

201.000 SUBDIVISION OF LAND
Ord. No. 1994-6
Adopted: December 28, 1994

An ordinance to regulate the subdivision of land in the Charter Township of Union. The subdivision of land shall be regulated:

- (1) To further the orderly layout and use of land consistent with the Comprehensive Community Plan, such as, but not limited to subdivisions and condominiums;
- (2) To require that the land be suitable for building sites and public improvements and that there be adequate drainage thereof;
- (3) To control development within floodplain areas;
- (4) To promote the public health, safety and general welfare;
- (5) This legislation is enacted pursuant to the provisions of MCL 51.191, et seq., MCL 42.1, et seq., and MCL 560.101, et seq.

201.001 Definitions.

Sec. I. For the purpose of this Ordinance, certain words used herein are defined as follows:

- 1.01. *Alley*. A public or private right-of-way shown on a plat which provides secondary access to a lot, block or parcel of land.
- 1.015. *Americans with Disabilities Act (ADA)*. Public Law 101-336, signed into federal law on July 26, 1990.
- 1.02. *Block*. A city square, also the length of one side of such a square.
- 1.03. *Board*. The Board of County Road Commissioners of the County of Isabella.
- 1.04. *Board's Specifications*. The requirements and specifications for street construction as issued by the County Road Commission.
- 1.05. *Caption*. The name by which the plat is legally and commonly known.
- 1.06. *Commission*. The Planning Commission of the Charter Township of Union.
- 1.07. *Comprehensive Plan*. The Master Plan or Development Plan which has been adopted by the Planning Commission as specified in [the] zoning ordinance adopted as amended.
- 1.08. *Construction Standards*. Standards and specifications of construction and installation as established and administered by the Charter Township of Union, Isabella County Road Commission, or by any other governmental agencies having jurisdiction.
- 1.09. *County Plat Board*. As defined by Subdivision Control Act of 1967, Public Act 288, as amended.
- 1.10. *Cul-de-sac*. A minor street with only one open end and with the other end being terminated by a vehicular turnaround.
- 1.11. *Easement*. A nonprofitable interest in land owned by another that entitles its holder to a specific limited public or private use.

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- 1.12. *Engineer*. A licensed professional engineer; see subsection 1.40 below.
- 1.13. *Floodplain*. That area of land adjoining the channel of a river, stream, watercourse, lake or other similar body of water which will be inundated by a flood which can reasonably be expected for that region.
- 1.14. *Governing Body*. The Township Board of the Charter Township of Union.
- 1.15. *Government survey*. The land surveyed, subdivided and monumented by the United States Public Land Survey.
- 1.16. *Health Department*. The State, City, County or District Health Department having jurisdiction.
- 1.17. *Improvements*. Street construction and surfacing, curb and gutter, water mains, storm and sanitary sewers, sidewalks, walkways, graded outlots and bridges or culverts.
- 1.18. *Land*. All land areas occupied by real property.
- 1.19. *Lot*. A measured portion of a parcel or tract of land which is described and fixed in a recorded plat.
- 1.20. *Major Street and Thoroughfare Plan*. The master plan of highways, major streets and parkways adopted by the Planning Commission.
- 1.21. *Michigan Coordinate System*. The System defined in State Act No. 9 of the Public Acts of 1964, being Sections 54.231 to 54.239 of the Compiled Laws of 1948.
- 1.22. *Municipality*. Charter Township of Union, Isabella County, Michigan.
- 1.23. *Outlot* (when included within the boundary of a recorded plat). A lot set aside for purposes other than a building site, park, or other land dedicated to public use or reserved to private use.
- 1.24. *Parcel*. A continuous area or acreage of land which can be described as provided for in this Ordinance.
- 1.25. *Planner*. The Planning Consultant, Zoning Administrator, Building Inspector, Township Clerk or any person designated to administer this Ordinance.
- 1.26. *Plat*. A map or chart of a subdivision of land.
- A. *Preliminary Plat*. A map showing salient features of a proposed subdivision submitted to an approving authority for the purpose of preliminary consideration.
- B. *Final Plat*. An instrument by which the subdivision's recorded.
- 1.27. *Proprietor*. A natural person, firm, association, partnership, corporation or combination of any of them which may hold any ownership interest in land whether recorded or not.
- 1.28. *Public sewer*. A sewage system as defined in State Act No. 98 of the Public Acts of 1913, as amended, being Sections 325.201 to 325.214 of the Compiled Laws of 1948.
- 1.29. *Authority*. Co-partnerships or municipal or other public authority providing gas, electricity, water, steam, telephone, sewer for other services of a similar nature.
- 1.30. *Public water*. A water works system, as defined in State Act No. 98 of the Public Acts of 1913, as amended.
- 1.31. *Replat*. The process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot within a recorded subdivision plat without changing the exterior boundaries of the outlot is not a replat.
- 1.32. *School Board*. The Board of Education or legislative body of the local school district.
- 1.33. *School Superintendent*. The administrative head of the local school district.

