

LAND DIVISION ORDINANCE

- 108.000** An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 188 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.
- 108.001** **Title** This ordinance shall be known and cited as the Porter Township Land Division Ordinance.
- 108.002** **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 the Township by establishing reasonable standards for prior review and approval of land divisions within the Township.
- 108.003** **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, or combination of any of them that holds an ownership interest in land whether recorded or not.
- B. **Divide 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 for 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. "Divide" and 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 State Land Division Act, or the requirements of other applicable local ordinances.
- 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.

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 Porter Township Board.

108.004 **Prior Approval Requirements for Land Divisions** Land in the Township shall not be divided without the prior review and approval of the Township Zoning Administrator and the Township 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 State Land Division Act.

B. A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act.

C. An exempt split as defined in this Ordinance, or other partitioning or splitting that results in parcels of 20 acres or more if each is not accessible and the parcel was in existence on March 31, 1997 or resulted from exempt splitting under the State Act.

108.005 **Application for Land Division Approval** An applicant shall file all of the following with the Porter Township Zoning Administrator 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 approved by the Township Board.

B. Proof of fee ownership of the land to be divided.

C. A tentative parcel map; drawn to scale including an accurate legal description, and showing the boundary lines, approximate dimensions, and the accessibility of each division for automobile traffic and public utilities.

D. Proof that all standards of the State Land Division Act and this Ordinance have been met.

E. If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.

108.006 **Procedure for Review of Applications for Land Division Approval**

A. The Township shall approve or disapprove the land division applied for within 45 days after receipt of a complete application conforming to this Ordinance's

requirements and the State Land Division Act, and shall promptly notify the applicant of the decision, and if denied, the reason for denial.

B. The Township Zoning Administrator shall maintain an official record of all approved and accomplished land divisions or transfers.

C. Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.

D. The Township and its officers and employees shall not be liable for approving a land division if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to this effect.

108.007

Standards for Approval of Land Divisions A proposed land division reviewable by the Township shall be approved if the following criteria are met:

A. All parcels created by the proposed divisions meet the requirements as provided for in applicable Zoning Ordinances.

B. All such parcels shall contain a minimum area of square footage as provided for in an applicable Zoning Ordinance.

C. 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-development sites. The 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.

1. The width to depth ratio requirements of this Section shall not apply to lots or parcels that have more than one-half (1/2) of their street frontage on a cul-de-sac. The minimum lot width for a lot on a cul-de-sac or other irregularly shaped lot shall be measured at the front yard setback line and shall not be diminished throughout the remainder of the lot. Such lots shall have a minimum lot width required by the zone district in which the lot or parcel is located.

2. For corner lots, the depth of the lot shall be measured along the longest front lot line which is parallel or generally parallel to the public or private street right-of-way or easement. The width of the corner lot shall be that front lot line which parallels or is generally parallel to the public or private street right-of-way or easement and is the shorter of the two lot lines. Where such lot lines are of equal length, the Zoning Administrator shall determine the measurement of lot width to depth for purposes of this Section.

3. The Planning Commission may permit the division of a lot or parcel which does not comply with the above provisions provided that the following findings are made:

- a. That the greater width to depth ratio is necessitated by conditions of the land which make compliance with this Section impractical. Such conditions may include topography, road access, soil conditions, wetlands, floodplains, water bodies, or other similar unique conditions.
- b. That the division and use of such lot or parcel will not conflict with other federal, state, county or township ordinances or regulations, unless an appropriate variance or approval is granted as required or permitted by such ordinances or regulations.

D. Access.

1. Any land division shall front upon a public street or private road right-of-way or easement meeting the requirements of the Township Zoning Ordinance for the minimum lot width required by the zone district in which the lot or parcel is located.
2. Any proposed points of ingress or egress to a lot or parcel created by the land division must meet the location and design standards of the Township or other authority having jurisdiction over the roadway to which access is planned.
3. All parcels created and remaining have existing adequate accessibility, or an area available therefore, for public utilities and emergency and other vehicles.

E. The proposed land division(s) comply with all requirements of this ordinance and the State Land Division Act.

108.008 Consequences of Noncompliance with Land Division Approval Requirement

Any division of land in violation of any provision of this Ordinance shall not be recognized as a land division on the township tax roll and no construction thereon which requires the prior issuance of a construction or building permit shall be allowed. The Township shall further have the authority to initiate injunctive or other relief to prevent any violation or continuance of any violation of this Ordinance.

An unlawful division or split shall also be voidable at the option of the purchaser and shall subject the seller to the forfeiture of all consideration received or pledged thereof, together with any damages sustained by the purchaser, recoverable in an action at law.

108.009 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.

108.010 **Repeal** All previous Land Division Ordinances affecting unplatted land divisions in conflict with this Ordinance are hereby repealed; however, this Ordinance shall not be construed to repeal any provision in any applicable Zoning Ordinances, Building Codes or other ordinances of the Township which shall remain in full force and effect notwithstanding any land division approval hereunder.

108.011 **Effective Date** This Ordinance shall take effect upon publication and in accordance with the provisions of the act governing the same.

Effective August 29, 1997