

## **Chapter 718 – Land Division**

### **Section 718.1 – Title**

This Ordinance shall be known and cited as the “Lenox Township Land Division Ordinance.”

### **Section 718.2 - Intent**

An Ordinance adopted pursuant to, and under the provisions of Act No. 591 of the Public Acts of 1996, as amended, to provide procedures and standards for the division of properties located within Lenox Township, to regulate and control, in the interests of the Public Health, Safety, and Welfare, the divisions of properties within Lenox Township; to prescribe rules and regulations; to provide penalties for the violation of this Ordinance, and to provide for the relationship of this Ordinance to other laws and ordinances.

### **Section 718.3 – Definitions**

**Acreage Parcel** – Any parcel of land which is not within an approved and recorded plat or condominium development.

**Accessible** – In reference to a parcel means the parcel meets one (1) or both of the following requirements:

- a. Has an area where a driveway provides vehicular access to an existing public road or public street and meets all applicable location standards of the state transportation department or 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 public road or public street and meet all such applicable location standards. If the parcel, or any parcels, as divided, abuts an existing private road that is named in the Lenox Township Private Road Ordinance, such private road must meet all the standards of the Lenox Township Private Road Ordinance and must have a Private Road Maintenance Agreement as defined in the Lenox Township Private Road Ordinance.
  
- b. Is served by an existing easement that provides vehicular access to an existing public road and meets all applicable location standards of the state transportation department or 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 public road or public street and will meet all such applicable location standards. If the parcel, or any parcels, as

divided, abuts an existing private road that is named in the Lenox Township Private Road Ordinance, such private road must meet all the standards of the Lenox Township Private Road Ordinance and must have a Private Road Maintenance Agreement as defined in the Lenox Township Private Road Ordinance.

**Divide or Division** – The partitioning or splitting of an acreage parcel or tract into two (2) or more parcels for purposes of sale, lease, or building development. Division does not include a property transfer between two (2) or more adjacent parcels if the property taken from one (1) 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 this Act or the requirements on an applicable local ordinance.

**Exempt Split** – The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his/her heirs, executors, administrators, legal representatives, successors, or assigns that does not result in one (1) or more parcels of less than forty (40) acres or the equivalent.

**Lot** – A measured portion of a parcel or tract of land which is described and fixed in a recorded plat.

**Parent Parcel or Parent Tract** – An acreage parcel or tract, respectively, lawfully in existence on March 31, 1997.

**Resulting Parcel** – The acreage parcel(s) which result from an approved division.

**Tract** – Two (2) or more acreage parcels that share a common property line and are under the same ownership.

Terms not defined shall have the meaning as set forth in the Lenox Township Zoning Ordinance and PA 591 – The Land Division Act.

#### **Section 718.4 – Division of Acreage Parcels**

Any lot, acreage parcel, or tract which is divided or proposed to be divided after the effective date of this Ordinance, shall be reviewed, and approved in accordance with this Ordinance.

#### **Section 718.5 – Application Requirements and Procedures**

Application to divide a lot, acreage parcel, or tract shall be made on forms provided by the Township Clerk, five (5) copies of the form and required information shall be submitted.

Applications shall include the following required information and submittals:

