

ARTICLE 21

LAND DIVISION ORDINANCE

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended, and Act 246 of 1945, as amended, 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.

21.1 TITLE

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

21.2 PURPOSE

The purpose of this ordinance is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, 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.

21.3 DEFINITIONS

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

1. "Applicant" - a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.
2. "Divide" or "Division" - the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or 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 State Land Division 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 State Land Division Act, or the requirements of other applicable local ordinances.

3. “Exempt split” or “exempt division” - the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or 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.
4. “Forty acres or the equivalent” - either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
5. “Governing body” - the Clark Township Board.

21.4 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 governing body, in accordance with this ordinance and the State 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 State Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the State 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 the State Act.

21.5 APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Township assessor or other official designated by the governing body 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 survey 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 State 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 of \$20.00 to cover the costs of review of the application and administration of this Ordinance and the State Land Division Act.

21.6 PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

- 21.6.1 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 State Land Division Act, and shall promptly notify the applicant of the decision, and if denied, the reasons for denial.
- 21.6.2 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 governing body of the Township or such other body or person designated by the governing body 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 where other than the applicant) of the time and date of said meeting and appellate hearing.
- 21.6.3 The assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.
- 21.6.4 Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.
- 21.6.5 The Township and 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.

21.7 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 as provided for in an applicable zoning ordinance.
- B. All such parcels shall contain a minimum area as provided for in an applicable zoning ordinance.
- C. The ratio of depth to width of any parcel created by the division does not exceed the average depth to width ratio of lots within 500 feet of either side of parent parcel. This being exclusive of access roads, easements, or non-development sites. The depth 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 State 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.

- F. All parcels created shall have access to a public right-of-way by either immediately abutting said public right-of-way or through a dedicated easement for ingress & egress if not less than 66 feet.

21.8 CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT

21.8.1 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 and no construction thereon which requires the prior issuance of a construction or building permit shall be allowed. 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.

21.8.2 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.

21.9 SEVERABILITY

The 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.

21.10 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, which shall remain in full force and effect notwithstanding any land division approval hereunder.

21.11 EFFECTIVE DATE

This ordinance shall take effect after adoption by the Township Board and 30 days after publication of the Ordinance.

Land division - Ordinance No. 87

Adopted: 1/15/98

Published 1/29/98

Effective: 3/01/98