

# **CHARTER TOWNSHIP OF FLUSHING**

**6524 N. SEYMOUR ROAD  
FLUSHING, MICHIGAN 48433  
BOARD OF TRUSTEES MINUTES**

**DATE: NOVEMBER 15, 2018**

**TIME: 7:00 P.M.**

**PHONE: 810-659-0800**

**FAX 810-659-4212**

**WEB PAGE: <http://flushingtowship.com>**

**ADMINISTRATION:**

**SUPERVISOR:** Frederick R. Thorsby  
**CLERK:** Wendy D. Meinburg  
**TREASURER:** Terry A. Peck

**TRUSTEES:**

Jenifer Almassy  
Linda Minarik  
William L. Westenbarger  
Sharilynn K. Willette

**TOWNSHIP ATTORNEY:**

**STEVEN W. MOULTON PLLC**  
6258 W. Pierson Road  
Flushing MI 48433  
810-407-7658

- I. MEETING CALLED TO ORDER** at 7:00 P.M. by **SUPERVISOR FREDERICK R. THORSBY** with Roll Call and the Pledge of Allegiance to the American Flag.
- II. ROLL CALL:** Linda Minarik, Fred Thorsby, Jenifer Almassy, Wendy Meinburg, William Westenbarger, and, Terry Peck. Attorney Steven Moulton was also present.

**MEMBERS ABSENT:** Vacant Trustee Position

**OTHER INDIVIDUALS PRESENT:** Ten (10)

**APPROVAL OF AGENDA FOR NOVEMBER 15, 2018:**

Supervisor Thorsby suggested amending the agenda by moving Item eight to Item 1a.

**TREASURER PECK MOVED**, supported by Clerk Meinburg to approve the agenda as amended for November 15, 2018.

**THE MOTION CARRIED.**

**APPROVAL OF DRAFT MINUTES OF REGULAR BOARD MEETING OF OCTOBER 11, 2018 MEETING.**

**TRUSTEE WESTENBARGER MOVED**, supported by Treasurer Peck to approve the minutes

of October 11, 2018 Board Meeting.

**THE MOTION CARRIED.**

**APPROVAL OF PAYMENT OF BILLS:**

**TREASURER PECK MOVED**, supported by Trustee Westenbarger to approve the payment of bills.

**THE MOTION CARRIED.**

**TRUSTEE ALMASSY MOVED**, supported by Clerk Meinburg to combine the two public comments due to the weather conditions and closed session, thereby, giving the public an opportunity to speak on any topic.

**ACTION ON THE MOTION:**

**ROLL CALL VOTE**

**AYES:** Thorsby, Meinburg, Almassy and Peck

**NAYS:** Westenbarger and Minarik

**THE MOTION CARRIED**

**III. PUBLIC COMMENTS:**

**OPEN FOR PUBLIC COMMENTS:** 7:07 P.M.

No comments

**CLOSED FOR PUBLIC COMMENTS:** 7:08 P.M.

**IV. OLD BUSINESS:**

1. Second reading of an ordinance to Amend Sections 20-400, 20-404, 20-411 and 20-1804 of The Charter Township of Flushing Zoning Ordinance to revise the definition of accessory building and to provide rules for the construction, placement, and use of accessory structures in the township. – Supervisor

**TRUSTEE ALMASSY MOVED**, supported by Clerk Meinburg to amend sections 20-400, 20-404, 20-411 and 20-1804 of The Charter Township of Flushing Zoning Ordinance to (1) specify the foundation requirements for attached accessory structures; to specify lot coverage limitations; placement and set back requirements for accessory structures; to amend the maximum permitted square footage of temporary accessory structures; (2) establish the priority of section 20-762 over section 20-411; and (3) to correct a typographical error in section 20-404(1) as stated below:

**CHARTER TOWNSHIP OF FLUSHING  
AMENDMENT TO SECTIONS 20-400, 20-411 AND 20-  
404(1) OF ZONING ORDINANCE**

THE CHARTER TOWNSHIP OF FLUSHING ORDAINS:

1. Section 20-400 of the Zoning Ordinance is amended and restated in its entirety as follows:

**Section 20-400 Accessory Structures**

(a) **Attached Accessory Structures.** An accessory structure attached to the principal building on a lot shall be made structurally a part thereof, and shall comply with the yard requirement of this Ordinance applicable to principal buildings. The footings, foundation and all aspects of the accessory structure shall be to the same construction code requirements applicable to the principal structure.

