

ORDINANCE NO. 01-001

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.

**THE TOWNSHIP OF JAMESTOWN, OTTAWA COUNTY, MICHIGAN,
ORDAINS:**

SECTION 1. TITLE

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

SECTION 2. 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), including without limitation Sections 105 and 109(5) thereof, 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.

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, or combination of any of them that holds an ownership interest in land whether recorded or not.
- B. "Administrator": means the Township employee or elected official designated by the Jamestown Township Board to administer this ordinance.
- C. "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 land taken from the parcel is added to an adjacent parcel.
- D. "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.

- E. 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.
- F. “Parcel” means a contiguous area of land which can be described as stated in Section 102(g) of the Act.
- G. “Parent parcel” or “parent tract” means a parcel or tract, respectively, lawfully in existence on March 31, 1997.
- H. “Road authority” means the governmental authority having jurisdiction of a public road or public street.
- I. “Resulting parcel(s)” means one or more parcels which result from a land division.
- J. “Tract” means two or more parcels that share a common property line and are under the same ownership.
- K. “Township Board” - the legislative body of Jamestown Township.

SECTION 4. APPROVAL REQUIRED - EXEMPTIONS

Land in the Township shall not be divided without the prior review and approval of the Township assessor, or other official designated by the Township Board, in accordance with this ordinance and the State Land Division Act. Prior review and approval shall be required before making any division either by deed, land contract, lease for more than one year or for building development.

The following shall be exempted from this requirement:

- A. A parcel proposed for subdivision through a recorded plat pursuant to the Township’s Subdivision Control Ordinance and the State Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the Township’s Subdivision Control Ordinance and the State Land Division Act.
- C. An exempt split as defined in Section III, subsection C of this Ordinance.
- D. A parcel proposed for development pursuant to the provisions of the Condominium Act, Act 59 of 1978.

SECTION 5. APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Township Clerk or the official designated by the Township Board to administer the review and approval of proposed land divisions.

- A. A completed application on such form as may be provided by the Township.
- B. Proof of an ownership interest in the land which is the subject of the proposed division, or written consent to the application, signed by the owner of such land.
- C. A land title search, abstract of title, or other evidence of land title acceptable to the Administrator which is sufficient to establish that the parent parcel or parent tract of the land which is the subject of the proposed division was lawfully in existence on March 31, 1997.
- D. If any lot or parcel to be created involves the construction or dedication of a new public street, approval of the street by the Ottawa County Road Commission and Jamestown Township Board on the recommendation of the Township Planning Commission shall be required. Evidence of such approval shall be required and shall be submitted along with the application for land division.

- E. A survey map 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. or a preliminary parcel map drawn to scale of not less than 1 inch = 200 feet, of the parcel or tract of land proposed to be divided and each resulting parcel proposed. For each proposed division the survey or preliminary parcel map shall include:
 - 1. the boundary lines, dimensions, location, and nature of proposed ingress to and egress from any existing public or private streets
 - 2. the location of any public or private street, driveway or utility easement to be located within any resulting parcel. Copies of the instruments describing and granting such easements shall be submitted with the application.
 - 3. an legal description of each proposed division.
- F. The requirements of subsection E do not apply to any resulting parcel which is 40 acres or larger, as long as such parcel satisfies the requirements of Section 7, subsection C below.
- G. Proof that all standards of the State Land Division Act and this Ordinance have been met.
- H. The history (drawings or written descriptions) 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.
- I. A copy of each deed or other instrument of conveyance which contains the statement required by Section 109(3) of the Act concerning the right to make further divisions (If transfer of division rights are proposed in the land transfer, what are the terms and availability of the proposed division rights transfer).
- J. The fee as may from time to time be established by resolution of the Township Board of the Township 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 6. PROCEDURE FOR REVIEW OF AND APPROVAL

- A. Upon receipt of a land division application package, the Township administrator shall determine the completeness of the application. If the application is complete, the administrator 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 within 45 days after receipt, and shall promptly notify the applicant of the decisions and the reasons for any denial. If the application package does not conform to Township requirements and the State Land Division Act, the administrator shall return the same to the applicant for completion and reconsideration in accordance with this Ordinance and the State Land Division Act. Any notice of approval for a resulting parcel of less than one acre in size shall contain a statement that the Township is not liable if a building permit is not issued for the parcel for the reason that the parcel fails to satisfy the requirements of Section 109a of the Act, including approval of on-site water supply and on-site sewage disposal under the standards set forth in Section 105(g) of the Act.

