

BEARINGER TOWNSHIP ORDINANCE No. 2019-01

PARCEL/LAND DIVISION ORDINANCE

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to the Land Division Act, Public Act 288 of 1967, as amended, (MCL 560.101, *et seq.*) and the Township Ordinances Act, Public Act 246 of 1945, as amended, (MCL 41.181, *et seq.*), 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 BEARINGER, PRESQUE ISLE COUNTY, MICHIGAN; ORDAINS:

Section I: Title

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

Section II: Purpose

The purpose of this ordinance is to carry out the provisions of the Land Division Act, Public Act 288 of 1967, as amended, (MCL 560.101, *et seq.*), 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 Township 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" means 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. "Divide" or "Division" means 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, 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 (MCLs 560.108 and 560.109). "Divide" and "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, or the requirements of other applicable local ordinances.
- C. "Exempt split" or "exempt division" means 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 or more parcels of less than 40 acres or the equivalent.
- D. "Forty acres or the equivalent" means 40 acres, or a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

Section IV: Prior Approval Requirement for Land Divisions

Land in the Township shall not be divided without the prior review and approval of the Township Assessor, or other official designated by the Township Board, in accordance with this ordinance and the 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 Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the Land Division Act.
- C. An exempt split as defined in this Ordinance, or other partitioning or splitting that results in parcels of 20 acres or more if each is not accessible and the parcel was in existence on March 31, 1997, or resulted from exempt splitting under the Act.

Section V: Application for Land Approval

An applicant shall file all of the following with the Township Assessor or other official designated by the Township Board for review and approval 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 approved by the Township Board.
- B. Proof of fee ownership of the land proposed to be divided.
- C. A tentative parcel map drawn to scale including an accurate legal description of each proposed division, and showing the boundary lines, approximate dimensions, and the accessibility of each division for automobile traffic and public utilities.
- D. Proof that all standards of the Land Division Act and this Ordinance have been met.
- E. If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- F. A fee as established by the Township Board (listed on the application approved in (a)) to cover the costs of review of the application and administration of this Ordinance and the Land Division Act.

Section VI: Procedure for Review of Applications for Land Division Approval

A. The Township shall approve or disapprove the land division applied for within 45 days after receipt of a complete application conforming to this Ordinance's requirements and the Land Division Act, and shall promptly notify the applicant of the decision, and if denied, the reasons for denial.

B. Any person or entity aggrieved by the decision of the Assessor or designee may, within 30 days of said decision appeal the decision to the Township Board of the Township or such other body or person designated by the Township Board which shall consider and resolve such appeal by a majority vote of said Board or by the appellate designee 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 appellate hearing.

C. The Assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.

D. Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.

E. The Township and its officers and employees shall not be liable for approving a land division if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to this effect.

Section VII: Standards for Approval of Land Divisions

A proposed land division reviewable by the Township shall be approved if the following criteria are met:

A. All parcels created by the proposed division(s) have a minimum width as provided for in an applicable zoning ordinance.

B. All such parcels shall contain a minimum area as provided for in an applicable zoning ordinance.

C. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-development sites. The depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement.

D. The proposed land division(s) comply with all requirements of this Ordinance and the Land Division Act.

E. All parcels created and remaining have existing adequate accessibility, or an area available therefor, for public utilities and emergency and other vehicles.

Section VIII: Consequences of Noncompliance with Land Division Approval Requirement

Any division of land in violation of any provision of this Ordinance shall not be recognized as a land division on the Township tax roll or assessment roll until the assessing officer refers the suspected violation or potential non-conformity to the county prosecuting attorney and gives written notice to the person requesting the division, and the person suspected of the violation or potential non-conformity of such referral to the prosecuting attorney. The Township shall further have the authority to initiate injunctive or other relief to prevent any violation or continuance of any violation of this Ordinance. Any division of land in violation of this Ordinance shall further not be eligible for any zoning or building permit for any construction or improvement thereto.

In addition any person, firm or corporation who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine of not more than \$500.00 along with costs which may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 nor more than \$500.00 be ordered. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan Law.

Pursuant to Section 267 of the Land Division Act (MCL 560.267), an unlawful division or split shall also be voidable at the option of the purchaser and shall subject the seller to the forfeiture of all consideration received or pledged therefore, together with any damages sustained by the purchaser, recoverable in an action at law.

