

LAND DIVISION ORDINANCE  
TOWNSHIP OF BINGHAM

COUNTY OF LEELANAU, STATE OF MICHIGAN

ORDINANCE NO. 00-01  
ORDINANCE NO. 97-01

Adopted April 9, 1997  
Effective: May 17, 1997  
Amended: May 15, 2000

LAND DIVISION ORDINANCE

An ordinance to regulate partitioning or division of parcels or tracts of land enacted pursuant to but not limited to Michigan Public Act of 1997, Michigan Public Act of 1996, as amended, Michigan Public Act 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 therefore in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this ordinance.

TOWNSHIP OF BINGHAM  
LEELANAU COUNTY, MICHIGAN  
ORDAINS:

SECTION 1  
TITLE

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

SECTION II  
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 other wise provide for health, safety, and welfare of the residents of the property owners of the township by establishing reasonable standards for prior review and approval of land divisions within the Township.

SECTION III  
DEFINITIONS

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

- A. "accessible" in reference to a lot or parcel means that the lot or parcel meets one (1) or both of the following requirements:
1. Has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the State Transportation Act 200 of the Public Acts of 1969, as amended, or has an area where a driveway can provide vehicular access to an existing road or street and can meet all such applicable location standards.
  2. Is served by an existing easement that provides vehicular access to an existing road or street and meets all applicable location standards of the State Transportation Department or County road Commission under Act 200 of the Public Acts of 1969, as amended, or can be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable standards.
- B. "Applicant"- natural person, firm, association partnership, corporation or combination of any of them that hold an ownership interest inland whether recorded or not.
- C. "Convey or Conveyance" means a transfer of ownership interest in real property.
- D. "Development Site" means a lot, parcel, or tracts of land on which exists or which is intended for building development other than the following:
- Agricultural use involving the production of plants and animals useful to humans, feed crops, and filed crops; dairy an 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.
- Forestry use involving the planting, management, or harvesting of timber.
- E. "Divided" or "Division" the portioning 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.

- F. "Exempt Split" or "Exempt Division" the portioning or splitting of a parcel or tract of land by the proprietor, thereof, or by his or her heirs, executors, administrators, legal representative, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.
- G. "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.
- H. "Governing body"—the legislative body of a township, a township board of a township.
- I. "Land"—means all land areas occupied by real property, except the submerged bottom lands of inland lakes, rivers, and streams.
- J. "Land Division Committee" Those persons appointed by the Municipal Governing Body to administer this Ordinance.
- K. "Lot" means a measured portion of a parcel, which is described and fixed in a recorded plat. A lot's legal description is referred to as Lot (#) of the Plat of (Name of Plat).
- L. "Metes and Bounds" means a description of land by boundary lines with their terminal points and angles.
- M. "Owner" means a person holding any legal, equitable, option or contract interest in a lot or parcel of land.
- N. "Parcel" means a continuous area or acreage of land of any size, shape or nature, which is described by metes and bounds.
- O. "Parent Parcel" means first a tract of land lawfully in existence on March 31, 1997, if one exists in connection with a proposed division, or, if one does not exist, a parcel lawfully in existence on March 31, 1997.
- P. "Plat or Recorded Plat" means a map or a chart of a subdivision of land created pursuant to the Land Division Act of 1967, being Act 288 of the Public Acts of 1967, as amended, or predecessor statutes to this act.

- Q. "Property Transfer" means a transfer of property between two (2) or more adjacent lots or parcels, if the property taken from one (1) lot or parcel is added to an adjacent lot or parcel, and if all resulting lots or parcels conform to the requirements of the Land Division Act, being Act 288 of the Public Acts of 1967, as amended, the Bingham Township Zoning Ordinance, as amended, and this Ordinance. If the property transferred does not independently conform to the requirements of the Land Division Act, as amended, the Township Zoning Ordinance and this Ordinance, then it shall not be considered a developed site, but may only be used in conjunction with the lot or parcel to which it was transferred.
- R. "Tracts of Land" means two (2) or more parcels that share a common property line and are under the same ownership.