(b) **Detached Accessory Structures.** A detached accessory structure shall not be closer than five (5) feet from the rear lot line and ten (10) feet from the side lot lines, except as otherwise provided in this Ordinance. An accessory structure may be located in the side or rear yards only, and, unless a greater distance is required by other applicable law, code or regulation, shall not be closer than ten (10) feet to the principal structure, or any other structure located on the property. The total square footage of the footprint of the principal structure and all accessory structures shall not exceed 25% of the square footage of a lot zoned RSA and 30% of the square footage of a lot zoned RU-1, or located in the front yard unless permitted in the front yard by issuance of a discretionary special use permit pursuant to Section 20-1804(A) of this Ordinance.

(c) **Accessory Structure Without Principal Building.** An accessory structure otherwise permissible under this Ordinance may be located on a lot without a principal building, by issuance of a discretionary special use permit pursuant to Section 20-1804(A) of this Ordinance.

(d) **Temporary Accessory Structures.** Temporary accessory structure is defined as a building or other structure which is not connected to water, septic, sewer, natural gas, propane, or any utility except electricity used only to light the temporary accessory structure; and, which is used solely for purposes of storage.

No more than one temporary accessory structure, not exceeding 200 square feet in area and 10 feet in height, may be placed in the rear or side yard of a residential lot, on which is located a principal dwelling, without permit. Placement of the temporary accessory structure shall be in accordance with the set back requirements of this Ordinance. Such temporary accessory structure may be moved on the lot, so long as the required set backs are maintained and may be removed from the lot and brought back without further permit. Placement of a temporary accessory structure which exceeds 200 square feet in area or 10 feet in height, or placement of more than one temporary structure on the same lot, shall require a permit to be issued by the local building official.

2. Section 20-411 of the Zoning Ordinance is amended by adding the following language as the first sentence to 20-411:

To the extent the requirements of this Section 20-411 conflict with the requirements of any other section of the Zoning Ordinance regarding minimum setbacks, the provisions of the other section, including but not limited to Section 20-702 shall control, even where the setback at issue is measured from a right of-way.

3. Section 20-404(1) of the Zoning Ordinance is amended with the first sentence of 20-404(1) amended and restated as follows:

The plan outline of the dwelling, including only heated living area with foundations shall be large enough to contain within it a square of 20 feet on a side.

Except for the stated amendment to the first sentence, the remainder of Section 20-404(1) remains in effect unchanged.

Adopted the \_\_\_\_\_ day of \_\_\_\_\_, 2018, by vote of the Charter Township of Flushing Board of Trustees. This ordinance shall be effective upon publication as required by statute.

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Wendy Meinburg, Clerk

**ACTION ON THE MOTION:**

**ROLL CALL VOTE**

**AYES:** Meinburg, Peck, Almassy, Minarik, Westenbarger and Thorsby

**NAYS:** None

**THE MOTION CARRIED**

**V: NEW BUSINESS**

1. Appointment of new Flushing Board Trustee - Supervisor

**TREASURER PECK MOVED**, supported by Clerk Meinburg to appoint Sharilynn Willette to the vacant position on the Board of Trustees.

**ACTION ON THE MOTION:**

**ROLL CALL VOTE**

**AYES:** Peck, Almassy, Minarik, Westenbarger, Thorsby and Meinburg

**NAYS:**

**THE MOTION CARRIED**

Clerk Meinburg swore in Sharilynn Willette to the Board of Trustees.

2. Closed session for the purpose of discussion of pending litigation of police lawsuit-Supervisor

**TREASURER PECK MOVED**, supported by Trustee Westenbarger to meet in closed session pursuant to AP Act for the Board of Trustees to meet with Township Counsel.

**ACTION ON THE MOTION:**

**ROLL CALL VOTE**

**AYES:** Thorsby, Meinburg, Peck, Almassy, Minarik, Westenbarger and Willette

**NAYS:** None

**THE MOTION CARRIED UNANIMOUSLY**

**TIME INTO CLOSED SESSION:** 7:21 P.M.

**TIME RETURN FROM CLOSED SESSION:** 7:45 P.M.

**ROLL CALL UPON RETURN FROM CLOSED SESSION:** Thorsby, Meinburg, Peck, Almassy, Westenbarger, Minarik and Willette

3. Appointment of Terry Peck to the Planning Commission as the Board Representative – Supervisor

**TRUSTEE WESTENBARGER MOVED**, supported by Clerk Meinburg to appoint Treasurer Peck to the Planning Commission as the Board Representative.