- A. Names, addresses, and phone numbers of all owners of record, including all parties to a land contract or purchase agreement, and their signatures. Separate written consent to the proposed division by fee simple owners may be accepted by the Township in lieu of signatures on the application form.
- B. The applicant's name, address, phone number, and signature.
- C. The parcel identification number(s) of the lot, parent parcel(s), or parent tract.
- D. A true and accurate survey drawn to scale and certified by a Registered Land Surveyor. The survey shall include the following.
  1. Full legal descriptions of the parent parcel(s) or tract, and of all parcels which would result from the proposed division of the lot, parent parcel, or tract and any remainder.
  2. All adjoining property within one hundred (100') feet of the lot, parent parcel, or parent tract.
  3. All dimensions of existing and proposed property lines and easements.
  4. Location of all existing buildings, wetlands, lakes, streams, ponds, drives, public roads, easements, wells, and septic fields, including setbacks from all property lines.
  5. The gross and net (exclusive of public roads rights of way) size of each resulting parcel (in square feet and acres).
  6. The proposed location and type of access to each resulting parcel. (Where a road is proposed separate application to the Township Board and conformance with the Macomb County Department of Road's Standards and Specifications for Road Layout and Public Safety is required.
  7. Setbacks from property lines to all proposed buildings, drives, easements, wells, and septic systems.
  8. Delineation and area (in square feet and acres) of contiguous buildable area (exclusive of wetlands, floodplains, steep slopes, or other unbuildable features) of each resulting parcel.

- E. Written verification and proof of ownership, by Warranty Deed, Quit Claim Deed, Land Contract, or other legal documents of conveyance, which identifies the owner(s) of the lot, parent parcel(s), or parent tract.
- F. A written statement, signed and attached to the application form by the applicant and all owners of record, stating whether the right to make further divisions exempt from the platting process requirements of PA 591 – The Land Division Act has been transferred or otherwise conveyed.
- G. A written statement, signed and attached to the application form, by the applicant and all owners of record, stating “The deeds for all resulting parcels that are the subject of this application shall contain the following statement: ‘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.’”
- H. Written verification from applicable utility companies indicating there are adequate easements for public utilities from the parcel to existing public facilities.
- I. Written verification of approval from the Macomb County Department of Roads regarding the adequacy of the proposed road(s) and/or driveway(s).
- J. If a preliminary review by the Lenox Township Assessor or his/her designee under Section 718.6 A below finds the parcel as having hydric soils on the Township Hydric Soils Map or wetlands on the Township Wetlands Map, the written verification from a civil engineer, surveyor, or sanitarian, licensed in the State of Michigan, shall be required indicating the delineated buildable area of each parcel is capable of supporting typical site improvements (e.g., house, accessory building(s), driveway, well, septic field, and reserve septic field).
- K. Additional information as required by the Township to verify application information, geographic site data, or to clarify the status of other governmental reviews and approvals.
- L. All applicable review fees as established by resolution of the Township Board.

### **Section 718.6 – Review Process**

All applications for proposed divisions of acreage parcels shall be reviewed in conformance with the following process:

- A. Preliminary Review

1. The Lenox Township Clerk and Assessor shall review the application for completeness and all attachments for conformance with this Ordinance and applicable sections of the Zoning Ordinance, including but not limited to accessibility, minimum lot area, lot width, and lot width to depth ratio. Prior to or at the time of submittal, the Assessor or his/her designee is available to review the Lenox Township Hydric Soils Map and Township Wetlands Map with the applicant to determine potential implications on the proposed parcels.
2. Where a public road is proposed as a part of any division application, review and approval of the public road(s) shall be in accordance with the Macomb County Department of Roads Standards and Specifications for Road Layout and Public Safety. The Planning Commission shall review applications with proposed public roads and provide a recommendation to the Township Board. If the parcel, or any parcels, as divided, abut an existing private road that is named in the Lenox Township Private Road Ordinance, such private road must meet all the standards of the Lenox Township Private Road Ordinance and must have a Private Road Maintenance Agreement as defined in the Lenox Township Private Road Ordinance.
3. If all required information has been submitted in accordance with Section 718.5 above, and all information and the proposed division(s) demonstrate(s) conformance with this Ordinance, the Assessor shall grant preliminary approval of division(s) that do not require Planning Commission or Township Board approval. If the proposed application and division(s) do not comply with this Ordinance, the application shall be denied or granted conditional preliminary approval. All approvals and denials shall be in writing and shall include the reason(s) for approval or denial. Conditional approvals shall include all conditions, in writing, which must be met prior to final approval.