#### SECTION IV PRIOR APPROVAL REQUIREMENT FOR LAND DIVISION

Land in the Township shall not be divided without the prior review and approval of the municipal land division committee 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 Township's Subdivision Control Ordinance and the State Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the Township's Subdivision Control Ordinance and the State Land Division Act.
- C. An exempt split as defined in the Ordinance.

#### SECTION V APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the 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 a building development.

- A. A complete application form on such form as may be provided by the Township.
- B. Proof of fee ownership of the land proposed to be divided if not on file with the Township.
- C. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of the 1970 Public Act 132, as amended, (MCL

54.2110) by a land surveyor licensed by the State of Michigan, and showing the dimensions and legal descriptions of the existing parcel and parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

The governing body of the township or its designated agent, may waive the survey map requirement where the foregoing tentative parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within where the proposed divisions are located. An accurate legal description of all the proposed divisions, however, shall at all times be required.

- D. Proof that all standards of the State Land Division Act and this Ordinance have been met, including all Application Form requirements.
- E. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.
- F. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- G. Unless a division creates a parcel which is acknowledged and declared to be "not buildable" under Section VIII of the Ordinance, all divisions shall result in "buildable" parcels containing sufficient "buildable" area outside of unbuildable wetlands, flood plains and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking space, on-site sewage disposal and water well locations (where public water and sewer service is not available, and maximum allowed area coverage of buildings and structures on the site.
- H. The fees which may from time to time be established by resolution of the governing body of the township for land division reviews pursuant to this ordinance to cover the costs of review of the application and administration of this Ordinance and the State Land Division Act.

SECTION VI  
PROCEDURE FOR REVIEW OF APPLICATIONS  
FOR LAND DIVISION APPROVAL

- A. Upon receipt of a land division application package, an official designated by the governing body shall forthwith submit the same to the land division committee for decision. The land division committee shall approve, approve with conditions, or deny the land division applied for within 45 days after receipt of the application package conforming to this Ordinance's requirements, and shall promptly notify the applicant of the decisions and the reason for any denial. If the application package does not conform to this Ordinance requirements and the State Land Division Act, the Land Division Committee shall return the same to the applicant for completion and refilling in accordance with this Ordinance and the State Land Division Act.
- B. Any person or entity aggrieved by the decision of the Land Division Committee may, within 30 days of said decision appeal the decision to the Zoning Board of Appeals of the Township which shall consider and resolve such appeal by a majority vote of said Board at its next regular meeting, affording sufficient time for a 20 day written notice to the applicant and/or appellant of the time and date of said meeting and appellate hearing.
- C. Any decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such period a recordable document is filed with the Land Division Committee accomplishing the approved land division or transfer.
- D. The Township assessor or designee shall maintain an official record of all approved and accomplished land division or transfers.

SECTION VII  
STANDARDS FOR APPROVAL OF LAND DIVISIONS

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

- A. All the parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of the applicable zoning ordinance, including but not limited to, minimum lot (parcel) area, minimum lot width to depth ratio, and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures.

SECTION VIII  
ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS

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

- A. Where the applicant executes and records an affidavit deed restriction with the County Register of Deeds, in a form acceptable to the Township, designating the parcel as "not buildable." Any such parcel 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, previous to this Ordinance, granted a variance from the lot, yard, ratio, frontage and/or area requirements with the parcel failed to comply.
- C. Where the proposed land division involves only the minor adjustments 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 State Land Division Act.

SECTION IX  
CONSEQUENCES OF NONCOMPLIANCE  
WITH LAND DIVISION APPROVAL REQUIREMENT

Any parcel created in noncompliance with this ordinance shall not be eligible for any permits, or zoning approvals, such as special land use approval or site plan approval. In addition, violation of this ordinance shall subject the violator the penalties and enforcement actions set forth in Section X of this ordinance, and as may otherwise be provided by law.

SECTION X  
PENALTIES AND ENFORCEMENT

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 \$500.00 or by imprisonment in the county jail for 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.

#### SECTION XI 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 enforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this ordinance other than said part of portion thereof.

#### SECTION XII REPEAL

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Township zoning ordinance, the Township Subdivision Control Ordinance, or the County Building Code.

#### SECTION XIII EFFECTIVE DATE

This Ordinance shall take effect 30 days following its publication after adoption.