**THE MOTION CARRIED UNANIMOUSLY**

4. First reading of Criminal Code 18-03 – Supervisor

**TRUSTEE ALMASSY MOVED**, supported by Clerk Meinburg to approve the first reading of the Criminal Code 18-03.

**ACTION ON THE MOTION:**

**ROLL CALL VOTE**

**AYES:** Minarik, Almassy, Willette, Peck, Meinburg, Thorsby and Westenbarger

**NAYS:** None

**THE MOTION CARRIED UNANIMOUSLY**

5. First reading of Ordinance 18-04 regulating land divisions – Supervisor

**CLERK MEINBURG MOVED**, supported by Treasurer Peck to approve the first reading of Ordinance No. 18-04 Land Divisions as stated below:

CHARTER TOWNSHIP OF FLUSHING  
GENESEE COUNTY, MICHIGAN  
ORDINANCE NO. 2018-04

AN ORDINANCE TO REGULATE PARTITIONING OR DIVISION OF PARCELS OR TRACTS OF LAND, ENACTED PURSUANT TO THE LAND DIVISION ACT, MCL 560.101, ET SEQ.; TO PROVIDE PROCEDURES THEREFORE; TO REPEAL ANY ORDINANCE OR PROVISION IN CONFLICT; AND, TO PRESCRIBE PENALTIES AND ENFORCEMENT REMEDIES FOR VIOLATION.

THE CHARTER TOWNSHIP OF FLUSHING ORDAINS:

Section I-Title

This ordinance shall be known and cited as the Township Land Division Ordinance.

Section II-Purpose

The purpose of this ordinance is to carry out the provisions of the Land Division Act, MCL 560.101, et seq., (the Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and the Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of residents and property owners of the Township by establishing reasonable standards for prior review and approval of land divisions within the Township.

### Section III-Definitions

For purposes of this ordinance, certain terms and words used herein shall have the following meanings:

A. "Applicant" means a natural person, firm, association, partnership, corporation or combination of any of them that holds an ownership interest in land, whether recorded or not.

B. "Divide" or "Division" means the partitioning or splitting of a parcel or tract of land by the proprietor or the proprietor's representatives, successors or assigns for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the Act. "Divide" and "Division" does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and, any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the Act or the requirements of other applicable ordinances.

C. "Exempt split" or "exempt division" means the partitioning or splitting of a parcel or tract of land by the proprietor that does not result in one or more parcels of less than 40 acres or the equivalent.

D. "Forty acres or the equivalent" means 40 acres, or 1/4-1/4 (quarter-quarter) section containing not less than 30 acres, or a Government Lot containing not less than 30 acres.

### Section IV-Prior Approval Requirement for Land Divisions

Land in the Township shall not be divided without the prior review and approval of the Township Assessor, or other official designated by the Township Board, in accordance with this Ordinance and the Act.

### Section V-Application for Land Approval

An applicant shall file all of the following with the Township Assessor or other official designated by the Township Board for review and approval of the proposed land division before making any division by deed, land contract, lease for more than one year, or for building development:

A. A completed application on such form as may be approved by the Township Board.

B. Proof of fee ownership of the land proposed to be divided.

C. A tentative parcel map drawn to scale including an accurate legal description of each proposed division, and showing the boundary lines, approximate dimensions, and the accessibility of each division for automobile traffic and public utilities.

D. Proof that all standards of the Act and this Ordinance have been met.

E. If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.

F. A fee in an amount to be established by the Township Board from time to time, to cover the cost of review of the application and administration of this Ordinance and the Act.

#### Section VI-Procedure for Review of Applications for Land Division Approval

A. The Township shall approve or disapprove of the land division application within 45 days of receipt of a completed application conforming to this Ordinance's requirements and the Act, and shall promptly notify the applicant of the decision and, if denied, the reasons for the denial.

B. Any person or entity aggrieved by the decision of the Assessor or designee may, within 30 days of the decision, appeal the decision to the Township Zoning Board of Appeals which shall consider and resolve the appeal.

C. The Assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.

D. Approval of the division is not a determination that the resulting parcels comply with other ordinances or regulations.

E. The Township and its officers and employees shall not be liable for approving a land division if building permits for construction of the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to this effect.

#### Section VII-Standards for Approval of Land Divisions

A proposed land division reviewable by the Township shall be approved if the following criteria are met:

A. All parcels created by the proposed division(s) shall meet the minimum width, frontage and area requirements of the appropriate Zoning District, unless otherwise provided for by Township Ordinance.

B. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-development sites. The depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement.

C. The proposed land division(s) comply with all requirements of this Ordinance and the Act.

D. All parcels created and remaining have existing adequate accessibility, or an area available therefore, for public utilities and emergency and other vehicles.

#### Section VIII-Consequences of Noncompliance with Land Division Approval Requirements

Any division of land in violation of any provision of this Ordinance shall not be recognized as a land division on the Township tax roll or assessment roll until the assessing officer refers the suspected

violation or nonconformity to the prosecuting attorney and gives written notice to the person requesting the division and the person suspected of the violation or potential non- conformity of such referral to the prosecuting attorney. The Township shall further have the authority to initiate injunctive or other relief to prevent any violation or continuance of any violation of this Ordinance. Any division of land in violation of this Ordinance shall further not be eligible for any zoning or building permit for any construction or improvement.

