

#71

LAND DIVISION ORDINANCE
VILLAGE OF ROSCOMMON

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.

The Village of Roscommon ordains:

SECTION I
SHORT TITLE

This ordinance shall be known as the Land Division Ordinance.

SECTION II
PURPOSE AND SCOPE

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 easement which do not comply with applicable ordinance, 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 Village of Roscommon Zoning Ordinance or other ordinances, to assure orderly development within the community, and to otherwise provide for the health, safety and welfare of the residents and property owners of Village of Roscommon by establishing reasonable standards for prior review and approval of all land divisions within the Village of Roscommon.

It is not intended by this ordinance to repeal, abrogate, annul, or in any other way impair or interfere with provisions of the Village Zoning Ordinance or of other laws or ordinances; provided, however, that where any provisions 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 apply.

SECTION III
DEFINITIONS

For the purpose of this ordinance, certain terms and works used herein shall have the following meaning:

Act ▪ Public Act 288 of 1967, as amended (including, but not limited to, Public Act 591 of 1996, being the Michigan Land Division Act (MCL 560.101 et seq.)

Applicant ▪ a natural person, firm, association, partnership, corporation, estate, entity, or combination of any of these that holds an ownership interest in land whether recorded or not.

County ▪ Roscommon County, Michigan

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 representative, successor 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 the purpose 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 and the creation or development of site condominium units of projects.

Village ▪ Village of Roscommon

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.

For the purposes of Sections 105(b) and 109(1)(d) of the Act, the word "area" shall mean any dimensional or space requirement of the Village Zoning Ordinance, as amended, including, but not limited to, size, road frontage, easement regulations and similar requirements.

For the purposes of Sections 105(b) and 109(1)(c) of the Act, the word "width" shall be as defined in the Village Zoning Ordinance, as amended, and shall also include road or street frontage requirements of the Zoning Ordinance.

"Lot" or "parcel" shall be used interchangeable.

SECTION IV
PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land in the Village shall not be divided and access easements shall not be created without the prior review and approval of the Village Zoning Administrator or other designated official in accordance with this ordinance and the Act. 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 shall be applicable. The creation or alteration of site condominium units and developments shall also be subject to the review and approval requirements of this ordinance.

SECTION V
APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all the following with the Village Zoning Administrator or designee 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 of the land proposed to be divided and a signature on the application of the fee tittle 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, by a land surveyor licensed by the State of Michigan. Such map must show 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.
- 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 Village may require that the applicant provide a title search by a title insurance company if it is reasonably necessary for the Village to determine whether the proposed land division will meet the requirements of this ordinance.

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 transfers of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed divisions rights transfer.

H. Unless a division creates a parcel which is acknowledged and declared to be "not buildable" under Section 8 of this ordinance, the applicant shall provide sufficient information to show that all divisions shall result in "buildable" parcels containing sufficient "buildable" area 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 building and structures on the site.

I. The Village may establish reasonable fees for Village review and approval of land divisions, easements, and condominiums hereunder. Additionally, the Village may require the applicant to reimburse the Village for fees and costs incurred by the Village Attorney and or engineer in reviewing the proposed land divisions, easements, or condominium units. No land division or easement approval or permit shall be acted upon until all such fees and reimbursements have been paid to the Village in full.

J. No applications shall be acted upon unless proof has been furnished that all indebtedness of the owners of the original parcel have been paid in full to the Village.

SECTION VI
PROCEDURE FOR REVIEW OF APPLICATIONS

Upon receipt of a completed application, said application shall be forwarded to the Village Zoning Administrator or designee for review. The Village Zoning Administrator or other designated official shall (i) approve, (ii) approve with reasonable conditions, or (iii) disapprove the land division applied for. This decision shall be rendered within 45 days after receipt of the complete application packet conforming to this ordinance's requirements. Applicant shall be promptly notified in writing of this decision and the reasons for any denial.

If the application packet does not conform to this ordinance's requirements, the packet will be returned to the applicant for correction.

Any person or entity aggrieved by the decision of the Village Zoning Administrator or designee may appeal the decision within 30 days of said decision. The appeal will be to the Village Planning Commission, which shall consider and resolve such appeal by majority vote. Appeals must be filed with the Village Clerk within the said 30-day limit.