- B. Any person or entity aggrieved by the decision of the administrator may, within 30 days of said decision appeal the decision to the Township Zoning Board of Appeals which shall consider and resolve such appeal by a majority vote of its membership at its next regular meeting or session affording sufficient time for a 15 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 180 days, after which it shall be considered revoked unless within such period a document is recorded with the County Register of Deeds office and filed with the Township clerk or administrator, accomplishing the approved land division or transfer by either one of two ways:
- D. A deed or other recordable instrument of conveyance, accurately describing the resulting parcel(s) other than the remainder of the parent parcel or parent tract retained by the applicant, shall be recorded with the county register of deeds and a true copy thereof, showing proof of such recording, shall be filed with the Administrator; or
- E. A survey accurately showing the resulting parcel(s) shall be recorded with the county register of deeds and true copy thereof, showing proof of such recording shall be filed with the Administrator. Such survey shall comply with the minimum requirements of Public Act 132 of 1970, as amended.
- F. If neither subsection D nor subsection E of this Section is satisfied, such land division approval shall, without further action on the part of the Township, be deemed revoked and of no further effect after the 180th day following such approval by the Administrator.
- G. The administrator shall maintain an official record of all approved and accomplished land divisions or transfers.
- H. All deeds and other recordable instruments of conveyance and all surveys submitted in compliance with Section 5 shall be reviewed by the Administrator in order to determine their conformity with the approved tentative parcel map. The Administrator shall mark the date of approval of the proposed land division on all deeds, other recordable instruments of conveyance and surveys which are in conformity with the approved tentative parcel map and which otherwise comply with the requirements of this ordinance. Such documents shall be maintained by the Administrator in the Township records of the approved land divisions.
- I. The approval of a land division shall not, of itself, constitute a determination of compliance, nor does it constitute an approval or a permit required under other applicable Township ordinances. Approval of a division is not a determination that the resulting parcels comply with other Township ordinances or regulations.
- J. Any parcel created inconsistent with or in violation of this ordinance, where approval hereunder is required, shall not be eligible for issuance of building permits, zoning ordinance approvals or other land use or building approvals under other Township ordinances, nor shall any such parcel be established as a separate parcel on the tax assessment roll.

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) fully comply with the applicable lot (parcel), yard and area requirements of the applicable zoning district including, minimum lot (parcel) frontage/width, minimum road frontage and minimum lot (parcel) area as contained in the Jamestown Township Zoning Ordinance. (Note reference the applicable zoning district provisions and Sections 3.15 and 3.18, of the Jamestown Township Zoning ordinance for specific development requirements that must be met prior to the issuance of a building permit.)
- B. The proposed land division(s) shall comply with all requirements of the State Land Division Act and this Ordinance. All parcels created and remaining shall have required frontage and accessibility to a public road for public utilities and emergency and other vehicles meeting not less than the following requirements:
1. Where accessibility is to be provided by a proposed new dedicated public road, proof that the Township Board, Ottawa County Road Commission or Michigan Department of Transportation has approved the proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith is required.
 2. Where accessibility for utilities and vehicle traffic is to be provided by a private street or driveway easement lawfully in existence at the time of land division application, easements shall be in writing and signed by the owner(s) of the parcel (s) over which the easement is to be located.
- C. The ratio of depth to width of any parcel of less than five acres created by the division may not exceed a four to one ratio exclusive of access easements, and parcels added to contiguous parcels that result in all involved parcels complying with said ratio:
1. 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.
 2. The permissible minimum lot width and lot frontage shall be the required minimum lot width and frontage for the zoning district in which the property is located. Unless otherwise justified this distance shall be measured along the right of way line within the boundaries of each parcel. In no case shall the lot frontage along the right of way line be less than forty (40) feet.
Where justified, the measurement of required minimum width of odd shaped lots, (including cul-de-sac lots and "flag" or "key" shaped lots having minimal width at the right of way line), shall be measured along a line drawn parallel to the right of way line at a distance no greater than two hundred (200) feet from the right of way line. This parallel "front reference line" must connect both side lot lines and the distance between both side lot lines must equal or exceed the required minimum lot width for that zoning district. In such instances the reference line shall for purposes of this ordinance serve as the reference line for establishing lot width. For zoning purposes the reference line is the baseline from which required front, side and rear yards are oriented and building setbacks are established. Once achieved, the minimum required lot width must be maintained throughout the balance of the lot's depth.
 3. In the event that a greater depth of a lot or parcel of land, in relation to its width is necessary because of exceptional topography or other physical conditions of

the land, or because failure to approve such greater depth would result in the wasting, land locking or inefficient use of a significant portion of a lot or parcel, or create serious difficulties in access to lands or prevent the reasonable development thereof, then such greater depth in relation to minimum width, may be permitted by the administrator.

SECTION 8. ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS

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 be approved only in the following circumstances:

- A. Where the Zoning Board of Appeals has, previous to this Ordinance, granted a variance from the access, lot, yard, ratio, frontage, and/or area requirements with which the parcel failed to comply.
- B. Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this Ordinance, any applicable zoning ordinance, or the State Land Division Act.
- C. The lot or parcel will not be used for building purposes.

SECTION 9. NONCOMPLIANCE

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

SECTION 10. PENALTIES AND ENFORCEMENT

A person who violates this ordinance shall be guilty of a misdemeanor, for which the fine shall be not more than \$500 for the first offense, in the discretion of the court, and in addition to all other costs, damages, expenses and other remedies provided by law. For the purpose of this section, a subsequent offense means a violation of this ordinance committed by the same person or party within one year after a previous violation of the same provision of this ordinance for which such person or party admitted responsibility or was determined by law to be responsible.

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 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 Township Zoning Ordinance, the Township Subdivision Control Ordinance, or the Township Building code.

SECTION 13. EFFECTIVE DATE

This ordinance was approved and adopted by the Jamestown Charter Township Board on December 26, 2001 and shall take effect 30 days following its publication in the manner provided by law.

TOWNSHIP OF JAMESTOWN

Ruth Pruis

Clerk

Adopted: RUTH PRUIS
DECEMBER 26, 2000

Effective: FEBRUARY 8, 2001