

## ARTICLE 16 LAND DIVISION

Any partitioning of land within Port Austin Township shall be in accordance with the Michigan Land Division Act of 1967 (PA 288) and the Port Austin Township Amended Land Division Ordinance of 2015.

### **SECTION 1600 ACCESS REQUIRED**

Every land parcel resulting from partitioning must abut a public or private street/road or have a main access to a public or private street/road.

### **SECTION 1601 TOWNSHIP APPROVAL FOR LAND "DIVISION"**

"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 one year, or of building development that results in one (1) or more parcels of less than forty (40) acres or the equivalent.<sup>1</sup> "Division" does not include a property transfer between two (2) or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel.

Any land owner desiring such a land "division" must submit an application together with a fee to the Port Austin Township Assessor. Application fees shall be determined by resolution by the Township Board.

### **SECTION 1602 DIVISION REQUIREMENTS**

In accordance with State of Michigan Law, land parcels created by "division" must not exceed a depth to width ratio of 4 to 1. Additional State mandated regulations for "divisions" include but are not limited to the following:

1. Parcels ten (10) acres or less are allowed a maximum of four (4) divisions provided the size and shape conform to State mandates.
2. Parcels more than ten (10) and less than one hundred twenty (120) acres are allowed a maximum number of divisions determined by the number of acres divided by ten plus three:  $(A \div 10) + 3$ .
3. Parcels larger than one hundred twenty (120) acres are allowed twelve (12) "divisions" for the first one hundred twenty (120) acres and one (1) additional "division" each additional forty (40) acres. All "divisions" must conform to size and shape requirements.
4. An additional two (2) parcels are allowed if:
  - a. the parent tract is not less than twenty (20) acres and
  - b. because of a new road no new accesses to a public road are required and
  - c. one (1) of the resulting parcels is at least sixty (60) per cent of the parent parcel.
5. After a period of ten (10) years, a land parcel is entitled to additional "divisions" equal to one half the number of "divisions" originally allowed.

### **SECTION 1603 PLATTING**

Any partitioning of land wherein the resultant number of parcels or the size or shape of the proposed parcels does not conform to the regulations outlined in Section 1601 or Section 1602 shall necessitate that the parcel be platted in accordance with the Michigan Land Division Act of 1967 (PA 288). Platting approval requires that a drawing prepared by a licensed civil engineer showing all parcels to scale as well as topographical information, flood plain information and any other requested information be submitted to and approved by: the Port Austin Township Board; the Huron County Drain Commission; the Huron County Road Commission; the Michigan Department of Transportation; the Michigan DEQ; the Huron County Health Department; and the Huron County Plat Board.

<sup>1</sup> 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.

**STATE OF MICHIGAN**  
**COUNTY OF HURON**  
**TOWNSHIP OF PORT AUSTIN**  
**AMENDED LAND DIVISION ORDINANCE**

**ORDINANCE NO. 2015 -01**

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended, (MCL 560.102 et. seq.), being the Port Austin 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.

**THE TOWNSHIP OF PORT AUSTIN, HURON COUNTY, MICHIGAN ORDAINS  
THE FOLLOWING:**

**SECTION I: TITLE**

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

**SECTION II: PURPOSE**

The purpose of this ordinance is to carry out the provisions of the State Land Division Act (1967) P A 288, as amended, formerly known as the Subdivision Control Act, (MCL 560.102 et. seq.) 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" - 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" - 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 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 State Land

Division Act. "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 State Land Division Act, or the requirements of other applicable local ordinances.

- C. "Act" - shall refer to the Land Division Act, Act 288 of 1967, as amended and effective March 31,1997; MCL 560.101 to 560.293.
- D. "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 40 acres or the equivalent.
- E. "Forty acres or the equivalent" - either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
- F. "Governing body" - the Port Austin Township Board.
- G. "Administrator" - the Port Austin Township Assessor (the Township Assessor).
- H. "Parcel" - A contiguous area of land which can be described as stated in § 102(g) of the Act.
- I. "Parent Parcel of Parent Tract" - A parcel or tract, respectively, lawfully in existence on March 31,1997.
- J. "Resulting Parcel(s)" - One or more parcels which result from a land division.
- K. "Road Authority" - The governmental authority having jurisdiction of a public road or public street.
- L. "Development Site" - 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.

#### 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 governing body, in accordance with this ordinance and the State 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 State Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act.

