

Ordinance No. 1997-06-01

**TOWNSHIP OF CHESTER  
COUNTY OF OTTAWA, STATE OF MICHIGAN**

An ordinance to regulate **partitioning or division of parcels or tracts of land.**

The Township of Chester Ordains:

**Section 1. TITLE**

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

**Section 2. 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 Township, 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 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 ownership interest in land whether recorded or not.
- B. "Divided" or "Division"-the partitioning or splitting of 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 (1) 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.
- 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 acres owned by the owners of the parcel that can provide such access.
- D. "Forty acres or the equivalent"-either forty (40) acres, a quarter-quarter section containing not less than thirty (30) acres, or a government lot containing not less than thirty (30) acres.
- E. "Township"-the township of Chester.
- F. "Township Board"-the elected and acting Board of Trustees of Chester Township.

**Section 4. PRIOR APPROVAL REQUIREMENT FOR ALL LAND DIVISIONS**

Land in the Township shall not be divided without the prior review and approval of the Township assessor, or other official designated by the governing body, 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 applicable Township Ordinances and the State Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the Township ordinances and the State Land Division Act.
- C. An exempt split as defined in this Ordinance.

#### Section 5. APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Township Clerk or other official designated by the governing body 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 on such form as may be provided by the Township.
- B. Proof of free 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 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.

In lieu of such survey map, at the applicant's option, the applicant may waive the thirty (30) day statutory requirement for a division on the application until such survey map and legal description are filed with the Township, and submit a tentative preliminary parcel map drawn to scale of not less than that provided for on the application form including an accurate legal description of the proposed division, and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the Township designated official, prior to a final application under Section 5.

The governing body of the Township or its designated agent delegated such authority by the governing body, 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.
- 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 8 of this ordinance, all divisions shall result in "buildable" parcels containing sufficient "buildable" area outside of unbuildable wetland, flood plains, and other areas where buildings are prohibited there from, and with sufficient area to comply with all required setback provisions, minimum floor area, 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

1. The fee as may from time to time be established by resolution of the governing body of the Township for land division pursuant to this Ordinance 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. Upon receipt of a land division application package, the Township Clerk or other official designated by the governing body shall forthwith submit the same to the Township assessor or other designated official for decision. The Township assessor or other designee shall approve with reasonable conditions to assure compliance with an applicable ordinance and the protection of public health, safety and general welfare, or disapprove the land division applied for within thirty (30) days after receipt of the application package conforming to this 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's requirements and the State Land Division Act, the assessor or other designee shall return the same to the applicant for completion and refilling in accordance with this Ordinance and the State Land Division Act.
- B. Any person or entity aggrieved by the decision of the assessor or designee may within thirty (30) days of said decision, appeal the decision to the Township Board or such other board or person designated by the Township Board. The appeal shall be considered and resolved by a majority vote of said Board or by the designee at its next regular meeting or session, provided that the person or entity approved shall have sufficient time for a twenty (20) day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.
- C. A decision approving a land division is effective for ninety (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 Township Clerk or other designated official accomplishing the approved land division or transfer.
- D. The Township assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.

#### Section 7. STANDARDS FOR APPROVAL OF LAND DIVISIONS

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 Township zoning ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum yard frontage, minimum lot (parcel) coverage and minimum setbacks for existing buildings/structures.
- B. The proposed land division(s) complies 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 therefore, to a public or private road for public utilities and emergency and other vehicles not less than the requirements of the Township zoning ordinance, major thoroughfare plan, road ordinance 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 four (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 ration, exclusive of access roads easements or non-buildable parcels created under Section 8 of this ordinance, and parcels added to contiguous parcels that result in all involved parcels complying with said ratio.

The permissible minimum width shall be as defined in the applicable zoning ordinance, or in the absence thereof, as specified in subparagraph (E) (1) and (2) of this ordinance.

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 point of the parcel most remote from the point of commencement of the measurement.

- 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) A minimum road frontage of one hundred (100) feet on a public road or municipally approved private road.
  - (2) A minimum width of one hundred (100) feet as measured on a line parallel to the abutting road right of way and/or lake frontage and thirty-three (33) feet there from.
  - (3) A minimum lot (parcel) area of ten thousand (10,000) square feet.
- F. 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 access is to be provided by a proposed new dedicated public road, proof that the Ottawa County Road Commission or Michigan Department of Transportation has approved the proposed layout and construction design of the road and of utility casements and drainage facilities connected therewith.
  - (2) Where access for vehicular traffic and for utilities is permitted through other than a dedicated and accepted public road or easement, such access shall comply with all requirements of the Township's Private Road and Driveway Ordinance, Ordinance No. 97-4-1, as amended.
- G. Satisfactory evidence of the suitability of each proposed land division for on-site sewage disposal and a potable on-site water supply is provided from the Ottawa County Health Department or State Department of Environmental Quality, unless public water and sewer service is available to the site.

#### Section 8. APPROVALS OF OTHER LAND DIVISIONS

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 otherwise be approved in any of the following circumstances:

- A. Where the applicant executes and records an affidavit or deed restriction with the Ottawa County Register of Deeds in a form acceptable to the Township, designating the parcel as "not buildable". Any such parcel shall also be designated as "not buildable" 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 lot and/or area requirements, and shall not be developed with any building or above ground structure exceeding four feet in height and shall not be used for human habitation.
- 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, depth to width 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 property which does not result in either parcel violation this ordinance, any other applicable Township ordinance, or the State Land Division Act.

#### Section 9. CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENTS.

Any parcel created in violation of 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. VIOLATIONS A CIVIL INFRACTION

Any person, firm, or corporation which violates the provisions of this Ordinance shall be responsible for a municipal civil infraction. The sanctions for a violation of this Ordinance shall be a civil fine of not less than Fifty Dollars (\$50.00), plus costs and other sanctions. Increased civil fines may be imposed for repeated violations of this Ordinance by a person, firm or corporation. A "repeat violation" of this Ordinance is a second or subsequent violation of this ordinance committed by a person, firm, or corporation within six months of a prior violation of this Ordinance, and for which the person, firm or corporation admits responsibility or is determined to be responsible. The sanctions for a violation of this Ordinance which is a first repeat violation shall be a civil fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Fifty Dollars (\$250.00) plus costs and other sanctions. The sanction for a violation of this Ordinance which is a second or subsequent repeat violation shall be a civil fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more than Five Hundred dollars (\$500.00) plus costs and other sanctions. In addition to such civil infraction sanctions, the Township shall have the right to seek enforcement of the requirements of this Ordinance by any other means provided by law.

#### Section 11. 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.

#### Section 12. REPEAL

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.

#### Section 13. EFFECTIVE DATE

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

TOWNSHIP OF Chester Township

---

Karen Goodno,  
Township Clerk

EFFECTIVE DATE 08-10-97