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- 1.34. *Street*. A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, drive, boulevard, lane, place, court or however otherwise designated.
- A. *Arterial street*. A street which is used primarily for high volume and high speed traffic and designated as arterial in the Comprehensive Plan.
- B. *Collector street*. A street which carries traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of residential development and streets for circulation within such a development.
- C. *Minor street*. A street which is used primarily for access to the abutting properties.
- 1.35. *Subdivider*. A natural person, firm, association, partnership, corporation, or a combination of any of them, intending to subdivide land as defined and controlled by this Ordinance.
- 1.36. *Subdivide* or *subdivision*. The partitioning or dividing of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or of building development, where the act of division creates five or more parcels of land each of which is ten acres or less in area; or five or more parcels of land each of which is ten acres or less in area are created by successive divisions within a period of ten years.
- 1.37. *Subdivision Control Act*. Act 288, Public Acts of Michigan, 1967, as amended.
- 1.38. *Surveyor*. Either a land surveyor who is licensed in Michigan as a Professional Land Surveyor or a civil engineer who is licensed in Michigan as a Professional Engineer.
- 1.39. *Topographical map*. A map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.
- 1.40. *Township Engineer*. The resident or consulting engineer designated as an official engineer for the Township.
- 1.41. *Walkway*. A public or private right-of-way across a block to be used by pedestrians and/or for underground utilities and located so as to connect two or more streets or a street and a public land parcel.
- 1.42. *Zoning Board of Appeals*. The Charter Township of Union Zoning Board of Appeals.
- 1.43. *Zoning Ordinance*. Charter Township of Union Ordinance No. 1991-5, being the Zoning Ordinance of the Charter Township of Union, Isabella County, Michigan, as amended.

201.002 Scope and limitations.

Sec. II.

- 2.01. *Existing recorded subdivision lots*. This Ordinance shall not apply to any lot or lots forming a part of a subdivision created and recorded prior to the effective date of this Ordinance, or to any plat previously granted preliminary plan approval by [the] Governing Body.
- 2.02. *Existing laws, restrictions, covenants*. Nor is it intended by this Ordinance to repeal, abrogate, annual [annul] or in any way impair or interfere:
- A. With existing provisions of other laws or ordinances, except those specifically repealed by this Chapter [Ordinance]; or,
- B. With private restrictions placed upon property by deed, covenant or other private agreement; or,
- C. With restrictive covenants running with the land to which the Township is a party.

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- 2.03. *Greater restrictive provisions control.* Where this Ordinance imposes a greater restriction upon land than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this Ordinance shall control.

201.003 Filing of plats by subdivider.

Sec. III.

- 3.01. *Preliminary Plat specifications.* The Preliminary Plat shall be filed with the Township Clerk in conformity with the requirements and specifications as set forth in the Subdivision Control Act, the Board's Specifications and the following:

- A. The plan shall be drawn to a scale not greater than 200 feet to one inch.
- B. The existing development, including officially platted or dedicated streets within areas adjacent to the proposed plat shall be shown on the plan.
- C. North point and original date shall be shown. Date of revision shall be provided on all revised plans submitted.
- D. Locations and pertinent dimensions of proposed lots and parks.
- E. The locations, size and essential invert elevations of the nearest available public sanitary and storm sewers and water main, existing and proposed, shall be shown.
- F. The proposed numbers of lots shall be shown by numerical order commencing with the number one and with no omissions or duplications.
- G. There shall be no block numbers or letters.
- H. Type and width of proposed roadway construction shall be shown.
- I. A written statement of intent and what action has been taken relative to the installation of utilities and roadway construction shall by [be] furnished.
- J. When the Preliminary Plat includes only a portion of the subdivider's total tract of land, there shall be shown in sketch form the proposed development for the remaining portion of said tract proposed to be subdivided in the future.

