

MENOMINEE TOWNSHIP, MENOMINEE COUNTY, MICHIGAN

LAND DIVISION

Ordinance Number: 8-22-18-01

An administrative ordinance to provide information on partitioning or division of parcels or tracts of land, enacted pursuant but not limited to the Land Division Act, Michigan Public Act 288 of 1967, as amended, Michigan Public Act 196 of 2017 and the Township General Ordinance Statute.

The Township of Menominee Board of Trustees ordains:

Section 1. Title. This Ordinance shall be known and cited as the Menominee Township Land Division Ordinance.

Section 2. General. Menominee Township is a non-zoned, general township which must abide by the laws passed by the State of Michigan. In order to provide the benefit of deviating from the state directed specifics in the Land Division Act, this administrative ordinance had to be passed in accordance with PA 196 to allow the non-standard deviations permitted by law.

Section 3. Purpose. The purpose of this Ordinance is to carry out the provisions of the Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to provide information found in the Land Division Act and PA 196. Also provide the property owners of Menominee Township with a local process document that sets reasonable standards for prior review and approval of land divisions within Menominee Township.

Section 4. Definitions. For purposes of this ordinance, certain terms and words used herein shall have the following meaning:

A. **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, or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards; or

2. Is served by an existing easement that provides vehicular access to an existing road or street and that meets all applicable location standards of the state transportation department or county road commission under Act No. 200 of the Public Acts of 1969, 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.

B. Applicant or Proprietor: An individual person, natural firm, association, partnership, corporation, or an approved agent per the land division act application process (i.e., realtor or attorney applying for a land division for a client).

C. Development Site: Any parcel or lot on which exists or which is intended for building development other than the following:

1. Agricultural use involving the production of plants and animals useful to humans, including forages and sod crops; 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; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.

2. Forestry use involving the planting, management, or harvesting of timber.

D. 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 forty (40) acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the Land Division Act.

E. 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 forty (40) acres or the equivalent.

F. Forty acres or 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.

G. Parcel: A continuous area or acreage of land which can be described as provided for in the Land Division Act.

H. Parent parcel or Parent tract: A parcel or tract, respectively, lawfully in existence on March 31, 1997.

I. Tract: Two (2) or more parcels that share a common property line and are under the same ownership.

Section 5. Prior Approval Requirements for Land Divisions. Land in Menominee Township shall not be divided without the prior review of the Assessor and approval of the Menominee Township Board of Trustees in accordance with this Ordinance and the 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 Land Division Act.

B. A lot in a recorded plat proposed to be divided in accordance with the Land Division Act.

C. An exempt split as defined in this Ordinance.

D. An exempt split or partitioning or splitting of a parcel or tract which results in parcels of twenty (20) acres or more in size if the parent parcel or tract is not accessible and one (1) of the following:

1. The parent parcel or tract was in existence on March 31, 1997.

2. The parent parcel or tract resulted from an exempt split or other partitioning or splitting of an inaccessible parcel or tract pursuant to the Land Division Act.

E. Property transfers between two (2) or more adjacent unplatted parcels, if the property taken from one (1) parcel is added to an adjacent parcel.

Section 6. Application for Land Division Approval. The Menominee Township Assessor shall provide an applicant with an application form. At a minimum, an applicant shall file all of the following with the Menominee Township Assessor in accordance with this Ordinance and the Land Division Act, for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one (1) year, or for building development.

A. Proof of fee ownership of the land proposed to be divided.

B. Adequate and accurate legal descriptions of each resulting parcel.

C. A tentative parcel map (which shall show the approximate dimensions of the resulting parcels) of the land proposed to be divided. The tentative parcel map must show the following for the parent parcel and the proposed resulting parcels: area, parcel lines, public utility easements, accessibility, and compliance with the requirements of this Ordinance and the Land Division Act.

D. The history and specifications of any previous divisions of land of which the

proposed division was a part sufficient to establish that the parcel or tract to be divided was lawfully in existence as of March 31, 1997, the effective date of the Land Division Act. Such history and specifications shall describe the parent parcel or tract of which the parcel or tract to be divided was a part as that parent parcel or tract existed on March 31, 1997. Such history and specifications shall also identify both the owner of the parent parcel or tract on March 31, 1997 and the owners, on March 31, 1997, of parcels sharing a common property line with the parent parcel or tract on March 31, 1997.

E. Proof that each resulting parcel is accessible.

F. For resulting parcels meeting the definition of a development site and proof that such parcels have adequate easements for public utilities from the parcel to existing public utility facilities.

G. Proof that all standards of the Land Division Act and this Ordinance have been met.

H. Presently there is no fee for the application; however, a nominal fee may be established in the future by resolution of the Menominee Township Board for review of land division applications pursuant to this Ordinance to cover the costs of review of the application and administration of this Ordinance and the Land Division Act.

