

LAND DIVISION ORDINANCE

TOWNSHIP OF ACME

COUNTY OF GRAND TRAVERSE, STATE OF MICHIGAN

Adopted: _____

Effective: _____

LAND DIVISION ORDINANCE

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.

TOWNSHIP OF ACME

GRAND TRAVERSE COUNTY, MICHIGAN,

ORDAINS:

SECTION I

TITLE

This ordinance shall be known and cited as the Acme 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 otherwise provide for the health, safety and welfare of the residents and property owners of Acme Township by establishing reasonable standards for prior review and approval of land divisions within Acme Township.

SECTION III

DEFINITIONS

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

- A. "Applicant" - a natural person, firm, association, partnership, corporation, limited liability company 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 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.
- 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 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.
- 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" - Acme Township Board of Trustees.
- F. "Land Division Committee" - A committee appointed by the Acme Township Board of Trustees, consisting of three (3) members whose purpose is to review all Land Division Applications and determine compliance or non-compliance with the standards of the Acme Township Land Division Ordinance.

SECTION IV

PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land in Acme Township shall not be divided without the prior review and approval of the Land Division Committee 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 Acme 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 Acme Township Subdivision Control Ordinance and the State Land Division Act.
- C. An exempt split as defined in this Ordinance.

SECTION V

APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Land Division Committee 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:

- A. A completed application form on such form as may be provided by Acme Township.
- B. Proof of fee ownership of the land proposed to be divided through a current Title Insurance Policy.

In lieu of such Title Insurance Policy, at the applicant's option, the applicant may waive the 30 day statutory requirement for a decision on the application until such Title Insurance Policy is filed with Acme Township, and submit all documents to demonstrate proof of fee ownership and all easements.

- 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 and 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, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

The Land Division Committee 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 which 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.
- 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. Unless a division creates a parcel which is acknowledged and declared to be "not buildable" under Section VIII 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.
- I. The fee as may from time to time be established by resolution of the governing body of Acme 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.
- J. The names and addresses of all owners of the parcel which is the subject of the application and the names and addresses of all owners of all parcels which abut The parcel which is the subject of the application.
- K. The legal description of the parcel(s) which are the subject of the application.
- L. The legal description of the parcels which will result from the proposed lot division.
- M. A list and description of any and all easements, encroachments, roads (public or private), right-of-ways, and public utilities located on the subject property.
- N. Such other and additional information as may be reasonably required by the Acme Township Land Division Committee.

SECTION VI

PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

- A. The Land Division Committee shall approve, approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within 30 days after receipt of the full and complete application package conforming to the Ordinance's requirements, and shall promptly notify the applicant of the decisions and the reasons 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 to the applicant for completion and refilling in accordance with this Ordinance and the State Land Division Act.
- B. An applicant may appeal the decision of the Acme Township Land Division Committee regarding a denial to the Acme Township Board of Trustees by filing a written notice of appeal with the Acme Township Zoning Administrator within thirty (30) days after the applicant is provided with notice of the Acme Township Land Division Committee's decision. The failure of the applicant to appeal the decision of the Land Division Committee in writing to the Acme Township Board of Trustees within thirty (30) days shall eliminate and foreclose any and all legal rights the applicant may have to challenge the decision of the Acme Township Land Division Committee or any decision of the Acme Township Zoning Administrator or Assessor. An applicant may appeal the decision of the Acme Township Board of Trustees regarding a denial to the Grand Traverse County Circuit Court by filing a written notice of appeal within twenty-one (21) days After the applicant is provided with notice of the Acme Township Board of Trustee's decision. The failure of the applicant to appeal the decision of the Acme Township Board of Trustees in writing within twenty-one (21) days shall eliminate and foreclose any and all legal rights the applicant may have to challenge the decision of the Acme Township Land Division Committee, the Acme Township Board of Trustees, the Acme Township Zoning Administrator, or the Acme Township Assessor.
- 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 Land Division committee shall maintain an official record of all approved and accomplished land divisions or transfers.

- E. Acme Township may also take all steps necessary to revoke the approval given if the Acme Township Land Division Committee determines that an applicant gave false or misleading information in the material submitted during the application process.

SECTION VII

STANDARDS FOR APPROVAL OF LAND DIVISIONS

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

- A. All parcels to be created by the proposed land division(s) fully comply with the Acme Township 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. 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, 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.
- D. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-buildable parcels created under Section VIII of this Ordinance and parcels added to contiguous parcels that result in all involved parcels complying with said ratio.

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.