- 3.02. *Preliminary Plat approval by Commission.*

- A. *Check for compliance.* Upon receipt of the Preliminary Plat from the Governing Body, the Planning Commission shall review said plat for the purpose of checking its compliance with the Comprehensive Plan, Major Street and Thoroughfare Plan and other specifications of this Ordinance the Subdivision Control Act and the Board's Specifications.
- B. *Written approval with changes indicated.* Indicated recommendations of approval of the Preliminary Plat shall be submitted to the Governing Body for consideration. Written approval by the Commission shall be indicated on the Preliminary Plat along with any changes or requirements that said Commission may make, constituting acceptance thereof as a basis for the preparation of the Final Plat.

- 3.03. *Final Plat specifications.* The Final Plat shall be filed with the Township Clerk in compliance with the requirements of the Subdivision Control Act, the Board's Specifications, and the following:

- A. *Water and sewer feasible and adequate.* A statement by the Township Engineer that the proposed water mains, sanitary sewers, and storm sewers, and storm sewers as shown on the Preliminary Plat, are feasible and adequate to serve the proposed lots and that they conform to the general plan of the District.

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- B. *Financial assurance for sanitary sewers.* Proof of cash deposit or other financial assurance acceptable to the Governing Body, in the amount of the Township Engineer's estimated cost for sanitary sewer construction in accordance with subsection 6.02 [201.006 (6.02)] of this Ordinance.
 - C. *Financial assurance for water mains.* Proof of a cash deposit or other financial assurance acceptable to the Governing Body, in the amount of the Township Engineer's estimated cost for water main construction in accordance with subsection 6.02 [201.006 (6.02)] of this Ordinance.
 - D. *Plat restrictions.* Plat restrictions, if such are proposed by the subdivider, shall be submitted with the Final Record Plat. These restrictions shall become a part of the Final Record Plat and shall be recorded along with the plat in the office of the County Register of Deeds of Isabella County.

201.004. Final Record Plat approval.

Sec. IV.

4.01. *Basis for granting by Commission.* Final Record Plat approval will be recommended only under the following conditions:

- A. That the subdivider has submitted through the Governing Body the Final Record Plat.
- B. That the subdivider has submitted through the Governing Body necessary engineering drawings, as required by this Ordinance, and said drawings have been checked and approved for engineering accuracy by the Township Engineer.
- C. That the subdivider has installed all improvements, or in lieu thereof, has made arrangements for the installation of said improvements in accordance with the provisions of this Ordinance.

4.02. *Recommendations to Governing Body.* After final review, the Commission shall submit recommendations of approval, along with the necessary agreements, restrictions and fees, as required herein, and the Final Record Plat.

4.03. *Action by Governing Body.* Upon receipt of the recommendations on the Final Plat and other material from the Planning Commission, the Governing Body shall take action upon said plat in accordance with the requirements of the Subdivision Control Act, the Board's Specifications, this Ordinance and any other Township Ordinance, Code provisions or regulations.

A. *Disapproval.*

- a. *Notification of reasons in writing.* In case of disapproval, the reasons for such action shall, be [by] written communication, be transmitted to the subdivider and the Commission.
- b. *Resubmission of changes or alterations.* Both the subdivider and the Commission shall, within a reasonable time, resubmit to the Governing Body any changes or alterations stipulated in the Governing Body's action of disapproval.

- B. *Approval.* Upon approval of the Final Plat, the Township Clerk shall, in accordance with the Subdivision Control Act, the Board's Specifications and any other applicable requirements, file said record plat, agreements, and restrictions with the County Clerk.

