areas to homeowners associations.
2. **Submittal to Approving Authorities.** The proprietor shall submit the final plat and as-built engineering plans, where required for approval, to obtain final approval signatures on the final plat Mylar as required by Section 142 of the Land Division Act, Michigan Public Act 288 of 1967, as amended.
3. **Initial Review.** Upon receipt of the final plat, the City Staff shall check the plat for completeness. Should any of the required data specified in this ordinance be omitted, the proprietor shall be notified of the additional data required and that review will be delayed until the required data are received. The date of filing shall be considered the date on which a plat containing all required data is received by the City.
4. **Placement on City Council Agenda.** When the information is complete, the proposed final plat shall be submitted for consideration at the next available regular City Council meeting.
5. **Distribution for Review.** Copies of the final plat shall be distributed to the Planning and Community Development Director and the City Engineer for review. The Director of Planning and Community Development and the City Engineer shall determine if the final plat is in compliance with the approved final preliminary plat and with plans for utilities and other improvements.
6. **City Council Action.** Within twenty (20) days of the date of filing, the City Council shall review the proposed final plat to determine conformance with the Land Division Act, this ordinance, the preliminary plat, and any conditions of approval attached to the preliminary plat. The City Council may approve or deny the final plat as follows:

- a. Upon determination that the final plat does not comply with the standards and regulations in this ordinance and other applicable ordinances and laws, the City Council shall deny the final plat.
- b. Upon determining that the final plat is in compliance with the standards and regulations in this ordinance and other applicable ordinances and laws, the City Council shall approve the final plat and direct the City Clerk to sign the plat. The City Clerk shall forward all copies of the plat to the clerk of the County Plat Board.

(Ord. No. 1603, § 2, 7-11-05)

Sec. 23-20. Building Permits and Certificates of Occupancy.

1. Proposals to construct residential or non-residential structures shall comply with the review and permit requirements in the adopted Building Code and Zoning Ordinance.
2. When a Subdivision Improvement Agreement and performance guarantee have been required for a subdivision, no certificate of occupancy for any building in the subdivision shall be issued prior to the completion of the required public improvements and the acceptance of dedication of those improvements by the City or other authority having jurisdiction.

Building permits may be issued in a proposed subdivision subject to the following conditions:

- a. The final plat shall have been approved by the City Council
- b. Structures shall be constructed only on proposed lots, in accord with all terms and conditions or regulations which would be in effect if the final plat was recorded.
- c. No structure shall be occupied until the final plat is recorded. A temporary certificate of occupancy may be issued when, due to the season, final lot improvements, paving or sidewalk cannot be completed.

(Ord. No. 1603, § 2, 7-11-05)

Secs. 23-21--23-23. Reserved.

Section 3. Article III of Chapter 23 is hereby amended to read as follows:

ARTICLE III.

DESIGN STANDARDS

Sec. 23-24. Objectives.

The design standards in this Article are intended to achieve an arrangement of lots, streets and utilities that accomplish the following objectives:

1. A development pattern consistent with that described in the City Master Plan;
2. Respect for the natural features on the site, and preservation of significant environmental resources;
3. Minimize negative impacts on adjacent properties, both during and after construction;

4. Promote continuity in the public street and utility systems;
5. Help ensure adequate accessibility for emergency vehicles;
6. Provide links to non-motorized facilities and links between open space, whether public or private; and

7. Help ensure consistency with standards of the other agencies which review the proposed subdivision.
(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 3, 7-11-05)

Sec. 23-25. Preservation of Natural Features.

To the extent feasible, the subdivision shall be designed to preserve the natural character and natural features of the land, including woodlands, wetlands, water courses, natural drainage courses and stream channels, wildlife habitats and other valuable natural assets. In order to accomplish these objectives, dedication of easements, creation of protective barriers, and similar measures should be considered. In addition, the following standards shall be met.

1. **Wetlands.** The design of subdivisions shall comply with the Natural Resource and Environmental Protection Act (Michigan Public Act 451 of 1994, as amended). Wetlands shall be delineated by a qualified wetland consultant and shown on the preliminary plat (see requirements for a wetland within a lot and water features setback in Section 23-26).
2. **Floodplains.** Portions of plats located within any area of Special Flood Hazard shall be subject to the provisions of Section 60.3(d) of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59, etc., formerly 1901).

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 3, 7-11-05)

Sec. 23-26. Lots.

