

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.

SAGINAW CHARTER TOWNSHIP, SAGINAW COUNTY, MICHIGAN

ORDAINS:

TITLE 4. LAND DEVELOPMENT

CHAPTER 4-05

SAGINAW CHARTER TOWNSHIP LAND DIVISION ORDINANCE

4-05.01 Purpose and Intent

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 township 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 municipality by establishing reasonable standards for prior review and approval of land divisions within the municipality.

4-05.02 Definitions

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

- .01** "Administrator" - means the Township Zoning Administrator
- .02** "Applicant" or "Proprietor" - a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.
- .03** "Divided 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. Division does not include a property transfer between two or more adjacent parcels, if the land taken from one parcel is added to an adjacent parcel.
- .04** "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; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through areas owned by the

owner of the parcels . A property transfer between 2 or more adjacent parcels, is considered an exempt division, if the land taken from 1 parcel is added to an adjacent parcel.

- .05 “Forty acres or the equivalent” - either 40 acres, a quarter-quarter section containing not less than 30 acres, or government lot containing not less than 30 acres.
- .06 “Governing body” - the Saginaw Charter Township Board.
- .07 “Land Division Committee” - committee designed to review all property divisions that occur within the Township. This committee is comprised of the Township Assessor and Zoning Administrator.
- .08 “Parcel” - a contiguous area or acreage of land which can be described as provided for in Section 102 (g) of the Land Division Act.
- .09 “Parent parcel” or “parent tract” - a parcel or tract, respectively, lawfully in existence on March 31, 1997.
- .10 “Road authority” - the governmental authority having jurisdiction over a public road or public street.
- .11 “Resulting parcel(s)” - one or more parcels which result from a land division.
- .12 “Tract” - two or more parcels that share a common property line and are under the same ownership.

4-05.03 PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land within Saginaw Charter Township shall not be divided without the prior review and approval of the Land Division Committee, in accordance with this ordinance and the Land Division Act; provided that the following shall be exempted from this requirement:

- .01 A parcel proposed for subdivision through a recorded plat pursuant to Saginaw Charter Township’s Subdivision Control Ordinance and the State Land Division Act.
- .02 A parcel proposed for site condominiums pursuant to Saginaw Charter Township’s Condominium Ordinance or the State of Michigan’s Condominium Act and the State Land Division Act.
- .03 A lot in a recorded plat proposed to be divided in accordance with Saginaw Charter Township’s Subdivision Control Ordinance and the State Land Division Act.
- .04 An exempt split as defined in this ordinance.

4-05.04 APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following information with the Township Assessor 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:

- .01 A completed application on such written form as the Township may provide, including any exhibits described therein.

- .02 Proof of fee ownership of the land proposed to be divided or written consent to the application, signed by the owner of such land.
- .03 A copy of each deed or other instrument of conveyance which contains the statements required by Section 109(3) and 109(4) of the Act as outlined below:
 - A. Assignment of Division Rights - If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer is mandatory and must be outlined in the deed. A statement shall be in substantially the following form: **“The grantor grants to the grantee the right to make (insert number) divisions(s) under section 108 of the land division act, Act No. 288 of the Public Acts of 1967.”**
 - B. Right to Farm Act - All deeds for parcels of unplatted land must contain the following statement, regardless of whether the parcel is located in a downtown metropolitan area or in a remote region of the State. **“This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan right to farm act.”**
- .04 A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of 1970 Public Act 132, as amended, (MCL 54.211) by a land surveyor licensed by the State of Michigan. The survey map shall include:
 - A. The dimensions and legal descriptions of the existing parcel and the parcels proposed to be created by the division(s),
 - B. The location of all existing structures and other land improvements,
 - C. The accessibility of the parcels for vehicular traffic and utilities from existing public roads.

In lieu of such survey map, at the applicant’s option, the applicant may waive the 45 day statutory requirement for a decision on the application until such survey map and legal description are filed with the Township Assessor. In order to take advantage of this requirement, the applicant shall submit a tentative preliminary parcel map drawn to scale on not less than that provided for on the application form, for preliminary approval, and/or denial by the Land Division Committee prior to a final application under this section.

The preliminary parcel map shall depict:

- D. An accurate legal description of each proposed division,
- E. The boundary lines and dimensions of each proposed division,
- F. The accessibility of each division from existing or proposed public roads for vehicular traffic and public utilities.,

- .05 Proof that all standards of the State Land Division Act and this Ordinance have been met. (See checklist accompanying this ordinance).
- .06 The history and specifications of any previous divisions of land of which the proposed division was part of which is sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.
- .07 Proof that all due and payable taxes or installments of special assessments and deferred assessments pertaining to the land proposed to be divided are paid in full.
- .08 Unless a division creates a parcel which is acknowledged and declared to be “not buildable” under Section 4-05.07 of this 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 spaces, 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.
- .09 A fee may be established by resolution of the Saginaw Township Board for land division reviews pursuant to this ordinance to cover the costs of review of the application and administration of this ordinance.

