

ARTICLE 14

LAND DIVISION

1401 PURPOSE

The purpose of this Article 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 Township 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.

1402 DEFINITIONS

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

A. "Applicant" means: any person or other legal entity that holds an ownership interest in land whether recorded or not.

B. "Divide" or "Division" means: the partitioning or splitting of a lot, parcel or tract of land by the owner(s) for the purpose of sale or lease of more than one (1) year, or of development that results in one (1) or more parcels of less than forty (40) acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act. "Divide" and "Division" does not include a property transfer between two (2) or more adjacent lots, if the property taken from one (1) lot is added to an adjacent lot; provided further that any resulting lot shall not be considered a separate building site unless the lot conforms to the requirements of the State Land Division Act, and the requirements of other applicable township ordinances, including this Zoning Ordinance.

C. "Exempt split" or "exempt division" means: the partitioning or splitting of a parcel or tract of land by the owner(s) that does not result in one (1) or more parcels of less than forty (40) acres or the equivalent.

D. "Forty acres or the equivalent" means: either forty (40) acres, a quarter-quarter section containing at least 30 acres, or a government lot containing at least thirty (30) acres.

E. "Plat" means: a recorded plat as defined and authorized by the Michigan Land Division Act, PA 288 of 1967.

F. "Land Division Administrator" means: the person appointed by the Township Board to administer this Article, relative to applications for divisions of land.

1403 DIVISION OF PLATTED LOTS

Pursuant to Section 560.263 of Act 288, P.A. 1967, as amended, the Land Division Act, every division of a lot in a recorded plat shall be subject to the provisions of this Ordinance. The owner seeking approval to divide a lot shall file an application in affidavit form with the Land Division Administrator, which shall set forth the reasons for the proposed division and shall be accompanied by an illustrative sketch or drawing, showing original and proposed resulting dimensions. No building permit shall be issued, nor any structure construction commenced, until the suitability of land for safe installation of a septic tank and individual well has been approved by the County Health Department and until the division is approved by the Township Board. No lot in a recorded plat shall be divided into more than four (4) parts, and resulting lots shall not have a smaller lot area than permitted by the Township.

1404 DIVISION OF UNPLATTED LAND

A. Prior Approval Requirement For Land Divisions. Land in the Township shall not be divided without the prior review and approval of the Land Division Administrator, in accordance with this Ordinance and the Land Division Act; provided that the following shall be exempted from this requirement:

1. A parcel proposed as a recorded plat pursuant to the Land Division Act.
2. A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act. See Section 1403.
3. An exempt split that results in parcels of twenty (20) acres or more if each lot is accessible and the parcel was in existence on March 31, 1997 or resulted from an exempt split under the State Act.

B. Application For Land Division Approval. An applicant shall file all of the following with the Land Division Administrator for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one (1) year, or for development:

1. A completed application on such form as may be approved by the Township Board.
2. Proof of ownership of the land proposed to be divided.
3. 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.
4. Proof that all standards of the Land Division Act and this Zoning Ordinance have been met.
5. 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.
6. A fee to cover the costs of review of the application and administration of this Zoning Ordinance and the Land Division Act.

C. Procedure for Review of Applications for Land Division Approval

1. The Land Division Administrator shall approve or disapprove the land division 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.
2. Any person aggrieved by the decision of the Land Division Administrator may, within thirty (30) days of said decision appeal the decision to the Township Board, which shall consider and resolve such appeal at its next regular meeting or session affording sufficient time for a twenty (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.
3. The Land Division Administrator shall maintain an official record of all approved and accomplished land divisions or transfers.
4. Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.
5. 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.

D. Standards for Approval of Land Divisions. A proposed land division reviewable by the Township shall be approved if the following criteria are met:

1. All parcels created by the proposed division(s) have a minimum lot area, width and depth as required by this Zoning Ordinance.
2. The ratio of depth to width of any parcel created by the division complies with Section 1405.
3. The proposed land division(s) comply with all requirements of this Ordinance and the State Land Division Act.
4. All parcels created and remaining have existing adequate accessibility, or an area available therefor, for public utilities and emergency and other vehicles.