Lots within subdivisions shall conform to the following standards:

1. General Lot Arrangement.

- a. Every lot in a subdivision or site condominium shall front on and have direct access to a public or private street.
- b. Residential lots abutting major or minor thoroughfares on the City Street Plan shall be platted using a public secondary access street parallel to the thoroughfare providing access to the lot(s).
- c. Lots shall have a front-to-front relationship across all streets where possible.
- d. Through or double frontage lots are prohibited, except as permitted in item 23-26(1)(b), above.
- e. Lots facing a three-way intersection (T-intersection) should be aligned to prevent on-coming headlight glare into the building envelope of the living area.

- f. Blocks shall generally be designed with tiers of two lots placed back to back, except where lots back onto a thoroughfare, railroad, natural feature, storm water detention feature or subdivision boundary.

2. **Lot Sizes and Shapes.**

- a. **Lot area and width.** Each lot shall comply with the minimum area and width requirements of the Zoning Ordinance for the district in which the subdivision is proposed (unless approved as part of an Open Space Plan or Planned Unit Development).
- b. **Lot depth.** The minimum lot depth for residential lots shall meet minimum requirements established by the City of Midland Zoning Ordinance.
- c. **Area calculation of ponds and lakes.** Areas of the subdivision plat that contain ponds, lakes, storm water detention features or similar bodies of water shall not be platted as subdivision lots nor calculated as a portion of the minimum lot area required by the Zoning Ordinance.
- d. **Lots occupied by wetlands.** A portion of each lot may be occupied by wetlands provided that, if wetlands are present on the lot, the proprietor can demonstrate that adequate buildable area will exist on each lot without intruding into the required setbacks, including the required wetland or water features setback.
- e. **Area in floodplain.** Land in the 100 year floodplain shall be developed in accord with the Michigan Construction Code and the National Flood Insurance Program.
- f. **Depth-to-width ratio.** Narrow, deep lots shall be avoided. A depth-to-width ratio of 2.5 to 1 shall be considered a maximum, except where the proprietor demonstrates that a deeper lot will protect natural resources, such as woodlands, wetlands, or wildlife habitat.
- g. **Building setbacks.** Lots shall be of sufficient size and proportion to accommodate the minimum required building setbacks listed in the Zoning Ordinance for the district in which the subdivision is located.
- h. **Nonresidential lots.** Lots intended for purposes other than residential use shall be specifically designated for such purposes, and shall have adequate provision for off-street parking, setbacks and other requirements, including such uses being permitted in the applicable zoning district, in accordance with the Zoning Ordinance.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 3, 7-11-05)

Sec. 23-27. Streets.

The provisions of this Ordinance shall be the minimum requirements for streets and intersections.

1. **Compliance with Applicable Standards.** The standards of this section are intended to comply with the applicable public street standards of the City of Midland, Midland and Bay County Road Commission and the Michigan Department of Transportation. The City reserves the right to adopt written standards which are more restrictive, upon a determination that the additional regulations meet special needs or goals in the City which may not be appropriate on a county-wide basis.

2. **Conformance with City Master Plan.** The layout of the street system shall conform to the goals, policies, street functional classification system, alignment and minimum rights-of-way recommended in the transportation element of the City Master Plan.
3. **Relationship to Natural Features and Grades.** Streets shall be aligned to maximize the preservation of natural features and existing grades to the extent feasible.
4. **Continuity of Street System.** The arrangement of streets shall provide for the continuation of existing streets from adjoining areas into new subdivisions. Where adjoining vacant areas are zoned or planned for development similar to the proposed subdivision, streets shall be extended to the boundary line of the parcel to make provision for the future street connections. Where stub streets have been provided on adjoining property, the arrangement of streets in the proposed subdivision or site condominium shall align and connect with the existing stub streets to achieve street system continuity. The proprietor shall demonstrate that the proposed stub street is a reasonable location for extension into the adjacent lands, in consideration of such factors as grades, water bodies, wetlands and lot configuration. In determining the need for such connections, the City shall consider the need for adequate access and response time for emergency vehicles, the impacts such connections may have on reducing congestion along thoroughfares, the projected traffic volumes and the compatibility with adjacent developments.

An improved temporary cul-de-sac built to specifications of the City of Midland Engineering Department shall be provided if any lots front solely on the stub street; if no lots front solely on the stub street, then a T-turnaround shall be permitted, subject to approval by the City Engineer. A sign shall be placed at the end of the stub street or cul-de-sac with a sign face on both sides stating "Future Street Extension".

