

**CHESTER TOWNSHIP**  
**OTTAWA COUNTY, MICHIGAN**  
**(Ordinance No. 2013-05-02)**

At a regular meeting of the Township Board for Chester Township held at the Township offices on May 13, 2015, the following Ordinance was offered for adoption by Township Board Member Berenbrock, and was seconded by Township Board Member Meerman:

**AN ORDINANCE TO REGULATE THE PARTITIONING  
OR DIVISION OF PARCELS OR TRACTS OF LAND  
WITHIN CHESTER TOWNSHIP**

THE TOWNSHIP OF CHESTER (the “Township”) 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 Michigan Land Division Act (the “Act”) (1967 PA 288, as amended, formerly known as the Subdivision Control Act) and MCL 41.181 *et seq.* to prevent the creation of parcels of property which do not comply with applicable Township ordinances and the Act, to minimize potential boundary disputes, to maintain orderly development within 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 or denial 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, limited liability company, or combination of any of them that holds any ownership interest in the land involved, whether recorded or not.
- B. “Divided” or “Division” – the partitioning or splitting of a parcel or tract of land by the proprietor or owner 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 and that satisfies the requirements of Section 108 and 109 of the Act. This definition shall also include the adjustment of a boundary line or lines.

- C. “Township” – the Township of Chester.
- D. “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 written approval of the Township Zoning Administrator, or such other official as is designated by the Township Board, in accordance with this Ordinance and the Act; provided that the following shall be exempted from this requirement:

- A. A parcel proposed for subdivision through the creation of a recorded plat pursuant to applicable Township ordinances and the Act.
- B. A site condominium or other condominium unit proposed to be divided in accordance with Township ordinances and the Michigan Condominium Act.

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

An applicant shall file all of the following with the Township Zoning Administrator or other official designated by the Township Board for review and approval of a proposed land division before making any division or split 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 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) and the remnant parcel, 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 forty-five (45) day statutory requirement for a decision 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 proposed parcel 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 (with a full survey) being filed under this Section 5.

The Zoning Administrator or the designated official delegated such authority by the Township Board 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, nature of the parcels, and the undeveloped character of the territory within which the proposed parcels are located. An accurate legal description of all the proposed parcels, however, shall at all times be required.

- D. Proof that all standards of the Act and this Ordinance have been met.
- E. The history and specifications of any previous divisions of land of which the property was a part, sufficient to establish that the parcel to be divided was lawfully in existence as of March 31, 1997. The Township may require the applicant to provide the Township with a complete title search of the property from a title insurance company going back to before 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 propose division rights transfer.
- H. Unless a division creates a parcel which is acknowledged and declared to be “not buildable” and is approved by the Township under Section 8 of this Ordinance, all divisions shall result in fully “buildable” parcels containing sufficient “buildable” area outside of unbuildable wetland, flood plains, and other areas where buildings are prohibited therefrom, 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
- I. The fee(s) as may from time to time be established by resolution of the Township Board for a land division pursuant to this Ordinance to cover the costs of review of the application and administration of this Ordinance and the Act.

**Section 6. PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL**

- A. Upon receipt of a land division application package, Township officials shall forthwith submit the same to the Township Zoning Administrator or other designated official for decision. The Township Zoning Administrator or other designee shall (1) approve with reasonable conditions to assure compliance with an applicable ordinance and the protection of public health, safety and general welfare, or (2) disapprove the land division applied for within forty-five (45) days after receipt of the application package conforming to this Ordinance’s requirements, and shall promptly notify the applicant of the decision and the

reasons for any denial. If the application package does not conform to this Ordinance's requirements or the Act, the Zoning Administrator or other designee shall return the same to the applicant for completion and refilling in accordance with this Ordinance and the Act.

- B. Any person or entity aggrieved by the decision of the Zoning Administrator or designee may in writing within thirty (30) days of said decision, appeal the decision to the Township Board or such other board or person as is designated by the Township Board. The appeal shall be considered and resolved by a majority vote of said Board or by its designee at its next regular meeting or session, provided that there shall be sufficient time for a twenty (20) day prior written notice to 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 time it shall be deemed revoked unless within such time period a deed, land contract, or memorandum of land contract is recorded with the County Register of Deeds office and filed with the Township Clerk or other designated official creating the approved parcels and accomplishing the approved land division or transfer.
- D. The Township Zoning Administrator or designee shall maintain an official record of all approved and accomplished land divisions or transfers.
- E. Reasonable conditions may be attached to any land division approval by the Township.