Land division approvals shall be valid only for a period of 90 days from the date of approval. 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.

If an amendment to the Village of Roscommon Zoning 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, resulting in making the proposed site violate the Zoning Ordinance, the land division approval shall be null and void even if the 90-day time limit has not expired.

The Village Clerk shall maintain an official record of all approved and accomplished land divisions or transfers.

Approval of a land division does not grant or imply approval for the use of such resulting lots or parcels. Any lots, parcels, easements or site condominium units created must still comply with the Village Zoning ordinance and any other applicable ordinance or regulations.

No permanent parcel number or property tax number shall be issued for any new parcel, lot or site condominium unit until and unless a land division approval by the Village 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.

SECTION VII STANDARDS FOR APPROVAL

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

1. All the parcels and easements to be created by the proposed land division(s) fully comply with the applicable lot yard access, area requirements and set backs of the Village Zoning Ordinance and other applicable ordinances.
2. The proposed land division(s) must comply with all requirements of this Act, this ordinance and all other applicable ordinances.
3. 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 the Village Zoning Ordinance, private road regulations and 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.
4. The ratio of depth to width of any parcel created by the division, including remnant parcels, shall not exceed 3:1 unless otherwise provided in the Village Zoning Ordinance.
5. Where accessibility is to be provided by a proposed new dedicated public road, proof that the County Road Commission has approved the proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith.

6. The Village may require such additional conditions and safeguards as are deemed necessary to ensure compliance with the requirements of this ordinance.
7. Within 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, with the county stamps thereon, the applicant shall provide the Village with copies of the same so that the Village can verify that the resulting lots, parcels, condominium units and/or easements created by the recording comply with the Village approval.

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 requirements of the Village Zoning Ordinance or this ordinance may be approved by the Village Zoning Administrator, or designee, in any of the following circumstances:

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

Any such parcel shall also be designated as "not buildable" in the Village records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief and shall not be developed with any building or above ground structure exceeding 3 feet in height or used except for passive uses.

2. 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 Village Zoning Ordinance, or the Act; and the Village Zoning Administrator or designee determines the boundary adjustment to be minor.

SECTION IX
CONSEQUENCES OF NONCOMPLIANCE

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

SECTION X
PENALTIES AND ENFORCEMENT

Any parcel, lot, site condominium unit, easement or land division created in violation of this ordinance is hereby declared to be a nuisance that is subject to abatement by the Village.

Any person who violates any of the provisions of this ordinance shall, upon conviction, be deemed guilty of a criminal misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the county jail for a period not to exceed 90 days, or by both a fine and imprisonment, plus the cost of prosecution.

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 XI
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, it shall not affect any portion of this ordinance other than said part or portion.

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 in the Village Zoning Ordinance of the Village building code.

SECTION XIII
EFFECTIVE DATE

This ordinance shall take effective 2 weeks following its publication after adoption.

adopted 4/9/98

3. Additional Information	
A. Describe purpose/intent of divisions. How are the parcels to be used? Will they become part of an association or other entity? Will the parcels be served by private roads? If so, who will maintain the roads? Will there be common open space or other similar features? If so, who will maintain?	Attach as Exhibit 4 - Purpose of Land Divisions. If a private road is to be constructed, Exhibit 4 should also include a copy of a proposed maintenance agreement detailing how, and by whom, said road will be maintained.
B. Provide a graphic (map) or written description of any previous land divisions from the parent parcel including the size, number, and date of such divisions.	Attach as Exhibit 5 - Parent Parcel
C. Provide evidence of approval from the Public Works Department for on-site water supply and sewage disposal.	Attach as Exhibit 6 - Public Works Department Approval
D. If the project involves easements, restrictive covenants, or other such attachments to the land, provide copies of the instruments describing and granting same.	Attach as Exhibit 7 - Easements and Covenants

4. Applicant Certification
By the signature attached hereto, the applicant certifies that the information included with this application is, to the best of his/her knowledge, true and accurate:
By: _____ Date: _____