5. **Collector and Local Streets.** The proposed subdivision street layout shall be designed to discourage through traffic and excessive speeds. This shall be accomplished by incorporating offset street intersections within the subdivision, curvilinear street alignments, and discontinuities in the street pattern where appropriate. In general, straight sections of streets shall not exceed 1,320 feet in length, except that at subdivision entrances the straight sections of subdivision street that intersect thoroughfares shall generally not exceed 660 feet in length. These restrictions shall not prevent continuation of streets to adjoining properties where deemed desirable by the City.
6. **Half Streets.** Half streets shall be prohibited. Wherever a half street exists adjacent to the parcel to be subdivided, the other half shall be platted, dedicated and recorded to make a complete street.
7. **Minimum and Maximum Length for Blocks.** Blocks, or the length of any street constructed for any phase of a subdivision, shall not be less than two hundred seventy (270) feet long, nor longer than 1,320 feet measured from centerline to centerline of the intersections at each end of the block, except that the City Council, upon recommendation from the Planning Commission, may approve a plat which varies from these dimensions upon consideration of any or all of the following:
 - a. Documented evidence that significant natural features will be preserved or stub street to connect to vacant land are being provided which will result in a conforming condition in the future; and

- b. Recommendations from the Police, Fire, Department of Public Services and City Engineering departments that the shorter or longer block length will not create a threat to public safety or the delivery of services.

The minimum block length dimensions do not apply to approved stub streets.

- 8. **Cul-De-Sac and Dead-End Streets:** Dead-end streets are prohibited, except those designed as permanent cul-de-sacs or those required for future access to adjacent unplatted property. Cul-de-sac streets shall be no longer than one thousand (1,000) feet unless:
 - A. Reviewed by the Engineering, Fire, Planning, and Public Services Departments; and
 - B. Approved, with or without conditions, by the City Council.

On street parking within a cul-de-sac turnaround shall be prohibited.

- 9. **Minimum Right-of-Way Widths.** The minimum street right-of-way (r.o.w.) width for subdivisions shall be as follows:
 - a. Parkway - 150 feet
 - b. Major Thoroughfare - to 100 feet
 - c. Minor Thoroughfare - 80 to 100 feet
 - d. Collector Street - 80 feet
 - e. Local Street - 60 feet
 - f. Cul-de-sac – 60 feet
 - g. Cul-de-sac turnaround - 50 foot radius
 - h. Private street - 40 feet

A greater right-of-way may be required by the City in consideration of the intensity of development, the expected traffic volumes, the need for additional area for utilities or grading or to accommodate planned or expected street cross sections, and the expected traffic volumes and characteristics associated with the types of uses which may access the street based on the zoning. If the City Council deems that right-of-way in excess of one hundred (100) feet is necessary, it shall enter into an agreement to purchase the land within ninety (90) days of submission of the final preliminary plat to the City.

- 10. **Spacing of Intersections Along Major and Minor Thoroughfares or Collector Streets.** Streets intersecting a thoroughfare or collector street shall be spaced at least eight hundred (800) feet from the intersection of another platted street on the same side of the street. Intersections shall be aligned with public streets or private roads across the street, or offset at least two hundred fifty (250) feet from such streets or roads, measured between centerlines. Lesser intersection spacing or offsets may be approved where there are existing conditions which make compliance with spacing requirements impossible or where adequate sight distance would not be compromised.
- 11. **Design at Entrances.** Boulevard entrances to subdivisions are permitted by the City, subject to approval by the appropriate road agency.

