

CHAPTER 5 LAND DIVISION

5.1 Purpose:

The purpose of this chapter is to carry out the provisions of the Land Division Act (Act 288 of the Public Acts of 1967, as amended formerly known as the Subdivision Control Act) to prevent the creation of lots and parcels that do not comply with applicable Village of Central Lake ordinances, to minimize potential boundary disputes, to maintain the orderly development of the Village and to otherwise protect the public health, safety and welfare of the residents and the present and future property owners of the Village of Central Lake. This shall be accomplished by regulating the division of existing lots and parcels and the property transfer between two (2) or more adjacent lots or parcels. It is further the purpose of this chapter to prescribe the procedures for the submission and review of proposed lot and parcel divisions and property transfers, to authorize fees for the review of applications submitted under this chapter and to provide penalties of violations of this chapter.

5.2 Definitions: As used in this chapter:

- (a) "Accessible" in reference to a lot or parcel means that the lot or parcel meets one (1) 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 county road commission under Act 200 of the Public Acts of 1969, as amended, or has an area where a driveway can [provide vehicular access to an existing road or street and can meet all such applicable location standards].
 - 2. Is served by an existing easement that provides vehicular access to an existing road or street and meets all applicable location standards under Act 200 of 1969, as amended, and 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.
- (b) "Applicant" means an owner of a lot or parcel of land or his or her designee.
- (c) "Convey" or "Conveyance" means a transfer of an ownership interest in real property.
- (d) "Development Site" means any lot, parcel or tract of land on which exists or which is intended for building development other than the following:
 - 1. Agricultural use involving the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops and field crops; dairy and dairy products; poultry and poultry products; livestock including breeding and grazing of cattle, swine and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees and other similar uses and activities.

2. Forestry use involving the planting, management or harvesting of timber.
- (e) “Divide” or “Division” means the partitioning or splitting of a lot, parcel or tract of land by the owner for the purpose of sale, lease for more than one (1) year, building development or the creation of separate lots , parcels or tracts of land on the tax roll that results in one (1) or more lots or parcels of less than forty (40) acres or the equivalent. “Divide” or “Division” does not include a property transfer between two (2) or more adjacent lots or parcels if the property taken from one (1) lot or parcel is added to an adjacent lot or parcel and any resulting lot or parcel shall not be considered a building site unless the lot or parcel conforms to the requirements of the Land Division Act being Act No. 288 of the Public Acts of 1967, as amended, the Village of Central Lake Zoning Ordinance, as amended and this chapter.
- (f) “Exempt Split” means the partitioning or splitting of a lot, parcel or tract of land by the owner that does not result in one (1) or more lots or parcels of less than forty (40) acres or the equivalent. For a property transfer between two (2) or more adjacent lots or parcels, if the property taken from one (1) lot or parcel is added to an adjacent lot or parcel, any resulting lot or parcel shall not be considered a building site unless the lot or parcel conforms to the requirement of the Land Division Act, being Act. No. 288 of the Public Acts of 1967, as amended, the Village of Central Lake Zoning Ordinance, as amended, and this chapter.
- (g) “Forty (40) acres or the equivalent” means forty (40) acres, a quarter-quarter section containing not less than thirty (30) acres or a government lot containing not less than thirty (30) acres.
- (h) “Land” means all land areas occupied by real property except the submerged bottomlands of inland lakes, rivers and streams.
- (i) “Lot” means a measured portion of a parcel or tract of land which is described and fixed in a recorded plat. A lot’s legal description is referred to as Lot (#) of the Plat of (Name of Plat).
- (j) “Metes and Bounds” means a description of land by boundary lines with their terminal points and angles.
- (k) “Owner” means a person holding any legal, equitable, option or contract interest in a lot or parcel of land.
- (l) “Parcel” means a continuous area or acreage of land of any size, shape or nature which is described by metes and bounds.

- (m) "Parent Parcel" means first a tract of land lawfully in existence on March 31, 1997 if one exists in connection with a proposed division or, if one does not exist, a parcel lawfully in existence on March 31, 1997.
- (n) "Person" means an individual, firm, corporation, association, partnership, estate, trust, limited liability company or other legal entity.
- (o) "Plat" or "Recorded Plat" means a map or chart of a subdivision of land created pursuant to the Land Division Act of 1967, being Act 288 of the Public Acts of 1967, as amended, or predecessor statutes to this Act.
- (p) "Property Transfer" means a transfer of property between two (2) or more adjacent lots or parcels if the property taken from one (1) lot or parcel is added to an adjacent lot or parcel and ~~is~~ all resulting lots or parcels conform to the requirements of the Land Division Act being Act 288 of the Public Acts of 1967, as amended, the Village of Central Lake Zoning Ordinance, as amended, and this chapter. If the property transferred does not independently conform to the requirements of the Land Division Act, being Act 288 of the Public Acts of 1967 as amended, the Village of Central Lake Zoning Ordinances, as amended, and this chapter then it shall not be considered a development site but may only be used in conjunction with the lot or parcel to which it was transferred.
- (q) "Tract of Land" means two (2) or more parcels that share a common property line and are under the same ownership.
- (r) "Village Council" means the Village Council for the Village of Central Lake.
- (s) "Village Code Enforcement Officer" means the Village of Central Lake Village Code Enforcement Officer.