For Municipal Use Only	
A. Date application submitted:	/ / 197
B. Fee Paid:	\$ _____
C. Items Waived: Attach additional sheets as necessary.	_____ _____ _____
D. Road/Easement Agreement Required: Attach additional sheets as necessary.	_____ _____ _____
E. Application/Site Plan Complete: Attach additional sheets as necessary.	_____ _____ _____
F. Submit To: <input type="checkbox"/> Attorney <input type="checkbox"/> Engineer <input type="checkbox"/> Planner <input type="checkbox"/> Road Commission <input type="checkbox"/> Health Department <input type="checkbox"/> Fire Department <input type="checkbox"/> [Other] _____	
G. Reviewed/Approved	By: _____ Date: _____

THE FOLLOWING COPY OF THE LAND DIVISION ACT IS TAKEN FROM THE JULY 1997 EDITION OF *PLANNING AND ZONING NEWS*, 715 CEDAR STREET, LANSING, MI, 48906. THE ARTICLE HAS BEEN PHOTOCOPIED WITH PERMISSION OF THE PLANNING AND ZONING CENTER FOR USE AT THE JANUARY AND FEBRUARY, 1998, MML WORKSHOPS.

DIVISION FORMULA

PARCELS	CRITERIA
4	First 10 acres or fraction thereof.
1 Per	Each whole 10 acres in excess of the first 10 acres, up to a maximum of 11 parcels. [<i>Must have 20 acre parcel to begin with.</i>]
1 Per	Each whole 40 acres in excess of the first 120 acres.
2 Extra If	<p>a) Because of the establishment of 1 or more new roads, no new driveway access to an existing public road for any of the resulting parcels are created or required; and/or,</p> <p>b) One of the resulting parcels comprises not less than 60% of the area of the parent parcel or parent tract.</p>
40 acre parcel	Not counted as one of the parcels permitted.

LAND DIVISION PROVISIONS

Public Act 591 of 1996 as Amended by Public Act 87 of 1997

Following are sections 101, 102, 103, 105, 108, 109, 109a, 109b, 264 and 267 of the Land Division Act (as amended through July 26, 1997). The Land Division Act was formerly known as the Subdivision Control Act. Together these sections comprise the land division (as opposed to the platting) sections of the Act. They are the result of PA 591 of 1996 as amended by PA 87 of 1997 (signed by the Governor July 26, 1997). PA 591 text appears in regular type as does sections 264 and 267 which were a part of the Subdivision Control Act since 1967. The language of PA 87 is in *italics*.

TITLE

An act to regulate the division of land; to promote the public health, safety, and general welfare; to further the orderly layout and use of land; to require that the land be suitable for building sites and public improvements and that there be adequate drainage of the land; to provide for proper ingress and egress to lots and parcels; to promote proper surveying and monumenting of land subdivided and conveyed by accurate legal descriptions; to provide for the approvals to be obtained prior to the recording and filing of plats and other land divisions; to provide for the establishment of special assessment districts and for the imposition of special assessments to defray the cost of the operation and maintenance of retention basins for land within a final plat; to establish the procedure for vacating, correcting, and revising plats; to control residential building development within floodplain areas; to provide for reserving easements for utilities in vacated streets and alleys; to provide for the filing of amended plats; to provide for the making of assessors plats; to provide penalties for the violation of the provisions of this act; to repeal certain parts of this act on specific dates; and to repeal acts and parts of acts.

Sec. 101.

This act shall be known and may be cited as the "land division act".

Sec. 102.

As used in this act:

- (a) "Plat" means a map or chart of a subdivision of land.
- (b) "Land" means all land areas occupied by real property.
- (c) "Preliminary plat" means a map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration.
- (d) "Division" means 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 1 year, or of building development that results in 1 or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of sections 108 and 109. Division does not include a property transfer between 2 or more adjacent parcels, if the property taken from 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 of an applicable local ordinance.
- (e) "Exempt split" means 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 1 or more parcels of less than 40 acres or the equivalent. For a property transfer between 2 or more adjacent parcels, if the property taken from 1 parcel is added to an adjacent parcel, any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this act or the requirements of an applicable local ordinance.
- (f) "Subdivide" or "subdivision" means 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 1 year, or of building development that results in 1 or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of this act by sections 108 and 109. "Subdivide" or "subdivision" does not include a property transfer between 2 or more adjacent parcels, if the property taken from 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 of an applicable local ordinance.

