

ARTICLE V. LAND DIVISION

Ordinance Number 97-175 as adopted by the township board on December 16, 1997. Amendments to Ordinance Number 97-175 are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Additions made for clarity are indicated by brackets.

Sec. 24-126. Intent

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant of but not limited to Michigan Public Act 288 of 1967, as amended, and Act 248 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.

Sec. 24-127. Definitions

- A. **Applicant** A proprietor who is seeking approval for a division or partition pursuant to this ordinance.
- B. **Combination** Attaching two or more parcels of land to form a new parcel.
- C. **Development site** Any parcel or lot on which a building exists or which is intended for building development other than the following:
1. Agricultural use involving the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.
 2. Forestry use involving, the planting, management, or harvesting of timber.
- D. **Divide or partition** 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 PA 591 of 1996, as amended. 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 this act or the requirements of any applicable local ordinance.
- E. **Driveway** A strip of land, that is not dedicated to the public, used to provide vehicular access to a single zoning lot.

F. **Exempt split** 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.

For a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel, any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this act or the requirements of an applicable local ordinance.

G. **Forty acres or the equivalent** Forty acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

H. **Land** All land areas occupied by real property.

I. **Lot** A parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal uses and uses accessory thereto, together with such yards and open spaces as are required under the township zoning ordinance. A lot may or may not be specifically designated as such on public records.

J. **Lot area** The total horizontal area within the lot lines of the lot. For lots adjacent to private roads, the lot area shall not include any portion of the private road.

K. **Outlot** When included within the boundary of a recorded plat, means a lot set aside for purposes other than a development site, park, or other land dedicated to public use or reserved to private use.

L. **Parcel** A continuous area or acreage of land.

M. **Parent parcel or parent tract** A parcel or tract, lawfully in existence on April 1, 1997.

N. **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.

O. **Plat** A map or chart approved for the division of land pursuant to the laws of the State of Michigan.

P. **Private road** An area of land used for ingress and egress to and from land, which does not abut a public road, and said area is not owned or maintained by the public.

Q. **Public road** An open way for passage or travel under public ownership and/or maintenance.

R. **Tract** Two or more parcels that share a common property line and are under the same ownership.

Sec. 24-128. Division and Partitioning of Land

A. Pursuant to Land Division Act. It shall be unlawful for any person to divide, partition, or combine any lot, outlot, or other parcel of land in a recorded plat, or divide, partition or combine any unplatted parcel or tract of land, except in accordance with the provisions of this Ordinance, unless the division or partition is approved and a part of a recorded plat pursuant to the Land Division Act, Act 591 of the Public Acts of 1996 of the State of Michigan, as amended.

B. All divisions of land, whether platted or unplatted, shall comply with the following:

1. Approval. An approval pursuant to this ordinance shall be obtained.
2. Conformance with zoning ordinance and subdivision regulations Any lot, outlot or other parcel of land shall be in compliance with the applicable width, area, and design layout requirements of the Ypsilanti Township Subdivision Regulations, and the Ypsilanti Township Zoning Ordinance, as amended. Land within dedicated road right-of-way or road easement shall not be included in the calculation of lot area, width, depth, building setbacks or other applicable requirements.
3. All plans shall be in compliance with Ypsilanti Township engineering standards.
4. Lots without utilities. If public sewer and water is not available, the resulting lot size and width of any residential lot shall not be less than the minimum requirements of the Ypsilanti Township Zoning Ordinance. Compliance with such minimum may or may not adhere to the requirements of the Washtenaw County Health Department.
5. Tax or assessment liens. Any due or unpaid taxes or special assessments upon the property shall be paid before the division, partitioning, or combination is given final approval.
6. Access. Every resultant parcel shall abut a public street, or right-of-way, or if there is no public street, there shall be a private road approved pursuant to the Ypsilanti Township Private Road Ordinance prior to or concurrent with any division, partitioning, or combination.
7. Future road right-of-way.
 - a. Right-of-way shall be dedicated as necessary to provide for public roads as depicted on the Ypsilanti Township Thoroughfare Plan adopted as a component of the Township Master Plan of Future Land Use.
 - b. Land within existing or proposed right-of-way shall not be included in the calculation of lot area.
 - c. Setbacks shall be measured from existing or proposed future right-of-way lines, whichever is greater.
8. Each resulting parcel that is a development site shall have all of the following:

- a. Public water or health department approval for on-site water supply.
- b. Public sewer or county health department approval for on-site sewage disposal.
- c. Adequate easements for public utilities from the parcel to existing public utility facilities.