5.3 Approval of Land Divisions or Property Transfers Required; Establishment of Exempt Splits:

- (a) The owner of a lot, parcel or tract of land shall not divide or effect a property transfer involving or cause any person to divide or effect a property transfer involving that lot, parcel or tract of land except as provided in this chapter unless the division or property transfer is approved as part of a subdivision plat at the time of plat approval under the Land Division Act of 1967, being Act 288 of the Public Acts of 1967, as amended, the division or property transfer is part of a condominium project developed under the Condominium Act, being Act 59 of the Public Acts of 1978, as amended, or the division or property transfer is done pursuant to an order of a court of competent jurisdiction.
- (b) The owner of a lot, parcel or tract of land claiming an exempt split as defined in Section 2(f) of this chapter shall submit to the Village Code Enforcement Officer either a survey map of the land claimed to be an exempt split prepared pursuant to the survey map requirements of Act 132 of the Public Acts of 1970, as amended, certified by a land surveyor licensed by the State of Michigan or other clear evidence documenting

that the proposed exempt split of a parcel or tract of land will not result in one (1) or more parcels of less than forty (40) acres or the equivalent. In addition, the owner of a lot, parcel or tract of land claiming an exempt split shall submit to the Village Code Enforcement Officer documentation that each new lot, parcel or tract of land resulting from the proposed exempt split has or can have a driveway or easement that provides vehicular access to an existing road or street. If the Village Code Enforcement Officer finds that the proposed division is an exempt split and that each new lot, parcel or tract of land that will result from the division is accessible, then no further action under this chapter shall be required. If the Village Code Enforcement Officer finds that the proposed division is either not an exempt split or that each new lot, parcel or tract of land that will result from the division is not accessible, then he or she shall give the owner written reasons for his or her decision. In that event the owner shall be required to proceed under Section 4 of this chapter to obtain approval of the proposed division. If the owner disagrees with the Village Code Enforcement Officer's decision, the owner can submit revised information to the Village Code Enforcement Officer or appeal the Village Code Enforcement Officer's decision to the Village Council pursuant to Section 7 of this chapter.

- (c) In addition, an exempt split or other partitioning or splitting of a parcel or tract of land that only results in parcels of twenty (20) acres or more in size is not subject to approval under this chapter if the parcel or tract of land being partitioned or split is not accessible and was in existence on March 31, 1997 or resulted from an exempt split or a partitioning or splitting under Section 10+b of the Land Division Act as amended.

5.4 Procedure for Division or Property Transfer:

The following procedure shall be followed to divide a lot, parcel or tract of land or to affect a property transfer:

- (a) Because of the many requirements that must be met to obtain approval to divide a lot, parcel or tract of land or to effect a property transfer, an applicant may request an informal meeting with the Village Code Enforcement Officer to discuss the application procedures prior to submitting a formal application under Section 4(b) of this chapter. At this informal meeting, the applicant and the Village Code Enforcement Officer shall review the proposed division or property transfer, discuss the information that must be submitted with the application and review the standards the Village Council will use to render its decision on the application.
- (b) When formal approval of a division or property transfer is desired, the applicant shall submit an application for that approval to the Village Code Enforcement Officer on a form supplied by the Village for that purpose. The application shall include, but not be limited to the following:

- (1) Proof of ownership of the lot, parcel or tract of land to be divided or of the lots or parcel involved in a property transfer.
- (2) The names and addresses of all persons having an interest in the lot, parcel or tract of land to be divided or of the lots or parcels involved in a property transfer and a statement of the type of interest each holds.
- (3) A brief statement as to the purpose of the proposed division or property transfer and whether the lots, parcels or tracts of land that will result from the division or property transfer will be used for residential (single family, multi-family, etc.), commercial or manufacturing purposes.
- (4) The history of the prior divisions of the parent parcel from which the applicant's parcel or tract of land came and proof that the applicant holds the right to divide the parcel or tract of land proposed for division.
- (5) A survey map of the land proposed to be divided or the land involved in the property transfer prepared pursuant to the survey map requirements of Act 132 of the Public Acts of 1970, as amended, certified by a land surveyor licensed by the State of Michigan and depicting the dimensions of the lot, parcel or tract of land to be divided or the lots or parcels involved in a property transfer, the dimensions of the lots, parcels or tracts of land that will result from the division or property transfer, the location of all current easements on the lot, parcel or tract of land to be divided or on the lots or parcels involved in a property transfer and the location of all proposed easements on the lots, parcels or tract of land that will result from the division or property transfer. The easements required by this subsection shall include both utility easements and ingress/egress easements. The survey shall also depict all building and structures on the lot, parcel or tract of land to be divided or on the lots or parcels involved in a property transfer and the distances between these buildings and structures and the original property lines of the lot, parcel or tract of land to be divided or the lots or parcels involved in a property transfer and shall depict the distances between these buildings and structures and the property lines of the lots, parcels or tracts of land that will result from the division or property transfer.
- (6) A map showing the location of the lot, parcel or tract of land to be divided or the lots or parcels involved in a property transfer within the Village.
- (7) Legal description, certified by a land surveyor licensed by the State of Michigan of the lots, parcels or tracts of land that will result from the division or property transfer.
- (8) A duly executed instrument of conveyance (deed, land contract, lease, etc.) suitable in form for recording at the Antrim County Register of

Deeds Office which the applicant intends to use to document these lots, parcels or tracts of land that will result from the division or property transfer. If the grantor intends to convey the rights to future divisions of the parcel being conveyed, the deed or land contract shall contain the following statement as required by the Land Division Act, as amended: "The grantor grants to the grantee the right to make (insert number) division(s) under Section 108 of the Land Division Act, Act. No. 288 of the Public Acts of 1967." Finally, all deeds and land contracts of unplatted land shall contain the following statement as required by the Land Division Act, as amended: "This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors and other associated conditions may be used and are protected by the Michigan Right to Farm Act."

- (9) If the lot, parcel or tract of land that will result from the division or property transfer will be a development site, then the applicant shall submit documentation that each such resulting lot, parcel or tract of land has or can have a driveway or easement that provides vehicular access to an existing road or street. In addition, the applicant shall submit evidence establishing adequate easements for public utilities from each such resulting lot, parcel or tract of land to existing public utility facilities.
- 10. Such other documentation that the Village Code Enforcement Officer may require relating to the application.
- (c) The application shall be accompanied by an application fee as established and set forth in a Village fee schedule. This fee schedule shall also establish "after the fact" fees that must be paid when an otherwise lawful division or property transfer occurs but without first complying with the procedural requirements of this chapter. This "after the fact" fee is not intended to be a penalty, but shall consist of the normal application fee plus an amount equal to the legal and administrative costs incurred by the Village as a result of the applicant's failure to initially comply with the requirements of this chapter.
- (d) After receiving the application and the information required in subsection 4(b) above, the Village Code Enforcement Officer shall make a decision on the application. The Village Code Enforcement Officer shall decide whether to approve a proposed division or property transfer within forty-five (45) days after all the information required in subsection 4(b) above is given to the Village Code Enforcement Officer. If the applicant fails to provide all the information required in subsection 4(b) above, then the application shall be deemed incomplete and may be denied on that basis. The Village Code Enforcement Officer's decision to approve the division or property transfer shall be made pursuant to the standards contained in Section 5 of this chapter. If the Village Code Enforcement Officer fails to grant approval of a proposed division or property transfer, written reasons for its decision shall be given to the applicant.

The applicant shall then have the option of resubmitting information for approval to the Village Code Enforcement Officer or appealing the decision to the Village Council.

- (e) If the Village Council approves a proposed division or property transfer, then the Village Code Enforcement Officer shall send a letter indicating such approval to the applicant with copies to the President of the Village of Central Lake, the Village of Central Lake Assessor, the Village of Central Lake Village Council and the Antrim County Register of Deeds. This letter shall contain the following statement: "The Village of Central Lake, its officers and employees are not liable if a building permit is not issued pursuant to Section 109a of the Land Division Act, as amended, for a parcel less than one (1) acre in size that resulted from an approved division under the Village of Central Lake Division Chapter." The copy of this letter shall be retained by the Village Council in its official records.
- (f) Because zoning requirements may change over time, any approval for an application for a division or property transfer by the Village Council under Section 4(d) above shall expire and a new approval required after ninety (90) days from the date of the approval unless the applicant records in the Antrim County Register of Deeds Office an instrument(s) of conveyance documenting the division or property transfer and files a copy of that recorded instrument(s) with the Village Code Enforcement Officer.