(g) "Parcel" means a continuous area or acreage of land which can be described as provided for in this act.

(h) "Tract" means 2 or more parcels that share a common property line and are under the same ownership.

(i) "Parent parcel" or "parent tract" means a parcel or tract, respectively, lawfully in existence on the effective date of the amendatory act that added this subdivision.

(j) "Accessible", in reference to a parcel, means that the parcel meets 1 or both of the following requirements:

(i) 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 No. 200 of the Public Acts of 1969, being sections 247.321 to 247.329 of the Michigan Compiled Laws, and of the city or village, or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards.

(ii) Is served by an existing easement that provides vehicular access to an existing road or street and that meets all applicable location standards of the state transportation department or county road commission under Act No. 200 of the Public Acts of 1969 and of the city or village, or 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.

(k) "Development site" means any parcel or lot on which exists or which is intended for building development other than the following:

(i) 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.

(ii) Forestry use involving the planting, management, or harvesting of timber.

(l) "Forty acres or the equivalent" means 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

(m) "Lot" means a measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.

(n) "Outlot", when included within the boundary of a recorded plat, means a lot set aside for purposes other than a development site, park, or other land dedicated to public use or reserved to private use.

(o) "Proprietor" 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.

(p) "Governing body" means the legislative body of a city or village or the township board of a township.

(q) "Municipality" means a township, city, or village.

(r) "County plat board" means the register of deeds, who shall act as chairperson, the county clerk, who shall act as secretary, and the county treasurer. If the offices of county clerk and register of deeds have been combined, the chairperson of the board of supervisors shall be a member of the plat board and shall act as chairperson. In a county where a board of auditors is authorized by law such board may elect to serve on the county plat board by adopting a resolution so ordering. A copy of the recorded resolution shall be sent to the state treasurer.

(s) "Public utility" means all persons, firms, corporations, copartnerships, or municipal or other public authority providing gas, electricity, water, steam, telephone, sewer, or other services of a similar nature.

(t) "Caption" means the name by which the plat is legally and commonly known.

(u) "Replat" means the process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot within a recorded subdivision plat without changing the exterior boundaries of the outlot is not a replat.

(v) "Surveyor" means a professional surveyor licensed under article 20 of the occupational code, Act No. 299 of the Public Acts of 1980, being sections

339.2001 to 339.2014 of the Michigan Compiled Laws.

(w) "Engineer" means a civil engineer who is a professional engineer licensed under article 20 of the occupational code, Act No. 299 of the Public Acts of 1980, being sections 339.2001 to 339.2014 of the Michigan Compiled Laws.

(x) "Government survey" means the land surveyed, subdivided and monumented by the United States public land survey.

(y) "Michigan coordinate system" means the system defined in Act No. 9 of the Public Acts of 1964, being sections 54.231 to 54.239 of the Michigan Compiled Laws.

(z) "Alley" means a public or private right of way shown on a plat which provides secondary access to a lot, block, or parcel of land.

(aa) "Health department" means the department of environmental quality, a city health department, a county health department, or a district health department, whichever has jurisdiction.

(bb) "Public sewer" means a sewerage system as defined in section 4101 of part 41 (sewerage systems) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.4101 of the Michigan Compiled Laws.

(cc) "Public water" means a system of pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes, and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water to the public for household or drinking purposes.

