

LAND DIVISION ORDINANCE
HAMPTON CHARTER TOWNSHIP
ORDINANCE NO. 54

An ordinance to regulate the division of land within Hampton Charter Township pursuant to but not limited to the Michigan Subdivision Control act, being Act 288 of the Public Acts of 1967, as amended, the Michigan Land Division act, being Act 591 of the Public Acts of 1996 and Act 246, of 1945, as amended, being the Township General Ordinance stature; to provide a procedure therefor; and to prescribe penalties and enforcement remedies for the violation of the ordinance.

THE CHARTER TOWNSHIP OF HAMPTON
BAY COUNTY, MICHIGAN
ORDAINS:

SECTION 1
TITLE

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

SECTION 2
PURPOSE

The purpose of this ordinance is to implement 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 the 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.

SECTION 3
DEFINITIONS

For purposes of the 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. "Development Site" - means any parcel or lot on which exists or which is intended for building development other than the following:

- (i) Agricultural use involving the production of plants and animals useful to humans, including forages and sodcrops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds, and grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses activities.
 - (ii) Forestry use involving the planting, management, or harvesting of timber.
- C. “Divided” or “Division” - the partitioning or splitting of a parcel or tract of land by the proprietors thereof or by his or her heirs, executors, administrators, 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 Section 108 and 109 of the State Land Division Act. 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 development site unless the parcel conforms to the requirements of this act or the requirements of an applicable local ordinance.
- D. “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. For a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel, any resulting parcel shall not be considered a development site unless the parcel conforms to the requirements of this act or the requirements of an applicable local ordinance.
- E. “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.
- F. “Governing Body” - the Hampton Charter Township Board
- G. “Public Sewer” - means a sewerage system as defined in section 4101 of part 41 (sewerage systems) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.4101 of the Michigan Compiled Laws.
- H. “Public Water” - means a system of pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes, and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water to the public for household or drinking purposes.

SECTION 4
PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land in Hampton Charter Township shall not be divided without the prior review and approval of the Hampton Charter Township Clerk or other official authorized by the Hampton Charter 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 Hampton Charter Township Subdivision Regulations and the State Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the Hampton Charter Township Subdivision Regulations and the State Land Division Act.
- C. A parcel proposed to be developed as a Site Condominium in accordance with the Hampton Charter Township Zoning Ordinance and the State Condominium Act.
- D. An exempt split as defined in this Ordinance.

SECTION 5
APPLICATION REQUIREMENTS FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Hampton Charter Township Clerk or other official authorized by the Hampton Charter Township Board 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 and signed application on forms available from the Township.
- B. Proof of fee ownership of the land proposed to be divided.
- C. Accurate legal descriptions for the parent parcel and each parcel being created.
- D. A tentative parcel map of the land proposed to be divided, prepared pursuant to the survey requirements of 1970 Public Act 132, as amended. (MCL54211) by a land surveyor licensed by the State of Michigan, and showing: the boundaries and dimensions of the parent parcel as of March 31, 1997; the boundaries and dimensions of all previous divisions made after 3/31/97; the boundaries and dimensions of each parcel being created by this application; existing and proposed public and approved private street rights-of-way; existing and proposed public utility easements; the location of existing buildings and driveways; and the location of existing and proposed public sewer and public water systems serving any of the parcels.

In lieu of a tentative parcel map prepared by a licensed land surveyor and at the applicant's option, the applicant may waive the 30 day statutory requirement for a decision on the application until such survey map is filed with the Township, and submit a tentative parcel map, not prepared by a licensed land surveyor, drawn to a scale of not less than one-inch equals one-inch equals one-hundred feet and showing: the boundaries and dimensions of the parent parcel as of March 31, 1997; the boundaries and dimensions of all previous divisions made after 3/31/97; the boundaries and dimensions of each parcel being created by this application; existing and proposed public and approved, private street rights-of-way; existing and proposed public utility easements; the location of existing buildings and driveways; and the location of existing and proposed public sewer and public water systems serving any of the parcels.

The Township Assessor or other Official authorized by the Township Board, may waive the survey map requirement where the foregoing preliminary 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.

- E. Proof that all standards of the State Land Division Act, this Ordinance, and all other Township ordinances have been met.
- F. Documentation of any previous divisions of land of which the proposed division(s) 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.
- G. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.
- H. If the additional transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- I. Unless a division creates a parcel which is declared by the seller, in writing to the Township, not to be a development site under Section 8 of this Ordinance, information shall be submitted necessary to show that all divisions will result in development sites containing sufficient development area outside of unbuildable wetlands and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all requirements of the Township Zoning Ordinance. In addition, information shall be submitted showing that all development sites will be served by a public sewer or that the County Health Department has approved an on-site sewage disposal system and by public water or that the County Health Department has approved an on-site water supply system.
- J. Copies of existing or proposed deed restrictions related to the existing and/or proposed parcels.

- K. If any portion of the land is subject to a farmland development rights agreement pursuant to Michigan Public Act 451 of 1994, a copy of the agreement shall be submitted.
- L. The fee as may from time to time be established by resolution of the Hampton Charter Township Board for land division reviews to cover the costs of review of the application and administration of this Ordinance and the State Land Division Act.

