

THE CHARTER TOWNSHIP OF GARFIELD
ORDINANCE NO. 64

Land Division Ordinance

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to the Land Division Act, Public Act 288 of 1967, as amended, (MCL 560.101, *et seq.*) and the Charter Township Act, Public Act 359 of 1947, as amended, (MCL 42.1, *et seq.*), 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.

THE CHARTER TOWNSHIP OF GARFIELD ORDAINS:

Section I: Title

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

Section II: Purpose

The purpose of this ordinance is to carry out the provisions of the Land Division Act, Public Act 288 of 1967, as amended, (MCL 560.101, *et seq.*), 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 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 III: Legal Basis

This Ordinance is enacted pursuant to the statutory authority granted by the Land Division Act, formerly known as the Subdivision Control Act of 1967, Act 288, P.A. 1967, as amended by Act 591 of P.A. 1997; Act 191, P.A. 1945, as amended, authorizing Township Board to adopt ordinances and regulations to secure the public health, safety and general welfare, and Act 359, P.A. 1947.

Section IV: 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:
- (i) Has an area where a driveway provides vehicular access to an existing and approved public or private 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, or has an area where a driveway can provide vehicular access to an existing and approved public or private road or street and meet all such applicable location standards.

- (ii) Is served by an existing easement that provides vehicular access to an existing and approved public or private 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 and road width and other dimensional standards in the Zoning Ordinance and which will comply with the road width and other dimensional standards in the Zoning Ordinance or can be served by a proposed easement that will provide vehicular access to an existing and approved public or private road or street and that will meet all such applicable location standards and which will comply with the road width and other dimensional standards in the Zoning Ordinance.
- B. "Adequate Permanent Access" means a public or private street or place along with its right-of-way, easement or general common area, which provides vehicular access to a lot or parcel.
- C. "Applicant" means a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.
- D. "Boundary Adjustment" means a property transfer between two or more adjacent parcels where property is taken from one parcel and added to an adjacent parcel.
- E. "Divide" or "Division" means the partitioning or splitting of a parcel or tract of land by the applicant 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 Land Division Act. "Divide" and "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 Land Division Act, or the requirements of other applicable local ordinances.
- F. "Exempt split" or "exempt division" means the partitioning or splitting of a parcel or tract of land by the applicant 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. 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 Land Division Act or the requirements of other applicable local ordinances.
- G. "Forty acres or the equivalent" means 40 acres, or a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
- H. "Governing Body (or Township Board)" means The Township Board of the Charter Township of Garfield.
- I. "Land Division Committee": The body responsible for the review of Land Division applications under Article IV of the Ordinance, composed of the Township Assessor and/or Township Supervisor, Township Zoning Administrator and Township Planner.

- J. "Lot Split" shall mean the partitioning of a lot, outlot or other parcel of land within a recorded plat.
- K. "Private Road or Street": A road or street held in private ownership dedicated to the use of adjacent property owners which meets the definition, design and construction standards of the Zoning Ordinance.
- L. "Public Road or Street": A road or street dedicated to the public, such dedicating having been accepted by the appropriate public Road Commission or Department of Transportation, which meets the definition, design, and construction standards of said Road Commission or Department of Transportation and otherwise meets the standards of the Zoning Ordinance.
- M. "Township": The Charter Township of Garfield.
- N. "Zoning Ordinance": The Charter Township of Garfield Zoning Ordinance.

Section V: Prior Approval Requirement

Land in the Township shall not be divided nor shall a boundary adjustment be effected without the prior review and approval of the Land Division Committee, 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 parcel proposed for subdivision that will be transferred to a federal, state, county or local unit of government for public purposes.
- C. A parcel proposed for subdivision through a recorded site condominium pursuant to the State Condominium Act.
- D. A lot in a recorded site condominium proposed to be divided in accordance with the State Condominium Act.
- E. An exempt split as defined in this Ordinance.

Section VI: Application for Land Division or Boundary Adjustment Approval

An applicant shall file all of the following with the Township Assessor before making any land division or boundary adjustment 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 approved by the Township Board.
- B. Proof of fee ownership of the land proposed to be divided.
- C. Proof that all taxes payable upon the property have been paid in full.

- D. Two copies of a survey map, drawn to scale, of all resulting parcels. For boundary adjustments, both the area of the boundary adjustment and the original parcel before adjustment must be separately shown. The survey map must be prepared by a surveyor or civil engineer licensed to practice in the State of Michigan. The survey must show the legal description and dimensions of all created parcels and the location of existing and proposed structures, land improvements, easements, streets, driveways, and ingress and egress to public or private streets. This map must be at a scale of at least one inch equals 100 feet and should show the location of wetlands or flood plain areas, the zoning of proposed parcels, and the location of existing buildings, streets, or driveways within 50 feet of the property lines. The survey map will represent the parcels AFTER the division or boundary adjustment has occurred. Label the newly created parcels as "Parcel 1, Parcel 2, etc.". The application should include two copies of site plans for the proposed development.

In lieu of such survey map, and prior to application, the applicant may submit a tentative preliminary parcel map to be reviewed, for conceptual purposes, by the Land Division Committee. The tentative preliminary parcel map shall be drawn to a scale of not less than that provided for in the application form, and shall show the boundary lines, dimensions and accessibility of each proposed land division or boundary adjustment from existing or proposed public roads and public utilities. When submitting a tentative preliminary parcel map, the applicant shall waive the 45-day statutory requirement for a decision and shall include a fee that is set by resolution of the Township Board. The Land Division Committee's decision regarding the feasibility of the proposed land division or boundary adjustment is not binding upon the application or the Township.