9. Subject to paragraph 10 below, the division, together with any previous divisions of the same parent parcel or parent tract, shall result in a number of parcels not more than the sum of the following:

- a. For the first ten acres or fraction thereof in the parent parcel or parent tract, four parcels.
- b. For each whole ten acres in excess of the first ten acres in the parent parcel or parent tract, one additional parcel, for up to a maximum of 11 additional parcels.
- c. For each whole 40 acres in excess of the first 120 acres in the parent parcel or parent tract, one additional parcel.

10. For a parent parcel or parent tract of not less than 20 acres, the division may result in a total of two parcels in addition to those permitted by paragraph 9 if one or both of the following apply:

- a. Because of the establishment of one or more new roads, no new driveway accesses to an existing public road for any of the resulting parcels under paragraph 7. or this paragraph are created or required.
- b. One of the resulting parcels under paragraph 9 above and this subsection comprises not less than 60 percent of the area of the parent parcel or parent tract.

11. A parcel of 40 acres or more created by the division of a parent parcel or parent tract shall not be counted toward the number of parcels permitted under paragraphs 9 and 10 above.

12. A parcel or tract created by an exempt split or a division is not a new parent parcel or parent tract and may be further partitioned or split if all of the following requirements are met:

- a. Not less than ten years have elapsed since the parcel or tract was recorded.
- b. The partitioning or splitting results in not more than the following number of parcels, whichever is less:
 - i. Two parcels for the first ten acres or fraction thereof in the parcel or tract plus one additional parcel for each whole ten acres in excess of the first ten acres in the parcel or tract.

- ii. Seven parcels or ten parcels if one of the resulting parcels under this subsection comprises not less than 60 percent of the area of the parcel or tract being partitioned or split.

13. Unless declared "not buildable" as per paragraph 14 below, all divisions shall result in parcels containing sufficient land outside of wetlands, floodplains and other water bodies to allow use of the property in conformance with all required setback provisions, minimum floor areas, off-street parking spaces, on-site sewage disposal and water well locations (if applicable) and other ordinance requirements.

14. Notwithstanding disqualification from approval pursuant to this ordinance, a proposed land division which does not fully comply with the applicable requirements of the zoning ordinance or of this ordinance, may be approved in any of the following circumstances:

- a. Where the applicant executes and records an affidavit or deed restriction with the county register of deeds, in a form acceptable to the municipality, designating the parcel as "not buildable." Any such parcel shall also be designated as "not buildable" in the municipal records, and shall not thereafter be the subject of a request to the zoning board of appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceeding four feet in height.

- b. Where, in circumstances not covered by paragraph a. above, the Zoning Board of Appeals has, prior to the adoption of this Ordinance, granted a variance from the lot area, width, coverage, or other requirements with which the parcel failed to comply.

- c. Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this ordinance, any applicable zoning ordinance, or the State Land Division Act.

Sec. 24-129. Submittal Requirements.

A. **Application** An applicant for a division or partition regulated by this ordinance shall submit to the township assessing department an application on the forms provided by said department setting forth the information required by this ordinance. A land division application that is found to be incomplete, may be returned to the applicant without review or further action.

B. **Plan Submittal** The applicant may, at their discretion submit information in two stages. A two-stage process would require the submittal of a plot plan for tentative approval. The plot plan would include only the most basic information necessary for the township to make a preliminary determination as to whether or not a proposed land division may be acceptable. A plot plan need not be prepared by a licensed surveyor or registered engineer.