#### B. Final Approval

1. Following Preliminary Approval or Preliminary Approval with Conditions, the Township's Building Inspector or his/her designee shall:
  - a. Verify all conditions of Preliminary Approval have been met.
  - b. Document all stakes and monuments have been set in accordance with the approved survey.
  - c. Verify Planning Commission recommendation for approval for any division which will create four (4) or more parcels.
  - d. Verify Township Board and Macomb County Department of Road's approval of any public road(s) proposed in conjunction with the proposed division(s).

2. The Assessor shall grant written final approval of the proposed division(s) upon verification of the information in Subsection 1 above. Denials shall be in writing and shall include the reason(s) for denial.
3. After Final Approval, the Assessor shall process the proposed division(s), verify assignment and issuance of new parcel identification number(s), and update taxation and assessment records as required by State Law.
4. All final approvals shall include the following written disclosure from the Township to the applicant: "Approval of a division(s) is not a determination the resulting parcels comply with other ordinances, regulations, or building permit requirements.
5. All final approvals of divisions that result in a parcel that is less than one (1) acre shall include the following written disclosure from the Township to the applicant: "Where an approved division results in a parcel less than one (1) acre, Lenox Township, its officers, consultants, and employees are not liable if a building permit is not issued for the parcel for the reasons set forth in Section 109A of Act 591, The Land Division Act, Michigan Public Acts of 1996, as amended.

#### **Section 718.7 – Time for Review and Approval of Division**

Lenox Township shall have forty-five (45) days from the date of submittal of a complete application to conclude its review of the proposed division to verify it complies with the Michigan Land Division Act, as amended, other applicable Statutes of the State of Michigan, and all Ordinances of Lenox Township. Where a public road is proposed in conjunction with any proposed division, review, and approval of said road in conformance with the Road Commission of Macomb County's Standards and Specifications for Road Layout and Public Safety shall occur concurrently with the application for property division. An application for property division may not be considered complete until approval of the public road in conformance with the Macomb County Department of Road's Standards and Specifications for Road Layout and Public Safety. For any parcels that abut a private road that is named in the Lenox Township Private Road Ordinance, an application for property division may not be considered complete until approval of the private road in accordance with the Lenox Township Private Road Ordinance and until Lenox Township has signed a copy of the Private Road Maintenance Agreement. No land division approval obtained from the Township of Lenox after January 1 of any year will appear on the Township tax roll until the subsequent tax year.

#### **Section 718.8 – Review Standards**

The proposed standards shall be met prior to the approval of any proposed division(s):

- A. The proposed division complies with Act 591 – The Land Division Act, as amended.
- B. The proposed division is in complies with the lot size, lot area, lot width to depth ratio, tree protection, and other applicable design requirements of the Lenox Township Zoning Ordinance or complies with the provisions of Section 718.8F below.
- C. The proposed divisions are accessible.
- D. Where a public road is proposed, the road is in conformance with the Macomb County Department of Roads Standards and Specifications for Road Layout and Public Safety and has been approved by the Township Board after recommendation by the Planning Commission.
- E. Adequate easements for public utilities from the parcel to existing public utility facilities are provided.
- F. The division meets all the requirements of The Michigan Land Division Act (maximum number of divisions permitted).
- G. The parent parcel and resulting parcels do not include any parcels within a condominium development approved by the Township.
- H. If the proposed division creates resulting parcels that are less than the minimum lot area or size required by Act 591, Michigan Public Acts of 1996, as amended, Section 718.5J above, or the Lenox Township Zoning Ordinance, the applicant shall also file with the Township a duly executed affidavit, suitable in form for recording with the Macomb County Register of Deeds, signed by all persons having a legal or equitable interest in the resultant parcel(s), stating the resultant parcel(s) will not thereafter be developed or used separately, but only in conjunction with adjoining parcels which, when joined together, shall satisfy the minimum lot area and size requirements of Act 591 of 1996, as amended, the Lenox Township Land Division Ordinance, and the Lenox Township Zoning Ordinance.
- I. Payment of all taxes due on the parent parcel(s) or parent tract.

