

TOWNSHIP OF MUNISING
ORDINANCE NO. 2006-1
LAND DIVISION ORDINANCE

An ordinance to regulate partitioning or division of lots, 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 and ordinance or provisions thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation if this ordinance.

The Township of Munising, Alger County, Michigan ordains:

SECTION 1
TITLE

This ordinance shall be known and cited as the Munising 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), to prevent the creation of parcels of property which do not comply with applicable ordinance 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 Munising Township.

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. "Divide" or "Division" – the partitioning or splitting of a lot, outlot, parcel, or tract of land by the Owner or Titleholder thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale, transfer of interest, 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 as described by Sections 108 and 109 of the State 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 State Land Division Act, and the requirements of other 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.

- 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 Township Board.
- F. "Plat" – a map or chart of a subdivision of land.
- G. "Subdivide" or "subdivision" – the partitioning or splitting of a parcel or tract of land by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than 1 year, or of building development that results in 1 or more parcels of less 40 acres or the equivalent, and that is not exempted from the platting requirements of this act by sections 108 and 109. "subdivide" or "subdivision" 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 or the requirements of an applicable local ordinance.
- H. "Parcel" – a continuous area or acreage of land which can be described as provided for in this act.
- I. "Tract" – two or more parcels that share a common property line under the same ownership.
- J. "Parent parcel" or "parent tract" – a parcel or tract, respectively, lawfully in existence on the effective date of the amendatory act that added this subdivision.
- K. "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 city or village, or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards; and
 - 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 Act of 1969 and of the city or village, 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.
- L. "Development site" – any land on which there is a building or which is intended for building development or 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; and
 - 2. Forestry use involving the planting, management, or harvesting of timber.

- M. "Forty acres or the equivalent" – 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
- N. "Lot" – a measured portion of a parcel or tract which is described and fixed in a recorded plat.
- O. "Outlet," when included within the boundary of a recorded plat, means a lot set aside for purposes other than a development site, park, or other land dedicated to public use or reserved to private use.
- P. "Proprietor" – a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.
- Q. "Aggrieved party" – a person or entity who, on the date of the original application held an ownership interest in the land that was the subject of the application and decision or any other person or entity who can establish standing proof of a legal interest affected by a land division decision resulting in special damage, that is, an injury other than that which is not common to all other property owners within the Township.

SECTION 4
PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land in the Township shall not be divided without the prior review and approval of the Township 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. An exempt split as defined in this Ordinance.

SECTION 5
APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Township assessor or other official designated by the governing body for review and approval of a proposed land division before making any division by deed, land contract, mortgage, lease for more than one year, or for building development including:

- A. A completed application form as may be approved by the Township Board.
- B. Proof of fee ownership of the land proposed to be divided.
- C. A tentative parcel map drawn to scale including an accurate legal description of each proposed division, and showing the boundary lines, approximate dimensions, and the accessibility of each division for automobile traffic and public utilities.
- D. Proof that all standards of the State Land Division Act, this Ordinance and the Township Zoning Ordinance have been met.
- E. 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.

- F. Payment of an application fee as set by resolution of the governing body 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 APPLICATIONS FOR LAND DIVISION APPROVAL

- A. The Township shall approve or disapprove the land division applied for within 45 days after receipt of a complete application conforming to this Ordinance's requirements and the State Land Division Act, and shall promptly notify the applicant of the decision, and if denied, the reason for denial.
- 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 Township Board which shall consider and resolve such appeal by a majority vote at its next meeting or session at which no less than a 20 days written notice is provided to the applicant and appellant when other than the applicant, prior to the meeting. Notice shall include the time and date of the meeting for the appellant hearing.
- C. A fee established by the Township Board shall be paid upon application of appeal.
- D. The assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.
- E. Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.
- F. The Township and its officers and employees shall not be liable for approving a land division 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 7

STANDARDS FOR APPROVAL OF LAND DIVISIONS

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

- A. All parcels created by the proposed division(s) have a minimum width as provided for in Township zoning ordinance.
- B. All such parcels shall contain a minimum area as provided for in the Township zoning ordinance.
- C. The ratio of depth to width of any parcel, tract, or lot created by the division shall not exceed a four to one ratio exclusive of access roads, easements, or non-development sites. The depth of a parcel, tract, or lot created by a land division shall be measured within its boundaries from the abutting road right-of-way to the most remote boundary line point removed from the point of commencement of the measurement. The width of any parcel, tract, or lot shall be measured as provided for and defined under the Township Ordinance except, in cases of irregular boundaries, that is, those proposed to be created that have no roughly parallel four-sided boundaries but rather three sides or more than four sides, width may be measured as an average perpendicular to the depth line. In all other ways, the determination of depth must comply with the Township Zoning Ordinance.