12. **Internal Street Offsets.** Three-way intersections ("T" type intersections) are encouraged within the plat, rather than four-way intersections. No more than two (2) streets shall cross at any intersection. Street intersections within a plat shall be offset at least one hundred twenty five (125) feet, measured between centerlines. Lesser offsets may be approved where less than ten (10) lots or units are served by the intersection or where significant natural features would be preserved that would otherwise be destroyed.
 13. **Street Geometrics.** Street geometrics, including horizontal curves, tangents between reverse curves, sight distance at intersections, street gradients, and vertical alignment at intersections, shall comply with the standards of the appropriate road agency as well as the following regulations.
 - a. Horizontal curves shall have the following minimum center line radii:
 - (1) Local streets - 200 feet
 - (2) Collector streets - 300 feet
 - (3) Major streets - 475 feet
 - (4) Tangents at least one hundred (100) feet long shall be provided between reverse curves on collector streets, and at least two hundred and fifty (250) feet long on major streets.
 - b. Street grades shall not be greater than six percent (6%) or less than 0.4 percent (0.4%).
 14. **Intersection Angles.** Streets shall be laid out to intersect as nearly as possible to ninety (90) degrees; in no case shall the intersection be less than eighty (80) degrees.
 15. **Street Names.** Street names shall be sufficiently distinct from existing street names to avoid confusion, particularly for emergency service providers.
 16. **Signs.** The City of Midland shall place street name signs on public streets and at the intersection of public and private streets. The proprietor shall be responsible for placement of street name signs at all private street intersections in accordance with the requirements of the City of Midland. The proprietor shall also be responsible for placement of pavement markings and regulatory street signs (such as no parking signs, stop or yield signs, speed limit signs, and warning signs) as requested or required by the appropriate road agency. All regulatory signs shall be in conformance with the Michigan Manual of Uniform Traffic Control Devices.
 17. **Stormwater Drainage.** Curbs and gutters are required for all public streets in Midland. Open drainage along private roads may be permitted by the City, except where curbs and gutters are required by the City of Midland. Drainage design and construction shall be in accordance with the specifications of the appropriate road agency.
 18. **Street Construction Requirements.** All streets and appurtenances thereto shall be constructed in accordance with the specifications of the City of Midland or the appropriate road agency.
 19. **Phasing.** Each phase of the plat shall be designed to meet the street requirements above, regardless of whether future phases are constructed.
- (Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 3, 7-11-05)

Sec. 23-28. Sidewalks.

1. Sidewalks are required on both sides of all public and private streets. The Planning Commission may waive the sidewalk requirement along private streets if an alternate pedestrian circulation system that provides access to all parts of a development is provided. The alternate pedestrian circulation system may incorporate hard surfaced and non-hard surfaced paths, provided that such pathways provide access to all parts of a development.
2. Pedestrian through-block connectors may be required in the middle of any block over 1,320 feet in length to obtain satisfactory pedestrian circulation within the subdivision, to provide access to parks or open space, to provide links with an adjacent development, and/or to provide access to a center of activity. Where such pedestrian through-block connectors are required a ten (10) foot wide easement, a dedicated right-of-way or other means of securing the land for the connector shall be required. The City may require placement of a fence to ensure the pedestrian connection location is visible and to protect the adjacent property owners.
3. Any yard which abuts a pedestrian easement shall provide the required minimum building setback, as applicable, from the easement.
4. All sidewalks shall be concrete, have a minimum width of four (4) feet on local streets and five (5) feet on major streets, and be constructed in accordance with City engineering standards.
5. Grades shall be clearly illustrated on the plans to insure proper connection to sidewalks on adjacent lands.
6. Sidewalks shall be installed by the proprietor within the dedicated street right-of-way, except that placement within private access easements may be permitted where grades or other factors prevent placement within the street right-of-way.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 3, 7-11-05)

Sec. 23-29. Landscaping.

The selection, size, spacing and planting of all landscaping within a subdivision shall comply with the Zoning Ordinance and the following standards:

1. **Subdivision Entrances.** Subdivision entrances may include landscaping, lighting, identification signs, wrought iron fences or other architectural features. All such features shall comply with the City of Midland Zoning Ordinance. Details of the entranceway may be submitted at any stage in the plat review process.
2. **Required Landscape Greenbelt.** When a subdivision borders on a state highway, county primary road or street classified as a major or minor thoroughfare in the City Master Plan, and wherever a rear yard abuts a public or private road, a minimum twenty (20) foot wide landscape greenbelt shall be provided. This buffer zone may include trees, shrubs, berms, walls or a combination designed in accordance with the landscape standards described in the City of Midland Zoning Ordinance. Existing natural features shall be retained wherever possible to promote a natural appearance and to protect the existing ecosystem within the greenbelt.

(Ord. No. 1603, § 3, 7-11-05)

Sec. 23-30. Easements and Reserve Strips.

