

TOWNSHIP OF LIMA
WASHTENAW COUNTY, MICHIGAN

DRAIN TILE SYSTEMS
Ordinance Number 32

AN ORDINANCE TO SET FORTH RULES AND REGULATIONS TO PROTECT AND PRESERVE DRAIN TILES IN LIMA TOWNSHIP TO INSURE THE PROPER DRAINAGE OF LAND IN ORDER TO SECURE THE PUBLIC HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS AND PROPERTY OWNERS OF THE TOWNSHIP OF LIMA.

The Township of Lima, Washtenaw County, Michigan, Hereby Ordains:

Section 1 - Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means the person or entity, whether as the owner of the land or the owner's representative, applying for a building permit from the Township building department.

Benefited property means any property which is served directly by drain tiles.

Zoning Administrator means the zoning administrator for the Township or other Township official acting as the zoning administrator.

Drain tile means any system of tile or piping, regardless of the composition of the materials of such tiles or piping, designed or used to remove moisture contained in the soil.

Property means the property for which an applicant seeks a building permit from the Township building department.

Proposed activity means any grading, filling or construction activity which may damage or destroy drain tile on the property.

Section 2 - Approval prior to issuance of building permit.

With the exception of normal farming activity, no person may commence any grading, filling, construction or improvement to property within the Township except pursuant to this ordinance. The Township shall not authorize the issuance of a building permit pertaining to grading, filling,

construction, or improvements to property which may disturb or damage drain tile unless the applicant has obtained a drain tile preservation certificate, as described in Section 4. The Zoning Administrator shall not issue a drain tile preservation certificate unless the applicant meets all of the requirements of this ordinance. The requirement for a drain tile preservation certificate shall be waived for interior work, or minor projects such as fences decks, patios, sheds, or other similar projects if the Zoning Administrator can determine that the activity will not affect any drain tiles. Upon approval of a final site plan or plot plan for the proposed activity that includes the information set forth in this ordinance, the Zoning Administrator shall issue a drain tile preservation certificate for the proposed activity.

Section 3 - Investigation into presence of drain tile.

Prior to applying for a building permit for the proposed activity on the property, the applicant shall make a good faith investigation as to whether any drain tile exists on the property. If drain tile exists on the property, the applicant shall provide to the Zoning Administrator the information stated in Section 4. If the applicant determines that no drain tile exists on the property, the applicant will provide a written statement to the Zoning Administrator representing that, following a good faith investigation, there is no evidence to indicate the existence of any drain tile on the property. If the applicant has provided a false representation, or if the applicant knowingly disturbs or damages drain tile contrary to Section 4 and Section 6, the applicant shall be subject to the penalties provided in Section 8.

Section 4 - Drain tile preservation certificate.

- (a) *When no drain tile exists:* If no drain tile exists on the applicant's property, as represented by the applicant and as otherwise known to the Township, the Zoning Administrator shall issue a drain tile preservation certificate.
- (b) *When drain tile exists:* If drain tile exists on the applicant's property, the applicant shall submit to the Zoning Administrator a scaled drawing showing the location of the drain tile on the property, and a plan:
 - (1) Demonstrating that the proposed activity will not disturb drain tile or drainage of the property or benefited property; or
 - (2) A proposal for drainage of the property and any benefited property by an alternative drainage system and evidence that such alternative drainage system will not adversely affect drainage of the property or benefited property. Such alternative drainage systems may be relocated within the development area. Such relocation shall maintain sufficient slope and capacity to prevent sedimentation and to prevent an increase in scouring or structural damage to the conduit. Such alternative systems shall only be permitted with the consent and approval of the Township. The Township may request a review of the plans by the Township Engineer if there are concerns or discrepancies in the plan. Additionally, the Township shall have the right to require the plan to be prepared by a registered civil engineer upon finding that the proposal is complicated or potentially problematic either upstream or downstream from the proposed work. If a review of the plans by the Township Engineer are required, the

applicant shall make a deposit into an escrow account based on the Township Fee Schedule to be used for cost associated with the review.

- (c) *Requirements for approval of alternative drainage system.* Prior to approving an alternative drainage system, the applicant must demonstrate to the satisfaction of the Township:
 - (1) That the proposed activity must be constructed in a location or in a manner which would disturb or damage existing drain tile; and
 - (2) That the proposal for alternative drainage will provide adequate drainage for the property and benefited property.
- (d) *Review by Zoning Administrator.* The Zoning Administrator shall review the information provided by the applicant and issue a drain tile preservation certificate for the proposed activity if the following conditions are met:
 - (1) The submitted plans and information are determined to be accurate and acceptable; and
 - (2) No new structures or newly planted trees are proposed within ten feet of the existing drain tile or the proposed alternative drainage system.
- (e) *Right to enter for inspection; easement.* For the public purpose of preserving drainage within the Township, the Township shall have a right to enter the property to inspect the drain tile or alternative drainage system to ensure proper functioning and maintenance, and the Township shall have an easement for such purposes, although the Township is not obligated by this ordinance to so maintain drain tile or alternative drainage systems.

