

ORDINANCE #287
LAND DIVISION

Adopted: 09/23/03
Effective: 10/02/03

An ordinance to regulate partitioning or divisions of parcels or tracts of land in Bangor Township, Bay County, Michigan; to provide for applications for the approval of divisions of parcels of land and the procedures to be followed and criteria to be considered in acting upon such applications; to prescribe penalties for the violation of this ordinance; to prescribe an appeal procedure to the Zoning Board of Appeals; to repeal any conflicting ordinance; to promote the public health, safety and general welfare; and to provide for the effective date of this ordinance.

The Charter Township of Bangor, County of Bay, and State of Michigan ordains:

SECTION 1. 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 Township by establishing reasonable standards for prior review and approval of land divisions within the Township.

SECTION 2. Definitions. For the purpose of this ordinance, certain terms and words used herein shall have the following meanings:

Accessible - Access to the parent as well as any child parcels. Access meaning by public roads, private roads and/or easements of record.

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.

Application - Land Division Application form as approved by resolution of the Bangor Township Board of Trustees.

Divide or Division - The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, personal representative, 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. "Divide" and "Division" do 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 other applicable local ordinances, including the existing Bangor Township Zoning Ordinance.

Easement - A non-possessing interest in land held by a person(s) in another person(s) land whereby the first person(s) is accorded partial use or such land for a specific purpose such as ingress/egress rights. A newly created easement for a division, must meet the same requirements as a private road.

Exempt Split or Exempt Division

- a. The partitioning or splitting of a parcel or tract of land that does not result in one or more parcels of less than 40 acres.
- b. For a property division between two or more adjacent parcels, if the property taken from one parcel is added to an existing adjacent parcel, then an allowable division is not taken away from the parent parcel. Parcels involved are not exempt from the requirements of the Bangor Township Zoning Ordinance.
- c. Divisions created by Circuit Court Order are exempt from the application process as defined by this ordinance. Parcels involved are not exempt from the requirements of the Bangor Township Zoning Ordinance.
- d. A property line adjustment to correct a boundary dispute, when there is a boundary encroachment by a structure is an exempt split. A copy of a survey showing the encroachment must be submitted with the Land Division Application.

Forty Acres - Either 40 acres or a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

Land Division Act - Formally known as Michigan Subdivision Act of 1967 /1929 Plat Act, as amended. Now known as Land Division Act No. 591 and 87 of 1996 and 1997, respectively.

Land Division Fee Schedule - A chart of applicable fees for administration of Land Division Ordinance. The Land Division Fee Schedule is established by a resolution the Bangor Township Board of Trustees.

Legal Description - A description of the property that is to appear on a deed. Bearings and distances are to be in all descriptions.

Parcel - A continuous area or acreage of land, which can be described as provided for in the Land Division Act. Also see Legal Description definition.

Parcel Depth - The distance from the front of the parcel (edge of road right of way) to the extreme rear line of a parcel. In the case of an irregularly shaped parcel, the average of the maximum depth and minimum depth.

Parcel Width - The horizontal distance between the side parcel lines measured at a point that is at a right angle to the line used to measure the depth and as close to the front line as possible and still touch the side lines.

Parent Parcel or Parent Tract - A parcel or tract of land that lawfully existed on March 31, 1997. The 1997 assessment roll descriptions are considered lawfully existing parcels for the purpose of this ordinance, unless a recorded deed creating a new parcel was processed between December 31, 1996 and March 31, 1997

Private Road - A road that is not maintained by the Bay County Road Commission. A newly created private road for a division must equal or exceed Bay County Road Commission standards for a public road.

Public Road - A road that is maintained by the Bay County Road Commission. A newly created road for a division must equal or exceed Bay County Road Commission standards.

Tract - Two or more parcels that share a common property line and are under the same ownership.

Zoning Ordinance - The Bangor Township Zoning Ordinance as amended.

