

LAND DIVISION ORDINANCE
TOWNSHIP OF ALPINE
KENT COUNTY, MICHIGAN

ORDINANCE NO. 97-8

An ordinance to regulate the creation, partitioning and division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended, being the Michigan Land Division Act, Act 359 of 1947, as amended, and Act 246 of 1945, as amended, being the Township General Ordinance statute; to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this Ordinance.

The Township of Alpine ordains:

SECTION 1 TITLE

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

SECTION 2 PURPOSE AND SCOPE

- A. The purpose of this Ordinance is to implement the provisions of the Michigan Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act) ("Act"), to prevent the creation of parcels of property and access easements which do not comply with applicable ordinances, zoning regulations and said Act, to minimize potential boundary disputes, to monitor the creation of new parcels and easements, to prevent illegal land divisions and to ensure that newly-created parcels are not landlocked, to prevent the creation of unusable lots due to noncompliance with the Alpine Township Zoning Ordinance or other ordinances, to assure orderly development of the community, and to otherwise provide for the health, safety and welfare of the residents and property owners of Alpine Township by establishing reasonable standards for prior review and approval of land divisions within Alpine Township ("Township").
- B. Approval of any land division pursuant to this Ordinance shall not provide, constitute, infer or imply use or zoning approval of any such division or resulting parcels or assure or imply buildability. Such use of land must still comply with the Township Zoning Ordinance and any other applicable ordinances, laws or regulations, and it remains the responsibility of the property owner to ensure such compliance.
- C. It is not intended by this Ordinance to repeal, abrogate, annul, or in any other way impair or interfere with provisions of the Township Zoning Ordinance or of other laws or ordinances (except as otherwise expressly stated in Section 12 hereof) or of any private restrictions placed upon property by covenant, deed, or other private agreement; provided, however, that where any provision of this Ordinance imposes more stringent requirements, regulations, restrictions, or limitations upon the division or use of land, easements or buildings than are imposed or required by the provisions of any restrictions or any other law or ordinance, or any of said rules, regulations or permits, then the provisions of this Ordinance shall govern.

SECTION 3 DEFINITIONS

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

- A. "Act" - Public Act No.288 of 1967, as amended (including, but not limited to, Public Act No.591 of 1996), being the Michigan Land Division Act (MCLA 560.101 et seq.)
- B. "Applicant" - a natural person, firm, association, partnership, corporation, estate, entity, or combination of any of them that holds an ownership interest in land whether recorded or not.
- C. "County" - Kent County, Michigan.
- D. "Divided" or "Division" - the creation, partitioning or splitting of a parcel or tract of land by the owner thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale, transfer or lease of more than one (1) year, or of building development that results in one or more parcels. For purposes of this definition, "divided" or "division" shall include, but not be limited to, the creation of one or more access easements, parcels, lots or site condominium units whether created by partition, deed, land contract, a lease over one (1) year or other written agreement, whether or not recorded with the county register of deeds records, "Divided" or "division" shall also include the adjustment or reconfiguration of property lines.
- E. "Governing body" - the Alpine Township Board.
- F. "Township" - Alpine Township, Kent County, Michigan
- G. Except as expressly otherwise stated in this Ordinance, the definitions of the Act, as amended, are hereby incorporated by reference and are made a part of this Ordinance.
- H. For purposes of Sections 105(b) and 109(1)(d) of the Act, the word "area" shall mean any dimensional or space requirement of the Alpine Township Land Development Code, including, but not limited to, ~~size~~, road frontage, easement regulations and similar requirements.
- I. For purposes of Sections 105(b) and 109(1)(c) of the Act, the word "width" shall mean the width and frontage requirements of the Alpine Township Land Development Code, including, but not limited to, road frontage, private road, easement regulations and similar requirements.
- J. For purposes of this Ordinance, "lot" or "parcel" shall be used interchangeably

SECTION 4 PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land in the Township shall not be divided and access easements shall not be created without the prior review and approval of the Township Zoning Administrator (or such other official as is designated by the Alpine Township Board by resolution from time to time) in accordance with this Ordinance and the

Act, except that a parcel proposed for subdivision through a recorded plat pursuant to the Township's Land Subdivision Ordinance and the Act shall be exempted from this requirement. If a proposed land division involves the division of one or more existing platted lots or the reconfiguration or adjustment of a boundary line of an existing platted lot, this Ordinance (including, but not limited to, its review and approval requirements) shall be applicable.