1. **Drainageways.** Easements for drainageways, detention and retention ponds and other parts of the stormwater management system shall be provided, as required by the City Engineering Standards and Midland and Bay County Drain Commissioner.
2. **Municipal Services.** The City may require easements to provide access for municipal water and sewer facilities, and to insure the extension of such services to adjoining lands.
3. **Reserve Strips.** Privately held reserve strips controlling access to streets shall be prohibited.
(Ord. No. 1603, § 3, 7-11-05)

Sec. 23-31. Utilities.

It is the purpose of this section to establish and define the public improvements that shall be provided by the proprietor, at his/her expense with or without reimbursement from any public agency or improvement district, as conditions for final plat approval.

1. **Wastewater Treatment.**
 - a. When a proposed subdivision is located within the service area of a public sanitary sewer system with adequate capacity, a sanitary sewer system consisting of appropriate sewer lines, lift stations, and other sanitary sewer system appurtenances shall be provided by the proprietor. This system shall meet all requirements of governmental agencies that have jurisdiction.
 - b. In areas outside of the public sanitary sewer service area septic tanks and disposal fields may be utilized so long as they comply with all applicable requirements of Midland and Bay County and the State of Michigan.
2. **Water Supply.**
 - a. When a proposed subdivision is located within the service area of a public water system with adequate capacity, a water distribution system consisting of appropriate water distribution mains, fire hydrants, and other water system appurtenances shall be provided by the proprietor. This system shall meet all requirements of governmental agencies that have jurisdiction.
 - b. In areas outside of the public water system service area, individual wells or on-site community wells may be permitted. Individual and community wells shall comply with the applicable requirements of Midland and Bay County, the State of Michigan and the City.
3. **Storm Drainage.**
 - a. An adequate storm and surface water drainage system that meets all requirements of the City and the Midland or Bay County Drain Commissioner shall be required. The storm drainage system, which may consist of storm sewers, drain inlets, manholes, culverts, bridges, sedimentation basins, sump pumps, and natural and constructed components, shall be subject to City Engineer and, when applicable, Drain Commissioner approval.

If the City or the County Drain Commissioner accepts or requires storm water retention or detention ponds, the ponds shall be designed in accordance with the regulations found

in Chapter 29 of the City of Midland Code of Ordinances; Stormwater Runoff Regulation and Control.

- b. A subdivision grading plan shall be submitted prior to final plat approval. The grading plan and the plan for managing storm water flow shall be designed to not adversely affect neighboring properties and natural features, or worsen downstream flooding and water quality. Lots shall be laid out so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed to avoid increased flow of storm water from one lot onto adjacent lots.

4. **Soil Erosion and Sedimentation Control.**

- a. In the event that any subdivider or proprietor intends to make changes in the contour of any land proposed to be subdivided, developed, or changed in use by razing, excavating, removal or destruction of the natural topsoil, trees, or other vegetative covering thereon, the property owner or his/her agent shall first apply to the City of Midland for approval of a plan for soil erosion and sedimentation control.
- b. Only a temporary certificate of occupancy shall be issued until final grading of the lot has been completed in accordance with the approved final plat,

5. **Telephone, Electric and Other Cable Services.** Telephone, electric, and other cable services shall be placed underground throughout the subdivision, except as follows:

- a. Wires, cables, poles and associated equipment constituting primary transmission lines, and the above-ground installation of such facilities in or through residential subdivisions is hereby expressly authorized.
- b. Surface equipment associated with an underground distribution system such as, but not limited to, surface mounted transformers, power terminal pedestals, meters and meter boxes, concealed wires, street lights and street poles.
- c. The City Council, upon recommendation from the Planning Commission, may waive or modify this requirement where it finds that underground utilities would be impractical.

Telephone, electric and other cable services shall also comply with the following requirements:

- a. All such services shall be located in the public street right-of-way or in a private easement, which shall generally be located at the front of each lot.
- b. If located in a public street right-of-way, the location and installation of such services shall be planned so as to not conflict with other utilities.
- c. All such services shall be installed in accordance with standards promulgated by the Michigan Public Services Commission and other agencies having jurisdiction.

6. **City Payment.** The City shall pay for that part of required facilities, the size of which exceed that normally required to serve the subdivision under consideration, as determined by the City Engineer.

(Ord. No. 1603, § 3, 7-11-05)

Secs. 23-32--23-34. Reserved.

Section 4. Article IV of Chapter 23 is hereby amended to read as follows:

ARTICLE IV.

ADMINISTRATION AND ENFORCEMENT

Sec. 23-35. Compliance.