Section 5 - Drain tile mapping.

The Township shall establish and maintain a map of the drain tiles within the Township. The map shall be developed primarily based on the drawings submitted by individual property owners when drain tile preservation certificates are issued, but other information which becomes available to the Township and which has been confirmed shall also be included on the map. The intent of the map is to record information as it becomes available for future reference, therefore the Township map may not include all existing tiles. A review of the drain tile map will not satisfy the requirement for a good faith investigation required in Section 3.

Section 6 - Drain tile discovered after construction activity begins.

If an applicant discovers any drain tile not identified pursuant to the investigation required by Section 3, the applicant shall immediately cease all grading, filling, construction or improvement activity on the property which might disturb or damage the newly discovered drain tile, and shall inform the Zoning Administrator of the newly discovered drain tile. The applicant then shall provide the Zoning Administrator with the information required in Section 4 pertaining to the new drain tile, and if acceptable pursuant to the terms of Section 4, an amended drain tile preservation certificate shall be

issued by the Zoning Administrator. If drain tile was damaged the applicant shall promptly repair or replace it in accordance with requirements of the Zoning Administrator and this Ordinance.

Section 7 - Variances.

- (a) *Reasons for granting.* If drain tile exists on the applicant's property and there is some practical difficulty, special condition or unnecessary hardship in constructing the alternative drainage system, or in otherwise carrying out the strict provisions of this ordinance, the Township Board shall have the power to vary or modify the application of the terms of this ordinance in order to observe its intent, secure public welfare, and insure substantial justice to the applicant as well as any benefiting property owners.
- (b) *Application.* An applicant may apply for a variance from any provision of this ordinance by filing an application for variance in the form provided by the Township which shall contain information necessary for the Township Board to make a proper determination on the request, including the relationship of the applicant to the owner of the property, the owner's authorization of such variance request, and the special conditions and circumstances or unnecessary hardship that exists which are peculiar to this property which requires the granting of a variance. The Township Board shall hold a public hearing upon such application for variance within 45 days from its filing. The Clerk shall give notice of the hearing to all the owners of all benefited property and all properties abutting the property. The notice shall be mailed to each such party and published in a newspaper of general circulation in the Township not later than seven days prior to the hearing. Any party may appear and comment at the hearing in person or by an agent. The Township Board shall keep a record of the hearing and shall render a written decision within a reasonable period of time after the hearing date.
- (c) *Board may attach reasonable conditions.* The Township Board may attach reasonable conditions in granting any variance from the provisions of this ordinance; if the applicant fails to comply with these conditions, the variance shall become void.

Section 8 - Violations of Ordinance.

- (a) In the event of a violation of this ordinance involving the disturbance or damage to existing drain tile or drainage for property or a benefited property, the Township, through the Zoning Administrator, shall have the power to order complete restoration of the drain tile and drainage by the applicant. If the applicant does not complete the restoration within a reasonable time following the order, the Township shall have the authority to restore the drain tile to its prior condition, and the applicant shall be liable for any and all costs incurred by the Township in the restoration of the drain tile, including, but not limited to, any consultants fees, construction costs, and attorney's fees.
- (b) Violation of this ordinance shall be deemed to be a municipal civil infraction.

Section 9 - Repealer.

All other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.

Section 10 - Savings Clause.

Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

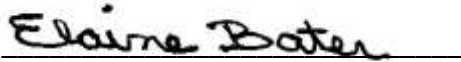
CLERK'S CERTIFICATE

I, Elaine Bater, being the duly appointed Clerk of Lima Township, Washtenaw County, Michigan, state that on July 11, 2016, at a regular meeting of the Lima Township Board of Trustees, the Board adopted the Lima Township Preservation of Drain Tile Systems Ordinance Number 32. The following members voted:

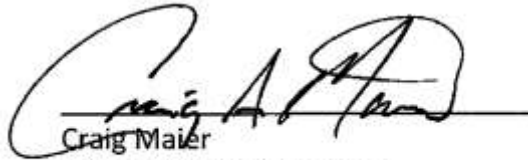
Ayes: Bater, Maier, McKenzie, Havens

Nays: None

Absent or abstain: Laier



Elaine Bater
Lima Township Clerk
Date: October 3, 2016



Craig Maier
Lima Township Supervisor
Date: 11 July, 2016

The Ordinance was declared adopted and published in the Sun Times on July 27, 2016, and became effective thirty (30) days following publication.

Adoption: July 11, 2016

Publication: July 27, 2016

Effective Date: August 27, 2016

Elaine Bater
Lima Township Clerk