SECTION 3. Prior Approval Required For Land Divisions. Land in the Township of Bangor shall not be divided without the prior review and approval of the Township Assessor in accordance with this ordinance and the State Land Division Act; provided that the following shall be exempted from this requirement: *(Amended by Ordinance #387, effective 06/17/21)*

- a. A parcel proposed for subdivision through a recorded plat pursuant to the State Land Division Act.
- b. A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act and the Township Zoning Ordinance.
- c. An exempt split as defined in this Ordinance, or other partitioning or splitting that results in parcels of 20 acres or more, that are accessible and the parcel was in existence on March 31, 1997 or resulted from exempt splitting under the State Act.
- d. Divisions created by Circuit Court Order are exempt from the application process as defined by this ordinance.

SECTION 4. Application for Land Division Approval. An applicant shall file the following with the Township Assessor 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: *(Amended by Ordinance #387, effective 06/17/21)*

- a. A Township Board approved application shall be completed. *(Amended by Ordinance #387, effective 06/17/21)*
- b. Proof of fee ownership of the land proposed to be divided (copy of deed).

- c. A tentative parcel map drawn to scale including an accurate legal description of each proposed division; showing the boundary lines, dimensions, accessibility of each division for automobile traffic and public utilities; and the distance between existing building to proposed property lines.
- d. Proof that all standards of the State Land Division Act and this Ordinance have been met (including proof that the Parcel was lawfully in existence on March 31, 1997, as well as the number, size and date of divisions after March 31, 1997).
- e. If a transfer of division rights is proposed in the land transfer, then include detailed information about the terms and availability of the proposed division rights transfer.
- f. A non-refundable application fee in an amount set from time to time by a Bangor Township Board Resolution, to cover cost of reviewing the application and administering this Ordinance and the Land Division Ordinance. For fee amount see the “Land Division Fee Schedule”.
- g. A copy of a receipt showing that property taxes are paid.

SECTION 5. Procedure For Review of Applications For Land Division Approval

- a. The Township, through the Assessor shall approve or disapprove the land division application within a minimum of 15 up to 45 days after receipt of a complete application conforming to this ordinance’s requirements; the State Land Division Act’s requirement and shall promptly notify the applicant of the decision. If the application for division is denied, give the reasons for denial. Notification of approval or denial shall be mailed by first class mail within said 45 days. *(Amended by Ordinance #387, effective 06/17/21)*
- b. The Zoning Administrator shall review the resulting parcels for conformity with the Bangor Township Zoning Ordinance.

(Amended by Ordinance #387, effective 06/17/21)

- c. Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations. The Township and its officers and employees shall not be liable for approving a land division if building permits or 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 6. 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 resulting parcels (including parent parcel) continue to conform to the Bangor Township Zoning Ordinance.

- b. 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 or easements.
- c. The proposed land division(s) comply with all requirements of this Ordinance and the State Land Division Act. For parcel(s) without public sewer, the size may be less than the 1 acre of area, If approved by the Bay County Health Department for development.
- d. All parcels created and remaining have existing adequate accessibility, or an area available therefore, for public utilities and emergency and other vehicles.
- e. All special assessments are paid and there are no delinquent real estate taxes for the parent parcel. (Certificate from the Bay County Treasurer must accompany application for division.) *(Amended by Ordinance #387, effective 06/17/21)*

SECTION 7. Appeal Process for Denial of Land Division. If the Township Zoning Administrator denies the requested division, the applicant(s) may appeal that denial to the Township Zoning Board of Appeals. Any such appeal must be filed on a Zoning Board of Appeals application and be accompanied by the appropriate fee, within 30 days of the division denial. The Township Zoning Board of Appeals shall consider and decide the appeal within 30 days after the receipt of the completed application and filing fee.

SECTION 8. Consequences of Noncompliance With Land Division Approval Requirement. Any division of land in violation of this Ordinance shall cause the parent and child parcel(s) to not be eligible for any zoning or building permit(s) for any construction or improvement(s) thereto.

In addition, 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 the 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 the cost be less than \$9.00 nor more than \$500.00 dollars be ordered. A violator of this Ordinance shall 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 also be voidable at the option of the purchaser and shall cause the seller the forfeiture of all consideration received or pledges therefore, together with any damages sustained by the purchaser, recoverable in an action of 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 un-platted 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 30 days after publication following its adoption.