201.005 General specifications and design standards.

Sec. V. These specifications and standards shall be in conformity with the provisions as set forth in the Subdivision Control Act, the Board's Specifications and the following:

5.01. *Streets and alleys.* The subdivision of land or the dedication of land for streets, alleys, highways, parks or other public uses shall conform to the Major Street and Thoroughfare Plan and Comprehensive Plan.

A. *Location and arrangement.*

- a. In the preparation of [a] new subdivision, provisions shall be made for the continuation of existing or platted streets in adjoining or adjacent subdivisions or parcels of land, insofar as they may be necessary for public requirements. The center lines of such streets shall continue with the center lines of existing streets.
- b. In general, the streets shall extend to the boundary of the subdivision to provide for proper connection with the street system for contiguous and adjacent land.
- c. Contours, when required by the Commission or if topography dictates, shall be provided.
- d. If there exists a dedicated and recorded one-half street on an adjoining plat, the other one-half must be dedicated on the proposed plat to make the street complete.

B. *Right-of-way widths.* Minimum right-of-way widths shall be as follows:

- a. *Arterial, collector, parkways, and local:* Major arterial, collector streets, parkways, and local streets, in accordance with the minimum requirements as set forth in the adopted rules and regulations known as "Requirements and Specifications for Private Road Construction of the Board of County Road Commissioners of Isabella County," effective, [sic] and any amendments thereof, or as may be otherwise required by the terms of the Major Street Plan adopted by the Township Board upon the advice of the Township Planning Commission.
- b. *Alleys and service drives:* 40 feet.
- c. *Walkways:* Ten feet.
- d. *Culs-de-sac:* Width of right-of-way and roadway design for culs-de-sac shall be in accordance with "Requirements and Specifications for New Street Construction of the Board of County Road Commissioners of Isabella County."

C. *Alleys in Residential Districts.* Alleys shall not be accepted in Residential Districts unless specifically required by the Commission.

D. *Street names.* Street names shall not be the same as any other street name presently existing in Isabella County.

5.02. *Blocks.*

- A. *Length.* No block shall be more than 1320 feet in length except along major roads.
- B. *Easements.* In blocks of 660 feet or greater in length, the Commission may require an easement for public utilities at or near the middle of the block.
- C. *Intersecting streets.* The number of intersecting streets along highways and major streets shall be held to a minimum.

5.03. *Lots.*

- A. *Accessible to a public street.* All lots shall have acceptable access to a public street.
- B. *Side lot lines.* The side lines of lots shall be approximately radial or perpendicular to the street upon which the lots face.
- C. *Corporate boundary lines.* No lot shall be divided by a corporate boundary line. Such boundary line may be the lot line or center line of streets or alleys.

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- D. *Widths, depths, and area.* Lot widths, depths and area shall conform to the stipulations as set forth in the Zoning Ordinance.
 - E. *Corner lot width.* Corner lots shall be of sufficient width to allow conformance with building lines as established in the Zoning Ordinance.
 - F. *Restrictive covenant.* Where lots are developed so that they abut an arterial street, highway or parkway and are provided with an alternate means of access, the subdivider may be required to record with the Register of Deeds, Isabella County, Michigan, a restrictive covenant running with the land providing that no right to access by vehicular traffic to the arterial street, highway or parkway is permitted from or onto such lots.
 - G. *Partitioning or dividing.* An existing lot may be partitioned or divided, where each of the resulting parcels is to be developed, or used in conjunction with an immediately contiguous lot as a single building site, in conformance with Ordinance 1991-11, Lot Division in Recorded Plats.

5.04. *General requirements.*

- A. *Variations and Exception Considerations.* In cases where variations and exceptions from the dimensional standards, improvement requirements and open space requirements are deemed necessary due to unusual physical conditions or new design techniques, said variations shall be considered by the Commission and appropriate recommendations made to the Governing Body in accordance with the provisions of Section 9 [201.009].
- B. *Dedicated ingress and egress.* Every subdivision shall have dedicated means of ingress and egress.
- C. *Adequate water or sewer disposal.* No plat shall be approved where inadequate water supply or sewage disposal conditions exist as determined by the Health Department.
- D. *Not specifically stipulated compliance.* Requirements and specifications not specifically stipulated in this Ordinance shall comply with the Subdivision Control Act and the Board's Specifications.