SECTION 5 APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Township Zoning Administrator (or such other official as is designated by the Alpine Township Board by resolution from time to time) for review and approval of a proposed land division before making any division either by recorded or unrecorded deed, land contract, lease for more than one year, or for building development:

- A. A completed application form, together with all required supporting materials.
- B. Written proof of fee ownership (warranty deed or recorded land contract) of the land proposed to be divided and a signature on the application by the fee title owner of the property.
- C. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of 1970 Public Act 132, as amended (MCL 54.211), by a land surveyor licensed by the State of Michigan, and showing the dimensions and legal descriptions of the existing parcel, the parcels proposed to be created by the division(s) (including "remnant" parcels or those to be retained by the owner) and any easements, the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

In lieu of such survey map, at the applicant's option, the applicant may waive the 45 day statutory requirement for a decision on the application until such survey map and legal description are filed with the Township and submit a tentative preliminary parcel map drawn to scale of not less than 1" = 60' including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, easements, and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the Township Zoning Administrator or other designated official prior to a formal application under this Section 5. Additionally, the Township may waive the survey requirement for good cause shown if adequate and accurate legal descriptions are demonstrated by the materials submitted by the applicant, and additionally, such materials are sufficient to show that all the requirements of the Ordinance and the Act have been met.

- D. Proof that all standards of the Act, this Ordinance and other applicable ordinances and laws have been met.
- E. The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish that the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the Act. The Township may require that the applicant

provide a title search from a title insurance company if it is reasonably necessary to show that previous land divisions do not preclude the proposed land divisions.

- F. Proof that all due and payable property taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.
- G. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- H. Unless a division creates a parcel which is acknowledged and declared to be "not buildable" under Section 8 of this Ordinance, all divisions shall result in "buildable" parcels containing sufficient "buildable" area outside of unbuildable wetlands, flood plains and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, on-site sewage disposal and water well locations (where public water and sewer service is not available), and maximum allowed area coverage of buildings and structures on the site.
- I. The full fee in an amount as may from time to time be established by resolution 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.

SECTION 6 PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

- A. Upon receipt of a complete land division application package from an applicant, the Township Zoning Administrator (or such other official as is designated by the Alpine Township Board shall forthwith submit the same to the Township Zoning Administrator or other designated official for decision. The Township Zoning Administrator or other designee shall (i) approve, (ii) approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and welfare, or (iii) disapprove the land division applied for within 45 days after receipt of the complete application package conforming to this Ordinance's requirements (including any and all required zoning and private road approvals) and shall promptly notify the applicant in writing of the decision(s) and the reasons for any denial.

If the application package does not conform to this Ordinance requirements and the Act, the Township Zoning Administrator or other designee shall return the same to the applicant for completion and refilling in accordance with this Ordinance and the Act.

- B. Any person or entity aggrieved by the decision of the Township Zoning Administrator or designee may, within 30 days of said decision, appeal the decision to the Township Planning Commission or such other board or person designated by the Township Board which shall consider and resolve such appeal by a majority vote of said Board or by such other designated board at its next regular meeting or session affording sufficient time for a 20-day prior written notice to the applicant (and the property owner where other than the applicant) of the time and date of said meeting and appellate hearing. Any such appeal shall be in writing and must be

fled with the Township Clerk within said thirty (30) day time limit.