1. No subdivision plat required by the Land Division Act (Michigan Public Act 288 of 1967, as amended) shall be admitted to the public land records of the County or received or recorded by the County Register of Deeds, until such subdivision plat has received final approval by the City Council. No public board, agency, commission, official or other authority shall proceed with the construction of or authorize the construction of any of the public improvements required by this Ordinance unless such public improvements have been accepted or otherwise permitted in accordance with the terms of this Ordinance. No public board, agency, commission, official or other authority shall issue building or occupancy permits for structures on lands subject to this Ordinance where the subdivider has not complied with the requirements set forth herein.
2. **Continued Maintenance.** Maintenance of private improvements illustrated on the approved final preliminary plat and final plat and in supporting documentation shall be a continuing responsibility of the subdivision association and individual owners of lots on which the improvements are located.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 4, 7-11-05)

Sec. 23-36. Interpretation, Conflict, and Severability.

1. **Interpretation.** In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements.
2. **Conflict.** Where the conditions imposed by any provisions of this ordinance are either more or less restrictive than comparable conditions imposed by any other provisions of this ordinance or of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.
3. **Separability.** If any provision of this Code or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this Code that can be given effect without the invalid or unconstitutional provision or application, and to such end, the provisions of this Code shall be severable. If any provision of this Code or its application to any person or circumstance is held to be over broad, that provision or application will nevertheless be enforced to the fullest extent permitted by law.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 4, 7-11-05)

Sec. 23-37. Fees.

The proprietor shall be responsible for payment of all fees, based on the fee established by the City Council in Chapter 21 of the City of Midland Code of Ordinances.
(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 4, 7-11-05)

Sec. 23-38. Waivers.

1. **Application For Waiver.** Applications for a waiver from specific provisions of this Ordinance may be made in writing by the proprietor prior to approval of the final preliminary plat. The application shall be supplemented with maps, plans, and other data which may aid the Planning Commission and City Council in their analysis of the proposed waiver.
2. **Planning Commission Recommendation.** The Planning Commission may recommend that the City Council grant a waiver from the provisions of this Ordinance on a finding that undue hardship or practical difficulties would result from strict compliance with specific provisions or requirements of the Ordinance, provided that the waiver does not pertain to requirements of the Zoning Ordinance that are under the jurisdiction of the Zoning Board of Appeals. In making the finding required herein the Planning Commission and City Council shall take into account the nature of the proposed use of land, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No waiver shall be recommended unless the Planning Commission finds, after a public hearing that:
 - a. There are such special circumstances or conditions affecting said property so that the strict application of the provisions of this Ordinance would clearly be impractical or unreasonable.
 - b. The granting of the waiver will not be detrimental to the public welfare or injurious to other property in the area.
 - c. Such variance or waiver will not violate the provisions of the Land Division Act (Michigan Public Act 288 of 1967, as amended) or create a violation of the City Zoning Ordinance.
 - d. Such waiver will not have the effect of nullifying the intent and purpose of this Ordinance and the Master Plan of the City.

In recommending approval of a waiver request, the Planning Commission may suggest requirements or conditions that will, in its judgment, secure the objectives and requirements of this ordinance.

3. **City Council Action.** After receiving the Planning Commission's recommendation, the City Council shall make a decision on the waiver request. In making its decision, the City Council may establish requirements, time constraints or conditions that will, in its judgement, secure substantially the objectives and requirements of this Ordinance. The City Council shall state the reasons for its finding or decisions as part of its official records.
4. **City Council Decision is Final.** The City Council shall have the final authority on waivers from or modifications to the standards of this Ordinance. Appeals of the City Council decisions shall be to a court of law.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 4, 7-11-05)

Sec. 23-39. Vacation of Public Property by City Council.

