

**FRENCHTOWN CHARTER TOWNSHIP
LAND DIVISION AND COMBINATION ORDINANCE
Ord. No. 181; Date of Adoption: November 1997**

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, Public Act 591 of 1996 and Public Act 87 of 1997, as amended, and Act 246 of 1945, as amended, being the Township General Ordinance statute; to provide a procedure therefore; to provide for the combination of parcels or tracts; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this Ordinance.

THE CHARTER TOWNSHIP OF FRENCHTOWN HEREBY ORDAINS:

Section 1. Title.

This Ordinance shall be known and cited as the Frenchtown Charter Township Land Division and Combination Ordinance.

Section 2. 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 as amended by P.A. 591 of 1996 and P.A. 87 of 1997), to prevent the creation of parcels of property which do not comply with said Act, to minimize potential boundary disputes, to provide for the combination of parcels or tracts, 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 3. Definitions.

For purposes of this Ordinance certain terms and words used herein shall have the following meaning:

- A. "Accessible" - In reference to a parcel, means that the parcel meets 1 or both of the following requirements:
 - 1. 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 Monroe 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, or has an area where a driveway can

provide vehicular access to an existing road or street and meet all such applicable location standards.

2. 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 Monroe County Road Commission under Act No. 200 of the Public Acts of 1969, 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.
- B. "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.
 - C. "Development Site" - Any parcel or lot on which exists or which is intended for building development other than agricultural use or forestry use as defined in the State Land Division Act.
 - D. "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" or "Division" shall 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 and the requirements of other applicable local Ordinances.
 - E. "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.
 - F. "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.
 - G. "Township Board" - The Township Board of Frenchtown Charter Township.

- H. "Net Area" - The total horizontal area within the lot/parcel lines of the lot or parcel exclusive of any abutting public street right of way or private road easement.
- I. "Width" - The straight line distance between the side lot/parcel lines, measured at the two points where the minimum front yard setback line required by the Township Zoning Ordinance intersects the side lot/parcel lines.
- J. "Depth" - The depth of a lot/parcel is the mean horizontal distance from the center of the front street or property line to the center of the rear lot/parcel line. In the case of a lakefront lot/parcel, it is from the lake frontage line to the street frontage line. In the case of an acreage parcel, it is from the front right of way line to the rear lot/parcel line.
- K. "Front Lot/Parcel Line" - In the case of a lot/parcel not located on a corner, the front lot/parcel line is the line separating said lot/parcel from the street right-of-way. In the case of a corner lot/parcel or double frontage lot/parcel, the front lot/parcel line shall be that line that separates said lot/parcel from the street which is designated as the front yard on the site plan review application or request for a building permit.
- L. "Rear Lot/Parcel Line" - Ordinarily, that lot/parcel line which is opposite and most distant from the front lot/parcel line. In the case of lots/parcels that are pointed at the rear, the rear lot/parcel line shall be an imaginary line parallel to the front lot/parcel line, not less than ten (10) feet in length, lying farthest from the front lot/parcel line and wholly within the lot. In any case, when this definition does not apply, the Zoning Ordinance Administrator or the Building Official shall designate the rear lot/parcel line.
- M. "Setback Yard" - The distance between a front, side or rear lot/parcel line and the nearest supporting member of a structure on the lot/parcel. The minimum required setback is the minimum distance between a front lot/parcel line (as determined by the street setback line) the side or rear lot/parcel line and the nearest supporting member of a structure in order to conform to the required yard setback requirements of the Township Zoning Ordinance.
- N. "Setback, Street" - The distance measured from the centerline of the road to establish the front, rear and/or side lot/parcel line for the purpose of establishing yard and/or the other requirements of the Township Zoning Ordinance.
- O. "Side Lot/Parcel Line" - Any lot or parcel line other than the front or rear lot/parcel lines. A side lot line separating a lot/parcel from a street is a side

street lot/parcel line. A side lot/parcel line separating a lot/parcel from another lot/parcel or lots/parcels is an interior side lot/parcel line.

- P. "Valid Non-Conforming Dwelling" - A dwelling that was lawfully in existence at the effective date of the Township Zoning Ordinance and which does not conform to the provisions of the Zoning Ordinance in the zoning district in which it is located.

Section 4. Prior Approval Requirement For Land Divisions.

Land in the Township shall not be divided without the prior review and approval of the Township Building Official or Zoning Ordinance Administrator and Township Supervisor or the Township Assessor in accordance with this Ordinance and the State Land Division Act. The following shall be exempted from this requirement;

- A. A parcel proposed for subdivision through a recorded plat pursuant to the Township's Subdivision Control Ordinance and the State Land Division Act.
- B. An exempt split as defined in this Ordinance, or other partitioning or splitting that results in parcels of 20 acres or more if each is not accessible and the parcel was in existence on March 31, 1997, or resulted from exempt splitting under the State Land Division Act.