- C. Land division approvals shall be valid only for a period of ninety (90) days from the date of approval by the Township. If such lots, easements, parcels or site condominium units proposed by the land division are not properly recorded and accepted by the County Register of Deeds within this period, the land division approval shall be considered null and void and a new application must thereafter be submitted in compliance with the requirements of this Ordinance. If an amendment to the Township Zoning Ordinance or other Township ordinance becomes effective prior to the land division being recorded and the amendment applies to any of the resulting parcels, easements, lots or site condominium units in a way which would make the proposed lots, easements, parcels or site condominium units violate the Township Zoning Ordinance or other Township ordinance, the land division approval shall be null and void even if the 90-day time limit has not expired.
- D. The Township Zoning Administrator or designee shall maintain an official record of all land division applications, including denied, approved, unrecorded and accomplished land divisions.
- E. Approval of a land division does not grant or imply approval for the use of such resulting lots or parcels. Any lot, easement, parcel or site condominium unit created by a land division must still comply with the requirements of the Township Zoning Ordinance (including, but not limited to, minimum lot area and width, road and lake frontage and width requirements, and where applicable, private road requirements) and any other applicable ordinances or regulations.
- F. No permanent parcel number or property tax identification number shall be issued for any new parcel, lot or site condominium unit until and unless a land division approval by the Township has been granted pursuant to this Ordinance and the deed, land contract or memorandum of land contract creating the land division has been recorded with the County Register of Deeds and Records.
- G. If the land division involves the use or creation of a private road, approval of the private road must be obtained from the Township in accordance with the Township Zoning Ordinance prior to the approval of the land division. Additionally, the applicant must submit evidence of review and approval of the private road location and entry by the Kent County Road Commission.

SECTION 7 STANDARDS FOR APPROVAL OF LAND DIVISIONS

A proposed land division shall be approved only if the following criteria are met:

- A. All the parcels and easements to be created by the proposed land division(s) fully comply with the applicable lot (parcel) yard access and area requirements of the Township Zoning Ordinance and other applicable Township ordinances, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, setback areas and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures

- B. The proposed land division(s) comply with all requirements of the Act, this Ordinance and all other applicable ordinances.
- C. All parcels created and remaining have existing adequate accessibility, or an area available therefore, to a public road for public utilities and emergency and other vehicles not less than the requirements of the Township Zoning Ordinance, major thoroughfare plan, private road ordinance or this Ordinance. All proposed parcels shall have frontage on an improved public street or approved private street, at a minimum, equal to the required lot width for the zoning district in which the lot is located, as well as compliance with all applicable public or private street regulations.
- D. The ratio of depth to width of any parcel created by the division shall not exceed 4:1 unless otherwise provided by the Township Zoning Ordinance.
- E. Where accessibility is to be provided by a proposed new dedicated public road, proof that the County Road Commission or Michigan Department of Transportation has approved the proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith.
- F. The Township may require such additional conditions and safeguards as are deemed necessary to ensure compliance with the requirements of this Ordinance.
- G. The Township Board may establish reasonable fees for Township review and approval of land divisions, easements, and condominiums hereunder. Additionally, the Township may require the applicant to reimburse the Township for fees and costs incurred by the Township Attorney and/or Township Engineer in reviewing the proposed land division, easements, or condominium units. No land division or easement approval or permit shall be effective until all such fees and reimbursements have been paid to the Township in full.
- H. Within ten (10) days of the date the applicant receives the recorded copy of the deed, land contract, memorandum of land contract or easement agreement back from the County Register of Deeds Records (with the county stamps thereon), the applicant shall provide the Township with copies of the same so that the Township can verify that the resulting lots, parcels, condominium units and/or easements created by the recordings complies with the Township approval.
- I. No land division shall be approved until all ad valorem property taxes due and owing on the original parcel have been paid in full to the Township and/or County, and all special assessments and charges in lieu of special assessments, due and owing against the original parcel have been paid to the Township in full (unless exempted by Alpine Township). Additionally, no land division shall be approved until all indebtedness of the owners of the original parcel have been paid in full to the Township.

SECTION 8

ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS

Notwithstanding disqualification from approval pursuant to this Ordinance, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the Township Zoning Ordinance or this Ordinance may be approved in any of the following circumstances:

- A. Where the applicant executes and records a permanent deed restriction with the County Register of Deeds, in a form acceptable to the Township, designating the parcel as "not buildable" and also not usable for anything other than agricultural or passive uses, which restrictions shall be enforceable by the Township.

Any such parcel shall also be designated as "not buildable" in the Township records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceeding 1 foot in height or used except for agricultural or passive uses.

- B. Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this Ordinance, the Township Zoning Ordinance, or the Act and the Township Zoning Administrator (or designee) determines the boundary adjustments to be minor.