When the City Council shall deem it advisable to vacate, discontinue, or abolish any street, alley, public ground, or any part thereof in a subdivision, or upon petition received by the City Clerk requesting such vacation, discontinuance or abolition, and containing the names of the petitioner, his address, a description of the property proposed to be vacated, and the reasons therefore, together with the names of all owners of property abutting on that property proposed to be vacated, or whose access to their property would be prohibited thereby, the Council shall:

1. Adopt a resolution referring the matter to the Planning Commission, the City Engineer, and other City departments, as appropriate, for their report and recommendation.
2. Upon receipt of the recommendations, declare, by resolution, the intent to take such action as they may deem advisable and, in the same resolution, shall appoint a time not less than four (4) weeks thereafter when they will meet and hear objections thereto.
3. Cause a notice of hearing with a copy of the resolution to be published once each week for not less than three (3) weeks before the time appointed for such meeting in a newspaper of general circulation in the City, and cause a copy of such notice and resolution to be sent by certified mail to each owner of property abutting the property proposed to be vacated, or whose access to their property would be prohibited thereby.
4. Receive objections to such proposed action either orally at such hearing or in writing filed with the City Clerk prior thereto.
5. Either at the same meeting at which such hearing is held, or at any sub-sequent meeting, adopts a resolution vacating, abolishing, or discontinuing such property, or any portion thereof, on any such conditions as they may deem advisable, or refuse to take such action. Upon receipt of any objections to such proposed action either orally at such meeting or in writing prior thereto, the street, alley, or other public ground or any part thereof shall not be vacated, abolished or discontinued except by concurring vote of four fifths (4/5) of the Councilmen elect. Before any petition seeking vacation of public grounds, or any portion thereof, shall be received by the City Clerk, it must be accompanied by the fee prescribed in Chapter 21 of this code to defray the costs of administration and publication.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 4, 7-11-05)

Sec. 23-40. Property Division.

1. **Division of Land.** The division of any land, whether unplatted or a part of a recorded plat, is prohibited unless approved by the Planning Director or his designee following an application to the City Planning Department. The application shall be filed with the City Planning Department and shall state the reason for the proposed division. The division shall not create a land parcel that is not in accord with the minimum lot area and dimensions standards for the zoning classification of said parcel. The division of any unplatted land or platted lot which results in a smaller area than required by the zoning classification of said land may be permitted only for the purpose of adding to an existing parcel or lot, but no parcel or lot, whether reduced as a result of the division or combined with another parcel or lot, shall be less than the minimum lot area and dimensions standards for the zoning classification of said parcel(s) or lot(s). The division of any platted or unplatted land into more than four (4) parcels, each of which is ten (10) acres or less, shall only be permitted in accord with the Michigan Land Division Act (Act 288 of 1967 as

amended).

2. **Width to Depth Ratio.** The division of a parcel that results in a parcel which does not meet a 1:4 width to depth ratio may be approved based on the following standards:
 - a. There are exceptional topographical or physical conditions with respect to the parcel, and/or;
 - b. The land division will result in a parcel that is compatible with surrounding parcels.
3. **Building Permit.** No building permit shall be issued unless the division has been approved in accord with this section.
4. **Certificate of Occupancy.** No certificates of occupancy shall be issued until the approved division has been properly recorded.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 4, 7-11-05)

Sec. 23-41. Performance Guarantee.

Whenever the City Council permits or requires a performance guarantee as security for required improvements, the performance guarantee shall be in the form of a bank letter of credit, bond, certified check or cash escrow. Any such security shall be in an amount equal to one hundred ten percent (110%) of the estimated cost of completion of the required public improvements. The issuer of the letter of credit or the escrow agent, as applicable, shall be acceptable to the City.

1. **Bank Letter of Credit.** If the proprietor posts a bank letter of credit as security, the credit shall:
 - a. Be irrevocable,
 - b. Be for a term sufficient to cover the completion, maintenance, and warranty periods specified in this ordinance or in other ordinances or regulations for the specific improvement, and
 - c. Require only that the City present the credit with a sight draft and an affidavit signed by an authorized representative of the City attesting to the municipality's right to draw funds under the letter of credit.
2. **Cash Escrow or Certified Check.** If the proprietor posts a cash escrow or certified check as security, the escrow instructions shall provide that:
 - a. The proprietor shall have no right to a return of any of the funds except as provided herein, and
 - b. The escrow agent shall have a legal duty to deliver the funds to the City whenever an authorized representative of the City presents an affidavit to the agent attesting to the City's right to receive funds whether or not the proprietor protests the right.
3. **Release or Reduction of Security.**
 - a. **Certificate of Satisfactory Completion.** The City Council shall not accept dedication of required improvements, or release or reduce the amount of any security posted by the subdivider until the City Engineer has submitted a certificate stating that all required improvements have been satisfactorily completed and until (1) the applicant's engineer or surveyor has certified to the City Engineer, through submission of a detailed "as-built"

survey plat of the subdivision, indicating location, dimensions, materials and other information required as may be required by the City Engineer, that the layout of the line and grade of all public improvements is in accordance with approved construction plans for the subdivision, and (2) a title insurance policy has been furnished to and approved by the City Attorney indicating that the improvements have been completed, are ready for dedication to the City or other agency having jurisdiction and are free and clear of any and all liens and encumbrances. Upon such approval and recommendation by the City Engineer and City Attorney, the City Council may accept the improvements for dedication in accordance with the established procedure.

