

LAND DIVISION AND ACCESS ORDINANCE

(Ord. No. 98-07, as amended by Ord. No. 2014-002)

An ordinance to regulate the division of parcels or tracts of land and to secure the public health, safety and general welfare of persons and property by the regulation of access easements and other means of access to or for parcels or tracts of land, in order to carry out respectively Michigan Public Act 288 of 1967, as amended, being the Land Division Act, and Michigan Public Act 246 of 1945, as amended; to establish minimum requirements and procedures for the approval of such land divisions and such access easements and other means of access to land, consistent with applicable provisions of the Township Zoning Ordinance; and to prescribe penalties for the violation of this Ordinance.

THE TOWNSHIP OF GRATTAN ORDAINS:

Section 1. Title and Purpose.

1.1 This Ordinance shall be known and may be cited as the Grattan Township Land Division and Access Ordinance, consistent with applicable provisions of the Township Zoning Ordinance.

1.2 The purpose of this Ordinance is to carry out the provisions of the Land Division Act, Michigan Public Act 288 of 1967, as amended (the "Act") in order to prevent the creation of parcels of land which do not comply with the Act or with applicable Township ordinances; to implement Michigan Public Act 246 of 1945, as amended, in order to secure the public health, safety and general welfare of persons and property within the Township by regulating access easements and other means of access to land; to provide for the orderly development of land and the safe, convenient and suitable access to land, and otherwise to provide for the public health, safety and general welfare of persons and property in the Township by establishing minimum requirements for the review and approval of certain land divisions and means of access to lands within the Township, consistent with applicable provisions of the Township Zoning Ordinance.

1.3 This Ordinance shall not be construed to repeal, abrogate, rescind, or otherwise to impair or interfere with provisions of other ordinances of the Township.

Section 2. Definitions.

2.1 Certain words and phrases used in this Ordinance shall have the meanings stated in this section. Other words and phrases, if defined by the Act, shall have the meanings stated in the Act.

2.2 "Access" means an easement, right-of-way, road, street, driveway, trail, path, lane, route of travel or other means, either public or private, whereby ingress to and/or egress from any land is provided or intended to be provided. Such access may be established, created or acknowledged by written easement, agreement, restrictive covenant, deed of conveyance,

dedication, license, permit or other means, whether or not any written instrument for such purpose is recorded.

2.3 “Administrator” means the Township assessor or such other Township official who by resolution of the Township Board is designated the administrator under the terms of this Ordinance.

2.4 “Division” or “land division” means the dividing, partitioning or splitting of a parcel or tract of land by the owner or proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, transfer, parcel or lot creation, or lease of more than one year, or of building development that results in one or more parcels. Division or land division also includes the creation or establishing of an access easement or other access to land, and the dividing, partitioning or splitting of a parcel or tract of land for the purpose of adjusting or relocating one or more boundary lines, or transfer of land between lots or parcels.

2.5 “Lot area” means the minimum area of a lot or parcel of land, including any site development plan approval and any planned unit development approval required for the number of proposed lots, and lawful, approved access to such lot or parcel, as provided by the Township Zoning Ordinance.

2.6 “Lot width” means the minimum width of a lot or parcel of land, including all required minimum frontage on a public street or private road or on a lake, stream or other body of water, as provided by the Township Zoning Ordinance.

2.7 “Parcel” means a contiguous area of land which can be described as stated in Section 102(g) of the Act.

2.8 “Parent parcel” or “parent tract” means a parcel or tract, respectively, lawfully in existence on March 31, 1997.

2.9 “Private road” means a private road which complies with the requirements of the Township Zoning Ordinance.

2.10 “Road authority” means the governmental authority having jurisdiction of a public road or public street.

2.11 “Resulting parcel(s)” means one or more parcels which result from a land division, including access thereto.

2.12 “Tract” means two or more parcels that share a common property line and are under the same ownership.

Section 3. Land Division Approval Required.

Any division of land, including any partitioning or splitting of land and the creation or establishing of access to resulting parcels, within the Township, shall satisfy the requirements of Sections 4, 5 and 6 and other applicable provisions of this Ordinance.