SECTION 9 CONSEQUENCES OF NONCOMPLIANCE WITH THE LAND DIVISION APPROVAL REQUIREMENT

Any parcel or easement created in violation of or noncompliance with this Ordinance shall not be eligible for any building permits or zoning approvals such as special land use approval and site plan approval. Furthermore, no parcel, lot, site condominium unit or easement created in violation of this Ordinance or the Act shall be utilized for any purpose whatsoever, nor shall such land division be recognized. In addition, a violation of this Ordinance shall also subject the violator to the penalties and enforcement actions set forth in Section 10 of this Ordinance, and as may otherwise be provided by law.

In addition to the other remedies provided herein, the Township Zoning Administrator is authorized to deny or rescind a permanent parcel number or property tax identification number for any lot, parcel or site condominium unit created in violation of this Ordinance and to also formally request that County officials either rescind or refuse to issue such a property tax identifying number for any lot, parcel or site condominium unit created in violation of this Ordinance, where applicable.

SECTION 10 PENALTIES AND ENFORCEMENT

Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this Ordinance shall be responsible for a municipal civil infraction and shall be punished by a civil fine of fifty dollars (\$50.00) for a first violation two hundred and fifty (\$250.00) for a second violation and five hundred dollars (\$500.00) for a third or subsequent violation.

Any person who violates any of the provisions of this Ordinance shall also be subject to civil action seeking invalidation of the land division and appropriate injunctive or other relief.

SECTION 11 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 12 REPEAL

Alpine Township Ordinance No 96-1 is hereby repealed as of the effective date of this Ordinance. Additionally, all other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Township Zoning Ordinance, the Alpine Township Subdivision Ordinance, or the Township's building code.

SECTION 13 EFFECTIVE DATE

This Ordinance shall take effect 30 days following its publication after adoption.

The above Ordinance was offered for adoption by Brechting, and was seconded by Johnson, the vote being as follows:

AYE:	Brechting, Chase, Heinbeck, Johnson, Roth, Schweitzer and Steffens
NAY:	None
ABSENT:	None

ORDINANCE #97-8 WAS DECLARED ADOPTED.

Cynthia Heinbeck
Alpine Township Clerk

I hereby certify that the above Ordinance was adopted by the Alpine Township Board at a regular meeting held at the Alpine Township Hall, 5255 Alpine Avenue, Comstock Park on Monday, October

**ALPINE TOWNSHIP
KENT COUNTY, MICHIGAN
RESOLUTION #00-09**

A RESOLUTION TO CONSIDER APPEALS TO THE INTERPRETATION OF THE LAND DIVISION ORDINANCE AND ANY DENIALS BY THE TOWNSHIP ZONING ADMINISTRATOR OR DESIGNEE RELATED TO THAT ORDINANCE

WHEREAS, in response to changes in State Law under Public Act 591 of 1996, the Alpine Township Board of Trustees adopted a General Township Ordinance, known as the Land Division Ordinance on October 20, 1997, which was published as required by law on October 30, 1997; and

WHEREAS, Section 6, Sub-section B gives any person or entity aggrieved by the decision of the Township Zoning Administrator or designee, an appeal process of the decision to deny a land division; and

WHEREAS, the approval of this General Township Ordinance, known as the Land Division Ordinance, was approved by the Township Board and enforcement of the same has not been overseen by the Planning Commission.

NOW THEREFORE, BE IT RESOLVED, that the Alpine Township Board designates the Township Board of Trustees to be the board so designated to hear appeals from the Land Division Ordinance.

At a regular meeting of the Alpine Township Board of Trustees held on Monday, March 20, 2000, a motion was offered Johnson, supported by Schweitzer, to approve the foregoing resolution.

AYE: Brechting, Chase, Heinbeck, Johnson, Schweitzer and Steffens

NAY: None

ABSENT: Roth

RESOLUTION NO. 00-09 WAS DECLARED ADOPTED.

Cynthia Heinbeck, Clerk

I hereby certify the above to be a true copy of a resolution adopted by the Alpine Township Board at a regular meeting held at the Alpine Township Hall on Monday, March 20, 2000, pursuant to the required statutory procedures.

Cynthia Heinbeck, Clerk