In addition, any person, firm or corporation who violates any of the provisions of this Ordinance shall be deemed responsible for a civil infraction which shall be punishable by civil fine of not more than \$500 along with costs which may include all expenses, direct and indirect, incurred by the Township in connection with the civil infraction, including reasonable legal fees. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan law.

Pursuant to Section 267 of the Act, MCL 560.267, an unlawful division or split shall also be voidable at the option of the purchaser and shall subject the seller to the forfeiture of all consideration received or pledged therefore, together with any damages sustained by the purchaser, recoverable in an action at law.

Section IX-Severability

The provisions of this Ordinance are severable and if any part is determined void or unenforceable for any reason by a court with jurisdiction, such determination shall not affect any other part of the Ordinance.

Section X-Appeal

Any previous ordinances affecting unplatted land divisions in conflict with this Ordinance are hereby repealed; however, this Ordinance shall not be construed to repeal any provision of any applicable Zoning Ordinance, Building Codes or other ordinances of the Township that shall remain in full force and effect notwithstanding any land division approval hereunder.

Section XI-Effective Date

This Ordinance shall take effect upon publication following adoption.

PASSED AND APPROVED BY THE CHARTER TOWNSHIP OF FLUSHING BOARD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
Frederick Thorsby, Supervisor

Attest:

\_\_\_\_\_  
Wendy Meinburg, Township Clerk

First reading: \_\_\_\_\_  
Adopted: \_\_\_\_\_

**ACTION ON THE MOTION:  
ROLL CALL**

**AYES:** Almassy, Willette, Peck, Meinburg, Thorsby, Westenbarger and Minarik



**NAYS:** None

**THE MOTION CARRIED UNANIMOUSLY**

6. Approval of an agreement with Rowe Professional Services Company to prepare the grant application to put a kayak launch in the Flushing Township Nature Park. – Supervisor

**TREASURER PECK MOVED**, supported by Trustee Almassy moved to approve the agreement with Rowe Professional Services Company to prepare the grant application to put a kayak launch in the Flushing Township Nature Park.

**ACTION ON THE MOTION:**

**ROLL CALL**

**AYES:** Willette, Peck, Meinburg, Thorsby and Almassy

**NAYS:** Westenbarger and Minarik

**THE MOTION CARRIED**

7. Approval of the Quarterly Budget for September 2018 – Supervisor

**CLERK MEINBURG MOVED**, supported by Trustee Westenbarger to approve the Quarterly Budget September, 2018.

**THE MOTION CARRIED UNANIMOUSLY.**

8. Approval of the Financial Reports for September and October 2018 – Treasurer

**TREASURER PECK MOVED**, supported by Trustee Westenbarger to approve the Financial Reports for September and October, 2018.

**THE MOTION CARRIED UNANIMOUSLY.**

9. Motion regarding the pending litigation – Supervisor

**TREASURER PECK MOVED**, supported by Trustee Almassy to accept the recommendation of Counsel regarding the pending litigation.

**ACTION ON THE MOTION:**

**ROLL CALL**

**AYES:** Peck, Meinburg, Thorsby, Westenbarger, Minarik, Almassy and Willette

**NAYS:** None

**THE MOTION CARRIED UNANIMOUSLY**

**VI. REPORTS:**

1. Supervisor's Report – Given by Supervisor Thorsby
2. Clerk's Report – Given by Clerk Meinburg

3. Treasurer's Report – Given by Treasurer Peck
4. Police Report – Given by Supervisor Thorsby
5. Fire Department Report - Given by Supervisor Thorsby

**VII. PUBLIC COMMENTS:**

**OPEN FOR PUBLIC COMMENTS: 8:34 P.M.**

No Individuals gave comments

**CLOSED FOR PUBLIC COMMENTS: 8:35 P.M.**

**VIII. BOARD COMMENTS:**

Board Member comments by Trustees Westenbarger and Almassy, and Treasurer Peck and Clerk Meinburg.

Supervisor Thorsby informed the Board of a Special Board Meeting, Wednesday, November 21, 2018

**IX. NEXT REGULAR MEETING**

December 13, 2018 at 7:00 P.M.

**X. ADJOURNMENT:**

**TRUSTEE WESTENBARGER MOVED**, supported by Trustee Minarik to adjourn the meeting at 8:50 P.M.

**THE MOTION CARRIED UNANIMOUSLY.**

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WENDY D. MEINBURG, Clerk

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FREDERICK R. THORSBY, Supervisor

APPROVED DATE \_\_\_\_\_

RECORDING SECRETARY: Joyce A. Wilson, Deputy Clerk  
11/15/2018