#### **Section 718.9 – Divisions Not Approved by Township**

Any division, which has not been first approved by Lenox Township, shall not constitute a valid division of such property under the terms of this Ordinance. Any parcel of real property, which has not received approval by the Township pursuant to the provisions of this Ordinance or the Lenox Township Subdivision Ordinance shall not be placed on the Township tax rolls as a separate and individual parcel of property.

## **Section 718.10 – Issuance of Building Permit**

After the effective date of this Ordinance, prior to the issuance of any building permit for construction upon a resulting parcel, the person or entity applying for the building permit shall provide the following items to the Lenox Township Building Inspector:

- A. Written verification and evidence of final approval of the division of the subject property by Lenox Township.
- B. The parcel identification (tax) number which has been assigned to the subject property.
- C. A recorded copy of the survey, with the legal description and drawing of the said parcel, or parcels, of property (as heretofore described in this Ordinance).
- D. A recorded copy of the legal document which establishes the applicant's ownership interest in the property (that is, a Warranty Deed, Quit Claim Deed, Land Contract, or other written evidence of ownership and title to the property).

## **Section 718.11 – Applications Involving Public Roads**

An application for approval of a division(s) that involves the construction of a public road must comply with the following requirements before the division(s) will be approved:

- A. The proposed division(s) and the plans for the public road must first be submitted to the Lenox Township Planning Commission. The Commission shall review the design for conformance with their adopted Master Plan, the Macomb County Department of Roads Standards and Specifications for Road Layout and Public Safety, and the lot area and width requirements of the Zoning Ordinance and will recommend approval or disapproval of the public road to the Township Board.
- B. In accordance with the Macomb County Department of Roads Standards and Specifications for Road Layout and Public Safety, a cul-de-sac's length shall not exceed eight hundred (800) feet. This standard may be waived by the Department of Roads and a greater length will be considered if it is approved by the Township Board and Township Fire Marshal and notice of such approval is furnished to the Department of Roads. Cul-de-sac lengths are typically limited to minimize potential problems with access for fire and emergency protection, trash collection, drainage, and traffic control. To minimize such access problems, while supporting the type of low-density small-scale development that is often associated with land division requests, Lenox Township has further defined acceptable lengths for large lot low-density cul-de-sac public roads. The eight hundred (800) foot maximum Road Commission standard for cul-de-sacs may be increased provided the proposed length of the

cul-de-sac is no more than seven (7) times the average width. This standard may be applied by the Township Board at their discretion to permit a maximum cul-de-sac length of up to two thousand (2,000) feet for districts with minimum lot sizes of one (1) acre or greater, upon a finding that adequate access for fire and emergency protection, trash collection, drainage, and traffic control may be achieved within the proposed development. Increases in the maximum cul-de-sac length are appropriate only for follow-density large lot development in areas of the Township that are not planned for the higher densities typically associated with subdivision projects.

- C. The Township Board must grant approval of the public road before the Assessor or his/her designee will issue final approval of the proposed division(s) which have access to the public road and add them to the Township Tax Roll.

#### **Section 718.12 – Violations and Penalties**

A violation of any provision of this Ordinance shall constitute a misdemeanor. Any person, firm, corporation, partnership, or other entity who violates, disobeys, omits, neglects, or refuses to comply with a provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than five hundred dollars (\$500.00), or imprisonment in the County Jail for a period not to exceed ninety (90) days or both such fine and imprisonment at the discretion of the Court. Each day, during which such violation continues, shall be deemed a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the provisions of this Ordinance.

In addition, the Township Board, any member thereof, or the Prosecuting Attorney for the county of Macomb, may institute injunctive proceedings to prevent or enjoin any violation of the provisions of this Ordinance. The rights and remedies provided herein are cumulative and in addition to other remedies provided by law.