Section IX: 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 X: Repeal

All previous Land Division Ordinances affecting unplatted land divisions in conflict with this Ordinance are hereby repealed; however, this Ordinance shall not be construed to repeal any provision in any applicable Zoning Ordinances, Building Codes or other ordinances of the Township that shall remain in full force and effect notwithstanding any land division approval hereunder.

Section XI: Effective Date

This ordinance shall take effect upon publication following its adoption and is subject to revisions at any time by the township board of Bearinger Township.

Adopted on: ~~12~~¹⁴ February 2019



Beverly Rossetto
Bearinger Township Clerk

Township Parcel Division Application

Return to:

Township Assessing Office Attn: Land Division

P.O. Box 25 Rogers City, MI 49779

(989) 734-3555 Office assessor@assessingoffice.com <http://www.assessingoffice.com>

Are ALL parcels resulting from this split more than 40 acres? Are you selling property to an adjacent land owner or is this a property line adjustment?

If either answer is YES to the above, division approval is NOT necessary.

*** PLEASE COMPLETE AND RETURN ALL PAGES OF THIS APPLICATION ***

APPLICATION

- 1) Township: _____
- 2) Parent Parcel Number: _____
- 3) Owner Name: _____
- 4) Owner Address: _____
- 5) City/State/Zip: _____
- 6) Phone Number: _____
- 7) Number of New Parcels: _____
- 8) Number of Transferred Division Rights: _____ (attach additional sheets if necessary)
- 9) Email Address*: _____
*your email address will be used to send status letters for this application.

ATTACHMENTS – (all items are REQUIRED)

- Attachment #1, include the **COMPLETED** attachment on page 3 of this application entitled “Zoning Information”
- Attachment #2, include **PROPERTY TAX** payment status certificate (must be completed by County Treasurer). (see page 4)
- Attachment #3, include a copy of a survey/drawing of parcels requested with **legal descriptions for all parcels, including the remaining parcel**. Drawing must comply with the requirements of P.A. 132 of 1970 as amended. *The drawing must show the current boundaries, all previous divisions made after March 31, 1997 (indicate date when made), proposed divisions, dimensions of the divisions, existing or proposed road/easement right-of-ways, any other easements, and existing improvements.* (surveys are required for parcels two acres or less)
- Attachment #4, include your deed for the parent parcel and all deeds from previous owners from March 31, 1997 to the present. If your parcel was created/split after March 31, 1997, include the deeds of all child parcel owners. (see page 6)
- Appropriate fee for processing. (see page 8)
**** Checks with insufficient funds are subject to a collection fee.**

NOTICES & ADVISEMENTS – (all must be initialed by property owner)

- Initials _____ New Property ID numbers are issued upon a completed division. If you receive a Principle Residence Exemption you will need to **REFILE** on the new number.
- Initials _____ Upon approval of this division, the division will be completed with appropriate office and will be activated on next years assessment roll. All billings of Tax bills for the CURRENT year will be issued on the parent parcels. The current year ends 12/31.
- Initials _____ The information requested on this application is not inclusive. **At any time during the approval phase, additional information/documentation may be REQUIRED.** Without the additional requested documents, the approval is considered PENDING. If application is incomplete, notice will be sent and a \$25.00 additional fee may be charged.
- Initials _____ **The only official approval is WRITTEN. The owner understands that any verbal communications are NOT binding. The ONLY official approval will be mailed to the owner of record ONLY. The owner will have to forward the Approval notice to applicable agencies.**

Initial one of the following:

_____ Express Processing* _____ Regular Processing (see attached Fee schedule)

** If the application is incomplete upon the first review, your application will revert to regular processing.*

Initial one of the following:

_____ Initial here if you desire to have these parcels divided for the next assessment cycle. This will result in separating the tax bills for the **NEXT** assessment cycle.

_____ Initial here if you do **NOT** desire to have these parcels divided for the next assessment cycle at this time. In the event this option is checked, the approval will be valid for one (1) year from approval date; and for the division to be executed for the next assessment cycle, the property owner **MUST** submit in writing their intention to have the parcels divided.