#### SECTION V: APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Township assessor or other official designated by the governing body 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 State 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 to cover the costs of review of the application and administration of this chapter and the State Land Division Act. The fee shall be established under separate action by the Township Board and may be revised from time to time as determined by the Township Board.

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 State Land Division Act. The Township shall promptly notify the applicant of the decision. Should an application be denied, the Township shall give the Applicant 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 governing body of the Township or such other body or person designated by the governing body. After providing the appellant with a twenty (20) day written notice designating the time and date of a hearing, said governing body shall consider and resolve the appeal by majority vote.
- C. The assessor or his/her 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 all of the following criteria are met:

- A. All parcels created by the proposed division(s) have a minimum width of 100 feet as measured at the road frontage unless otherwise provided for in an applicable zoning ordinance.
- B. All such parcels shall contain a minimum area of 15,000 square feet unless otherwise provided for in an applicable zoning ordinance.
- C. Each resulting parcel shall have a means of vehicular access to an existing street or road from an existing or proposed driveway or access easement. The means of access shall comply with all applicable location standards of the governmental authority having jurisdiction of the existing street or road. If a driveway or access easement does not lawfully exist at the time a division is proposed, the applicant shall also comply with the following requirement(s):

- (1) If a driveway is proposed as a means of access, each resulting parcel shall have an area where a driveway will lawfully provide vehicular access in compliance with applicable township ordinances.
  - (2) If an easement is proposed as a means of access, the proposed easement shall be in writing and signed by the owner of the parcel(s) within which the easement is to be located. The easement shall provide a lawful means of access over and across the parcel(s), in compliance with applicable township ordinances.
  - (3) If a new public street or road is proposed as a means of access, the applicant shall provide proof that the road authority having jurisdiction has approved the proposed layout and construction design of the street or road and of utility easements and drainage facilities associated therewith.
- D. The proposed division, 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 the number permitted under § 108 of the Act.
  - E. Each resulting parcel that is a development site shall have adequate easements for public utilities from the resulting parcel to existing public utility facilities.
  - F. Each resulting parcel which is 10 acres or less in area shall have a depth which is not more than 4 times the width of the parcel. If the width of the parcel is irregular, the average width of the parcel shall be calculated and used for purposes of this provision. This depth to width ratio shall not apply to the remainder of the parent parcel or parent tract retained by the applicant. All resulting parcels to be created by the proposed land division(s) shall fully comply with the applicable lot area and lot width requirements of the township zoning ordinances for the zoning district( s) in which the resulting parcels are located.

**SECTION VIII: CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT**

- A. Any division of land in violation of any provision of this chapter shall not be recognized as a land division on the township tax roll, and no construction thereon which requires the prior issuance of a construction or building permit shall be allowed. The township shall further have the authority to initiate injunctive or other relief to prevent any violation or continuance of any violation of this chapter.
- B. 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: LAND DIVISION AND ACCESS REQUIREMENTS.

All divisions/splits of land comply with provisions of P.A. 87 of 1997, being the Land Division Act, State of Michigan. Where land does not abut an existing public or private road or private easement, and a new access route is proposed, standards for the new access route (s) are noted below:

- A. The legal description of the access route shall be recorded with the description of the new parcel(s);
- B. Where 3 or more parcels (new divisions) are established having a new common entry drive, the entry drive, access easement, and/or roadway shall have a minimum right-of- way width of 66 feet;
- C. Where establishment of new parcels (divisions) is limited to 2 with a common entry drive, the entry drive, access easement, and/or roadway shall have a minimum right-of- way width of 40 feet;
- D. Access road, as described in divisions (B) and (C) of this section, shall be constructed to meet the standards of the Huron County Road Commission for public roads, including but not limited to: minimum road bed design, caving surface material, slope, shoulder width, drainage, adequate visibility, location of ingress/egress onto an existing road, and cul-de- sac radii. Any new access routes shall meet the standards of the Huron County Road Commission for size and location.
- E. Where new access roads cross a watercourse, drainageway, channel, stream, bridge(s) or other structures providing access over the watercourse(s), the road(s) shall be designed and constructed so as to permit use and provide access to emergency vehicles, i.e., fire trucks, ambulances, tow trucks, road maintenance equipment, and the like.