- D. The proposed land division(s) comply with all other requirements of this Ordinance, the Township Zoning Ordinance and the State Land Division Act.
- E. All parcels created and remaining adequate accessibility, or an area available therefore, for public utilities and emergency and other vehicles.
- F. An application seeking a lot or outlot division shall contain and consist of the following additional requirements:
 - 1. The names and addresses of all owners of:
 - a) The parcel which is the subject of the application; and
 - b) All parcels or lots which abut that lot or outlot subject to the application.
 - 2. The legal description of the lot or outlot which is the subject of the application;
 - 3. The legal description of the lots which are proposed to be created as a result of the split;
 - 4. A site plan of the proposed lot or outlot division which shall include all buildings or structures located on the property;
 - 5. A list and description of any and all easements, encroachments, and public utilities located on the lot or outlot;
 - 6. An explanation of the reason for, and the purpose of, the proposed lot or outlot division;
 - 7. A written review and evaluation of the proposed lot or outlot division by either the Alger County Road Commission or the Michigan Department of Transportation, if the proposed division abuts either an Alger County road right-of-way or a Michigan Department of Transportation highway right-of-way, respectively, unless said Alger County Road Commission or Michigan Department of Transportation fails to provide such a written review and evaluation within 30 days of being requested to do so; and
 - 8. Such other and additional information as may be reasonably required by the assessor or designee.
- G. In addition to the standards established for other land divisions, review of an application for a lot or outlot division, the following specific findings shall be made and standards applied:
 - 1. If the result of the proposed lot split would be the creation of a new building site:
 - a) The proposed division shall be consistent with the Township Comprehensive Plan and any land use plans and subdivision regulations adopted by the Township Board, and shall not be detrimental to the health, safety, and welfare of the public;
 - b) The proposed division shall not place any existing structures in nonconformity with those provisions of the Township Zoning Ordinance applicable to the district in which located, including, but not limited to, setback requirements;

- c) The proposed lots or outlots shall be approved by the County Health Department for installation of septic systems and private wells, unless public sewer and water are available, in which case they shall be approved by the Township for connection thereto; and
 - d) The proposed lots or outlots shall abut a public road or an approved private road in accordance with the Township Zoning Ordinance.
2. If the result of the proposed lot division would be the addition of land area to an adjoining parcel, lot or outlot without creating a new building site:
- a) The proposed lot division shall be consistent with the Township Comprehensive Plan and any land use plans and subdivision regulations adopted by the Township Board, and shall not be detrimental to the health, safety, and welfare of the public;
 - b) The proposed division shall not place any existing structures in nonconformity with the provisions of the Township Zoning Ordinance applicable to the zoning district in which located, including, but not limited to, setback requirements; and
 - c) The proposed division shall not landlock any other parcel of property.

SECTION 8
CONSEQUENCE OF NONCOMPLIANCE
WITH LAND DIVISION APPROVAL REQUIREMENT

Any division of land in violation of any provision of this of this Ordinance shall not be recognized as a land division on the Township tax roll or assessment roll. When the assessing officer suspects such a violation or potential non-conformity, he or she shall refer the same to the county prosecuting attorney and give written notice to the person suspected of the violation or potential violation. The Township shall further have the authority to initiate injunctive or other relief to prevent any violation or continuing violation of this Ordinance. Any division of land in violation of this Ordinance shall not be eligible for any zoning or building permit for any construction or improvement thereto.

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. Pursuant to Section 267 of the Land Division Act, an unlawful division or split shall 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 9
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 10
REPEAL

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 which shall remain in full force and effect notwithstanding any land division approval hereunder.

SECTION 11
EFFECTIVE DATE

This Ordinance shall take effect upon publication following its adoption.

Roll Call:

Ayes: 5

Nays: 0

Ordinance adopted.

I certify that this is the official true and accurate copy of Ordinance No. 2006-1 - An Ordinance to Adopt Regulations and Procedures for Land Division: Ordinance No: 2006-1 was adopted by the Munising Township Board on April 5, 2006.

Dated: May 4, 2006

Selina Balko

Clerk, Munising Township

Dated: May 4, 2006

Dan Wilson

Supervisor, Munising Township

Dates of Publication: 1. 04-10-06
2. 04-17-06