AFFIDAVIT OF UNDERSTANDING

I agree the statements made above are true, and if found not to be true this application and any approval will be void. Further, I agree to comply with the conditions and regulations provided with this parent parcel division. Further, I agree to give permission for officials of the municipality, county, and the State of Michigan to enter the property where this parcel division is proposed for the purposes of inspection. Finally, I understand this is only a parcel division which conveys only certain rights under the applicable local land division ordinance and the State Land Division Act (formerly the subdivision control act P.A. 288 of 1967, as amended (particularly by P.A. 591 of 1996 and P.A. 87 of 1997), MCL 560.101 et. Seq.) and does not include and representation or conveyance of rights in any other statue, building code, zoning ordinance, or deed restrictions of other property rights.

Finally, even if this division is approved, I understand local ordinances and state Acts change from time to time, and if changed the division made here must comply with the new requirements (apply for division approval again) unless deeds representing the approved divisions are recorded with the Register of Deeds or the division is built upon before the changes to the laws are made. Also, I understand that the issuing Township and its officers and employees are not liable if a land use permit/building permit are not issued for a resulting parcel because the parcel is less than one acre in size, lacks either public water and sewers or health department approval for on-site water supply and on-site sewage disposal. The approval of this division is not a determination that the resulting parcel complies with any applicable zoning ordinance or other ordinances. The Township and its officers and employees are not liable if a permit for construction is subsequently denied for construction because of inadequate water supply, sewage disposal, or failure to meet other zoning ordinances or general ordinances. Specifically, this does not indicate zoning review or compliance.

Property Owners Signature _____ **Date:** _____

*** Only valid if ALL current property owners of record sign this application. Letter of authorization must accompany all agent signatures.*

Attachment 1 - ZONING INFORMATION

***** It is the applicant's responsibility to have this portion of the application completed by your local zoning official *****

For a list of zoning officials, please see page 6

Completed by Zoning Official:

Parent Parcel Number: _____

Owner Name: _____

Current Zoning Category: _____

Minimum Width: _____

Minimum Area: _____

Minimum Frontage (if any): _____

The zoning department acknowledges that the information contained above is accurate and true to the best of their ability. The signature below and review of this application is not for zoning compliance. The use of this form is for determining the zoning category and regulated minimum areas and widths for land division approval purposes. This is not a review for compliance with the zoning ordinance or any other ordinances adopted by any local agencies.

Zoning Administrator Signature: _____

Date: _____

Attachment 2- Property Tax Certificate

***** It is the applicant's responsibility to have this portion of the application completed by your County Treasurer's Office *****

For the County Treasurer's contact information, please see page 6

Parent Parcel Number: _____

Owner Name: _____

Property Tax is paid in full _____ (County Treasurers Initials)

I hereby certify that for the five years preceding the _____ day of _____, _____ that there are no tax liens or titles held by the state for any unpaid taxes, except such taxes as may be in the process of collecting.

County Treasurer's Signature: _____

County Treasurer's Name (Printed): _____

Date: _____

Comments:

Attachment 3- Survey/Drawing Instructions

This form is designed to assist the surveyor in completing the surveying and noting all necessary items on the survey. Please distribute to your surveyor or utilize in assisting the property owner to develop the drawing/map. Please answer items J & K and return this sheet with your application.

A scale survey or drawing that complies with the requirements of Michigan Public Act 132 of 1970, as amended, for Certified Surveys, for the proposed land division of the parent parcel that shows the following:

- a. A scale drawing not less than 1 inch equals 300 feet, and
- b. Current boundaries as of March 31, 1997, and
- c. All divisions made after March 31, 1997 (indicate when made or none), and
- d. The proposed division, including its legal description, and
- e. Dimension of proposed division, and
- f. Existing and proposed road easement right-of-way(s), and
- g. Easements for public utilities from parcel that is a development site to existing public utility facilities, and
- h. **Any existing improvements such as buildings, wells, septic systems, driveways, etc.**
- i. Attach the legal description to the parent parcel to this application.
- j. The proposed parcel provides access as follows: (Indicate information on Survey)
 1. ___Frontage on an existing road. Road name: _____
 2. ___Frontage on a private road. Road name: _____
 3. ___Frontage on a new public road. Road name: _____
 4. ___Frontage on a new private road. Road name: _____
 5. ___Easement or shared driveway.
- k. Did you attach a legal description of proposed new road, easement, or shared driveway? Yes_____ No_____
- l. Attach a legal description for **all remaining parcels, including parent parcel.**

Attachment 4- Deed Attachment

DEED ATTACHMENT:

Documentation needed to determine split rights. Part of the Land Division Act requires the Township to verify that the property owner has the legal right to split their property. This right is either automatically granted as of March 31, 1997 or it is given on your deed. Your chain of title can also restrict your right to split your land. Therefore, it is a requirement that you submit all deeds related to your title. Here are a few examples of scenarios and what you would need to submit:

a) Did you own the property before March 31, 1997?