## SECTION X: 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 XI: REPEAL

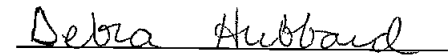
All previous Land Division Ordinances affecting unplatted land divisions in conflict with this Ordinance are hereby repealed; however, this Ordinance shall not be construed to repeal any provision in any applicable Zoning Ordinances, Building Codes or other ordinances of the Township which shall remain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

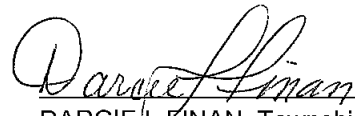
SECTION XII: EFFECTIVE DATE

All ordinances of the township heretofore or hereafter adopted shall be considered to be supplemented by the terms of this ordinance.

This ordinance shall take effect upon publication as required by Michigan law following adoption of the township board.

Made and passed at a meeting thereof this 18<sup>th</sup> day of May, 2015.

  
DEBRA HUBBARD, Township Clerk

  
DARCIE FINAN, Township Supervisor

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Township Board of Port Austin, County of Huron, State of Michigan, at a regular meeting held on the 18<sup>th</sup> day of May, 2015, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that the following Members were present at said meeting:

Debra Hubbard, Darcie Finan, Marsha Jimkoski, Scott Kasper, Diane Jodoin



and that the following Members were absent:

None

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I further certify that Member Darcie Finan moved adoption of said Ordinance, and that said motion was supported by Member Marsha Jimkoski.

I further certify that the following Members voted for adoption of said Ordinance:

All

I further certify that said Ordinance has been recorded in the Ordinance Book and that such recording has been authenticated by the signatures of the Supervisor and the Township Clerk.

Dated: May 19, 2015

  
DEBRA HUBBARD, Township Clerk

**SECTION 1605 PORT AUSTIN LAND DIVISION APPLICATION FORM**

LAND DIVISION APPLICATION  
PORT AUSTIN TOWNSHIP, HURON COUNTY MICHIGAN

Return to: Wade Mazure, Assessor  
8265 N. Van Dyke Rd., Suite 2; P.O. Box 747  
Port Austin, MI 48467

Date: \_\_\_\_\_

You must answer all questions and include all attachments or this application will be returned to you. Bring or ail this application to the above address.

Approval of a division of land is required before it is sold, when a new parcel is less than 40 acres, and not just a property line adjustment (Sec 102 e & f).

1. Location of parent parcel: Section: \_\_\_\_\_ Address: \_\_\_\_\_ Road Name: \_\_\_\_\_  
Parent Parcel Number: 32\_-\_-\_-\_-\_- Legal Description: \_\_\_\_\_

(Attach extra page if needed.)

2. Property Owner Information:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

3. Proposed divisions to include the following:

- A. Number of new parcels \_\_\_\_\_ (Remainder of parent parcel is also considered a division/new parcel).
- B. Intended use (residential, commercial, etc.): \_\_\_\_\_

\_\_\_\_\_ C. Each proposed parcel, if 10 acres or less, has a depth to width ratio of not more than 4 to 1.

D. Each parcel has a width of \_\_\_\_\_ (not less than required by ordinance).

E. Each parcel has an area of \_\_\_\_\_ (not less than required by ordinance).

F. The division of each parcel provides access as follows: (check one)

a) \_\_\_ Each division has frontage on an existing public road. Road name: \_\_\_\_\_

b) \_\_\_ A new public road: Proposed road name: \_\_\_\_\_

\_\_\_\_\_ c) \_\_\_ A new private road: Proposed road name: \_\_\_\_\_

\_\_\_\_\_ d) \_\_\_ An easement which provides access.

G. Describe or attach a legal description of proposed new road, easement, or shared driveway: \_\_\_\_\_

H. Describe or attach a legal description for each proposed new parcel: \_\_\_\_\_

\_\_\_\_\_

4. Future divisions being transferred from the parent parcel to each child parcel. Indicate number transferred to each: \_\_\_\_\_ [See Section 109 (2) of the Statute] Make sure your deed includes both statements as required in 109 (3 & 4) of the Statute.

5. Development site limits. (Check each which represent a condition which exists on the parent parcel).

- \_\_\_ Waterfront property (river, lake, pond, etc.)      \_\_\_ Includes wetlands
- \_\_\_ Is within a flood plain      \_\_\_ Includes a beach
- \_\_\_ Is on much soils or soils known to have severe limitations for on-site sewage systems.