(dd) "Topographical map" means a map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

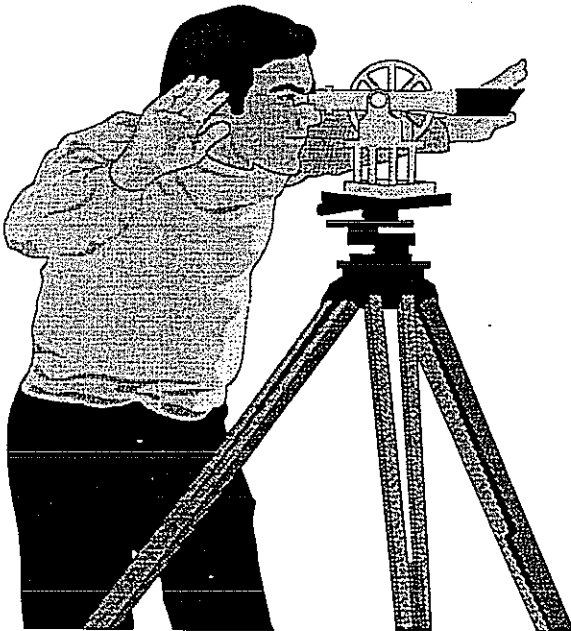
(ee) "Flood plain" means that area of land adjoining the channel of a river, stream, water course, lake, or other similar body of water which will be inundated by a flood which can reasonably be expected for that region.

Sec. 103.

(1) An exempt split is not subject to approval under this act so long as the resulting parcels are accessible. A division is not subject to the platting requirements of this act but subject to the requirements of sections 108 and 109. A subdivision is subject to the platting requirements of this act.

(2) Plats of retracement or boundary surveys made by a department or agency of the United States or of stateowned lands made by a department or agency of the state for the retracement and division of public lands according to the survey instructions issued by the United States department of the interior may be recorded with the register of deeds of the county in which the lands represented on the plats are situated and need not otherwise comply with this act, except that plat size shall be as provided in section 132.

(3) A survey and plat shall be made when any amendment, correction, alteration or revision of a recorded plat is ordered by a circuit court.



(4) Urban renewal plats authorized by the governing body of a municipality as provided in Act No. 344 of the Public Acts of 1945, being sections 125.71 to 125.84 of the Michigan Compiled Laws, shall conform to this act.

Sec. 105.

Approval of a preliminary plat, or final plat shall be conditioned upon compliance with all of the following:

(a) The provisions of this act.

(b) Any ordinance or published rules of a municipality or county adopted to carry out the provisions of this act.

(c) Any published rules of a county drain commissioner, county road commission, or county plat board adopted to carry out the provisions of this act.

(d) The rules of the state transportation department relating to provisions for the safety of entrance upon and departure from the abutting state trunk line highways or connecting streets and relating to the provisions of drainage as required by the department's then currently published standards and specifications.

(e) The rules of the department of consumer and industry services for the approval of plats, including forms, certificates of approval, and other required certificates, captioning of plats, and numbering of lots.

(f) The rules of the department of environmental quality for the determination and establishment of floodplain areas of rivers, streams, creeks, or lakes, as provided in this act, as published in the state administrative code.

(g) The rules of the department of environmental quality relating to suitability of groundwater for on-site water supply for subdivisions ~~or development sites~~ not served by public water or to suitability of soils for subdivisions ~~or development sites~~ not served by public sewers. The department of environmental quality may authorize a city, county, or district health department to carry out the provisions of this act and rules promulgated under this act relating to suitability of groundwater for subdivisions ~~or development sites~~ not served by public water or relating to suitability of soils for subdivisions ~~or development sites~~ not served by public sewers. The department of environmental quality may require percolation tests and boring tests to determine suitability of soils. When such tests are required, they shall be conducted under the supervision of a registered engineer, registered land surveyor, or registered sanitarian in accordance with uniform procedures established by the department of environmental quality.

Sec. 108.

(1) A division is not subject to the platting requirements of this act.

(2) Subject to subsection (3), the division, together with any previous divisions of the same parent parcel or parent tract, shall result in a number of parcels not more than the sum of the following, as applicable:

(a) For the first 10 acres or fraction thereof in the parent parcel or parent tract, 4 parcels.

(b) For each whole 10 acres in excess of the first 10 acres in the parent parcel or parent tract, 1 additional parcel, for up to a maximum of 11 additional parcels.

(c) For each whole 40 acres in excess of the first 120 acres in the parent parcel or parent tract, 1 additional parcel.