1. Submit your original deed only. You are automatically granted allowable divisions because you owned the property on March 31, 1997.

b) Was the property split after March 31, 1997?

1. If no, then we need the deed of the person who owned the property prior to March 31, 1997 and all subsequent owners following the chain of title including your deed where you acquired the property. Said another way, we need your abstract/chain of title starting with the property owner who owned the property prior to March 31, 1997.

2. If yes, then we need all of the deeds in b) 1) for your property but we also need the deeds for the other "child parcels." A child parcel is all of the splits after March 31, 1997 from the parent parcel (or the original parcel). For example, if a 40 acre parcel was split in 2002 into 4 ten acre parcels, in order to verify the split rights we need the chain of title on all four parcels starting with the original owner of the 40 acres and including all sales and transfers of the child/ 10 acre parcels.

Attachment 5- Additional Instructions and Initials

Below is a chart depicting the number of divisions allowed on a parent tract of property by using the acreage of the parent tract on March 31, 1997.

LAND DIVISIONS ALLOWED

Miscellaneous	Parent Tract or Parcel (Acres)	Maximum Number (Parcels)	Plus Bonus (Parcels)
First 10 acres or fractions may be split into 4 parcels	19.99 or fewer	4	None allowed
	20 – 29.99	5	7
	30 – 39.99	6	8
	40 – 49.99	7	9
	50 – 59.99	8	10
	60 – 69.99	9	11
	70 – 79.00	10	12
	80 – 89.99	11	13
	90 – 99.99	12	14
	100 – 109.99	13	15
	110 – 119.99	14	16
	120 – 159.99	15	17
Each whole 40 acres in excess of 120 acres	160 – 199.99	16	18

Initials_____ **Your division is incomplete if the following documents are NOT submitted in one envelope via U.S. Mail ONLY:** (1) This fully completed land division application, including attachments 1,2,3, and 4; (2) a copy of a completed survey and/or drawing clearly depicting proposed divisions and/or buildings; (3) All required deeds as described; (4) A complete legal description for all parcels; (5) the appropriate processing fee.

Initials_____ There may be an incomplete application fee of \$25 if you do not include the above items. Applications that are missing information are determined incomplete and will NOT be processed further. They will be processed when ALL documentation is submitted. Faxed copies are NOT accepted.

Common Rules & Regulations subject to review --

- Do ALL parcels have dedicated access to the property, either via roadway or dedicated/recorded easement?
- Do ALL of the parcels comply with the local minimum size requirements?
- Does the PARENT tract have available divisions for further splitting? (above chart)
- Are any resulting parcels less than 10 acres?
 - If so, do they meet a 4 to 1, width to depth ratio. For example, if a parcel has 100 feet on the road, its “depth” cannot exceed 4 times that, or 400 feet. Anything less than 400’ would meet approval. Anything more would not be approved. This does not apply to parcels over 10 acres in size.

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Initial one of the following:

APPLICATION / PROCESSING FEE STRUCTURE

_____ \$75.00 for first division / \$25.00 for each additional division (45 calendar days for processing)

_____ \$150.00 for first division / \$50.00 for each additional division (10 business days for processing)

**** MAKE CHECK PAYABLE TO "BEARINGER TOWNSHIP" ****

* All divisions are subject to an incomplete application fee of \$25.00 per division. See attachment for details.

** This application fee is non-refundable

Special Township Requirements: None

County Treasurer's Offices:

Presque Isle County Treasurer

151 E Huron St.

Rogers City, Mi 49779

989-734-4075

Local Zoning Officials:

Presque Isle County Building & Zoning

151 E Huron St

Rogers City, MI 49779

989-734-2915