

ARTICLE 31.00

DIVISION OF LAND

SECTION 31.01 Intent

It is the intent of this article to authorize and regulate the partitioning or division and related combination of parcels or tracts of land, to establish review procedures for such action, to establish minimum standards for partitioning or dividing parcels of land, and to prescribe penalties for the violation of the provisions of this article. Additionally, this article is created pursuant to Michigan Public Act 110 of 2006, as amended; Public Act 288 of 1967, as amended; and Public Act 246 of 1945, as amended.

SECTION 31.02 Application Forms and Documentation

The application for division and related combinations of land shall be made on the forms and according to the guidelines provided by the Township. The application shall be accompanied by the necessary fees and information as specified in this Ordinance and in the applicable provisions of the Land Division Act.

SECTION 31.03 Preliminary Review — Information Required

- A. In order to provide the applicant and the Township representatives with adequate opportunity to discuss a proposed land division or combination, the Township requires applicants to submit a Preliminary application in accordance with the procedure described below. The Preliminary Review provides the applicant with an opportunity to receive review comments from Township representatives in advance of incurring costs for preparation of final surveys, legal descriptions, and other detailed information required for the complete application for Final Review in accordance with the procedure described in Section 31.04. Applications for Preliminary Review shall be accompanied by eight (8) copies of all the information described in 31.03.B through 31.03.N below.
- B. Eight (8) copies of a tentative parcel map which shall be a scaled drawing including all information listed below. A tentative decision may be made based on this illustration, with final approval withheld until receipt of a final application as described in Section 31.04. The scale of the tentative parcel map shall be not less than one (1) inch equals fifty (50) feet except if otherwise specifically permitted by the Township upon demonstration by the applicant that the specified scale will not permit display of all required information. *The following information must be included on the tentative parcel map:*
1. Dimensions of all existing and proposed parcels.
 2. The size and location of all structures on and within one hundred (100) feet of the proposed parcels.

3. Location of all existing and proposed public and private easements and rights-of-way. If proposed parcels shall front on a proposed private road, the applicant shall obtain approval for the private road plans in accordance with the provisions for a complex division as defined and described in this article.
 4. The locations of test borings indicating dimensions from nearby lot lines shall be indicated and numbered in addition to the location of wells and septic systems within one hundred (100) feet of the subject site.
 5. Location of surface water, lakes, ponds, streams, and wetlands. The initial investigation shall locate wetlands identified on the National Wetlands Inventory maps, prepared by the U. S. Department of Interior and available from the Michigan Department of Environmental Quality.
 6. Location of minimum setbacks on each proposed parcel, in accordance with the current Township Zoning Ordinance.
 7. North arrow.
 8. Zoning designations of the subject and adjacent parcels.
 9. Floodplain designation
- C. Proof of ownership of the land by the applicant or authorization by the land owner to permit he applicant to process the application on behalf of the owner.
- D. A legal description of existing parcels of land involved in the proposed land division.
- E. Preliminary approval may be granted without a formal legal description of all parcels that would result from the requested division of land, but a legal description must be received before Final approval is granted. The legal description shall be in a form sufficient for recording with the Livingston County Register of Deeds, and shall indicate the acreage of all parcels.
- F. Copies of existing or proposed deed covenants and restrictions related to the proposed parcels.
- G. If any portion of the land has been part of a previous application for division of land, either by the applicant or another person, the applicant shall submit the date(s) of such application(s) and action taken.
- H. If any portion of the land is subject to a farmland development rights agreement pursuant to Michigan Public Act 116 of 1974, as amended, the Farmland and Open Space Preservation Act or an agreement pursuant to Michigan Public Act 451 of 1994, then a copy of the agreement shall be provided to the Township for review.
- I. Livingston County Road Commission driveway sight distance review.
- J. Location map.
- K. Evaluation for subsurface sewage disposal system in accordance with the procedures established by the Livingston County Health Department.

- L. Proof that all taxes and fees applicable to the parcel are paid in full for the three (3) year period prior to the date of the application.
- M. The Township may require additional information reasonably deemed necessary to make the determination required by this Ordinance.
- N. The applicant shall describe in writing all known nonconforming attributes of the original and resulting parcels and associated structures including but not limited to: nonconformities related to existing structure height, setback and lot coverage; lot width; lot area; fences; and other similar known characteristics of the original and resulting parcels.
- O. Existing topography of the subject site.

SECTION 31.04 Final Review — Information Required

Applications for Final Review shall be accompanied by the following information:

- A. All information required for a preliminary review application as described in Section 31.03.B through 31.03N, above, excluding 31.03E.
- B. Complete and accurate legal description for each resulting parcel.
- C. Proof that a water supply shall be available to each resulting parcel consistent with the provisions of Section 109(g) of the Land Division Act.
- D. A completed application for Final Review together with the application fee as established by the Township Board.
- E. Proof that all requirements of the Michigan Land Division Act have been satisfied and identification of the parent parcel or parent tract consistent with the provisions of the Act.