(3) For a parent parcel or parent tract of not less than 20 acres, the division may result in a total of 2 parcels in addition to those permitted by subsection (2) if 1 or both of the following apply:

(a) Because of the establishment of 1 or more new roads, no new driveway accesses to an existing public road for any of the resulting parcels under subsection (2) or this subsection are created or required.

(b) One of the resulting parcels under subsection (2) and this subsection comprises not less than 60% of the area of the parent parcel or parent tract.

(4) A parcel of 40 acres or more created by the division of a parent parcel or parent tract shall not be counted toward the number of parcels permitted under subsections (2) and (3) and is not subject to section 109, if the parcel is accessible.

(5) A parcel or tract created by an exempt split or a division is not a new parent parcel or parent tract and may be further partitioned or split without being subject to the platting requirements of this act if all of the following requirements are met:

(a) Not less than 10 years have elapsed since the parcel or tract was recorded.

(b) The partitioning or splitting results in not more than the following number of parcels, whichever is less:

(i) Two parcels for the first 10 acres or fraction thereof in the parcel or tract plus 1 additional parcel for each whole 10 acres in excess of the first 10 acres in the parcel or tract.

(ii) Seven parcels or 10 parcels if one of the resulting parcels under this subsection comprises not less than 60% of the area of the parcel or tract being partitioned or split.

(c) The partitioning or splitting satisfies the requirements of section 109.

(6) A parcel or tract created under the provisions of subsection (5) may not be further partitioned or split without being subject to the platting require-

ments of this act, except in accordance with the provisions of subsection (5).

Sec. 109.

(1) A municipality shall approve or disapprove a proposed division within 45 days after the filing of a complete application for the proposed division with the assessor or other locally municipally designated official. However, a municipality with a population of 2,500 or less may enter into an agreement with a county to transfer to the county authority to approve or disapprove a division. An application is complete if it contains information necessary to ascertain whether the requirements of section 108 and this section are met. The assessor or other municipally designated official, or the county official, having authority to approve or disapprove a proposed division, shall provide the person who filed the application written notice whether the application is approved or disapproved and, if disapproved, all the reasons for disapproval. A complete application for a proposed division shall be approved if, in addition to the requirements of section 108, all of the following requirements are met:

(a) Each resulting parcel has an adequate and accurate legal description and is included in a tentative parcel map showing area, parcel lines, public utility easements, accessibility, and other requirements of this section and section 108. The tentative parcel map shall be a scale drawing showing the approximate dimensions of the parcels.

(b) Each resulting parcel has a depth of not more than 4 times the width or, if an ordinance referred to in section 105(b) subsection (5) requires a smaller depth to width ratio, a depth to width ratio as required by the ordinance. A municipality or county having authority to review proposed divisions may allow a greater depth to width ratio than that otherwise required by this subdivision or an ordinance referred to in section 105(b) subsection (5). The greater depth to width ratio shall be based on standards set forth in the ordinance referred to in section 105(b) subsection (5). The standards may include, but are not required to include and need not be limited to, exceptional topographic or physical conditions with respect to the parcel and compatibility with surrounding lands. The depth to width ratio requirements of this subdivision do not apply to a parcel larger than 10 acres, unless an ordinance referred to in section 105(b) subsection (5) provides otherwise, and do not apply to the remainder of the parent parcel or parent tract retained by the proprietor.

(c) Each resulting parcel has a width not less than that required by an ordinance referred to in section 105(b) subsection (5).

(d) Each resulting parcel has an area not less than that required by an ordinance referred to in section 105(b) subsection (5).

(e) Each resulting parcel is accessible.

(f) The division meets all of the requirements of section 108.

(g) Each resulting parcel that is a development site has all of the following adequate easements for public utilities from the parcel to existing public utility facilities.

(i) Public water or health department approval for on-site water supply under rules described in section 105(g).

(ii) Public sewer or city, county, or district health department approval for on-site sewage disposal under rules described in section 105(g).

(iii) Adequate easements for public utilities from the parcel to existing public utility facilities.