Section 7. Procedure for Review of Applications for Land Division Approval.

A. Upon receipt of a completed land division application package, the Menominee Township Assessor will review any land division applications and prepare approvals. The Menominee Township Board of Trustees, in accordance with this Ordinance and the Land Division Act, shall approve, approve with reasonable conditions to assure compliance with this Ordinance and the Land Division Act, or disapprove the proposed land division within forty-five (45) days after receipt of the completed application package. The Township's Clerk with assistance from the assessor shall promptly notify the applicant, in writing, of the decision and all reasons for any denial. If the application package does not conform to the requirements of this Ordinance and the Land Division Act, the Menominee Township Assessor shall return the application to the applicant for completion and refiling in accordance with the requirements of this Ordinance and the Land Division Act.

B. A notice of approval of a proposed division resulting in any parcels of less than one (1) acre in size shall include the following statement: "Menominee Township and its officers and employees are not liable if a building permit is not issued for a resulting parcel because the parcel is less than one (1) acre in size, lacks either public water and sewer or health department approval for on-site water supply and on-site sewage disposal".

C. A notice of approval of a proposed division shall include the following language: "The approval of this division is not a determination that the resulting parcels comply with other ordinances or regulations."

D. Any person or entity aggrieved by the decision of the Menominee Township Board may, within thirty (30) days of said decision, appeal the decision to the Menominee Township Board of Trustees. The matter will be presented by the assessor to the Menominee Township Board of Trustees to consider and resolve such appeal by a majority vote of said Board at its next regular meeting.

E. 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 Menominee County Register of Deeds office, filed with the Menominee Township Clerk and copy provided to the assessor.

F. The Menominee Township Supervisor shall maintain an official log record of all approved and accomplished land divisions or transfers and the Assessor shall maintain detailed land division records with copies provided to the Menominee Township Clerk.

Section 8. Standards for Approval of Land Divisions. A proposed land division shall be approved if the proposed land division complies with all requirements of the Land Division Act and the criteria of this Ordinance, as follows:

A. All parcels to be created by the proposed land division fully comply with the minimum width and area requirements of the Land Division Act or this Ordinance.

B. All parcels to be created by the proposed land division are accessible.

C. The ratio of depth to width of any parcel to be created by the proposed division must comply with the Land Division Act; however, per Michigan Public Act 196 of 2017, the Menominee Township Assessor may recommend allowances to the Township Board for a depth to width ratio of greater than four to one (4:1) if failure to allow a greater depth to width ratio would result in practical difficulty or unnecessary hardship. Such practical difficulty or unnecessary hardship may consist of, but is not limited to, exceptional topographic or physical conditions with respect to the parcel and compatibility with surrounding lands.

D. All parcels to be created by the proposed division and which meet the definition of a development site and have adequate easements for public utilities from the parcel to existing public utility facilities.

E. The number of parcels to be created by division does not exceed the number of parcels allowed by Section 108 of the Land Division Act.

Section 9. Consequences of Non-compliance with Land Division Approval Requirement. Any parcel created in noncompliance with this Ordinance or the Land Division Act is subject to violation of Michigan Law and subject to state and county penalties.

Section 10. Enforcement. This is an administrative ordinance and a not a policing ordinance. Any identified violations will be referred to the State and County.

Section 11. Severability. If any provision or part of this ordinance is declared invalid or unenforceable by a court of competent jurisdiction, the validity or enforceability of the balance of the ordinance is not affected and remains in full force and effect.

Section 12. Effective Date. This ordinance duly approved and adopted on 22 August 2018 at a regular meeting of the Menominee Township Board and will become effective thirty (30) days after legal publication in the local paper.

Section 13. Certification. A Motion to adopt the Menominee Township Land Division Ordinance Number 8-22-18-01 made on 22 August 2018 at a regular meeting of the Menominee Township Board was offered by: **Kenneth Goffin; Township Supervisor**

Supported by: _____

Role call Vote: _____ Aye _____ Nay _____ Absent

I hereby certify that the foregoing constitutes a true complete copy of an Ordinance duly adopted by the Township Board of Trustees to be filed with the County Clerk’s Office, Menominee County, Michigan. Attested by:

MICHAEL ARMBRUST
MENOMINEE TOWNSHIP CLERK

CERTIFICATE OF PUBLICATION

I, THE UNDERSIGNED Township Clerk of the Township of Menominee, do hereby certify that on ___ August 2018, a complete copy of the foregoing Ordinance was duly published in the Eagle Herald and County Journal, newspapers having general circulation within said township. Effective Date: _____

MICHAEL ARMBRUST
MENOMINEE TOWNSHIP CLERK