

Golden Township Land Division Ordinance Ordinance No. Twenty-Five

AN ORDINANCE to regulate the divisions of parcels of land in Golden Township, Oceana 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 repeal conflicting ordinances; to promote the public health, safety and general welfare; and to provide for the effective date of this Ordinance.

If the text of the Ordinance is modified, this preamble paragraph may also need to be modified.

THE TOWNSHIP OF GOLDEN, COUNTY OF OCEANA, AND STATE OF MICHIGAN ORDAINS:

Section 1. Purpose.

The purpose of this Ordinance is to regulate the splitting of Parcels in Golden Township (the "Township") which are not subject to the platting process of P.A. 288 of 1967, as amended (the "Land Division Act"). The reasons for this Ordinance include the following, without limitation:

- A. Monitoring the creation of new Parcels;
- B. Preventing illegal splits of Parcels;
- C. Informing and educating property owners about the types of Parcels which may be created under this Ordinance and applicable state law;
- D. Protecting innocent third parties from purchasing substandard Parcels;
- E. Preventing the creation of Parcels without adequate access;
- F. Preventing the creation of Parcels not in compliance with the Zoning Ordinance; and If the Ordinance will permit the creation of a Parcel not in compliance with the Zoning Ordinance if the Parcel is restricted from development or in other circumstances, this section should be modified accordingly.
- G. Implementing an orderly procedure for splitting Parcels.

Section 2. Definitions.

A. "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 Oceana 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, 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) 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 Oceana County Road Commission under Act No. 200 of the Public Acts of 1969, 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.

If the municipality requires public street frontage for all building sites, this definition should be modified. This definition is copied verbatim from the Land Division Act and can be modified and expanded to meet the particular needs of the municipality.

B. "Development Site" means any Parcel on which building development exists or which is intended for building development, other than agricultural or forestry uses as those uses are defined in Section 102(k) of the Land Division Act.

C. "DEQ" means the Michigan Department of Environmental Quality or any successor agency having similar jurisdiction.

D. "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. 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 Land Division Act and the requirements of all applicable Township ordinances.

This definition is copied verbatim from the Land Division Act.

E. "Exempt Split" means the partitioning or splitting of a Parcel or Tract of land by the proprietor 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. For a property transfer between two or more adjacent Parcels, if the property taken from one Parcel is added to an adjacent Parcel, any resulting Parcel shall not be considered a building site unless the Parcel conforms to the requirements of the Land Division Act and the requirements of all applicable Township ordinances.

This definition is copied verbatim from the Land Division Act.

F. "Health Department" means the District #5 Health Department, or any successor agency having similar jurisdiction.

G. "Parcel" means a continuous area or acreage of land which can be described as provided for in the Land Division Act.

H. "Parcel Depth" means the distance from the front of the Parcel to the extreme rear line of the Parcel. In case of irregularly shaped Parcels, the average of the maximum depth and the minimum depth shall be taken.

This definition should be modified as necessary to be consistent with the Zoning Ordinance.

I. "Parcel Width" means the horizontal distance between the side Parcel lines measured at the front setback line required by the Zoning Ordinance and at a right angle to the line used to measure Parcel Depth.

This definition should be modified as necessary to be consistent with the Zoning Ordinance.

J. "Parent Parcel" or "Parent Tract" means a Parcel or Tract, respectively, lawfully in existence on June 10, 1997.

The date above will be January 22, 1997 if Senate Bill 93 is signed by the Governor. Otherwise, the date will be March 31, 1997.

K. "Tract" means two or more parcels that share a common property line and are under the same ownership.

L. "Zoning Ordinance" means the Golden Township Zoning Ordinance.

Section 3. Approval of Land Divisions.

A. Divisions of land must be reviewed by and receive the prior written approval from the Township (May be a Township officer or official or the Township Board itself). The following are not subject to the requirements of this Ordinance:

- (1) A parcel proposed to be subdivided through a recorded plat pursuant to the Land Division Act;
- (2) A lot in a recorded plat proposed to be partitioned or divided pursuant to the Land Division Act;
- (3) An Exempt Split as defined in this Ordinance.

