

## **ORDINANCE NUMBER 78-A**

### **LAND DIVISION AND LOT LINE ADJUSTMENT ORDINANCE**

An Ordinance to regulate the division of parcels or tracts of land in order to carry out the provisions of Michigan Public Act 288 of 1967, as amended, being the Land Division Act; to establish minimum requirements and procedures for approval of such land divisions and all lot line adjustments; and to prescribe penalties for the violation of this Ordinance.

#### **SECTION 1.0 TITLE AND PURPOSE**

This Ordinance shall be known and cited as the Eureka Charter Township Land Division Ordinance. The purpose of this Ordinance is to carry out the provisions of the State Land Division Act (Public Act 288 of 1967, as amended, formerly known as the Subdivision Control Act), (the "Act"), to prevent the creation of parcels of property which do not comply with applicable Ordinances and the Act, to minimize potential boundary disputes, to provide for the orderly development of land, and otherwise to provide for the health, safety and welfare of the residents and the property owners of the Township by establishing reasonable standards for prior review and approval of land divisions and lot line adjustments within the Township.

#### **SECTION 2.0 DEFFINITIONS**

For purposes of this Ordinance certain terms and words used herein shall have the meaning stated in this section. Other words and phrases, if defined by the Act, shall have the meanings stated in the Act.

1. Applicant – A natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.
2. Divide or Division – The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale, of lease of more than one year, or of building development that results in one or more parcels of less than forty (40) acres of the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land

Division Act. (Each dwelling, commercial building, or industrial building whether newly constructed on or relocated to property located in Eureka Charter Township resulting in parcels of less than forty (40) acres, or the equivalent, per dwelling or other described building shall constitute a "Division".)

3. Lot Line Adjustment – Property transfer between two or more adjacent parcels if the property taken from one parcel is added to an adjacent parcel. All parcels altered by a lot line adjustment shall conform to the requirements of the Act, this Ordinance, and other applicable ordinances or regulations. All lot line adjustments are subject to provisions of this Ordinance, including Township pre-approval following submission of a properly completed application.
4. Exempt Split or Exempt Division – The partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than forty (40) acres or the equivalent; provided that all parcels are accessible for public utilities and vehicular travel.
5. Forty Acres or the Equivalent – Either 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.
6. Development Site – Any parcel or lot on which exists or which is intended for building development other than the following, that are exempt per Section 102 of the Act:
  - a. Agricultural use involving the production of plants and animals useful to humans.
  - b. Forestry use involving the planting, management, or harvesting of timber.
7. Parcel – A contiguous area of land which can be described as stated in Section 102 (g) of the Act.
8. Tract – Two or more parcels that share a common property line and are under the same ownership.
9. Parent Parcel or Parent Tract – A parcel or tract, respectively, lawfully in existence on March 31, 1997.
10. Resulting Parcel(s) – One or more parcels which result from a land division.

11. Administrator – The Eureka Charter Township Assessor or other Township Board designated individual(s).

**SECTION 3.0            PRIOR    APPROVAL    REQUIREMENT    FOR    LAND  
DIVISIONS OR LOT LINE ADJUSTMENT**

Land in the Township shall not be divided and parcel boundary lines shall not be reconfigured without the prior review and approval of the Administrator in accordance with this Ordinance, the Act, and all other applicable Ordinances or regulations.

**SECTION 4.0            APPLICATION FOR LAND DIVISION APPROVAL OR LOT  
LINE ADJUSTMENT**

An applicant shall file all of the following with the Administrator for review and approval of a proposed land division (including any lot line adjustments to previously approved land divisions) before making any division or lot line adjustment either by deed, land contract, lease for more than one year, or by building development: (Some items listed below may be waived at the discretion of the Administrator.)  
(Revised 6/7/07)

1. A completed Township application form, including any exhibits described therein
2. Proof of fee ownership of the land proposed to be divided or reconfigured. If the applicant is not the owner, written consent to the application, signed by the owner of the land.
3. Certification from the Eureka Charter Township Zoning/Planning Official that the proposed parcels, and accesses thereto, comply with all requirements of the Eureka Charter Township Zoning Ordinance.
4. Detailed history of the land proposed to be divided sufficient to establish that the parent parcel or tract was lawfully in existence on March 31, 1997 and that the proposed division(s) complies with the requirements of the Act.
5. 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. No division rights shall be transferred with parcels that do not

meet the minimum required area and dimensions as set forth in the Eureka Charter Township Zoning Ordinance.

