

## **LAND DIVISION ORDINANCE**

*As Recommended for Adoption to the Township Board  
by the Allendale Township Planning Commission  
September 16, 2013*

### **ORDINANCE 2013-18**

An Ordinance to regulate the division of parcels or tracts of land in order to carry out the provisions of Michigan Public Act 288 of 1967 as amended, being the Land Division Act; to establish minimum requirements and procedures for the approval of such divisions and to prescribe penalties for the violations of this Ordinance.

**The Charter Township of Allendale Ottawa County, State of Michigan ordains:**

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#### **SECTION 1 TITLE.**

This Ordinance shall be known and cited as the Allendale Charter Township Land Division Ordinance.

#### **SECTION 2 PURPOSE**

The purpose of this Chapter is to carry out the provisions of the act; to establish minimum requirements and procedures for the approval of such land divisions; to prevent the creation of parcels of property which do not comply with applicable ordinances and the act; to maintain orderly development of the community; and to promote the health, safety, and welfare of residents by establishing reasonable standards for review and approval of land divisions.

#### **SECTION 3 DEFINITIONS**

- A. "Act" shall mean the Land Division Act being Public Act 591 of 1996, as amended.
- B. "Accessible" shall mean a parcel that is accessible if one or both of the following are met:
  - 1. The parcel has an area where a driveway or easement provides vehicular access to an existing street or road and meets all applicable location standards of the road authority, or has an area where a driveway or easement can provide vehicular access to an existing street or road and meet all such applicable location standards.
  - 2. The parcel is served by an existing easement that provides vehicular access to an existing street or road and that meets all applicable location standards of the local road authority, or can be served by a proposed easement that will provide vehicular access to an existing street or road and that will meet all such applicable location standards.
- C. "Administrator" shall mean the Township Zoning Administrator as may be appointed by the Township Board or the Administrator may be any other person designated by the Board to administer this Ordinance.

- D. "Division" or "Land Division" shall mean 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 as defined in the act, and that satisfies the requirements of sections 108 and 109 of the act. Division or Land 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 the act, this Chapter and other applicable ordinances.
- E. "Exempt Split" or "Exempt Division" shall mean 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.
- F. "Forty Acres or the Equivalent" shall mean either 40 acres, a quarter-quarter section containing less than 30 acres, or a governmental lot containing not less than 30 acres.
- G. "Parcel" shall mean a continuous area of land which can be described as stated in Section 102(g) of the act.
- H. "Parent Parcel" or "Parent Tract" shall mean a parcel or tract, respectively, lawfully in existence on March 31, 1997.
- I. "Resulting Parcel" or "Resulting Parcels" shall mean one or more parcels which result from an authorized land division.
- J. "Road Authority" shall mean the governmental authority having jurisdiction over a public street or road.
- K. "Tract" shall mean two or more parcels that share a common property line and are under the same ownership.

#### **SECTION 4 APPROVAL REQUIRED**

Land in the Township shall not be divided without the prior review and approval of the Township in accordance with this Ordinance and the State of Michigan Land Division Act. This review and approval shall be required before making any division by deed, land contract, lease for more than one year or for building development.

#### **SECTION 5 APPLICATION FOR LAND DIVISION APPROVAL.**

A proposed division shall not be considered filed with the Township, nor shall the time period stated in this Ordinance commence, until all of the requirements for an application for land division approval have been complied with. A proposed land division shall be filed with the Zoning Administrator and shall include the following:

- A. A completed application, as provided by the Township, including all required attachments:



- B. Proof of an ownership interest in the land which is the subject of the proposed division, or written consent to the application, signed by the owner of such land;
- C. A land title search, abstract of title, or other evidence of land title acceptable to the Zoning Administrator which is sufficient to establish that the parent parcel or parcel or parent tract of land which is the subject of the proposed division was lawfully in existence not less than ten years from the date of the application for land division.
- D. A copy of each deed or other instrument of conveyance which contains the statement required by Section 109(3) of the Act concerning conveyance of the right to make further divisions.
- E. A survey map 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 OR a tentative parcel map accurately drawn to scale showing the parent parcel or parent tract which is the subject of the application. The survey or tentative parcel map shall include:
  - 1. Date, north arrow, scale, and the name of the person or firm responsible for the preparation of the tentative parcel map;
  - 2. Proposed boundary lines and the dimensions of each parcel;
  - 3. An accurate parcel map and legal description of each resulting parcel;
  - 4. A drawing or written description of all previous land divisions from the same parent parcel or parent tract, identifying the number, area and date of such divisions, sufficient to establish that the parcel to be divided was lawfully in existence not less than ten years from the application for land division;
  - 5. The location, dimensions and nature of proposed ingress or egress from any existing public or private streets;
  - 6. Accessibility of each proposed division, including the location of any public or private street, driveway or utility easement to be located within any resulting parcel. Copies of the instruments describing and granting such easements shall be submitted with the application;
  - 7. The location of all public utility easements serving the parcel; and,
  - 8. The location of any existing structures and other site improvements including wells, septic systems along with setbacks of existing buildings and structures.
- 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. Other information reasonably required by the Zoning Administrator in order to determine whether the proposed land division qualifies for approval.
- H. Payment of the application fee and other applicable fees and charges to cover the costs of review of the application and administration of this Ordinance and the Act established from time to time by resolution of the Township Board.

## **SECTION 6 PROCEDURE FOR LAND DIVISION APPROVAL**

- A. Upon receipt of an application for a land division approval which contains all of the information required by Section 5 herein a proposed land division shall be approved, approved with conditions, or denied by the Zoning Administrator.
- B. Approval shall be based upon satisfaction of the following requirements:

1. The application requirements contained in Section 5 are met.
2. All resulting parcels to be created by the proposed land division(s) shall fully comply with the applicable lot area and lot width requirements of the Township's Zoning Ordinance for the zoning district(s) in which resulting parcels are located.
3. Each resulting parcel shall have the depth to width ratio as specified by the Township Zoning Ordinance for the zoning district(s) in which the resulting parcel is located. If the Zoning Ordinance does not specify a depth to width ratio, each resulting parcel which is five acres or less in area shall have a depth which is not more than four times the width of the parcel. The width and depth of the resulting parcel shall be measured in the same manner as provided by the Township Zoning Ordinance for the measuring of the minimum width and maximum depth of parcels.

A depth that is more than four times the width of the parcel may be permitted by the Zoning Administrator based upon the following standards:

- (a) Exceptional topographic or other physical conditions;
  - (b) Compatibility with the surrounding lands;
  - (c) Other conditions which at the discretion of the Zoning Administrator determined to be sufficient to render the required depth to width ratio impractical or undesirable.
4. Each resulting parcel shall be accessible as defined herein. If an easement is proposed as a means of access, the proposed easement shall be in writing and signed by the owner within which the easement is to be located. Such easement shall provide a lawful means of access over and across such parcel, in compliance with applicable Township ordinances. The Zoning Administrator may require that all such easements be in recordable form and be recorded with the Ottawa County Register of Deeds within the time required by Section 9.

Any parcel that is provided access by an easement shall also comply with the requirements of the Township Zoning Ordinance for lot area and lot width on a public or approved private street.

If a new public street is proposed as a means of access, the applicant shall provide proof that the road authority having jurisdiction has approved the proposed layout and construction design of the street and of utility easements and drainage facilities associated therewith.

5. The proposed division, together with any previous division(s) of the same parent parcel or parent tract shall not result in a number of resulting parcels that is greater than permitted under Section 108 of the Act.