Section 4. Application for Land Division Approval.

4.1 A proposed land division shall be filed with the administrator and shall include the following:

(a) A completed application for land division and access, on such written form as the Township may provide, including any exhibits described therein.

(b) Proof of an ownership interest in the land which is the subject of the proposed division, including land proposed to be used for access, or written consent to the application, signed by the owner of such land.

(c) A land title search, abstract of title, or other evidence of land title acceptable to the administrator *which* is sufficient to establish that the parent parcel or parent tract of the land which is the subject of the proposed division was lawfully in existence on March 31, 1997.

(d) A copy of each deed or other instrument of conveyance which contains the statement required by Section I 09(3) of the Act concerning the right to make further divisions.

(e) Three copies of a tentative parcel map showing the parent parcel or parent tract which is the subject of the application, and the area, parcel lines, public utility easements, and the manner of proposed access for each resulting parcel. The tentative parcel map, including the resulting parcels and proposed means of access thereto, shall be accurately and clearly drawn to scale. A tentative parcel map shall include:

(1) Date, north arrow, scale, and the name of the person or firm responsible for the preparation of the tentative parcel map.

(2) Proposed boundary lines and the dimensions of each parcel.

(3) An adequate and accurate legal description of each resulting parcel.

(4) A drawing or written description of all previous land divisions from the same parent parcel or parent tract, identifying the number, area and date of such divisions.

(5) The location, dimensions and nature of proposed ingress to and egress from any existing public or private streets.

(6) With respect to lots or parcels abutting bodies of water, or which have or may have access to bodies of water, the location, dimensions and nature of the proposed access to such bodies of water.

(7) The location of any public or private street, driveway or utility easement to be located within any resulting parcel. Copies of the instruments describing and granting such easements shall be submitted with the application.

(8) If a resulting parcel is a development site (as defined in the Act), the location of all public utility easements serving the parcel.

(f) A copy of minutes, resolutions or other documents showing that all applicable required approvals under the terms of the Township Zoning Ordinance have been obtained.

(g) Other information reasonably required by the administrator in order to determine whether the proposed land division or creation of land access qualifies for approval, including, though not limited to, a survey required by the administrator in order to verify the accuracy or completeness of the land descriptions provided for parent parcels, parent tracts, resulting parcels and access easements or other means of access.

(h) Payment of the application fee and other applicable fees and charges to cover the costs of review of the application and administration of this Ordinance and the Act, as established by resolution of the Township Board.

4.2 A proposed division shall not be considered filed with the Township, nor shall the time period stated in subsection 5.2 commence, until all of the requirements for an application for land division and access approval have been complied with, including all required approvals of private roads or other access, site development plans, lot area, lot width, access to bodies of water and land divisions for certain large-scale residential developments, under the terms of the Township Zoning Ordinance.

Section 5. Minimum Requirements for Approval of Land Divisions.

5.1 A proposed land division shall be approved by the administrator upon satisfaction of all of the following requirements:

(a) The application requirements of Section 4.

(b) 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 Ordinance for the zoning district(s) in which the resulting parcels are located.

(c) Each resulting parcel shall have the depth to width ratio specified by the Township Zoning Ordinance for the zoning district(s) in which the resulting parcel is located. The width and depth of the resulting parcel shall be measured in the same manner provided by the Township Zoning Ordinance for the measuring of the minimum width and maximum depth of parcels.

(d) Each resulting parcel shall have a means of access to an existing street from an existing or proposed driveway or access easement. Such means of access shall comply with all applicable location standards of the governmental authority having jurisdiction of the existing street.

(e) 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 that permitted under Section 108 of the Act.

(f) Each resulting parcel that is a development site (as defined in the Act) shall have adequate easements for public utilities from the resulting parcel to existing public utility facilities.

(g) All applicable required Township approvals of private roads or other access; site development plans; lot area; lot width; planned unit development approval of certain large-scale residential developments; and access to bodies of water, all under the terms of the Township Zoning Ordinance.