4-05.05 PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

.01 Upon receipt of the land division application package, The Township Assessor shall meet with the Township Zoning Administrator to either:

- A. Approve,
- B. Approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or
- C. Disapprove the land division.

Such action must take place within 45 days of a complete submittal of the land division application package conforming to the requirements of this Ordinance.

Furthermore, the Administrator shall promptly notify the applicant of the decision and the reasons for any denial. If the application package does not conform to the requirements of this Ordinance and the State Land Division Act, the Administrator shall return the application package to the applicant for completion and refilling in accordance with this Ordinance and the State Land Division Act.

.02 Any person or entity aggrieved by the decision of the Land Division Committee may, within 30 days of said decision, file a written appeal to the Township Manager or such other board or person designated by the Township Board which shall consider and resolve such appeal by a majority vote of said Board at its next regular meeting or session or by the designee.

- A. At least 10 days written notice of the date, time and place of the meeting at which the appeal is to be considered shall be given to the applicant by regular, first-class mail, directed to the applicant's address as shown in the application or in the written appeal. The Township Manager or other board or person designated by the Township Board may affirm or reverse the decision of the Land Division Committee, in whole or in part, and its decision shall be final.
- .03** A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such period a document is recorded with the County Register of Deeds office and filed with the Township Assessor accomplishing the approved land division or transfer.
- A. Any notice of approval for a resulting parcel of less than one acre in size shall contain a statement that the Township is not liable if a building permit is not issued for the parcel for the reason that the parcel fails to satisfy the requirements of Section 109a of the Act, including approval of on-site water supply and on-site sewage disposal under the standards set forth in Section 105(g) of the Act.
- .04** The Township Assessor shall maintain an official record of all approved and accomplished land divisions or transfers.

4-05.06 STANDARDS FOR APPROVAL OF LAND DIVISIONS

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

- .01** The proposed land division(s) comply with all requirements of the State Land Division Act and this Ordinance.
- .02** 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) frontage/width, minimum road frontage, minimum lot (parcel) coverage and minimum setbacks for existing buildings/structures.
- .03** All parcels created and remaining have existing adequate accessibility, or an area available therefor, to a public road for public utilities and emergency and other vehicles not less than the requirements of the applicable zoning ordinance, major thoroughfare plan, road ordinance or this Ordinance. In determining adequacy of accessibility, any ordinance standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create 4 or more parcels.
- .04** The ratio of depth to width of any parcel created by a division which is 10 acres or less in size can not exceed four to one (4:1), exclusive of access roads or easements. A property transfer between 2 or more contiguous parcels must also comply with the 4:1 lot depth to width ratio. Width shall be measured by using the road frontage. If the width of the parcel is irregular, the average width of the parcel shall be calculated and used for purposes of this provision.

A. The permissible 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.

B. The permissible minimum width shall be as defined in the applicable zoning ordinance.

C. The depth to width ratio requirements of this ordinance do not apply to:

(1) a parcel larger than 10 acres, unless said parcel is zoned A-2, Agriculture.

(2) the remainder of the parent parcel or parent tract when it is retained by the proprietor.

D. The Land Division Committee may allow a depth to width ratio of greater than 4 to 1 if failure to allow a greater depth to width ratio would result in practical difficulty or unnecessary hardship. Such practical difficulty or unnecessary hardship may consist of, but is not limited to, exceptional topographic or physical conditions with respect to the parcel and compatibility with surrounding lands.

.05 Where accessibility is to be provided by a proposed new dedicated public road, proof that the County Road Commission or Michigan Department of Transportation has approved the proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith.

.06 The number of parcels to be created by division must not exceed the number of parcels allowed by Section 108 of the Land Division Act.

4-05.07 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 are present:

.01 Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to Saginaw Charter Township, designating the parcel as “not buildable”. Any such parcel shall also be designated as “not buildable” in the Saginaw Charter Township records, and shall not thereafter by the subject of a request to the Saginaw Charter Township 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.

.02 Where the Zoning Board of Appeals has, previous to this Ordinance, granted a variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.

.03 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 State Land Division Act.

4-05.08 CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT

Any parcel created in noncompliance with this ordinance shall not be eligible for any building permits, or zoning approvals, such as special land use approval or site plan approval, 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 in Section 4-05.09 of this ordinance, and as may otherwise be provided by law.

4-05.09 PENALTIES AND ENFORCEMENT

- .01** Any person or other entity who violates any of the provisions of this Ordinance is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine of not more than \$500.00 plus costs, which may include all direct or indirect expenses, to which the Township has been put in connection with the violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan Law. Each day a violation of this Ordinance continues to exist constitutes a separate violation.

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.

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 Municipalities zoning ordinance, the Municipalities Subdivision Control Ordinance, or the Municipalities Building Code.

EFFECTIVE DATE

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

Date: January 12, 1999

George Olson, Supervisor

Timothy Braun, Clerk