

**STATE OF MICHIGAN
COUNTY OF MACKINAC
BOIS BLANC TOWNSHIP**

ORDINANCE 35

Adopted: May 15, 1997

Effective :30 days following Publication

LAND DIVISION ORDINANCE

An Ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, 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.

**TOWNSHIP OF BOIS BLANC
MACKINAC COUNTY, MICHIGAN
ORDAINS:**

**SECTION I
TITLE**

This Ordinance shall be known and cited as the Bois Blanc Township Land Division Ordinance.

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

**SECTION III
DEFINITIONS**

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

- a. "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.
- b. "Divided" or "Division" - 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 State Land Division Act.
- c. "Exempt split" or "exempt division" - 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; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such easement.

- d. "Forty acres or the equivalent" - either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
- e. "Township Board" - the legislative body of Bois Blanc Township.

SECTION IV
PRIOR APPROVAL REQUIREMENT OF LAND DIVISIONS

Land in the Township shall not be divided with out the prior review and approval of the Township Supervisor, or other official designated by the Township Board, in accordance with this Ordinance and the State 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 State Land Division Act, provided that the parcel conforms to the requirements of the Bois Blanc Township Zoning Ordinance in effect at the time of the division.
- b. A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act, provided the parcel conforms to the requirements of the Bois Blanc Township Zoning Ordinance in effect at the time of the Division.
- c. An exempt split as defined in this Ordinance.

SECTION V
APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Township Supervisor or other official designated by the Township Board for review of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

- a. A completed application form on such form as may be provided by the Township.
- b. Proof of fee ownership of the land proposed to be divided .
- c. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of 1970Public Act 132, as amended, (MCL 54.211) by a land surveyor licensed by the State of Michigan, and showing the dimensions and legal description(s) of the existing parcel and the parcels proposed to be created by the division(s), 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 applicants option, the applicant may waive the 30 day statutory requirement for a decision on the application until such survey map and legal description are filed with the Township, and submit a preliminary parcel map drawn to scale of not less than 200 feet to the inch including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility of each proposed division, from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the supervisor or other official designated by the Township Board prior to a final application under Section V.

The Supervisor or other official designated by the Township Board may waive the survey map requirement where the foregoing preliminary parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all proposed divisions, however, shall at all times be required.

- d. Proof that all standards of the State Land Division Act and this Ordinance 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 the parcel to be divided was lawfully in existence as of, March 31, 1997.
- f. Proof that all due and payable 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 VIII of this Ordinance, all divisions shall result in “buildable” parcels containing sufficient “buildable” area outside of unbuildable woodlands, 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 fee 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 this review and the application and administration of this Ordinance and the State Land Division Act.

SECTION VI
PROCEDURE FOR REVIEW OF APPLICATION FOR LAND DIVISION APPROVAL

- a. The Township Supervisor or other designated agent shall approve, approve with any reasonable conditions to assure compliance with applicable Ordinances and the protection of public health, safety, and general welfare, or disapprove the land division applied for within 30 days (unless waived under Section V. c.) After receipt of the application package conforming to this Ordinance’s requirements, and shall promptly notify the applicant of the decision and the reasons for any denial. If the application package does not conform to this Ordinance’s requirements and the State Land Division Act, the Supervisor or other designee shall return the same to the applicant for completion and refile in accordance with this Ordinance and the State Land Division Act.
- b. Any person or entity aggrieved by the decision of the Township Supervisor or other designated agent may, within 30 days of such decision, appeal the decision to the Township Board which shall consider and resolve such appeal by a majority vote of said Board at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and hearing.
- c. A decision approving a land division is effective for 90 days from the date of decision, after which it shall be considered automatically revoked unless within such period a document is recorded with the Mackinac County Register of Deeds and filed with the Township Clerk or other designated official accomplishing the approved land division or transfer.
- d. The Township shall maintain an official record of all approved and accomplished land divisions and transfers.

SECTION VII
STANDARDS FOR APPROVAL OF LAND DIVISION

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

- a. All parcels to be created by the proposed land division(s) fully comply with all applicable requirements of the Township Zoning Ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, and maximum lot (parcel) coverage, and minimum setbacks for existing buildings and structures.
- b. The proposed land division(s) comply with all requirements of the State Land Division Act and this Ordinance.
- c. All parcels created and remaining have existing adequate accessibility, or an area available therefor, to a public road for public utilities and emergency and other vehicles not less than the requirements of all applicable ordinances.

SECTION VIII
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 where the Township Board finds that approval promotes proper land use within the Township and promotes the health, safety, and/or welfare of the Township and its residents, in any of the following circumstances:

- a. Where the applicant executes and records an affidavit or deed restriction with the Mackinac County Register of Deeds, in a form acceptable to the municipality, designating the parcel as “not buildable”. Any such parcel shall also be designated as “not buildable” in the municipal records, and shall not be 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 four feet in height.
- b. Where, in circumstances not covered by paragraph A above, the Zoning Board of Appeals has, previous to this Ordinance, granted a variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.
- c. 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 State Land Division Act.

SECTION IX
CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT

Any parcel created in noncompliance with this Ordinance shall not be eligible for any building permits, or zoning approvals, including special land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this Ordinance shall subject the violator to the penalties and enforcement actions set forth in Section X of this Ordinance, and as may otherwise be provided by law.

SECTION X
PENALTIES AND ENFORCEMENT

Any person who violates any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the county jail for not more than 90 days or both.

Any person who violates any of the provisions of this Ordinance may also be subject to a civil action both in law and equity, including appropriate injunctive or other relief.

SECTION XI
SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable if any clause, sentence, word, section, or provision is declared null and 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 XII
REPEAL

All 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 of the Township Zoning Ordinance, or the Building Code adopted by the Township.

SECTION XIII
EFFECTIVE DATE

This Ordinance shall take effect 30 days following publication after adoption

TOWNSHIP OF BOIS BLANC

_____, Clerk

CERTIFICATE

I, Lucia E. Iafate, Bois Blanc Township Clerk, do hereby certify that the foregoing Bois Blanc Township Ordinance No. 35 was adopted by the Bois Blanc Township Board at a regular meeting held on May 15, 1997, and that the following is a record of the vote of the members of said Township Board on said Ordinance.

AYES: Lani White, Cheryl Stevenson, Gary Wagner, Lucia Iafate, William Westcott

NAYS: None

ABSTENTIONS: None

ABSENT: None