5.2 If all of the requirements of Section 5 have been satisfied, the administrator shall approve or disapprove a proposed land division within 45 days after the complete filing of the proposed division with the administrator, including the filing of evidence of all other Township approvals required by the terms of this Ordinance. The administrator shall provide the person who filed the application written notice whether the application is approved or disapproved and, if disapproved, all the reasons for the disapproval.

5.3 Any notice of approval of a division resulting in a parcel less than one acre in size shall contain a statement that the Township, its officers and employees are not liable if a building permit is not issued for the parcel for the reasons set forth in Section 109(a) of the Act, including requirements regarding suitability of on-site water supply and on-site sewage disposal, as described in Section I 05(g) of the Act.

5.4 An applicant aggrieved by the decision of the administrator may, within 30 days of the decision, file a written appeal of the decision to the Township Board, which shall consider and decide the appeal by a majority vote of the members present and voting at a public meeting. At least ten days' written notice of the date, time and place of the meeting at which the appeal is to be considered shall be given to the applicant by regular, first-class mail, directed to the applicant'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.

5.5 The administrator shall maintain a record of all land divisions approved by the Township.

5.6 No parcel (including a remnant parcel) shall be created that does not fully comply with the minimum lot size, access, lot width to depth ratio requirements, and other dimensional requirements of the Grattan Township Zoning Ordinance, as amended.

Section 6. Approval of Land Divisions.

6.1 A decision approving a land division shall be effective for not more than 90 days after such approval by the administrator or, if appealed, by the Township Board, unless either of the following requirements is satisfied within such 90-day period:

(a) A deed or other recordable instrument of conveyance, accurately describing the resulting parcel(s), and access thereto, shall be recorded with the county register of deeds and a true copy thereof, showing proof of such recording, shall be filed with the administrator; or

(b) A survey accurately showing the resulting parcel(s) and access thereto shall be recorded with the county register of deeds and a true copy thereof, showing proof of such recording, shall be filed with the administrator. Such survey shall comply with the minimum requirements of Public Act 132 of 1970, as amended.

If neither paragraph (a) nor paragraph (b) is satisfied, such land division approval shall, without further action on the part of the Township, be deemed revoked and shall be of no further effect after the 90th day following such approval by the administrator or, if appealed, by the Township Board.

6.2 All deeds and other recordable instruments of conveyance and all surveys submitted in compliance with Section 6.1 shall be reviewed by the administrator in order to determine their conformity with the approved tentative parcel map.

6.3 The approval of a land division is not a determination that the resulting parcels comply with other ordinances or regulations. The use and development of approved resulting parcels is subject to all applicable requirements of the Township Zoning Ordinance, the Township building codes and other applicable Township ordinances.

6.4 The approval of a land division does not grant rights to use or develop a resulting parcel if such use or development does not comply with the Township Zoning Ordinance or other applicable Township ordinances, irrespective of whether such use or development was lawful at the time of approval of the land division, except where such use or development is permitted by the nonconforming use provisions of the Township Zoning Ordinance or other applicable Township ordinances.

6.5 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.

6.6 If a land division or lot split will result in the creation of one or more parcels that can be developed or used only for certain uses or purposes under the Grattan Township Zoning Ordinance (for instance, for farm use, a farm with a farm dwelling or for agricultural uses), then the Township can require that a deed restriction/restrictive covenant be placed on all resulting parcels (including the remnant parcel) for which such use or activity restriction or regulation by the Zoning Ordinance applies, and the land division or lot split shall not be effective until that occurs (and the deed restriction/restrictive covenant document has been recorded). Furthermore, the deed restriction/restrictive covenant shall have language and provisions that are acceptable to and approved by the Township.

Section 7. Penalties and Other Remedies.

A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not more than \$500 for the first offense and not more than \$1,000 for a subsequent offense, in the discretion of the court, and in addition to all other costs, damages, expenses and other remedies provided by law. For the purpose of this section, a subsequent offense means a violation of this Ordinance committed by the same person or party within one year after a previous violation of

the same provision of this Ordinance for which such person or party admitted responsibility or was determined by law to be responsible.

Section 8. Severability.

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

Section 9. Effective Date.

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