201.006 Improvements: road and street.

Sec. VI. Improvements shall be installed in conformity with the Subdivision Control Act, the Board's Specifications and as follows:

- 6.01. *Installation.* The minimum improvements shall be installed according to the Isabella Road Commission Standards, [which] are as follows:
 - A. *Roadway construction.* Roadway construction shall be in accordance with Requirements and Specifications for Private Road Construction of the Board of County Road Commissions of Isabella County.
 - B. *Culverts and bridges.* Culverts and bridges shall be constructed when determined to be necessary by the official having jurisdiction. The subdivider shall pay 100 percent of the labor and materials needed to construct said culvert and/or bridge.
 - C. *Sanitary sewer lines.* Sanitary sewer lines shall be installed by way of an easement from any portion of the proposed subdivision, of which the subdivider shall pay 100 percent of the labor and materials needed for the installation of up to and including eight-inch diameter sewer mains within the subdivision being platted.
 - D. *Water lines.* Water lines shall be installed by way of an easement from any portion of proposed subdivision, of which the subdivider shall pay 100 percent of the labor and materials needed for the installation of up to and including eight-inch diameter water mains within the subdivision being platted. Provisions shall be made to loop the water lines to the water source.

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- E. *Storm sewer lines.* Storm sewer lines (including catch basins and manholes) shall be installed in accordance with the adopted rules and regulations of the County Drain Commissioner of Isabella County.
 - F. *Utility easement.* A ten-foot utility easement shall be provided in the plat for each lot.
 - G. *Storm drainage.* Rear-lot storm drainage shall be provided as approved by the Township Engineer.
 - H. *Sidewalks.* Sidewalks may be constructed on an easement parallel to or within all road rights-of-way and shall be in accordance with the Americans with Disabilities Act requirements. The cost of said sidewalks shall be paid by the subdivider.
 - I. *Removal and replacement of monuments.* If, during the process of the installation of improvements, it is deemed necessary to remove any monuments or benchmarks, the subdivider or his contractor shall obtain permission from the Township Engineer to make such removal. All monuments or benchmarks removed, relocated or destroyed shall be replaced in their proper location by the subdivider at his expense.
- 6.02. *Financing.* Prior to the final plat approval, the financing of the installation of road and street construction (including storm sewer and drainage facilities) shall be accomplished in accordance with the provisions set forth in the Subdivision Control Act, the Board's Specifications, and for other improvements as follows:
- A. *Water mains and sanitary sewers.* To insure the completion of water mains and sanitary sewers:
 - a. *Deposit for water mains.* The subdivider shall deposit with the Township Treasurer the estimated cost as determined by the Township Engineer of the water mains required to serve the lots in said plat; provided, however, that the estimated cost shall not include the additional cost of water mains larger than eight inches in diameter.
 - b. *Deposit for sanitary sewers.* The subdivider shall deposit with the Township Treasurer the estimated costs as determined by the Township Engineer of the sanitary sewers required to serve the lots in said plat; an amount equal to the number of lots times the unit assessment for the district in which the property is located less the amount of previous assessments against the property. Provided, however, that the estimated cost shall not include the additional cost of sewer mains larger than eight inches in diameter.
 - c. *Added costs paid from Township funds.* When water mains larger than eight inches and sewer mains larger than eight inches are required and water and sewer lines have extended to the plat, the additional cost will be payable from Township funds.
 - d. *Utilities installation expedited.* Upon receipt of deposit for the cost of sanitary sewer and water mains, the Governing Body shall order construction plans, receive bids, award contracts and have said utilities installed as soon as possible, unless a memorandum of understanding between the Township and proprietor is adopted by the Governing Body.
 - e. *Final accounting of funds.* When construction is completed, the final accounting of the funds deposited will be made with the subdivider.
 - f. *Petition for installation and assessment.* The subdivider may request, by petition of the Governing Body, the installation of the improvements required by the subdivider, wherein the Governing Body may install all or any of the required improvements, and assess the subdivider for said improvements costs, under conditions which the Governing Body may determine.
 - B. *Pavements and storm drainage.*

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- a. *Under jurisdiction of County.* Pavements and storm drainage in subdivisions under the jurisdiction of the Board of County Road Commissioners of Isabella County shall be constructed in accordance with the rules and regulations of the Board of County Road Commissioners of Isabella County.
 - b. *Under Jurisdiction of Township.* In subdivisions not under the jurisdiction of the Board of County Road Commissioners of Isabella County, arrangements shall be made with the Township in the same manner as for sanitary sewers and water mains.