SECTION 6

PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

- A. The applicant shall submit two copies of a completed application form and all of the information required in Section 5 to the Hampton Charter Township Clerk. The Clerk shall retain one complete copy of all information for the official Township records and shall submit one copy to the Township Assessor.
- B. The Township Assessor shall; determine if the owner stated in the application is the owner based on existing Township Assessment records; determine if the parcel divisions are appropriate, based on Township records; determine if all property taxes and current installments on any special assessments have been paid; determine if the legal descriptions and proposed parcels are in accordance and consistent with Township records; determine if the proposed divisions will result in development sites and if the County Health Department has approved on-site sewage disposal systems and on-site water supplies for any development site being created that is not proposed to be served by public sewer and public water; determine if the proposed divisions are in compliance with the Township Zoning Ordinance and the Township Subdivision Regulations and submit a report to the Township Clerk, within 14 days from the date the application was received from the Township Clerk, recommending that the land division(s) be approved, be approved with reasonable conditions to assure compliance with applicable ordinances and the protection of public health safety and general welfare, or recommend that the application be denied. If denial is recommended, the reasons for such denial, shall be included in the report.
- C. Upon receipt of the report from the Township Assessor, the Township Clerk, or other Official authorized by the Township Board shall approve, approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or deny the land division applied for with 30 days after receipt of the application package conforming to the requirements of this Ordinance and the State Land Division Act and shall promptly notify the applicant of the decision. If the application is denied, the reasons for the denial shall be included in the notification.
- D. Any person or entity aggrieved by the decision of the Township Clerk, or other official authorized by the Township Board, may, within 30 days of said decision, appeal in writing, the decision to Township Planning Commission or such other board or person authorized by the Township Board which shall consider and resolve such appeal by a

majority vote of said Commission or by the designee at its next regular meeting or session affording sufficient time for a 10 day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing. A fee as may from time to time be established by resolution of the Township Board shall accompany the request for an appeal.

- E. A decision approving a land division is effective for 180 days, after which it shall be considered revoked unless within such period a document is recorded with the County Register of Deeds office and a copy of the recorded document accomplishing the approved land division transfer is filed with the Township, or unless an extension is obtained from the Township.

SECTION 7 STANDARDS FOR APPROVAL OF LAND DIVISIONS

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

- A. Each resulting parcel has an adequate and accurate legal description and is included in a survey map or a tentative parcel map, if the Township Assessor has waived the requirement for a survey map, showing: area parcel lines and dimensions: public utility easements: accessibility and other requirements of this Ordinance and the State Land Division Act.
- B. All parcels to be created by the proposed land division (s) fully comply with the requirements of the applicable Zoning District in which the parcel (s) are located, including, but not limited to, minimum lot frontage, width, minimum road frontage, minimum lot area, maximum lot coverage and minimum set-backs for existing buildings/structures.
- C. The proposed land division complies with all requirements of the State Land Division Act and this Ordinance.
- D. Each resulting parcel, which has an area less than 10 acres, has a depth of not more than four times the width exclusive of access roads, easements or nonbuildable parcels created under Section 8 of this Ordinance and parcels added to contiguous parcels that result in all involved parcels complying with said ratio. A greater depth to width ratio may be approved if there are exceptional topographic or physical conditions with respect to the parcel which make the required ratio impractical or unreasonable or if a greater depth to width ratio would be more compatible with the shape and size of other parcels in the vicinity.

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 Zoning District in which the parcels are located.

- E. All parcels created by a land division shall have a minimum street frontage of 40' on a public or approved private street.
- F. Each resulting development site will be served by public sewer or an on-site sewage disposal system approved by the County Health Department and by public water or on-site water supply system approved by the County Health Department.

SECTION 8 ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS

Notwithstanding disqualification's from approval pursuant to this ordinance, a proposed land division which creates a parcel which does not fully comply with the requirements of the Zoning District in which the parcel is located 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 Deeds, in a form acceptable to the Township designation the parcel as "not a development site". Any such parcel shall also be designated as "not a development site" in the Township records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable zoning requirements, and shall not be developed with any building.
- B. Where, in circumstances not covered in paragraph A above, the Zoning Board of Appeals has, previous to this Ordinance, granted a variance from the requirement for 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, the Zoning Ordinance, or the State Land Division Act.

SECTION 9 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 10 of this ordinance, and as may otherwise be provided by law.

SECTION 10
PENALTIES AND ENFORCEMENT

Any person who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the county jail for not to exceed 90 days or by both such fine and imprisonment.

Any person who violates any of the provisions of this ordinance shall be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

SECTION 11
DISCLAIMER OF LIABILITY

No officer, agent; employee; consultant, including planner or attorneys; or member of the Planning Commission, Township Board or Board of Appeals shall render himself personally liable for any damage which may accrue to any person as a result of any act, decision, consequence, or occurrence arising out of the discharge of his or her duties and responsibilities pursuant to this ordinance.

Additionally, the Township shall exercise its duties under this ordinance to fulfill statutory requirements mandated by Act 591 of Public Acts of 1996. In performing said duties, the Township relies upon the information submitted by the applicant and does not necessarily verify the accuracy or truthfulness of said information. It remains the duty of the applicant, seller, and purchaser or ultimate purchaser of any properties hereby split to comply with all federal, state, and local laws, ordinances, and regulations. By approving or denying a lot division, the Township does not assume any responsibility or liability for verification of information submitted to the Township nor does the Township represent to any potential seller or purchaser that compliance has been made with all other potential regulations, either federal, state, county or local.

SECTION 12
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 that said part or portion thereof.

SECTION 13
EFFECTIVE DATE

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