B. No new Parcel shall be created nor shall any new Parcel be sold or in any way be developed or improved unless there has been prior written approval pursuant to Section 3a. Unless prior written approval has been granted pursuant to Section 3a, no Township building, zoning or other permit or approval shall be granted with respect to a new Parcel and any such new Parcel shall not be recognized as a separate Parcel on the tax assessment roll or assigned a tax parcel identification number.

C. To obtain approval of a Division, an application shall be filed with the Township (May be a Township officer or official or the Township Board itself). The application shall include all of the components specified in Section 5 of this Ordinance. The Township Zoning Administrator shall issue and review applications.

If elements of the application are to be subject to waiver, this must be specified.

D. The Township (May be a Township officer or official or the Township Board itself) shall approve a proposed Division within the time period required by the Land Division Act if the criteria and requirements of the Land Division Act and this Ordinance are met. The time period for approval shall not commence until a complete signed application accompanied by all required supporting documents has been filed with the Township (May be a Township officer or official or the Township Board itself).

This subsection could be modified to provide that the municipality will begin considering an application that is complete in all respects, except for a certified survey, provided the applicant agrees in writing that the 30 day consideration period contained in the Land Division Act will not begin until a certified survey has been received by the Township.

E. The Township shall maintain a record of all approved and accomplished Divisions and transfers.

Section 4. Criteria for Land Division.

A. No Division shall be approved which is contrary to, or in violation of, the Land Division Act or this Ordinance.

B. Each resulting Parcel shall have a ratio of Parcel Depth to Parcel Width which does not exceed four to one. This requirement shall not apply to the remainder of the Parent Parcel.

This provision can be modified in the following respects:

- (1) a smaller depth to width ratio can be required;
- (2) a greater depth to width ratio can be permitted if certain standards specified in the Ordinance are met; and
- (3) this provision can be made applicable to parcels larger than ten acres.

The Act provides that the depth to width ratio does not apply to a parcel larger than 10 acres unless otherwise provided by ordinance.

There is an argument which can be made that the Land Division Act requires this provision to be included in a subdivision control ordinance. To be safe, this provision can be included in both this Ordinance and the Subdivision Control Ordinance.

C. Each resulting Parcel shall meet the minimum width and area requirements of the Zoning Ordinance, except where resultant abutting Parcels under the same ownership are combined to meet or exceed the Zoning Ordinance requirements.

D. Each resulting Parcel shall satisfy all other requirements of the Zoning Ordinance.

- E. Each resulting Parcel shall be Accessible.
- F. Each resulting Parcel that is a Development Site shall have all of the following:
 - (1) Public water or Health Department approval for an on-site water supply under the applicable rules of the DEQ;
 - (2) Public sewer or Health Department approval for on-site sewage disposal under the applicable rules of the DEQ; and
 - (3) Adequate easements for public utilities from the Parcel to the existing public utility facilities.
- G. Each resulting Parcel shall also be in compliance with all other applicable ordinances and regulations of the Township.

Section 5. Application Requirements.

Each application for a Division must contain the following:

- A. Name, address, telephone number and signature of the applicant(s) and identification of the applicant's(s') interest in the Parcel.
- B. Name, address and telephone number of all fee owners of the Parcel proposed to be divided.
- C. Application fee.
- D. A legal description of the original and the proposed Parcels. Area shall be described to the square foot for Parcels of less than one acre and in acres to the one-hundredth of an acre for Parcels larger than one acre. In the event of a conflict between the legal description and the survey map, the legal description shall control.
- E. A legal description of existing and proposed deed restrictions for the Parcel(s) and any required easements for drainage, roads or utilities.
- F. The proposed use of the Parcel(s).
- G. Information regarding the terms of transfer of division rights.
- H. The number, size and date of prior land divisions sufficient to establish the Parcel to be divided was lawfully in existence on June 10, 1997.
- I. The number, size and date of Divisions after June 10, 1997.
The dates in h. and i. above will be January 22, 1997 if Senate Bill 93 is signed by the Governor. Otherwise, the dates will be March 31, 1997.
- J. Evidence of Health Department approval of the on-site water supply and on-site sewage disposal, if the Parcel is not served by public water and/or sewer.
- K. Evidence that the Parcel is Accessible.
- L. A survey prepared pursuant to the survey requirements of P.A. 132 of 1970, as amended (MCL 54.211), by a land surveyor licensed by the State of Michigan. The survey map shall contain the following:
 - (1) Date, north arrow and scale.
 - (2) Existing and proposed Parcel lines and dimensions.
 - (3) Existing utilities and county drainage courses within fifty (50) feet of the Parcel(s) to be split.
 - (4) Location and dimensions of existing and proposed easements, Parcel numbers and roadways.
 - (5) Existing structures, with dimensions, on the proposed Parcel(s) and all structures within fifty (50) feet of the proposed Parcel lines.
 - (6) Zoning classification of the Parcel(s) to be split and all abutting Parcels.
 - (7) All required front, rear and side yard setbacks resulting from the requested Division.
 - (8) Method of storm water drainage.
- M. Any other information required by the application form used by the Township for the implementation of this Ordinance.

