

TOWNSHIP OF BLUE LAKE

COUNTY OF KALKASKA, STATE OF MICHIGAN

ORDINANCE NO. 97-1

Adopted: 02 July 1997
Effective: 15 August 1997
Amended 05 October 2016
Effective 01 November 2016

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 BLUE LAKE KALKASKA COUNTY, MICHIGAN,

ORDAINS:

SECTION I TITLE

This ordinance shall be known and cited as the Blue Lake 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 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.
- 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.
- 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.
- F. Private Drive - the term shall refer to any unnamed drive, road or trail that is not under the jurisdiction of the Township or the Kalkaska County Road Commission or the State of Michigan and services one residence only.

Private Road - the term shall refer to any road or trail that is not under the jurisdiction of the Township, the Kalkaska County Road Commission or the State of Michigan and serves more than one residence. Such roads shall be named.

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

municipality'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 municipality's Subdivision Control Ordinance and 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 fee ownership 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, (MCL 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), the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

In lieu of such survey map, at the applicant's option, the applicant may waive the 30 day statutory requirement for a decision on the application until such survey map and legal description are filed with the municipality, and submit a tentative preliminary 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, for preliminary review, approval, and/or denial by the locally designated official prior to a final application under Section V.

The governing body of the municipality or its designated agent delegated such authority by the governing body, may waive the survey map requirement where the foregoing tentative parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all the proposed divisions, however, shall at all times be required.

- 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 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. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.
- G. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- H. 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.
- I. 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.
- J. If the new parcel(s) require access to a public road, then a completed Land Division accessibility review by the Kankaska County Road Commission must be completed. Lot combinations, parcels on private roads which have existing access to a public road and lot line modifications that do not change the public road access do not require this review.

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 30 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 refile 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 90 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 municipal clerk or other designated official accomplishing the approved land division or transfer.
- 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 division(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. All parcels created and remaining have existing adequate accessibility, or an area available therefor, to a public road for public utilities and emergency and other vehicles not less than the requirements of the applicable zoning ordinance, major thoroughfare plan, road ordinance or this Ordinance. In determining adequacy of accessibility, any ordinance standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create 4 or more parcels. Also if required by Section V (subsection J) a Land Division accessibility review has been completed by the Kankaska County Road Commission on all parcels created.
- D. The ratio of depth to width of any 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.

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. All land divisions will comply with applicable Township and County Zoning Ordinance and other applicable Township and / or County Ordinances.

F. PRIVATE ROAD STANDARDS

1.1 CONSTRUCTION

In the absence of applicable zoning or other ordinances providing a different standard, all parcels created by a land division shall comply with the following minimum standards; It shall be unlawful to construct a structure on a lot serviced by, or to be serviced by, a common drive or private road until said drive or road servicing the lot is constructed according to the conditions, standards and specifications outlined in this ordinance.

- A. All private roads shall have names approved by the Township Board, be consistent with and accepted by the countywide numbering system and the County Road Commission requirements.
- B. There shall be a clear vision zone at corners of intersecting roads, or road junctions, consisting of a triangular area defined by the point of intersection of the right-of-way lines and the two points extended along such lines a distance of twenty-five (25) feet from the point of intersection, and within which area no obstruction to vision, excluding existing topography, shall be permitted from a height of two (2) feet to eight (8) feet above centerline elevation of abutting streets, except that not more than two (2) trees with trunks of not more than thirty (30) inches in diameter each, and clear of any branches for such heights may be located within such area; provided, however, that this section shall not prohibit the requirement of a greater clear vision area where such is necessary in view of permitted traffic, anticipated traffic volumes, or geographic conditions.
- C. The minimum distance between private road outlets on a single side of a public road shall be six hundred (600) feet. Accessibility of the private road to the public road must be reviewed and approved by the Kankaska County Road Commission.
- D. Shall be posted with speed limits of fifteen (15) mph or less.
- E. A drainage plan shall be submitted on a topographic map, indicating the manner in which surface drainage is to be dispersed. In no case shall runoff from a private road be diverted beyond the limits of that private road onto adjacent roads or property unless appropriate easements are provided.
- F. All roads constructed in Blue Lake Township shall be constructed so as to sufficiently control storm water runoff and permit effective storm water drainage and prevent soil erosion and shall have all required storm water and soil erosion control permits.

1.2 PRIVATE DRIVES - Over 500' in length

All private drives serving one (1) parcel in excess of five hundred (500) feet in length shall have at least one 10' x 30' turnout. The exact location of the turnout shall be determined by the Planning Commission with input from the local fire department/ambulance service.

