

TOWNSHIP OF CLIMAX
COUNTY OF KALAMAZOO, STATE OF MICHIGAN

ORDINANCE NO. 123

Adopted: October 14, 1997

Effective: November 24, 1997

LAND DIVISION ORDINANCE

An ordinance to regulate the division of parcels or tracts of land, enacted pursuant to Michigan Public Act 288 of 1967, as amended (Land Division Act), and Act 246 of 1945, as amended (Township Ordinance Act).

TOWNSHIP OF CLIMAX
KALAMAZOO COUNTY, MICHIGAN,

ORDAINS:

SECTION 1

TITLE

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

SECTION 2

PURPOSE

The purpose of this ordinance is to carry out those provisions of the Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act) enacted by 1996 PA 591 and 1997 PA 87 (MCL 560.101 et seq) pertaining to the division of unplatted land; 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 requirements for prior review and approval of land divisions within the Township.

SECTION 3

DEFINITIONS

For purposes of this ordinance certain terms and words used herein shall have the following meaning:

A. "accessible" or "accessibility" - means, in reference to a parcel, that the parcel meets one or both of the following requirements:

- (1) the parcel has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the County Road Commission or, where applicable, the Michigan Department of Transportation, under Act No. 200 of the Public Acts of 1969 (MCL 247.321-247.329); or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards.
- (2) the parcel 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 County Road Commission or, where applicable, the Michigan Department of Transportation, under Act No. 200 of the Public Acts of 1969 (MCL 247.321-247.329); 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. "administrator" - means the Township Assessor, or such other official as may be designated by the Township Board to administer the provisions of this Ordinance.

C. "applicant" and "proprietor" - means a person, firm, association, partnership, corporation, or other entity of any kind, or combination of any of same, that holds a recorded or unrecorded ownership interest in land.

D. "development site" - means 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 stocks; fruits; vegetables; Christmas trees; and other similar uses and activities.
- (2) forestry use involving the planting, management, or harvesting of timber.

E. "divided" or "division" - means 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 Land Division Act (MCL 560.108-109). "Divided" or "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.

F. "exempt split" or "exempt division" - means 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.

G. "40 acres or the equivalent" - means either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

H. "parcel" - means a contiguous area or acreage of land which can be described as provided for in the Land Division Act.

I. "tract" - means two or more parcels that share a common property line and are under the same ownership.

J. "parent parcel" or "parent tract" - means a parcel or tract, respectively, lawfully in existence on March 31, 1997.

SECTION 4

PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land in the Township shall not be divided without the prior approval of the Administrator 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 and any corresponding Township Subdivision Control Ordinance.
- B. A lot in a recorded plat proposed to be divided in accordance with the Land Division Act and any corresponding Township Subdivision Control Ordinance.
- C. An exempt split, where all resulting parcels are accessible, as defined in this Ordinance.

- D. An exempt split or other partitioning or splitting of a parcel or tract that only results in parcels of 20 acres or more in size, where the parcel or tract is not accessible and either of the following applies:
1. The parcel or tract was in existence on March 31, 1997.
 2. The parcel or tract resulted from an exempt split or other partitioning or splitting under Section 109b of the Land Division Act (MCL 560.109b).

SECTION 5

APPLICATION FOR LAND DIVISION APPROVAL

An applicant for approval of a proposed land division shall file all of the following with the Administrator:

- A. A completed application form on such form as may be provided by the Township.
- B. Evidence of land title sufficient to establish that the parent parcel or parent tract which is the subject of the proposed division was lawfully in existence on March 31, 1997.
- C. An adequate and accurate legal description of each parcel proposed to result from the division.
- D. A tentative parcel map, drawn to an identified scale, showing all of the following with respect to each parcel proposed to result from the division:
 1. Dimensions.
 2. Area.
 3. Parcel lines.
 4. Public utility easements.
 5. Accessibility.
- E. Such additional information as may be reasonably required by the Administrator to make a determination on the application pursuant to the requirements of this Ordinance and the Land Division Act; including, where applicable, information pertaining to a proposed transfer of development rights.

- F. The fee as may from time to time be established by motion of the Township Board for land division reviews pursuant to this Ordinance to cover the costs of review of the application and administration of this Ordinance and the Land Division Act.

