

## Chapter 3 – LAND DIVISIONS

### **Section 1. Title and Purpose**

The purpose of this Chapter is to carry out the provisions of the Michigan 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 Chapters 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. Definitions**

For purposes of this Chapter 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.

**“Administrator”** – The Eureka Charter Township Zoning Administrator or other Township Board designated individual(s).

**“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.

**“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:  
Agricultural use involving the production of plants and animals useful to humans.  
Forestry use involving the planting, management, or harvesting of timber.

**“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 that satisfies the requirements of Sections 108 and 109 of the State Land Division Act. Also, it includes any lot line adjustment or land transfer. (Each primary structure, dwelling, commercial building, or industrial building whether newly constructed on or relocated to property located in Eureka Charter Township where another primary structure already exists shall constitute a “Division” subject to provisions of this Chapter.)

**“Lot Line Adjustment”** – Property transfer between two or more adjacent parcels if the property taken from one parcel is added to an adjacent parcel shall also be deemed to be a land division. All parcels altered by a lot line adjustment shall conform to the requirements of the Act, this Chapter, and other applicable chapters or regulations. All lot line adjustments are subject to provisions of this Chapter, including Township pre-approval following submission of a properly completed application. Platted lots may be divided and

platted lot lines may be altered using the Township review and approval or denial provisions set forth in this Chapter.

**“Parcel”** – A contiguous area of land which can be described as stated in Section 102 (g) of the Act.

**“Parent Parcel or Parent Tract”** – A parcel or tract, respectively, lawfully in existence on March 31, 1997.

**“Resulting Parcel(s)”** – One or more parcels which result from a land division.

**“Tract”** – Two or more parcels that share a common property line and are under the same ownership.

### **Section 3. Prior Approval Requirement for Land Divisions or Lot Line Adjustments**

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 Chapter, the Act, and all other applicable Chapters or regulations.

### **Section 4. 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.)

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).
  - 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 Chapter, to cover the costs of review of the application and administration of this Chapter, 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. Minimum Requirements for Approval**

- a) A proposed land division or lot line adjustment shall be approved by the Administrator if all of 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 all of the revised parcels are equally or more conforming.
  3. The ratio of depth to width of any resulting parcel 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).

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 private road, land division or lot line adjustment shall be approved by the Township unless each and every resulting parcel, private road easement or access easement and any other aspect of the property or properties involved fully comply with the lot or parcel area, frontage, private road, lot width, lot width-to-depth ratio requirement and other requirements of Eureka Charter Township Zoning Ordinance. No land division request involving or proposing to create, alter, or expand a private road shall be approved or implemented unless and until the new private road or private road change is approved by the Township. To the extent that any provision of this Chapter conflicts with or is less stringent than the requirements of the Eureka Charter Township Zoning Ordinance, the stricter requirements of the Eureka Charter Township Zoning Ordinance shall apply and govern.
- c) No land division or lot line adjustment shall be approved by the Township unless all delinquent taxes for the previous 5 years are paid and certified by the Montcalm County Treasurer. A certificate must be provided.

**Section 6. Approval of Land Divisions or Lot Line Adjustments**

- a) The Administrator shall approve, approve with reasonable conditions to assure compliance with all applicable Code and zoning requirements 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 and fully completed application package conforming to

the requirements of this Chapter 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 Township 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.
- e) All deeds and other recordable instruments of conveyance and all surveys submitted in compliance with this Chapter shall be reviewed by the Administrator in order to determine their conformity with the approved tentative parcel map and other requirements of this Chapter. Such documents shall be maintained by the Administrator in the Township record of the approved land division or reconfiguration.
- f) Any land division, lot line adjustment, etc. that has not been effectuated by filing of appropriate document or documents with the Montcalm County Register of Deeds within 90 days of the date of approval by the Township approval shall be null and void.
- g) Platted lots may be divided and platted lot lines may be altered using the Township review and approval or denial process set forth in this Chapter.