

LAND DIVISION ACT
ORDINANCE
ADOPTED: MAY 2, 2016

EFFECTIVE DATE: May 9, 2016

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to the Land Division Act, Public Act 288 of 1967, as amended, (MCL 560.101, et seq.) and the Township Ordinances Act, Public Act 246 of 1945, as amended, (MCL 41.181, et seq.), being the Township General Ordinance statute; to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this ordinance.

TOWNSHIP OF COLDWATER, BRANCH COUNTY, MICHIGAN, 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, Public Act 288 of 1967, as amended (MCL 41.181, et seq.), formerly known as the Subdivision Control Act, to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the 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 meaning:

- 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 thereof or by his/her heirs, executors, administrators, legal 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 Land Division Act (MCLs 560.108 and 560.109). "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 Land Division Act, or the requirements of other applicable local ordinances.

- C. "Exempt Split" or "Exempt Division" means the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his/her heirs, executors, administrators, legal representatives, successors or assigns, 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 a 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 Land Division Act; provided that the following shall be exempted from this requirement:

- A. A parcel proposed for subdivision through a recorded plat pursuant to the Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the Land Division Act.
- C. An exempt split as defined in this Ordinance, or other partitioning or splitting that results in parcels of 20 acres or more if each is not accessible and the parcel was in existence on March 31, 1997, or resulted from exempt splitting under this 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 a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development.

- A. A completed application form 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 dimension, and the accessibility of each division for automobile traffic and public utilities.
- D. Proof that all standards of the Land Division 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 to cover the costs of review of the application and administration of this Ordinance and the Land Division Act shall be established by the Township Board.

Section VI: Procedure for Review of application for Land Division Approval

- A. The Township shall approve or disapprove the land division applied for within 45 days after receipt of a complete application conforming to this Ordinance's requirements and the Land Division Act, and shall promptly notify the applicant of the decision, and if denied, the reasons for denial.
- B. Any person or entity aggrieved by the decision of the Assessor or designee may, within 30 days of said decision appeal the decision to the Township Board or the Township or such body or person designated by the Township Board which shall consider and resolve such appeal by a majority vote of said Board or by the appellate designee at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant when other than the applicant) of the time and date of said meeting and appellate hearing.
- C. The Assessor or designated shall maintain an official record of all approved and accomplished land divisions or transfers.
- D. Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.
- E. The Township its officers and employees shall not be liable for approving a land division if building permits for construction on 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) have a minimum width compliant with current Township Zoning Ordinance as measured at the road (road or lake frontage; required front setback line, whichever is appropriate).
- B. All such parcels shall contain a minimum area compliant with current Township Zoning Ordinance.
- C. 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.
- D. The proposed land division(s) comply with all requirements of this Ordinance and the Land Division Act.
- E. All parcels created and remaining have existing adequate accessibility, or an area available therefor, for public utilities and emergency and other vehicles.

Section VIII: Consequences of Noncompliance with Land Division Approval Requirement

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 potential non-conformity to the county 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 thereto.

In addition any person, firm or corporation who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine of not more than \$500.00 along with costs which may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction. In no case shall costs of less than \$9.00 or more than \$500.00 be ordered. 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 Land Division 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

All provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this Ordinance other than said part or portion thereof.

Section X: Repeal

All previous Land Division Ordinances affecting unplatted land divisions in conflict with this Ordinance are hereby repealed; however, this Ordinance shall not be construed to repeal any provision in any applicable Zoning Ordinances, 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 its adoption.

THE CHARTER TOWNSHIP ACT (EXCERPT)
Act 359 of 1947

42.22 Ordinance; publication; effective date; publication of summary or true copy; catch lines required; drafting of summary.

Sec. 22. An ordinance passed by a township board shall be published at least once. An ordinance is effective immediately upon its publication, unless a date upon which the ordinance shall become effective, which is subsequent to the date of the publication of the ordinance, is specifically provided in the ordinance. The publication of a summary or a true copy of an ordinance after final passage, as a part of the published proceedings of the township board, shall constitute publication of the ordinance. If a summary of an ordinance is published, the township shall include in the publication the designation of a location in the township where a true copy of the ordinance can be inspected or obtained. Each section of an ordinance or a summary of an ordinance shall be preceded by a catch line. A summary of an ordinance may be drafted by the same person, corporation, partnership, firm, association, or other legal entity who drafted the ordinance or by the township board or township zoning board and shall be written in clear and nontechnical language.

History: 1947, Act 359, Eff. Oct. 11, 1947; CL 1948, 42.22; Am. 1949, Act 70, Eff. Sept. 23, 1949; Am. 1982, Act 345, Eff. Mar. 30, 1983.