SECTION 6

REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

- A. Within 45 days after the filing of a complete application, as provided in Section 5 of this Ordinance, the Administrator shall determine whether the proposed land division qualifies for approval pursuant to Section 7 of this Ordinance.
- B. The Administrator shall provide the applicant with written notice of the determination, by personal delivery or by regular first class mail at the address of the applicant on the application form.
- C. If an application is not approved the Administrator's notice of such determination to the applicant shall state the reasons for the disapproval.
- D. A notice of approval of a proposed division resulting in a parcel of less than 1 acre in size shall include a statement that the Township and its officers and employees are not liable if a building permit is not issued for the parcel for the reason that the parcel does not have the applicable approvals of a water supply and sewage disposal required by law.

SECTION 7

REQUIREMENTS FOR APPROVAL OF LAND DIVISIONS

- A. An application for a proposed land division shall be approved if all the following requirements are met:
1. The applicant has filed a complete application pursuant to the requirements of Section 5 of this Ordinance.
 2. The total number of parcels proposed to be created does not exceed the number allowed pursuant to Section 108 of the Land Division Act (MCL 560.108) and otherwise complies with same.
 3. The width of each resulting parcel complies with the applicable minimum parcel (lot) width requirements of the Township Zoning Ordinance.

4. The area of each resulting parcel complies with the applicable minimum parcel (lot) area requirements of the Township Zoning Ordinance.
5. The depth of each resulting parcel is not more than four times its width; provided that this requirement does not apply to the remainder of a parent parcel or parent tract retained by the proprietor.

(The depth and width of a parcel created by a land division shall be measured as provided by the Township Zoning Ordinance.)

6. Each resulting parcel that is a development site has adequate easements for public utilities from the parcel to existing public utility facilities.
 7. Each resulting parcel complies with all other applicable requirements of the Land Division Act.
- B. The Administrator shall disapprove an application for a proposed land division that does not meet all the requirements for approval in the above Section 7.A. of this Ordinance.

SECTION 8

APPEAL OF ADMINISTRATOR DETERMINATION; SIGNIFICANCE OF APPROVAL OF APPLICATION; RETENTION OF RECORDS

- A. Any person aggrieved by the determination of the Administrator on an application for a land division may appeal the Administrator's determination to the Township Board by filing a written appeal with the Township Clerk not later than 21 days after the date notice of the Administrator's determination was mailed or personally delivered to the applicant. At least 7 days written notice of the date, time and place of the Township Board meeting at which the appeal will be considered shall be given to the applicant (and the appellant where other than the applicant) by personal delivery or regular first class mail directed to the address of the applicant/appellant as shown in the application/written appeal. The Township Board shall affirm or reverse the determination of the Administrator, in whole or in part, pursuant to the requirements for approval of land divisions set forth in Section 7 of this Ordinance and in the Land Division Act. The decision of the Township Board on such an appeal shall be a final decision of the Township for purposes of such judicial review as may be provided by law.

- B. The approval of an application for a land division is only a determination that the land division complies with the requirements of the Land Division Act, and is not a determination that the resulting parcels comply with other applicable ordinances or regulations pertaining to the use or development of the parcels.
- C. The Administrator shall maintain an official record of all land division applications and the determinations thereon.

SECTION 9

**SANCTIONS FOR VIOLATION; CONSEQUENCES OF
NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT**

Any person 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, punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
--- 1st offense within 3-year period*	\$ 75.00	\$500.00
--- 2nd offense within 3-year period*	150.00	500.00
--- 3rd offense within 3-year period*	325.00	500.00
--- 4th or more offense within 3-year period*	500.00	500.00

*Determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay 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. Each day that a violation exists shall constitute a separate offense.

Any violation of this Ordinance shall also constitute a basis for injunctive relief against the violator, restraining and prohibiting continuation of the violation, in addition to any other relief or sanction herein set forth or allowed by law.

Any division of land/parcel created in noncompliance with this Ordinance shall not be recognized on the Township real property assessment and taxation records, and shall be subject to such other consequences as may be provided by law.

SECTION 10

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 11

REPEAL/NON-REPEAL

Any existing Land Division Ordinance as may have been previously adopted by the Township Board is hereby repealed; but this Ordinance shall not be construed to repeal any provision of the Township Zoning Ordinance, Subdivision Control Ordinance, Construction Code Ordinance, or any other existing ordinance.

SECTION 12

EFFECTIVE DATE

This ordinance shall take effect 30 days after publication as required by law.

CLIMAX TOWNSHIP
Dana Perrin, Clerk