6. Each resulting parcel that is a development site (as defined by the Act) shall have adequate easements for public utilities from the resulting parcel to existing public utility facilities.
- C. The Zoning Administrator shall approve or disapprove a proposed land division within 45 days after the complete filing of the proposed division and shall provide the person who filed the application written notice whether the application is approved, approved with conditions, or denied and, if denied, all the reasons for the disapproval.
- D. An applicant aggrieved by the decision of the Zoning Administrator within 30 days of the decision, file a written appeal of the decision to the Township Board, which shall consider and decide the appeal by a majority vote of the members present and voting at a public meeting. 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 Board may affirm or reverse the decision of the Zoning Administrator in whole or in part, and its decision shall be final.
- E. The Zoning Administrator and Township Assessor shall maintain a record of all land divisions approved by the Township.

## **SECTION 7 DIVISIONS NOT SUBJECT TO REVIEW AND APPROVAL.**

- A. A parcel proposed for subdivision through a recorded plat as regulated by the Township Subdivision Ordinance and the Act. However, a division of an already platted lot shall be subject to review and approval under this Chapter.
- B. Property developed in accordance with the Township's site condominium regulations and the State of Michigan's Condominium Act (Public Act 59 of 1978, as amended).
- C. Mobile home parks developed in accordance with the Township's mobile home park district regulations.

## **SECTION 8 ALLOWANCES FOR APPROVAL OF OTHER LAND DIVISIONS**

A proposed land division which does not fully comply with the applicable lot, yard, and accessibility and area requirements of the Township Zoning Ordinance may be approved only in the following circumstances:

- A. Where the Zoning Board of Appeals has granted a variance from the access, lot size, lot width, lot width to depth ratio requirements or other applicable requirements with which the land division application failed to comply.
- B. Where the proposed land division involves only the minor adjustment of a common lot line or involves the conveyance between adjoining properties which does not result in either parcel violating this Ordinance, the Township zoning Ordinance or the Act.
- C. Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds in a form acceptable to the Township designating the parcel as "not

eligible for a building permit from Allendale Charter Township". This parcel shall also be so designated in the Township records and shall hereafter not be the subject of a request to the Township Zoning Board of Appeals for variance relief from the applicable Zoning Ordinance requirements for lot area, width or road frontage or other applicable requirements with which the land division application failed to comply.

## **SECTION 9 EFFECT OF A LAND DIVISION APPROVAL**

A. A decision approving a land division shall be effective for 90 days after such approval by the Zoning Administrator, or, if appealed, by the Township Board, unless the following requirements are satisfied within this 90 day period: A deed or other recordable instrument of conveyance, accurately describing the resulting parcel(s), shall be recorded with the Ottawa County Register of Deeds, and a true copy showing proof of such recording filed with the Township Assessor.

B. If the actions required in Section 9 above are not satisfied, such land division shall, without further action of the Township, be revoked.

C. The approval of a land division is not a determination that the resulting parcels comply with other applicable ordinances or regulations.

## **SECTION 10 NON-COMPLIANCE**

Any parcel created inconsistent with or in violation of this Ordinance shall not be eligible for issuance of building permits, zoning approvals or other land use or building approvals under other Township ordinances such as special land use approval or site plan approval, nor shall any such parcel be established as a separate parcel on the tax assessment roll.

## **SECTION 11 PENALTIES AND ENFORCEMENT**

A violation of this Ordinance shall be considered a civil infraction subject to prosecution and fines as set forth in the Allendale Charter Township Municipal Civil Infraction Ordinance.

## **SECTION 12 EFFECTIVE DATE**

That the foregoing ordinance was approved and adopted by the Township Board of Allendale Charter Township, Ottawa County, Michigan, on \_\_\_\_\_, after a introduction and a first reading on September 23, 2013, and publication after such first reading as required by Michigan Act 359 of 1947, as amended. This ordinance shall be effective on \_\_\_\_\_, which date is more than 7 days after publication of the ordinance as required by Section 401 of Act 110 of 2006, as amended, provided that the effective date shall be extended if necessary to comply with the requirements of Section 402 of Act 110 of 2006, as amended.

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Township Supervisor

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Township Clerk