- b. **Reduction of Escrowed Funds and Security.** If the security posted by the subdivider was a cash escrow, the amount of that escrow shall be reduced upon actual acceptance of the dedication of public improvements and then only to the ratio that the cost of the public improvement for which dedication was accepted bears to the total cost of public improvements for the subdivision. In no event shall a cash escrow be reduced below twenty-five percent (25%) of the principal amount. Funds held in the escrow account shall not be released to the subdivider, in whole or in part, except upon express written instructions of the City Attorney. At the end of the maintenance and warranty periods, all escrowed funds, if any, shall be released to the subdivider. If the security provided by the subdivider was a letter of credit, the City Attorney shall execute waivers of the municipality's right to draw funds under the credit upon actual acceptance of the dedication of public improvements and then only to the ratio that the cost of the public improvement for which dedication was accepted bears to the total cost of public improvements for the subdivision. In no event shall waivers be executed that would reduce the security below twenty-five percent (25%) of the original amount.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 4, 7-11-05)

Sec. 23-42. Enforcement.

1. **Enforcement.** Enforcement of this Ordinance shall be chiefly the responsibility of the Planning and Community Development Director, or his/her designee, who shall have the authority to enforce this Ordinance in accordance with requirements and procedures set forth herein.
2. **Authorized City Official.** The Planning and Community Development Director, or his/her designee are hereby designated as authorized City Officials to investigate alleged violations of this ordinance and to take appropriate action. Such action may include an order to correct the violation, issuance of an appearance ticket pursuant to Michigan Public Act 147 of 1968, as amended, or other actions as provided for by state law and City ordinances.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 4, 7-11-05)

Sec. 23-43. Penalties and Sanctions.

1. **Misdemeanor.** Any violation of this Ordinance shall constitute a misdemeanor. Any person who is convicted shall be subject to punishment by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not exceeding ninety (90) days for each offense, or both, at the discretion of the Court. Each day a violation occurs or continues shall constitute a separate offense.

Furthermore, any property owners, surveyor, engineer, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains any violation of the Ordinance may each be found guilty of a separate offense and may be subject to the penalties provided herein. The cost of prosecution shall also be assessed against the violator.

2. **Continuing Violations.** Each act of violation and every day upon which such violation shall occur shall constitute a separate offense or infraction. Abatements shall not be considered as payment or part of a violation's penalty.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 4, 7-11-05)

Sec. 23-44. Other Remedies.

In addition to all other remedies, including the penalties provided in Section 23-43 of this ordinance, the City may commence and prosecute appropriate actions in the Circuit Court for the County of Bay and/or Midland or any other court having jurisdiction to restrain or prevent any noncompliance with or violation of any of the provisions of this ordinance, or to correct, remedy or abate such noncompliance or violation.

(Ord. No. 1110, § 1, 7-28-86, Ord. No. 1603, § 4, 7-11-05)

Section 5. Article V of Chapter 23 is hereby repealed.

(Ord. No. 1246, § 1, 8-10-92; Ord. No. 1538, § 1, 6-10-02; Ord. No. 1603, § 5, 7-11-05)

Section 6. Article VI of Chapter 23 is hereby repealed.

(Ord. No. 1246, § 1, 8-10-92; Ord. No. 1538, § 1, 6-10-02; Ord. No. 1603, § 6, 7-11-05)

Section 7. Article VII of Chapter 23 is hereby repealed.

(Ord. No. 1246, § 1, 8-10-92; Ord. No. 1538, § 1, 6-10-02; Ord. No. 1603, § 7, 7-11-05)

Section 8. All other subdivision regulations heretofore adopted by the Planning Commission and/or City Council and all amendments thereto, are hereby specifically repealed as of the effective date of this ordinance. All other ordinances conflicting or inconsistent with the provisions of this ordinance, to the extent of such conflict or inconsistency only, are hereby repealed.

(Ord. No. 1603, § 8, 7-11-05)