

Part 241

241.000 LAND DIVISION ORDINANCE

Ord. No. 97-001

Adopted: June 16, 1997

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

THE TOWNSHIP OF ATLAS, COUNTY OF GENESEE, STATE OF MICHIGAN ORDAINS:

241.001 Title.

Sec. I. This ordinance shall be known and cited as the Township of Atlas Land Division Ordinance.

(Amend. No. 09-01, 1-20-09)

241.002 Purpose.

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

(Amend. No. 09-01, 1-20-09)

241.003 Definitions.

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

- A. "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.
- B. "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.

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- C. "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.
 - D. "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.
 - E. "Governing body" - the Township Board of the Township of Atlas.

(Amend. No. 09-01, 1-20-09)

241.004 Prior approval requirement for land divisions.

Sec. IV. Land in the municipality shall not be divided without the prior review and approval of the Township Land Division Board, 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 Subdivision Control Ordinance and the State Land Division Act.
- B. A parcel proposed for condominium development pursuant to the zoning ordinance and the State Condominium Act.

(Amend. No. 09-01, 1-20-09)

241.005 Application for land division approval.

Sec. V. An applicant shall file all of the following with the Township clerk 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 provided by the municipality.
- B. Proof of fee ownership of the land proposed to be divided.
- C. 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, and showing the dimensions, area, and accurate legal descriptions of the existing parcel and the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, natural features, including wetlands and flood plains, and the accessibility of the parcels for vehicular traffic and easements for public utilities from each proposed parcel to existing public utilities.
- D. Proof that all standards of the State Land Division Act and this Ordinance have been met.
- E. The history and specifications of any previous divisions of land of which the proposed division was a part 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.
- F. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.
- G. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- H. A land division fee is required pursuant to the township planning and zoning fee schedule.

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- I. An affidavit stating there is no pending or anticipated litigation on the parcel(s).
(Amend. No. 09-01, 1-20-09)

241.006 Procedure for land review of applications for land division approval.

Sec. VI.

- A. A complete application for a land division shall be filed with the township clerk, and forwarded to the Township Land Division Board ("land board"). The land board shall consist of the township supervisor, township assessor and township planning commission chairman. A majority of the land board shall approve or deny the land division applied for within 45 days after receipt of a complete application, and shall promptly notify the applicant of the decision and, if denied, the reasons for denial.
- B. Any person or entity aggrieved by the decision of the township land division board may, within 15 days of said decision, appeal the decision to the township zoning board of appeals.
- C. 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 municipal clerk or other designated official accomplishing the approved land division or transfer.
- D. The township supervisor shall maintain an official record of all approved and accomplished land divisions or transfers.

(Amend. No. 09-01, 1-20-09)

241.007 Standards for approval of land divisions.

Sec. VII. 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) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, and maximum lot (parcel) coverage and minimum set-backs for existing buildings/structures.
- B. The proposed land division(s) comply with all requirements of the State Land Division Act and this Ordinance.
- C. The lot configuration shall generally maintain a symmetrical size and shape from its front to its rear; however, the land board may waive or modify this requirement for cause shown in order to meet the intent of this section or which may be caused by the orientation of established property lines.

(Ord. No. 99-005, 5-17-99; Amend. No. 09-01, 1-20-09)

241.008 Allowance for approval of other land divisions.

Sec. VIII. 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 Zoning Board of Appeals has, previous to the application for division, granted a variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.

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- B. 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.
 - C. Approved site plans may not be modified by this ordinance or its amendments.

(Amend. of 4-21-03; Amend. No. 09-01, 1-20-09; Amend. of 5-15-17)

241.009 Consequences of noncompliance with land division approval requirement.

Sec. IX. 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.

Prior to the issuance of any building permit for construction on a parcel of land divided after the effective date of this Ordinance, the following items must be provided to the Township building inspector:

- A. Evidence of the Township Assessor's approval of the land division.
- B. A recorded copy of a certified survey of the property.
- C. A recorded copy of a document showing the applicant's ownership interest in the property (warranty deed, quit-claim deed, land contract, etc.).

(Amend. No. 09-01, 1-20-09)

241.010 Penalties and enforcement.

Sec. X. Violation of this ordinance shall be considered a misdemeanor punishable by up to a \$500.00 fine, and/or up to 90 days in jail.

A violation of this ordinance shall be deemed a nuisance which may be abated by a court of competent jurisdiction.

(Amend. No. 09-01, 1-20-09)

241.011 Severability.

Sec. XI. 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.

(Amend. No. 09-01, 1-20-09)

241.012 Repeal.

Sec. XII. 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 Municipality zoning ordinance, the Municipality Subdivision Control Ordinance, or the Municipality Building Code.

(Amend. No. 09-01, 1-20-09)

241.013 Effective date.

Sec. XIII. This ordinance shall take effect one (1) day following its publication after adoption.
(Amend. No. 09-01, 1-20-09)