6. An Adequate and accurate legal description for each parcel resulting from currently proposed division or lot line adjustment.
7. A tentative parcel map showing the parent parcel or parent tract which is the subject of the application. The tentative parcel map shall be drawn to scale of not less than 1 inch = fifty (50) feet for parent parcels or parent tracts of less than three (3) acres, and to scale of not less than 1 inch = two hundred (200) feet for parent parcels or parent tracts of three (3) acres or more. The Administrator shall have final determination on the acceptability of any tentative map. Each map shall include the following:
  - a. Date, north arrow, scale of the drawing, and the name of the person or firm responsible for the preparation of the tentative parcel map;
  - b. Boundary lines, dimensions, and area of parent parcel or tract as of March 31, 1997;
  - c. The distance from each proposed new boundary line to all existing structures, streets, easements, etc;
  - d. Boundary lines and dimensions of each division or reconfiguration since March 31, 1997, including indication of date when each division or reconfiguration was made;
  - e. Proposed boundary lines as well as dimensions and area of each currently proposed parcel;
  - f. The location, dimensions, and nature of proposed ingress to and egress from an existing public or private street to each resulting parcel (copies of the instruments describing and granting such easements shall be provided, if requested);
  - g. The location and nature of existing or proposed utility easements from an existing public utility facility to each resulting parcel (copies of the instruments describing and granting such easements shall be provided, if requested). The requirements of subparagraph f. do not apply to any resulting parcel which is 40 acres or larger, as long as such parcel

satisfies the requirements of Section V 1.e. and Section V 1.f. below; and

- h. The location of any public or private street, driveway or utility easement to be located within any resulting parcel, along with related documents;
8. Other information reasonably required by the Administrator in order to determine whether the proposed land divisions or reconfigurations qualify for approval under the Act.
9. A fee established, and from time to time revised, by the Eureka Charter Township Board for land division reviews pursuant to this Ordinance, to cover the costs of review of the application and administration of this Ordinance and the Act, shall accompany the application for division or lot line adjustment when submitted to the Administrator.

An application shall not be considered filed with the Township, nor shall the time period for review stated herein commence, until the fee is paid and all of the application requirements have been fulfilled.

## **SECTION 5.0            MINIMUM REQUIREMENTS FOR APPROVAL**

A. A proposed land division or lot line adjustment shall be approved by the Administrator if the following criteria are met:

1. All application requirements of Section 4 are met.
2. All the parcels to be created or reconfigured conform to all requirements set forth in the Eureka Charter Township Zoning Ordinance or a variance from such requirements(s) has been granted by the Zoning Board of Appeals. *Parcels with a width, depth and/or area that do not conform to current zoning requirements and that do not have common ownership, may be altered without full compliance with current zoning requirements and without obtaining a variance so long as the revised parcels are equally or more conforming or the alteration is the minimum necessary to correct an error or clear an encroachment (Revised 10/18/07)*
3. The ratio of depth to width of any resulting parcel of 10 acres or less created by a division complies with requirements of the Eureka Charter Township Zoning

Ordinance and does not exceed a four to one ratio exclusive of access roads, easements, or non-development sites. The depth of each affected parcel 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. If the width of a parcel is irregular, the average width of the parcel shall be calculated and used for many purposes of this provision. The depth-to-width ratio may be waived where necessary because of exceptional topographic or physical conditions or because of the unusual shape of the parent parcel or tract or for reasons of compatibility with surrounding lands (this may require a zoning variance). The depth-to-width ratio of four to one does not apply to the remainder parcel or tract as designated by the applicant unless required by the Eureka Charter Township Zoning Ordinance.