SECTION 31.05 Application Filing

All applications for division of land shall be submitted to the Township. The application shall be accompanied by a filing fee which shall cover the cost of review and notification, including but not limited to the costs of any consultants retained by Township for reviewing the application, mailing costs, newspaper publication costs, and other such costs. The application shall be submitted at least fourteen (14) days before the meeting at which the proposal will be reviewed.

SECTION 31.06 Preliminary Review

The Township Planning Commission shall review preliminary applications for land division and combinations of parcels. The Planning Commission may also consider any requested reviews and recommendations of the attorney, planner, engineer and other appropriate departments and persons and shall consider compliance with this Article, sound planning and engineering principles, and compliance with all other applicable ordinances. The Township may delay review of any application that does not contain all the information required by this Ordinance. Within fourteen (14) days of the Planning

Commission meeting where a completed application with all required materials is received, the Planning Commission shall make a recommendation to the Township Board to deny, approve, or approve subject to conditions, the application. Any and all conditions of approval indicated by the Planning Commission and consistent with the provisions of state and local regulations must be satisfied by the applicant before the application can be submitted for Final Review by the Township.

SECTION 31.07 Final Review

Upon review of the proposed division of land, and after consideration of all comments regarding the preliminary application submitted by the Planning Commission, Township consultants, and county officials, the Township Board shall make a final decision concerning the proposed division, based on the standards set forth in this Ordinance. Such final decision shall be rendered within forty-five (45) days of receipt by the Township of a complete application for final review that includes all information required by this article and the Michigan Land Division Act, as amended. The Township Board shall cause approved land divisions or combinations to be shown on the Township tax maps, and tax identification numbers shall be assigned.

SECTION 31.08 Review of Complex Division Applications

Within six (6) months after approval of any division of land, the applicant shall record the survey and legal description as approved by the Township, including private road easements and other related materials, with the Livingston County Register of Deeds, based on the descriptions and surveys set forth in the approved application. Approval of the division of land shall not be considered complete until the proposed lots are assigned a tax parcel identification number by the Township Assessor after the required provisions of this article and other applicable regulations have been satisfied.

SECTION 31.09 Appeals

An appeal may be taken to the Zoning Board of Appeals by any person aggrieved by a decision of the Township Board. In ruling on an appeal related to this Article, the Zoning Board of Appeals shall follow the general guidelines for appeals as set forth in Section 33.04 of the this Ordinance. Nothing in this Ordinance shall prevent an applicant from seeking a variance from zoning requirements before submitting an application for division of land pursuant to this article.

SECTION 31.10 Application for Site Plan Approval or Land Use Permit

Following final approval of a division of land in accordance with this Article, the property owner may apply for site plan review or a land use permit, as applicable, to allow development in accordance with the Zoning Ordinance. Land use permits shall not be issued for illegal divisions of land. Notwithstanding this provision, nothing in this Ordinance is intended to prevent issuance of land use permits or development on legal nonconforming lots of record, subject to compliance with all Ordinance requirements. Additionally, the applicant must satisfy all requirements of other related ordinances.

SECTION 31.11 Standards for Granting Approval

The standards in this Article have been adopted to provide a uniform basis for decisions and to allow land division where it would protect public health, safety and welfare; be consistent with the Township's Master Plan; minimize danger from fire and floods; protect and conserve the value of land and the value of buildings and improvements upon the land; minimize conflict between land uses; further the orderly layout and use of land; and provide the most beneficial relationship between the uses of land and buildings and circulation of traffic.

A. Compliance with State Law

An application for division or combination of land shall not be approved unless it is in compliance with the Land Division Act, Michigan Public Act 288 of 1967, as amended or replaced. Accordingly the following conditions apply:

1. An acreage tract or acreage parcel of land may be divided as permitted in Section 109 of the Land Division Act.
2. A subdivision lot, outlot, or other parcel of land in a recorded plat may be divided pursuant to the requirements of this Ordinance only if such lot, outlot, or other parcel is divided as permitted in the Land Division Act, and provided that all the following apply:
 - a. The resulting parcels shall comply with all applicable zoning requirements;
 - b. The total number of lots in the subdivision shall not increase above the number originally platted;
 - c. The total land area within the subdivision shall not decrease below the area of the original plat.

B. Lot and Dimensional Requirements

It is generally the intention of these regulations to create lots that conform to the minimum specifications of the zoning district where the new lots are located. Under certain circumstances as described herein, nonconforming lots may be modified as a result of a division of land.