1. Plot plan for tentative approval. The applicant shall submit a plot plan to include at a minimum, the following information:

- a. The subject property, including approximate dimensions of all property lines.
- b. The location of all existing structures with dimensions to all property lines.
- c. Proposed means of access.
- d. An accurate legal description of each resulting parcel.
- e. The approximate location of any on-site wetlands or water bodies.
- f. A signed statement which reads as follows: "This plan is for the purposes of gaining a preliminary determination and shall not constitute the submittal of a final plan. As such, the township is not required to grant final approval on this proposal within 45 days of submittal."

2. **Final Plan** The applicant shall submit a plan drawn to scale by a registered engineer or licensed surveyor and meeting all requirements of the Certified Survey Act, Act 132 of P.A. 1970, MCLA 54.211 as amended. Such plans shall include at least the following:

- a. The subject property, including dimensions of all property lines.
- b. The location of all existing structures with dimensions to all property lines.
- c. Legal descriptions for all means of access including all existing or proposed private roads.
- d. Existing and proposed utilities.
- e. The area of existing and proposed parcels.
- f. An accurate legal description of each resulting parcel.
- g. Specific information identifying which parcels, if any, will retain the rights for future splits.
- h. The location of any on-site wetlands or water bodies. There shall also be presented, for approval, a written instrument fully executed in a form legally sufficient for recording with the Washtenaw County Register of Deeds. Such instrument shall contain a legal description of all of the lots, outlots and/or parts that will result from the partition or division of the parcel(s) described therein.

C. Additional data. In addition to the required plans and application forms, the following data shall be submitted:

a. A copy of a warranty deed, showing the applicant as the owner of the property, must be provided with a final plan. If ownership interest was obtained after March 31, 1997 the warranty deed must specify land division rights.

b. If the property is the subject of a land contract, a title insurance policy must be included with the application and the signature of the person holding the land contract must be provided with a final plan.

c. The township departments, through the assessing department, or the township board may also require the applicant to furnish it with such additional data as will enable the township to make a determination.

D. **Fees** Fees to be charged pursuant to this ordinance shall be set, or from time to time amended, by a Resolution of the township board.

Sec. 24-130. Approval procedure

No building or occupancy permits shall be issued by the building department for the use of any parcel of land which has resulted from a division or partition, without the approvals required by this ordinance, if the division or partition is accomplished after the effective date of this ordinance.

A. **Review** The assessing department shall refer the application to the various township departments and consultants for review and approval.

B. **Findings for Approval** The Township shall find in each case, before giving its approval that:

1. The division or partition will result in lots or parcels of land consistent with the character of the area in which the property is located, the Ypsilanti Township Zoning Ordinance and the Ypsilanti Township Master Plan.

2. There has been compliance with the requirements of this ordinance, and the other applicable township ordinances, Code provisions, standards, rules and regulations.

3. The provisions for any private road shall be in compliance with the Township Private Road Ordinance, and that the proposed split or combination will not be injurious to the public health, safety and welfare, and will be generally compatible with the surrounding land use and development.

C. **Decision** The assessor and the community development director shall review and act upon each request for division of land submitted in accordance with the provision of this subsection within 45 days. They may:

1. Grant tentative approval with final approval conditioned upon the petitioner fulfilling certain requirements.

2. Grant final approval if the request meets all requirements of this subsection.

3. Deny the request with reasons.

The decision made by the assessor and the community development director shall be unanimous. If their decision is not unanimous, the request for land division shall be referred to the township board, whose majority decision shall be final.

D. **Appeal** If a petitioner's request is denied, the petitioner may appeal that decision to the township board. The township board's majority decision shall be final.

E. **Time Limit** Where an applicant chooses a two-stage process, if the final plan for land division is not submitted within ten months of the date that tentative approval is given the application shall be deemed to be null and void.

(Ord. No. 98-190, 4-21-98)

Sec. 24-131. Violation and Penalties

Any parcel created in noncompliance with this ordinance shall not be eligible for any building permits, or zoning approvals, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this ordinance shall subject the violator to the penalties and enforcement actions set forth below and as may otherwise be provided by law.

Any person who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than 500 dollars or by imprisonment in the county jail for a period not to exceed 90 days or by both such fine and imprisonment.

Any person who violates any of the provisions of this ordinance shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.