

**TOWNSHIP OF FRANKLIN**

**ORDINANCE NO. 106-12**

**LAND DIVISION ORDINANCE**

An ordinance to regulate partitioning or division of parcels or tracts of land enacted pursuant to but not limited to the Land Division Act, being Michigan Public Act 288 of 1967, as amended, and Michigan Public Act 246 of 1945, as amended; 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 FRANKLIN ORDAINS:**

**SECTION 1 TITLE**

This Ordinance shall be known and cited as the “Franklin Township Land Division Ordinance.”

**SECTION 2 PURPOSE**

The purpose of this Ordinance is to carry out the provisions of the Land Division Act, 1967 PA 288, as amended, being MCL 560.101 *et seq.* ("Act"); to prevent the creation of parcels of property which do not comply with this and other applicable ordinances and the Act; to minimize potential boundary disputes; to maintain orderly development in Franklin Township ("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 meaning set forth herein. Additionally, where terms and words are set forth in the Act, those terms and words shall have the definitions ascribed to them in the Act, except as set forth within this section.

- A. “Assessor” – shall mean the public officer holding the position as the Township Assessor.
- B. "Applicant" – shall mean any person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.
- C. “Depth to Width Ratio” – is the measure 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 beginning of the measurement.

D. "Township" – shall mean the Township of Franklin, Clare County, Michigan.

#### **SECTION 4 EXEMPT DIVISIONS**

Land in the Township shall not be divided without the prior review and approval of the Township Assessor or other official(s) 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 a recorded plat pursuant to the Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the Act and any applicable Township ordinance.
- C. An exempt split or other partitioning or splitting that only results in parcels of 20 acres or more where each parcel is not accessible (as defined in the Act) and either the parcel was in existence on March 31, 1997, or resulted from exempt splitting under the Act.

#### **SECTION 5 APPLICATION FOR LAND DIVISION APPROVAL**

Any applicant desiring a Division as required by this Ordinance shall file a written request. At a minimum the written request must include the following documentation:

- A. Proof of fee ownership of the land proposed to be divided or written consent to the application signed by the fee owner of the land.
- B. A tentative parcel map showing the parent parcel or parent tract which is the subject of the application, and the area, parcel lines, public utility easements, and the manner of proposed access for each resulting parcel. A tentative parcel map must include the following:
  - 1. Proposed boundary lines and the dimensions of each parcel before and after the proposed division;
  - 2. An accurate legal description of each parcel before and after the proposed division;
  - 3. The location, dimensions and nature of proposed ingress to and egress from any existing public or private road or easement;
  - 4. The location of any public or private street, driveway or utility easement to be located within any parent parcel, parent tract or resulting parcel;
  - 5. The location and measurements of any existing buildings or other existing land improvements on the parent parcel, parent tract or resulting parcel; and

6. The location and accessibility of public utilities.
- C. Proof that all standards of the Act and this Ordinance have been met.
- D. If requested by the Assessor or other Township official, 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 Act.
- E. If transfer of division rights is proposed, detailed information about the terms and availability of the proposed division rights transfer.

## **SECTION 6 GENERAL PROCEDURES**

- A. The Township must approve or disapprove the request within 45 days after receipt of a complete request conforming to requirements of this Ordinance and the Act, and shall promptly notify the applicant of the decision, and if denied, the reasons for denial.
- B. Any applicant aggrieved by the decision of the Assessor or other Township official may, within 30 days of said decision, appeal the decision to the Township Board, which shall consider and resolve such appeal by a majority vote of the Township Board at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant of the time and date of the meeting. The Township Board may affirm, modify or reverse the decision of the Assessor or other Township official and its decision shall be final.
- C. The Assessor shall maintain an official record of all approved and accomplished land divisions or transfers.

## **SECTION 7 STANDARDS FOR APPROVAL**

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

- A. The proposed land division, including all resulting parcels, complies with all requirements of the Act, this Ordinance and any other applicable Township ordinance, rule or regulation for the protection of the health, safety and general welfare of the public.
- B. The ratio of depth to width of any parcel created by the division does not exceed a four (4) to one (1) ratio. The depth to width ratio requirements of this subsection shall apply to parcels larger than 10 acres but shall not apply to the remainder of the parent parcel or parent tract retained by the proprietor. In the event that any other ordinance shall specify a depth to width ratio for a particular area in the Township which differs from that set forth within this sub-section, the ratio contained in the this Ordinance shall control.

- C. Each parcel created by a Division(s) shall not exceed a four (4) to one (1) ratio and minimum area of 1 acre. Notwithstanding the foregoing, if any other applicable ordinance requires a greater minimum width or area, the greater minimum width or lot area shall control.

## **SECTION 8 LIMITED EFFECT**

Approval of a Division is not a determination that any parcel complies with other laws, ordinances of the Township or applicable regulations. The Township and its officers and employees shall not be liable for approving a 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 that effect.

## **SECTION 9 NONCOMPLIANCE**

Any parcel created contrary to any provision of this Ordinance or the Act shall not be eligible for any building permits or approvals including, but not limited to, special land use approval, site plan approval or land use permit, and shall not be recognized as a separate parcel on the Township's tax or assessment roll. In addition, violation of this Ordinance shall subject the violator to the penalties and enforcement actions set forth in Section 10, Penalties and Enforcement of this Ordinance, and as may otherwise be provided by law.

## **SECTION 10 PENALTIES AND ENFORCEMENT**

Violations of the provisions of this Ordinance shall constitute a municipal civil infraction. Any person, firm, association, partnership, corporation or entity who is found responsible or admits responsibility for a municipal civil infraction shall be subject to a civil fine and costs. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance and/or the Act. Each day that a violation of this Ordinance continues to exist shall constitute a separate violation of this Ordinance. The Township shall be entitled to its costs, including reasonable attorney fees, from any person that has violated or permitted the violation of any provision of this Ordinance.

Pursuant to Section 267 of the Land Division Act (MCL 560.267), 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 therefore, together with any damages sustained by the purchaser, recoverable in an action at law.

## **SECTION 11 SEVERABILITY**

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision to declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any other portion of this Ordinance.

**SECTION 12 REPEAL**

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed, but only to the extent give this Ordinance full force and effect.

**SECTION 13 EFFECTIVE DATE**

This Ordinance takes effect 30 days after it or a proper summary of it is published as required by law.

ADOPTED:

Motion: Trustee McLavy / Seconded: Trustee Dalton

YEAS: 5

NAYS: 0

STATE OF MICHIGAN                    )  
  )ss  
COUNTY OF CLARE                    )

**CLERK'S CERTIFICATION**

I, Diane Blackburn, the duly elected, qualified and acting Clerk of the Township of Franklin, Clare County, certify that the above Land Division Ordinance was adopted at a regular meeting of the Franklin Township Board held at the Franklin Township Office, 9809 N. M-18 Gladwin, Michigan, on the **20th** day of **September, 2012**, by a majority of the members of the board presenting and voting.

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Diane Blackburn, Clerk