(2) The right to make divisions exempt from the platting requirements of this act under section 108 and this section can be transferred, but only from a parent parcel or parent tract to a parcel created from that parent parcel or parent tract. A proprietor transferring the right to make a division pursuant to this subsection shall within 45 days give written notice of the transfer to the assessor of the city or township where the property is located on the form prescribed by the state tax commission under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a. The state tax commission shall revise the form to include substantially the following questions in the mandatory information portion of the form:

(a) "Did the parent parcel or parent tract have any unallocated divisions under the land division act, 1967 PA 288, MCL 560.101 to 560.293? If so, how many?"

(b) "Were any unallocated divisions transferred to the newly created parcel? If so, how many?"

(3) A person shall not sell a parcel of unplatted land unless the deed contains a statement as to whether the right to make further divisions exempt from the platting requirements of this act under this section and section 108 is proposed to be conveyed. The statement shall be in substantially the following form: "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." In the absence of a statement conforming to the requirements of this subsection, the right to make such divisions under section 108(2), (3), and (4) stays with the remainder of the parent tract or parent parcel retained by the grantor.

(4) All deeds for parcels of unplatted land within the state of Michigan after the effective date of this act 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."

(5) The governing body of a municipality or the county board of commissioners of a county having authority to approve or disapprove a division may adopt an ordinance setting forth the standards in section 109(1)(b), (c), and (d). The ordinance may establish a fee for reviews under this section and section 108. The fee shall not exceed the reasonable costs of providing the services for which the fee is charged.

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

Sec. 109a.

(1) If a parcel resulting from a division is less than 1 acre in size, a building permit shall not be issued for the parcel unless the parcel has all of the following:

(a) Public water or city, county, or district health department approval for the suitability of an on-site water supply under the same standards as set forth for lots under rules described in section 105(g).

(b) Public sewer or city, county, or district health department approval for on-site sewage disposal under the health department standards as set forth for lots under rules described in section 105(g).

(2) The municipality or county approving a proposed division resulting in a parcel less than 1 acre in size and its officers and employees are not liable if a building permit is not issued for the parcel for the reasons set forth in this section. A notice of approval of a proposed division resulting in a parcel of less than 1 acre in size shall include a statement to this effect.

(3) A city, county, or district health department may adopt by regulation a fee for services provided under this section. The fees shall not exceed the reasonable costs of providing the services for which the fees are charged.

Sec. 109b.

(1) An exempt split or other partitioning or splitting of a parcel or tract that only results in parcels of 20 acres or more in size is not subject to approval under this act if the parcel or tract is not accessible and 1 of the following applies:

(a) The parcel or tract was in existence on March 31, 1997.

(b) The parcel or tract resulted from an exempt split or other partitioning or splitting under this section.

(2) The proprietor shall provide the purchaser of a parcel resulting from an exempt split or other partitioning or splitting under subsection (1) with the following written statement before closing:

"This parcel is not accessible as defined in the land division act, 1967 PA 288, MCL 560.101 to 560.293."

Sec. 264.

(1) Any person who sells or agrees to sell any lot, piece, or parcel of land without first having recorded a plat thereof when required by this act is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000.00, or imprisonment for not to exceed 180 days, or both. For each offense under this subsection after a first offense under this subsection, the person shall be punished by a fine of not more than \$1,000.00, or imprisonment for not to exceed 1 year, or both. Agreement to sell under this section does not include an option to buy extended from the seller for a money consideration to the prospective buyer.

(2) Any person who violates section 108, 109, 109b, or the exempt split provision of section 103(1) and sells a resulting parcel of land is responsible for the payment of a civil fine of not more than \$1,000.00 for each parcel sold. A default in the payment of a civil fine or costs ordered under this subsection or an installment of the fine or costs may be remedied by any means authorized under the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9948.

(3) Any person who violates any provision of this act other than section 108, 109, 109b, or the exempt split provision of section 103(1) is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

Sec. 267.

Any sale of lands subdivided or otherwise partitioned or split in violation of this act is voidable at the option of the purchaser, and shall subject the seller to the forfeiture of all consideration received or pledged therefor, together with any damages sustained by the purchaser, recoverable in an action at law.

Enacting section 1. Section 264 of the land division act, 1967 PA 288, MCL 560.264, as amended by this amendatory act, takes effect October 1, 1997.

This act is ordered to take immediate effect.

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