1.3 SPECIFIC STANDARDS - For Two (2) Or More Lots.

A private road may service two (2) or more lots. Said road shall access directly onto a public road. Private drives shall at a minimum meet the following design standards:

- A. Have a sixty-six (66) foot wide right-of-way with a cul-de-sac of at least eighty (80) feet;
- B. Have a sand and/or gravel base with the top six (6) inches in depth shall be a road grade gravel;
- C. Have a roadbed of not less than twenty (20) feet wide, and have three (3) feet of clearance on each side;
- D. Be constructed over adequate culverts where necessary;
- E. A review of the accessibility to the public road has been completed by the Kalkaska County Road Commission

1.4 APPLICATION PROCEDURES

- A. Approval** - Before construction of a private road shall begin, approval must be given by the Blue Lake Township Board.
- B. Ownership** - The applicant shall provide proof of ownership and/or written consent of such owner and the names and addresses of those concerned with the application.
- C. Permits** - The applicant shall provide copies of all other permits or waivers of permits which may be required by the County, State or Federal Statute.
- D. Copies of Proposal** - The applicant shall provide six (6) copies each of the proposed road maintenance agreement, easement agreement and deed restrictions.
- E. Site Plan** - The applicant shall submit a site plan containing the following information:
 1. Identification and description
 - a) Proposed name of development.
 - b) Parcel identification number and/or legal description.
 - c) Names and addresses of proprietor, owner proprietor, planner, design engineer, landscape architect or surveyor, if applicable.
If property owner is doing the work, the property owners name should be put down.
 - d) Scale of drawings.
 - e) Date of preparation.
 - f) North arrow.
 2. Existing Conditions:
 - a) Location map showing the general relationship of the proposed property division to the surrounding area within 1/4 mile, in a scale not less than 1" - 2,000'.
 - b) Proposed lines of division and dimensions.
 - c) Zoning classification

- d) Location of existing buildings and structures.
 - e) Locations, widths and names of existing or prior easements of record, public and/or private, if applicable.
 - f) Location of existing sanitary sewers, water mains, storm drains and other underground facilities, if applicable.
 - g) Location of significant natural features such as lakes, streams, wetlands, slopes over 20%, stands of trees, scenic views and other significant geologic features.
3. Proposed Conditions:
- a) Proposed locations of easements for open space, pathways, utilities and other activities.
 - b) Layout of the private road, indicating easement width and connections to adjoining rights-of-way.
 - c) Indication of possible future divisions. This is for information purposes only, approval of the plan does not give approval for future divisions.
 - d) Locations of proposed lots, parcels or condominium units as well as proposed building envelopes,
 - e) Location of private road identification signs
 - f) Other items may be required by the Township Board or its designated agents.

1.5 JOINT ROAD MAINTENANCE AGREEMENT

A. Provisions - A proposed easement and road maintenance agreement shall be provided to the Township Ordinance Administrator. It shall provide as a minimum:

1. Majority vote rules regarding road maintenance and improvement decisions;
2. The owner of each parcel will be responsible for payment of the share of costs apportioned to his or her parcel.
3. The owner shall have standing and the right to commence legal or equitable action against a delinquent parcel owner or parcel owners to foreclose a lien or otherwise collect the sums owed.
4. The agreement shall be recorded and shall run with the land and bind and benefit the parcels and the owners of, in perpetuity.
5. The owner or owners of the land served by the road shall provide for the requirement to grade, drain and otherwise maintain the private road in accordance with the requirements of the ordinance.
6. It is agreed that this is a private road and is not the responsibility of the Township or the Kankaska County Road Commission .
7. A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, vendors, trades persons, delivery persons and others bound to or returning from any of the properties having a need to use the road.

1.6 ROAD CONSTRUCTION AND CERTIFICATION

- A. Inspection; All private roads shall be inspected by a certified Engineer during the construction of the road,
- B. Certification:
 - 1. In cases where a private road was designed by a civil engineer, prior to the Township Board, or its designated agent, certifying that the private road is complete in whole or in part, the engineer shall submit to the Ordinance Administrator construction plans and a certification that the private road, as constructed, meets all provisions of this Ordinance.
 - 2. In cases where a private road was not designed by a civil engineer, prior to the Township Board certifying that the road is complete, in whole or in part, the applicant shall submit to the Ordinance Administrator construction plans and certification that the private road, as constructed, meets all provisions of this Ordinance.
- C. Deviation From Approved Plans - if there is any deviation from the approved plans the Ordinance Administrator shall report the deviation and the reason for same to the Township Board or its designated agent. The Ordinance Administrator has the right to reject the work and issue a stop work order if there is evidence that the road is not being constructed according to approved plans or if a contractor or contractor's equipment creates any unnecessary disturbance beyond the limits as shown on the approved plans.
- D. Certification of Completion of Private Road. Before the Township Board may certify that a private road is complete it must have the following:
 - 1. Recommendation from the Ordinance Administrator that the private road be certified complete.
 - 2. The applicant shall provide the following:
 - a) Two (2) copied of recorded road maintenance agreement;
 - b) Two (2) copied of recorded deed restrictions and easements.

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 may 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 thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceeding four feet in height.

- 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.
- C. 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.

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.

SECTION X

PENALTIES AND ENFORCEMENT

Any person who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the county jail for not to exceed 90 days or by both such fine and imprisonment.

Any person who violates any of the provisions of this ordinance shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

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

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 Municipality zoning ordinance, the Municipality Subdivision Control Ordinance, or the Municipality Building Code.

SECTION XIII

EFFECTIVE DATE

This ordinance shall take effect 30 days following its publication after adoption.

Date November 1, 2016

TOWNSHIP OF BLUE LAKE

Tracy Nichol, Township Clerk