- E. Proof that all standards of the Land Division Act and this Ordinance have been met.
- F. The history and specifications of the land proposed to be divided sufficient to establish that the proposed land division complies with Section 108 of the State Land Division Act. Specifically, the application shall state that the land proposed to be divided is a parent parcel, or if not a parent parcel, then it shall provide the history of the land proposed to be divided from the parent parcel to present, including all leases, land contracts and conveyances.
- G. If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- H. All land divisions and boundary adjustments shall result in "buildable" parcels sufficient to comply with all required area and width requirements, setback provisions, minimum floor areas, off-street parking spaces, approved on-site sewage disposal and water well locations (where public water and sewer service is not available), access to existing public utilities and public roads, and maximum allowed area coverage of buildings and structures on the site. Declared agricultural land and land for forestry use shall not be subject to the foregoing as "development sites" as provided in the State Land Division Act at Section 102.
- I. The fee as may from time to time be established by Resolution of the Township Board for land division reviews.

Section VII: Procedure for Review of Applications for Approval

- A. The Land Division Committee 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 or boundary adjustment applied for within forty-five (45) days after receipt of a complete application conforming to this Ordinance's requirements and the Land Division Act, and shall promptly notify the applicant of the decision and, if denied, the reasons for denial. If the application does not conform to this Ordinance's requirements and the Land Division Act, the Land Division Committee shall return the same to the applicant for completion and re-filing in accordance with this Ordinance and the Land Division Act.

- B. A decision approving a land division or boundary adjustment is effective for 90 days, after which it shall be considered revoked unless:
 - 1. within such period the Township certificate of approval and the written instrument creating such land division or boundary adjustment, together with the approved survey, are recorded with the Grand Traverse County Register of Deeds office and filed with the Garfield Township Assessor; or
 - 2. an extension of time has been granted in writing by the Land Division Committee to fulfill the conditions of approval. Such extension shall only be granted when factors beyond the reasonable control of the applicant have prevented fulfillment of the conditions and completion of the land division or boundary adjustment application.

- C. The Assessor or designee shall maintain an official record of all approved and accomplished land division and boundary adjustments.

- D. Approval of a land division or boundary adjustment is not a determination that the resulting parcels comply with other ordinances or regulations.

- E. The Township and its officers and employees shall not be liable for approving a land division or boundary adjustment 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 this effect.

Section VIII: Standards for Approval

A proposed land division or boundary adjustment reviewable by the Township shall be approved if the following criteria are met:

- A. All resulting parcels have the minimum width required and as measured by the applicable zoning district pursuant to the Zoning Ordinance.

- B. All resulting parcels have the minimum area required for the applicable zoning district pursuant to the Zoning Ordinance.

- C. The ratio of depth to width of all resulting parcels created by the land division or boundary adjustment do not exceed a four to one ratio exclusive of access roads, easements, or non-development sites. The depth of all resulting parcels created by a land division or boundary adjustment 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.

- D. The proposed land division or boundary adjustment complies with all requirements of this Ordinance and the Land Division Act.
- E. All resulting parcels are "accessible" as that term is defined in the Ordinance.
- F. All resulting parcels have adequate easements for public utilities from the parcel to existing public utility facilities.
- G. If any resulting parcel contains a pre-existing structure, the structure shall comply with minimum setbacks and maximum parcel coverage standards as required by the applicable zoning district pursuant to the Zoning Ordinance.

Section IX: Lot Splits

Lot splits shall be processed in the same manner and subject to the same standards and conditions as a land division or boundary adjustment application, provided that no lot, outlot or other parcel of land within a recorded plat shall be partitioned or divided into more than four (4) parts.

Section X: Consequences of Noncompliance with Approval Requirement

Any resulting parcel created in non-compliance with this Ordinance shall not be eligible for any building permits, or zoning approvals, including but not limited to land use permits, conditional land use approval or site plan approval, and shall not be recognized as a separate parcel on the Township tax roll or assessment roll. The Township shall further have the authority to initiate injunctive or other relief to prevent any violation or continuance of any violation of this Ordinance.

In addition any person, firm or corporation who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine of not more than \$500.00 along with costs which may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 nor more than \$500.00 be ordered. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan Law. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance.

Pursuant to Section 267 of the Land Division Act (MCL 560.267), an unlawful land division, boundary adjustment 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 XI: 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 XII: Repeal

The Charter Township of Garfield Ordinance No. 59 and all previous Land Division Ordinances affecting unplatted land divisions in conflict with this Ordinance are hereby repealed; however, this Ordinance shall not be construed to repeal any provision in any applicable Zoning Ordinances, Building Codes or other ordinances of the Township that shall remain in full force and effect notwithstanding any land division approval hereunder.

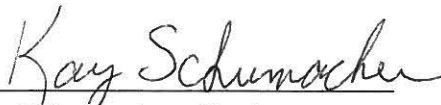
Section XIII: Effective Date

This ordinance shall take effect upon publication following its adoption.

The following voted:

- YEAS:** Molly Agostinelli, Jeane Blood, Bob Featherstone, Kit Wilson, Chuck korn
- NAYS:** None
- ABSTAIN:** None
- ABSENT:** Denise Schmuckal, Kay Schumacher

I hereby certify that the foregoing was duly adopted by the Township Board of the Garfield Charter Township, Grand Traverse County, Michigan, at its regular meeting on the 8th day of February, 2011 and that (5) seven members of the Township Board were in attendance and (5) seven voted for the adoption of the Ordinance.


Kay Schumacher, Clerk

The Charter Township of Garfield
 3848 Veterans Drive
 Traverse City, Michigan 49684

INTRODUCED: January 11, 2011
 ADOPTED: February 8, 2011
 EFFECTIVE: February 13, 2011