4. The proposed land division(s), together with any previous division(s) of the same parent parcel or parent tract, shall not result in a number of resulting parcels that is greater than that permitted under Section 108 of the Act.
5. Each resulting parcel that is a development site is accessible for public utility service through a recorded easement, right-of-way or other means from the resulting parcel to an existing public utility facility.
6. Each resulting parcel shall have frontage on a public or private street or road and an approved driveway for access to the street or road. The driveway shall comply with all applicable location standards of the governmental authority having jurisdiction over the existing street or road. If a means of vehicular access to a resulting parcel does not lawfully exist at the time a land division is applied for, the proposed division shall not be approved unless the applicant provides proof that the Eureka Charter Township Zoning/Planning Official and any other governmental entity having jurisdiction has approved the proposed layout and construction design of the road or street including utility easements and drainage facilities associated therewith.

- B. No Township approval is required for exempt divisions as defined in this Ordinance. No Township approval is required for resulting parcels of 20 acres or more if each such parcel is not accessible and if each such parcel was in existence on March 31, 1997 or resulted from exempt division under the Act so long as such parcels are declared "not a development site" on all legal documents relating to the property.

## **SECTION 6.0            APPROVAL OF LAND DIVISIONS OR LOT LINE ADJUSTMENTS**

- A. The administrator shall approve, approve with reasonable conditions to assure compliance with applicable Ordinances and the protection of public health, safety and general welfare, or disapprove the land division or reconfiguration applied for within 45 days after receipt of a properly completed application package conforming to the requirements of this Ordinance and the Act. The applicant shall be promptly notified of the decision, and if denied, the reasons for such denial.
- B. Any person or entity aggrieved by the decision of the Administrator may, within 30 days of said decision, file a written appeal of the decision to the Eureka Charter Township Board which shall consider and resolve such appeal by a majority vote of the members present at a public meeting. At least 10 days written notice of the time, date and place of the meeting at which the appeal is to be considered shall be given to the appellant by regular, first-class mail, directed to the appellant's address as shown in the application or in the written appeal. The Township Board may affirm or reverse the decision of the Administrator in whole or in part, and its decision shall be final.
- C. The Administrator shall maintain an official record of all Township-approved and accomplished divisions and reconfigurations and transfers.
- D. Approval of a division under the Act is not a determination that the resulting parcels comply with all possible Ordinances or regulations. 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. *If a survey, deed, or other legal document is recorded with the Montcalm County Register of deeds for each newly-approved parcel within 180 days of approval, then each parcel, so recorded, shall be considered in full compliance with width, depth, and area requirements of the Eureka Charter*

*Township Zoning Ordinance for a period of ten (10) years from date of approval regardless of subsequent zoning changes. (Revised 10/18/07)*

- E. All deeds and other recordable instruments of conveyance and all surveys submitted in compliance with this Ordinance shall be reviewed by the Administrator in order to determine their conformity with the approved tentative parcel map and other requirements of this Ordinance. Such documents shall be maintained by the Administrator in the Township record of the approved land division or reconfiguration.

## **SECTION 7.0 PENALTIES AND OTHER REMEDIES**

- A. Any parcel created inconsistent with or in violation of this Ordinance, where approval hereunder is required, shall not be eligible for issuance of Building Permits, Zoning Ordinance Approvals or other land use or Building Approvals under other Township Ordinances. The parcels may be recognized as separate parcels on the assessment and tax rolls, but this shall not be evidence of Township pre-approval for compliance with the Act.
- B. A violation of this Ordinance is a municipal civil infraction for which the fine shall be not less than 200.00 for the first offense nor more than 500.00 for subsequent offenses, at the discretion of the Court, and in addition to all other costs, damages and expenses provided by law. For purposes of this Section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within 12 months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible; provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses.

## **SECTION 8.0 SEVERABILITY**

The provisions of this Ordinance are severable and if any provision or part hereof is determined invalid or unenforceable for any reason by any court of competent jurisdiction, such determination shall not affect the remaining provisions or other parts of this Ordinance.

**SECTION 9.0            EFFECTIVE DATE**

This Ordinance shall become effective 30 days after its publication or 30 days after the publication of a summary of its provision in a local newspaper of general circulation.

**Adopted: 1/8/07  
Publication: 5/8/07  
Effective: 6/7/07**

**Revision (1) Adopted: 9/10/07  
Revision (1) Published: 9/18/07  
Revision (1) Effective: 10/18/07**

**Revision (2) Adopted with new # 78-A: 8/10/09  
Revision (2) Published with new # 78-A: 11/7/09  
Revision (2) Effective with new # 78-A: 12/07/09**