E. Consequences of Noncompliance With Land Division Approval Requirement

1. Any division of land in violation of any provision of this Zoning Ordinance shall not be recognized as a land division on the Township tax roll or assessment roll. The Land Division Administrator shall refer the suspected violation or potential non-conformity to the county prosecuting attorney, and give written notice to the person requesting the division, and the person suspected of the violation or potential non-conformity of such referral to the prosecuting attorney. The Township shall further have the authority to initiate injunctive or other relief, including the actual cost and attorney fees of the prosecution, to prevent any violation or continuance of any violation of this Ordinance. Any division of land in violation of this Zoning Ordinance shall further not be eligible for any zoning or building permit for any construction or improvement thereto.
2. Pursuant to Section 267 of the Land Division Act, an unlawful division 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.

3. The remedies provided herein are in addition to those contained in Article 2 of this Zoning Ordinance.

1405 LOT WIDTH TO DEPTH RATIO

The depth of all lots created of record after the adoption of this Ordinance shall not exceed four (4) times the width of the lot. For purposes of this section, the measurement of lot width shall be taken along the frontage on the public street or other approved road. The measurement for depth, for purposes of this section, shall be taken from the street or road frontage to a point of the lot located farthest from the street or road frontage. The Planning Commission may permit, as a special use, a lot with a depth greater than four (4) times the width of the lot, as measured in the manner stated above, if the Planning Commission determines that the area in which the lot is located is not suitable for future development because of the presence of wetlands or sever topography or if such lot or parcel is located in a flood plain. In addition, as to lands in the F zone, the Planning Commission shall approve such a special use only if it determines that all of the following conditions have been satisfied:

- A. The parcel is poorly suited for agricultural production due to existing soil conditions, slope, or the presence of natural vegetation, such as woodlots, brushland and wetlands. The Planning Commission, in making its determination, may consider facts such as, but not limited to, past and present uses of the parcel, past productivity, and the difficulty in making the parcel suitable for farming, including the presence of highly erodible land, as defined by the Soil Conservation Service.
- B. There will be a minimal likelihood of conflicts arising between the residential use and the surrounding agricultural activities.
- C. The permitting of residential use in the circumstances under consideration will not adversely affect the long-term plans and development policies of the Township.

1406 SITE CONDOMINIUMS

Pursuant to the authority of Section 141 of the Condominium Act, Public Act 59 of 1978, as amended, all site condominium subdivisions shall meet the following requirements and procedures.

- A. All site condominiums shall require site plan approval in accordance with this

Ordinance. In addition to information normally required in this Ordinance for site plan review, the following additional information shall also be included pursuant to site plan review, provided, however, site condominiums incorporating private streets shall also meet the applicable standards of Article 22. In addition to the information required in Article 16, the following shall also be included for site plan review:

1. A condominium subdivision plan as required in Section 66 of the Condominium Act.
2. Documented proof of review by the Muskegon County Road Commission, Health Department, Michigan Department of Transportation and Michigan Department of Natural Resources/Environmental Quality. Approval of the Drain Commissioner may also be required, in the discretion of the Planning Commission

B. All site condominiums shall meet the setback, lot and structure requirements of the zone in which it is located.

C. The Whitehall Township Clerk shall be furnished with a copy of the recorded master deed, as defined in Section 8 of the Condominium Act. The master deed must ensure that Whitehall Township will not be responsible for maintenance or liability of the portions of the project and that all private streets will be properly maintained, that snow removal will be provided and that there is adequate access and turnaround for emergency vehicles. Responsibility for maintenance of stormwater retention areas, drainage easements, drainage facilities, lawn cutting and other general maintenance of common areas must be clearly stated.

D. The Whitehall Township Clerk shall be furnished with one (1) copy of all "as-built" drawings for review by the Township's engineer for compliance with all Township ordinances prior to issuance of any billing permits. Fees for this review shall be established by the Township Board.

1407 COMMON AREAS AND UNDERGROUND UTILITIES

As a condition of site plan and/or special use approval (as may be applicable), any proposed plat, site condominium, mobile home park or division of a parcel into more than three (3) sub-parcels for purposes of creating building sites, shall comply with the following requirements:

A. All utilities, including but not limited to telephone lines, electric lines, and cable TV lines, shall be located underground.

B. At least fifteen percent (15%) of the total area of the project shall be permanently dedicated for common open space and/or recreational use of all owners an/or occupants of the structures constructed, or proposed to be constructed, within the project. Streets, and lot setback areas shall not count towards the open space requirement. A reasonable number of parking spaces, accessory to and solely intended to promote the use of the common area shall count towards the open space requirement.