The Land Division Act does not require a survey to be submitted for the approval of a Division. The municipality may accept a "tentative parcel map" drawn to scale and containing the information outlined above in subsection L.

A provision could be added which requires that all due and payable taxes or installments of special assessments for the land proposed to be divided are paid in full. However, the enforceability of such a provision is subject to challenge.

Additional information reasonably necessary to process and consider an application shall be provided on request.

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Section 6. Lapse of Approval.

After a Division is approved by the Township, a document accomplishing the Division and/or transfer must be recorded with the Oceana County Register of Deeds and filed with the Township within ninety days of such approval, or the approval will lapse.

If an individual (as opposed to the Township Board) is designated to approve or disapprove Divisions under this Ordinance, a section could be added which would allow an applicant to appeal any disapproval to the Township Board.

A section could be added to the Ordinance which allows a Division, even though it does not fully comply with the requirements of the Ordinance, if the applicant executes and records with the Register of Deeds, an agreement which is legally enforceable by the Township, providing that the Parcel shall not be improved or developed.

Section 7. Fees.

The Township Board may, from time to time, adopt by resolution a fee schedule for land division applications.

Section 8. Penalty.

A. Any person who shall divide a Parcel in violation of this Ordinance or shall sell or attempt to sell a division of a Parcel in violation of this Ordinance, shall be responsible for a municipal civil infraction, subject to enforcement procedures as set forth in the municipal civil infraction ordinance adopted by the Township, and subject to a fine of \$500.00, plus costs and other sanctions, for each infraction. Each day during which any violation continues after due notice has been served shall be deemed a separate and distinct offense. Increased civil fines may be imposed for repeat violations; a repeat violation means a second or subsequent municipal civil infraction violation committed by a person within any twelve (12) month period and for which a person admits responsibility or is determined to be responsible. An increased civil fine for repeat violations shall be as follows:

(1) The fine for any offense which is a first repeat offense shall be \$1,000.00 plus costs and other sanctions;

(2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be \$2,000.00, plus costs and other sanctions.

The Township Assessor, Township Zoning Administrator, members of the Oceana County Sheriff's Department assigned to the Township, members of the Oceana County Sheriff's Department whose services are contracted for by the Township, and any other individuals who may from time to time be appointed by resolution of the Township Board, are hereby designated as the authorized Township Officials to issue municipal civil infraction citations (directing alleged violators to appear in Court) or municipal civil infraction notices (directing alleged violators to appear at the Golden Township Municipal Ordinance Violations Bureau).

B. Pursuant to MCL 211.53(3); MSA 7.97, the Township Assessor shall notify the owner of any Parcel which violates or is suspected of violating the Land Division Act. The Township Assessor shall also notify the Oceana County Prosecuting Attorney and the Michigan Department of Commerce. This section needs to be modified to provide for a criminal violation if the municipality does not have a Municipal Civil Infractions Ordinance.

Section 9. Severability.

This Ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby. The captions included at the beginning of each Section are for convenience only and shall not be considered a part of this Ordinance.

Section 10. Administrative Liability.

No Township officer, agent, employee or member of the Township Board shall render himself or herself personally liable for any damage which may occur to any person or entity as a result of any act or decision performed in the discharge of his or her duties and responsibilities pursuant to this Ordinance.

Section 11. Repeal.

All Ordinances, parts of Ordinances or amendments thereto, any of which are in conflict with the provisions of this Ordinance, are hereby repealed in their entirety to the extent of such conflict.

Effective Date.

*This Ordinance shall be effective 30 days after publication thereof.
Passed and approved by the Golden Township Board on June, 1997
and published in Oceana Herald - Journal in its issue of June, 1997.*