1. All parcels created as a result of division of land shall comply with the minimum lot dimensional requirements of this Article in effect at the time a land division is approved, including minimum lot size and lot width. The only exceptions to this requirement are as specifically described in 31.11.B.2 below. The width to depth relationship for resulting lots shall be regulated as follows:
 - a. For a resulting lot of five (5) acres or less, the lot depth shall not exceed three (3) times the lot width.
 - b. For a resulting lot of more than five (5) acres, the lot depth shall not exceed four (4) times the lot width.

2. Land division proposals may also be approved in either of the following circumstances:
 - a. If the land division and combination will reduce the degree of nonconformity for an existing lot with insufficient lot width to comply with Zoning Ordinance requirements;
 - b. If the land division and related combination will reduce the degree of nonconformity for an existing lot with insufficient lot area to comply with Zoning Ordinance requirements.

In each of these cases, a division shall be permitted only if the property owner records an affidavit or deed restriction at the Livingston County Register of Deeds Office that describes the property and the circumstances and conditions of approval. Such deed restriction shall be drafted by an attorney licensed to practice law in Michigan. The affidavit and deed restriction shall be approved by the Township before recording, and the property owner shall provide a copy of the recorded affidavit or deed restriction to the Township.

C. Access

An application for division of land shall not be approved nor shall a land use permit be granted unless all parcels created as a result of such division have adequate frontage (as specified by the Township Zoning Ordinance) on a public or legally recorded private road or access by a shared driveway. A division of land creating lots with frontage on new public or legally recorded private roads shall only be finally approved by the Township after construction of the new road occurs in accordance with the applicable procedures and standards established by the Township, County and State of Michigan. Where lots are proposed to be created with frontage on a private road as regulated by Article 30.00, Private Roads, a plan shall be prepared by the applicant for review and approval by the Township consistent with the provisions of such article. In addition to the information required by Article 30.00, the plan shall indicate the location, dimensions and legal descriptions of the proposed resulting lots, and other required information consistent with the provisions of Section 31.03 of this Article.

D. Taxes and Assessment Liens

Any due or unpaid taxes or special assessments upon the property shall be paid before the division of land or combination is given final approval.

E. Consent of the Title Holder

No division or combination of land shall be approved without the written consent of the title or deed holder or any person holding a legal or equitable interest in the subject parcel. At the discretion of the Township, a title search may be required.

F. Disruption to Flow of Water

No division or combination of land shall be approved if subsequent development would result in disruption to the existing or natural flow of water within drainage ditches, natural water courses, or government maintained drains, unless evidence of a feasible alternate method of drainage is presented and approved prior to approval of the proposed land division.

G. Consideration of Deed Restrictions

The Township shall consider the effect that deed restrictions will have on a proposed division of land or combination. However, such deed restrictions shall not be binding on the Township under this Article.

H. Easements

Approval of a proposed division of land or combination shall be subject to the dedication of any easements necessary for roads, public utilities, bicycle/non-motorized vehicle paths, sidewalks, or other necessary public facilities required.

I. Buildability

An application for division of land or combination shall not be approved unless the applicant demonstrates to the satisfaction of the Township that the resulting parcels have adequate usable land area, so that the parcels can be built upon or used in compliance with Zoning Ordinance standards. In determining whether this criterion has been met, issues that may be taken into consideration include, but are not necessarily limited to the following:

1. Availability of a public sanitary sewer to service resulting lots or soils that are capable of supporting necessary septic sewage systems as determined by the Livingston County Health Department;
2. Unusual topography which may prevent use of portions of a parcel;
3. Presence of easements or rights-of-way that restrict use of a parcel;
4. Regulated wetlands, surface water, or floodplains that restrict or prevent use of portions of a parcel;
5. Soils that are capable of supporting a foundation for a building;
6. The shape of resulting parcels and building footprints with respect to minimum required dwelling unit and yard setback dimensions.

If, at the time the land division or combination proposal is submitted, the applicant did not demonstrate a proposed lot could be built upon or used in compliance with the Zoning Ordinance, the proposed land division or related combination may be approved. However, the property owner must first submit an affidavit acknowledging that insufficient information has been submitted to determine the ability to use the resulting parcels for permitted uses in the zoning district where the parcels shall be located. Furthermore, the affidavit shall indicate that the property owner shall not allege any taking of property or reduction in property tax value resulting from future denial of a land use permit, where the denial is related to the insufficiency of information available to the Township at the time the parcel was created.

SECTION 31.12 Commercial and Industrial Requirements

An application for division of land or combination in a commercial or industrial district shall not be approved if the division or combination would result in:

1. A loss of parking so that an existing use or uses would no longer comply with minimum parking requirements, or
2. Development on a resulting parcel or parcels would be unable to comply with minimum parking requirements.
3. A reduced ability for existing or proposed commercial and industrial sites to comply with Zoning Ordinance or other requirements.