

**TOWNSHIP OF GANGES
COUNTY OF ALLEGAN, STATE OF MICHIGAN
ORDINANCE NO. 15**

Adopted: June 3, 1997

Effective: June 13, 1997

LAND DIVISION ORDINANCE

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 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.

**TOWNSHIP OF GANGES
ALLEGAN COUNTY, MICHIGAN**

ORDAINS:

SECTION I

TITLE

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

SECTION II

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 general welfare of the residents and property owners of the municipality by establishing reasonable standards for prior review and approval of land divisions within the municipality.

SECTION III

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. **Divided** 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 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 Sections 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 building site unless the parcel conforms to the requirements of the State Land Division Act and the requirements of all applicable Township 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; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access. 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 building site unless the parcel conforms to the requirements of the State Land Division Act and the requirements of all applicable Township ordinances.

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 legislative body of a township board of a township.

SECTION IV

PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land in the municipality shall not be divided without the prior review and approval of the municipal 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 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.

SECTION V

APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the municipal 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 form on such form as may be provided by the municipality.
- B. Proof of ownership (instrument of conveyance, deed, or land contract) 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, (M.C.L. 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 accessibility of the parcels for vehicular traffic and utilities from existing public roads.

In lieu of such survey map, the applicant may submit a designated parcel map drawn to scale of not less than that provided for on the application form including an accurate legal description of each 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.
- D. Proof that all standards of the State Land Division Act and this Ordinance have been met. (See checklist accompanying this ordinance).
- 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, the effective date of the State Land Division Act.
- F. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- G. Unless a division creates a parcel which is acknowledged and declared to be **Not buildable** under Section VIII of this Ordinance, all divisions shall result in **Buildable** parcels containing sufficient **Buildable** area outside of unbuildable wetlands, flood plains and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor areas, 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.

H. The fee as may from time to time be established by resolution of the governing body of the municipality for land division reviews 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 VI

PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

A. Upon receipt of a land division application package, the municipal clerk or other official designated by the governing body shall forthwith submit the same to the municipal assessor or other designated official for decision. The municipal assessor or other designee shall approve, approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within 45 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 requirements and the State Land Division Act, the assessor or other designee shall return the same to the applicant for completion and refiling 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 30 days of said decision appeal the decision to the governing board of the municipality or such other board or person designated by the governing body which shall consider and resolve such appeal by a majority vote of said Board or by the designee at its next regular meeting or session affording sufficient time for a 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 one (1) year, after which it shall be considered revoked unless within such period a document is recorded with the County Register of Deeds office.

D. The municipal assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.

SECTION VII

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 divisions(s) fully comply with the applicable lot (parcel), yard and area requirements of the applicable zoning ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, and maximum lot (parcel) coverage and minimum set-backs for existing buildings/ structures.

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

C. Each resulting parcel that is a development site has adequate easements for public utilities from the parcel to existing public utility facilities. Unless otherwise provided in the Michigan Land Division Act, MCL 560.102(k) the term Adevelopment site@ means any

parcel or lot on which exists or which is intended for building development other than agricultural uses as listed in the Act and forestry uses as listed in the Act.

D. For a parent parcel or parent tract with less than 10 acres, the ratio of depth to width of any resulting parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-buildable parcels created under Section VIII of this Ordinance and parcels added to contiguous parcels that result in all involved parcels complying with said ratio. This requirement may be relaxed and a greater depth to width ratio allowed by the Township Board of Trustees based upon a consideration of the following factors:

- (1) The topographical conditions of the Parcel;
- (2) The physical conditions of the Parcel; and
- (3) The compatibility of the Parcel with surrounding land.

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 applicable zoning ordinance.

E. Each resulting parcel of a land division must be accessible, as that term is defined in the Michigan Land Division Act, MCL 560.102(j). Unless otherwise provided in the Land Division Act, the term "accessible" in reference to a parcel means that the parcel meets one or both of the following requirements:

(1) Has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department or county road commission under Act No. 200 of the Public Acts of 1969, being sections 247.321 to 247.329 of the Michigan Compiled Laws, and of the Township of Ganges, or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards.

(2) Is served by an existing easement which provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department or county road commission under Act 200 of the Public Acts of 1969 and of the Township of Ganges, or can be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable location standards.

F. If a parcel resulting from a division is less than one acre in size, a building permit shall not be issued for the parcel unless the parcel has all the following:

(1) Public water or city, county or district health department approval for the suitability of an on-site water supply under the same standards as set forth for lots under rules described in Section 105(g) of the Land Division Act.

(2) Public sewer or city, county or district health department approval for on-site sewage disposal under the health department standards as set forth for lots under rules described in Section 105(g) of the Land Division Act.

The approval of a division resulting in a parcel less than one acre in size will not subject Ganges Township or its officers or employees to liability if a building permit is not issued for the parcel for the reasons set forth in this subsection. All notices of approval of a proposed division resulting in a parcel of less than one acre shall include a statement to this effect.

SECTION VIII

ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS

Notwithstanding disqualification from approval pursuant to this ordinance, 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 shall 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 municipality, designating the parcel as Not buildable. Any such parcel shall also be designated as Not buildable in the municipal records, and shall not be developed with any building or above ground structure exceeding four feet in height unless the parcel thereafter is buildable.
- 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, ratio, frontage and/or area requirements with which the parcel failed to comply.

SECTION IX

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 X of this ordinance, and as may otherwise be provided by law.