## **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) (including the remnant parcel or the parcel or parcels kept by the applicant) must fully comply with the applicable lot (parcel), yard, area, and dimensional requirements of the Chester Township Zoning Ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum yard frontage, minimum lot (parcel) size, and minimum setbacks for existing buildings/structures.
- B. The proposed land division(s) complies with all requirements of the 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 that specified in the Chester Township Zoning Ordinance Section 338.

The permissible minimum width shall be as defined in the Chester Township 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 private or public 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 Chester Township Zoning Ordinance provisions providing a different standard, all parcels created by a land division shall comply with all of the following minimum standards:

1. A minimum road frontage of one hundred (100) feet on a public road or Township-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 Chester Township Zoning Ordinance or other Township ordinances providing a different standard, all parcels created by a land division shall comply with all of 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 Zoning Ordinance.

- G. Satisfactory written evidence of the suitability of each proposed parcel for on-site sewage disposal and a potable on-site water supply as provided from the Ottawa County Health Department or Michigan Department of Natural Resources and the Environment, unless public water and sewer service is available to the site.

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

- A. A proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the Zoning Ordinance or this

Ordinance may otherwise be approved by the Zoning Administrator in any of the following circumstances:

1. Where the landowner executes and records a permanent deed restriction with the Ottawa County Register of Deeds in a form and with language 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.
  2. Where, in circumstances not covered by Paragraph 1 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.
  3. 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 violating this Ordinance, the Zoning Ordinance, any other applicable Township ordinance, or the Act.
- B. No platted lot shall be split or divided, and no boundary line for a platted lot shall be moved or altered, unless approved by the Township Planning Commission. All resulting lots or parcels created pursuant to the division of a platted lot (or the adjustment of one or more platted lot boundaries) shall comply with all dimensional and area requirements of the Chester Township Zoning Ordinance, as well as any other applicable Township ordinance. The procedures for the division of a platted lot (or the changing of a platted lot line) shall be the same as for the division of an unplatted property as specified in this Ordinance, except the final decision regarding whether to approve or deny the division of a platted lot (or the adjustment of a platted lot boundary line or lines) shall be made by the Township Board.

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

Any parcel created in violation of this Ordinance or the Act shall be deemed illegal and shall not be eligible for any building permit, zoning permit, or zoning approvals such as special land use approval, a rezoning, or site plan approval, and shall not be recognized as a separate parcel on the property tax assessment roll. In addition, any 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.

Any parcel which is created by deed, land contract, or other fashion after a land division approval by the Township that does not fully confirm with the survey and parcel size, shape, location, and other characteristics of the parcel as approved by the Township shall be in violation of this Ordinance and shall be deemed an unlawful parcel.

**Section 10. VIOLATIONS A CIVIL INFRACTION**

Any person, firm, or corporation which violates any of 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 or equity.

**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 other 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 Chester Township Zoning Ordinance, as amended, the Chester Township subdivision control ordinance, or the Township’s building codes. This Ordinance also repeals Chester Township Ordinance No. 1997-06-01 in its entirety.

**Section 13. EFFECTIVE DATE**

This Ordinance shall take effect upon the expiration of thirty (30) days following its publication (or a summary of this Ordinance) after adoption.

The vote in favor of this Ordinance was as follows:

YEAS: Berenbrock, Goodno, Meerman and Redding

NAYS: None

ABSENT/ABSTAIN: Kelly

ORDINANCE DECLARED ADOPTED.

**CERTIFICATION**

I hereby certify that the above is a true copy of an Ordinance adopted by the Chester Township Board at the time, date, and place specified above pursuant to the required statutory procedures.

Respectfully submitted,

Dated: \_\_\_\_\_, 2015

By \_\_\_\_\_  
Janice Redding  
Chester Township Clerk

10591 (001) 531808.2