5.5 Standards for Approval of Divisions or Property Transfers:

An application to divide a lot, parcel or tract of land or to affect a property transfer shall be granted when all of the following standards are met:

- (a) The proposed division or property transfer shall comply with all requirements of the Land Division Act of 1967, being Act 288 of the Public Act of 1967, as amended.
- (b) Each lot, parcel or tract of land that will result from the division or property transfer shall have an adequate and accurate legal description certified by a land surveyor licensed by the State of Michigan shall be serviced by a public utility easement and shall be accessible.
- (c) Each new lot, parcel or tract of land that will result from the division, including those lots, parcels and tracts of land greater than ten (10) acres shall have a depth of not more than four (4) items its width as measured under the requirements of the Village of Central Lake Zoning Ordinance. This standard shall not apply to a property transfer.
- (d) If a lot, parcel or tract of land that will result from the division or property transfer will be a development site, then each resulting lot, parcel or tract of land shall have adequate easements for public utilities from each such resulting lot, parcel or tract of land to existing public utility facilities.

- (e) If the land proposed to be transferred between two (2) or more adjacent lots or parcels does not independently conform to the requirements of the Land Division Act, being Public Act 288 of the Public Acts of 1967, as amended, and this chapter, then the land proposed to be transferred shall not thereafter be independently considered a development site, but may only be used in conjunction with an adjoining lot(s), parcel(s) or tract(s) of land.
- (f) Each lot, parcel or tract of land that will result from the division or property transfer shall be accessible.
- (g) The owner of the parcel or tract of land shall possess the right to divide the parcel or tract of land. This standard shall not apply to a property transfer.
- (h) The property lines of the lots, parcels or tracts of land that will result from the division or property transfer shall be consistent and in harmony with the property lines of the lot, parcel or tract of land to be divided or the lots or parcels involved in a property transfer and/or the property lines of adjacent lots, parcels or tracts of land.

5.6 Land Configuration Variances

- (a) If a lot, parcel or tract of land that will result from a division does not meet the depth to width requirements of Section 5(c) of this chapter, then the applicant may seek a variance from those requirements from the Village Council pursuant to the procedures of this section.
- (b) The Village Council may grant a variance under this chapter from the depth to width requirement of Section 5(c) of this chapter if all of the following exist:
 - (1) Exceptional or extraordinary circumstances or conditions exist on the parent parcel including exceptional topographic or physical conditions that do not generally apply to other lots, parcels or tracts of land in the Village.
 - (2) The exceptional or extraordinary circumstances or conditions existing on the parent parcel are not the result of any act or omission by the Applicant or his or her predecessors in title.
 - (3) The granting of the variance shall not be injurious or otherwise detrimental to adjoining lots, parcel or tracts of land or to the general health, safety and welfare of the Village.
 - (4) The resulting lots, parcels or tracts of land with the variance granted shall be compatible with surrounding lots, parcels or tracts of land.
 - (5) The variance granted shall be the minimum variance that will make possible the reasonable use of the parent parcel.

- (c) In granting any variance under this chapter, the Village Council may prescribe appropriate conditions and safeguards in order to ensure that the lot, parcel or tract of land that will result from the division or property transfer complies with the variance granted under this chapter. Violations of such conditions and safeguards shall be deemed a violation of this chapter punishable under Section 8 of this chapter.

5.7 Appeals to the Village Council:

Any person aggrieved by a decision of the Village Code Enforcement Officer may appeal that decision to the Village Council. Any such appeal shall be filed within thirty (30) days from the date of the decision from which the appeal is taken. During the appeal, the Village Council shall conduct a *de novo* hearing of the matter and to that end shall have all the powers of the Village Code Enforcement Officer. In rendering its decision, the Village Council shall receive and consider evidence and data relevant to the case and shall issue its decision in writing within thirty (30) days after receiving all evidence and data in the case. The decision of the Village Council shall then be sent promptly to the applicant, to the person who filed the appeal (if different from the applicant) and to the Village Code Enforcement Officer.

5.8 Violations and Penalties:

Any person who shall violate any provision of this chapter shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws and shall be subject to a fine of not more than Five Hundred Dollars (\$500.00). Each day this chapter is violated shall be considered as a separate violation. Any action taken under this section shall not prevent civil proceedings for abatement or termination of the prohibited activity.

5.9 Enforcement Officer:

The Village Code Enforcement Officer is hereby designated as the authorized Village Official to issue municipal civil infraction citations directing alleged violators of this chapter to appear in court.

5.10 Nuisance Per Se:

A violation of this chapter is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

5.11 Separate Court Action:

In addition to enforcing this chapter through the use of a municipal civil infraction proceeding, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this chapter.

5.12 Validity:

If any section, provision or clause of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any remaining portions or application of this chapter which can be given effect without the invalid portion or application.