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

- E. In the absence of applicable zoning or other ordinances providing a different standard, all parcels created by a land division shall comply with the following minimum standards:

- (1) 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:
- (2) Where accessibility by vehicle traffic and for utilities is permitted through other than a dedicated and accepted public road or easement, such accessibility shall comply with the following:
 - (a) Where such private road or easement extends for more than 660 feet from a dedicated public road, or is serving or intended to serve more than one separate parcel, unit or ownership, it shall be not less than 66 feet in right of way width, 24 feet in improved roadbed width with at least three feet or improved shoulder width on each side and adequate drainage ditches and necessary culverts on both sides to accumulate and contain surface waters from the road area. It shall further be improved with not less than six inches of a processed and stabilized gravel base over six inches of granular soil, have a grade of not more than seven percent, and if dead-ended, shall have a cul-de-sac with a radius of not less than 50 feet of improved roadbed for the accommodation of emergency, commercial and other vehicles.
 - (b) Where a private road or easement is 660 feet or less in length, and is serving or intended to serve not more than four separate parcels, units or ownerships, it shall not be less than 40 feet in right of way width, 20 feet in improved roadbed width with at least two feet of improved shoulder width on each side, and adequate drainage ditches on both sides with necessary culverts to accommodate and contain surface waters from the road area. It shall further be improved with processed and stabilized gravel and granular soil, have a grade of not more than seven percent, and a cul-de-sac where dead-ended as specified in subparagraph (5)(a) above. If said private road or easement is serving or intended to serve more than four separate parcels, units or ownerships, the right of way and development standards set forth in (5)(a) above shall apply.
 - (c) If accessibility is by a private road or easement, a document acceptable to Acme Township shall be recorded with the County Register of Deeds and filed with the Land Division Committee specifying the method of private removal, the apportionment of these costs among those benefited, and the right of Acme Township to assess such costs against those properties benefited, plus a 25 percent administrative fee and to perform such

improvements in the event of a failure of those benefited to privately perform these duties for the health, safety and general welfare of the area.

- (d) Any intersection between private and public roads shall contain a clear vision triangular area of not less than two feet along each right of way line as measured from the intersecting right of way lines.
- (e) No private road shall serve more than 25 separate parcels.

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 or deed restriction with the County Register of Deed , in a form acceptable to Acme Township, designating the parcel as "not buildable". Any such parcel shall also be designated as "not buildable" in the municipal records, and shall not thereafter be the subject of the request of 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 which the parcel failed to comply.
- C. 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.

SECTION IX

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 X of this ordinance, and as may otherwise be provided by law.

SECTION X

NOTICES

- A. Any notice required or permitted to be given by Acme Township or any other agency under this Ordinance to any applicant or owner may be given either by personal delivery or by First Class Mail, postage prepaid, addresses to the most recent address as specified in the application for the Township. Notices mailed as above shall be deemed given upon their deposit in the United States mail.
- B. Any notice required or permitted to be given to Acme Township by any person under this Ordinance shall not be deemed given until and unless it is received in the principal office of Acme Township.

SECTION XI

PENALTIES AND ENFORCEMENT

A person who violates this Land Division Ordinance shall be subject to a suit for injunctive relief, or revocation of the approval given, and/or invalidation of the land division as well as fines or other penalties as provided by the Acme Township Zoning Ordinance. In addition, any person violating any of the provisions of this Land Division Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding Five Hundred (\$500.00) Dollars and cost of prosecution or by imprisonment for a period not exceeding ninety (90) days or by both such fine and imprisonment in the sole discretion of the Court. Each day during which a violation of a provision of this Land Division Ordinance continues shall be deemed a separate and distinct violation for the purpose of this section. In addition to the penalties set forth in this section, Acme Township may maintain any equitable or legal action available to it for the abatement of any violation of this Land Division Ordinance.

Violation of this Land Division Ordinance shall be a nuisance per se. Acme Township, if it is successful in any lawsuit brought under this Land Division Ordinance, shall be reimbursed by the opposing party(s), including, but not limited to, the applicant and the owner, for all costs of the litigation, including but not limited to Acme Township's reasonable attorney fees and all other costs of litigation.

SECTION XII

ADMINISTRATIVE LIABILITY

No officer, agent or employee of Acme Township shall render himself or herself personally liable for any damages that may accrue to any person as a result of any act required or permitted in the discharge of his or her duties under or in the enforcement of this Land Division Ordinance.

SECTION XIII

SEVERABILITY

This Land Division Ordinance and the various sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid, it is hereby declared that the remainder of this Land Division Ordinance shall not be affected thereby.

Pronouns shall be read as masculine, feminine or neuter as may be appropriate. Captions appearing at the beginning of any section shall not be deemed a part of this Land Division Ordinance and shall have no independent significance.

SECTION XIV

REPEAL

All ordinances or parts thereof which are in conflict in whole or part with any of the provisions of this Land Division Ordinance as of the effective date of this Land Division Ordinance are hereby repealed to the extent of such conflict, except nothing in this Land Division Ordinance shall be construed to repeal any provision or section of the Acme Township Zoning Ordinance or the Acme Township Subdivision Control Ordinance.

SECTION X

EFFECTIVE DATE

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

TOWNSHIP OF ACME

Lisa Swanson, Clerk