201.007 Amendments.

Sec. VII.

7.01. *Supplement or change authorized.* The Governing Body may, by ordinance, amend, supplement or change this Ordinance.

7.02. *After public hearing with notice.* Provided that prior to such amendment, a public hearing is held by both the Commission and the Governing Body after giving notice of hearing at least 15 days prior to the date of hearing, by publication in an official paper of general circulation in the Township and by United States mail to each public utility company and railroad company registered with the Township to receive such notice.

7.03. *Filed with County.* A copy of such amendment, supplement or change shall be filed with the County Register of Deeds.

201.008 Variances.

Sec. VIII.

8.01. *For hardship or because impracticable.*

A. *Authority established.* The Township Planning Commission may recommend to the Township Board a variance from the provisions of this Ordinance on a finding:

- a. The [that] undue hardship may result from strict compliance with specific provisions or requirements of the Ordinance; or
- b. That application of such provision or requirement is impracticable.

B. *Desirable for public interest.* The Planning Commission shall only recommend variances that it deems necessary to or desirable for the public interest.

C. *Consideration.* In making its finding, as required hereinbelow, the Planning Commission shall take into account:

- a. The nature of the proposed use of land and the existing use of land in the vicinity;
- b. The number of persons to reside or work in the proposed subdivisions; and,
- c. The probable effect of the proposed subdivision upon traffic conditions in the vicinity.

D. *Findings.* No variance shall be recommended unless the Planning Commission finds after a public hearing:

- a. That there are such special circumstances or conditions affecting said property that the strict application of the provisions of this Ordinance would clearly be impracticable or unreasonable. In such cases the subdivider shall first state his reasons in writing as to the specific provision or requirement involved and submit them to the Planning Commission.

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- b. That the granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
 - c. That such variance will not violate the provisions of the State Subdivision Control Act.
 - d. That such variance will not have the effect of nullifying the interest and purpose of this Ordinance and the Comprehensive Development Plan of this Township.
- E. *Variance findings recorded in minutes.* The Planning Commission shall include its findings and the specific reasons and actions therefor in its minutes.
- 8.02. *Topographical, physical limitation.* Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this Ordinance would result in an extraordinary hardship to the subdivider because of unusual topography, other physical conditions, or other such conditions which are not self-inflicted, or that these conditions would result in inhibiting the achievement of the objectives of this Ordinance, the Planning Commission may grant a variance modification or a waiver of these requirements.
- 8.03. *Planned Unit Development.* The developer may request a variance from specified portions of this Ordinance in the case of a Planned Unit Development.
- A. *Consideration.* The Planning Commission shall take into account:
- a. The nature of the proposed use of land and existing use of land in the vicinity;
 - b. The number of persons to reside or work in the proposed subdivision; and,
 - c. The probable effect of the proposed subdivision upon traffic conditions in the vicinity.
- B. *Findings.* If, in the judgement of the Planning Commission, such a plan provides adequate public spaces and includes provisions for efficient circulation, light and air and other needs, it shall make findings, as required hereinbelow:
- a. The proposed project will constitute a desirable and stable community development.
 - b. The proposed project will be in harmony with adjacent areas.

201.009 Title.

Sec. IX. This Ordinance shall be known and cited as the Charter Township of Union Ordinance Number 1994-6, Subdivision Control Ordinance.

201.010 Severability.

Sec. X. The provisions, sections, sentences and phrases of this Ordinance are declared to be severable and if any such portion is declared unconstitutional or invalid for any reason by a court of competent jurisdiction, such finding shall in no way affect or invalidate the remainder of the Ordinance.

201.011 Effective date.

Sec. XI. This Ordinance shall take effect immediately after publication.

201.012 Repealer.

[Sec. XII.] All ordinances or parts of ordinances in conflict herewith are hereby repealed.