Amended October 26, 2004, by Ordinance No. 181-3.

Section 5. Application For Land Division Approval.

An applicant shall file all of the following with the Township Building Department 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 with all required attachments on the application form provided by the Township.
- B. Proof of fee ownership of the land proposed to be divided.
- C. A survey map of land proposed to be divided, prepared pursuant to the survey map requirements of 1970 Public Act 132, as amended, (MCL 54.211) by a land surveyor licensed by the State of Michigan, and showing the dimensions and accurate legal descriptions of the existing parcel and the parcels proposed to be created by the division(s), 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.

In lieu of such survey map, at the applicant's option, the applicant may waive the 45 day statutory requirement for a decision on the application until such survey map and legal description are filed with the Township Building Department, and submit a tentative preliminary parcel map drawn to scale of not less than 200 feet per one inch showing the boundary lines, dimensions, and the accessibility of each division as defined in this Ordinance, for vehicular traffic and public utilities, for preliminary review, approval, and/or denial by the Township Building Official or Zoning Ordinance Administrator and Supervisor or Assessor prior to a final approval under Section 5.

Notwithstanding the requirements of 5(C), at the discretion of the Township Supervisor or Assessor and Township Building Official or Zoning Ordinance Administrator, the survey requirement may be waived in writing when considering a division of a lot in a recorded plat proposed to be divided in accordance with the Township's Subdivision Control Ordinance and the State Land Division Act.

- D. Proof that all standards of the State Land Division Act and this Ordinance have been met. (See Land Division Application).
- E. The history and specifications of any previous divisions of land of which the proposed division was a part, sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.
- F. Signed Affidavit on Application that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full and proof of same upon request by Supervisor, Assessor, Building Official or Zoning Ordinance Administrator.
- G. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights to be transferred.
- H. Unless a division creates a parcel which is acknowledged and declared to be "not buildable" under Section 8 of this Ordinance, for all divisions of less than one (1) acre, proof or a letter of approval that each division or resulting parcel shall result in parcels containing sufficient "buildable" area outside of unbuildable wetlands, flood plains and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, on-site sewage disposal and water well locations (where public water and sewer service is not available), and maximum allowed area coverage of buildings and structures on the site.

- I. A fee of \$100.00 per parcel to be reviewed pursuant to the Township Land Division and Combination Ordinance for land division or combination reviews pursuant to this Ordinance must be paid to the Frenchtown Charter Township Treasurer to cover the costs of review and processing of the application and administration of this Ordinance and the State Land Division Act.

Amended October 26, 2004, by Ordinance No. 181-3.

Amended September 17, 2019, by Ordinance No. 181-4.

Section 6. Procedure For Review of Applications For Land Division Approval.

- A. The Township Building Official or Zoning Ordinance Administrator and Supervisor or Assessor shall tentatively approve, or disapprove the land division applied for within 45 days after receipt of a complete application package conforming to this Ordinance's requirements, and shall promptly notify the applicant of the decision and the reasons for any denial. If the application package does not conform to this Ordinance's requirements and the State Land Division Act, the application package shall be returned to the applicant for completion and re-filing in accordance with this Ordinance and the State Land Division Act. If refiled within 30 days, no new application shall be required. After expiration of 30 days, additional fees must be paid before re-filing of application.
- B. A decision tentatively approving a land division shall be valid for a period of 30 days, after which it shall be considered null and void unless within such period, a document accomplishing the division is recorded at the Monroe County Register of Deeds Office and a copy of such recorded document filed with the Township Assessor at which time the land division shall be considered finally approved.
- C. The Township Assessing Department 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 applicable 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.

Amended October 26, 2004, by Ordinance No. 181-3.

Section 7. Standards For Approval of Land Divisions.

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

- A. All parcels to be created by the proposed land division(s) meet the minimum width requirement of the Township Zoning Ordinance of the Zoning District in which it is located.
- B. All parcels to be created meet the minimum net area requirement of the Township Zoning Ordinance for the Zoning District in which it is located.
- C. The proposed land division(s) comply with all requirements of the State Land Division Act and this Ordinance.
- D. All parcels created and remaining have existing adequate accessibility, or an area available therefor, for public utilities and vehicular access of emergency and other vehicles.
- E. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio. Parcels which are access roads, easements, or non-development sites created under Section 8 of this Ordinance and parcels added to contiguous parcels that result in all involved parcels complying with said ratio are excluded from this review requirement. Further, the four to one depth to width ratio shall not apply to any parcel created which is 10 acres or larger.

The ratio of depth to width may be greater than four to one with the approval of the Township Land Division Board created pursuant to this Ordinance. The greater depth to width ratio shall be permitted based only on a showing of the following:

- a. Exceptional topographic or physical conditions of the parcel.
- b. Compatibility of the resulting parcel with the adjacent and surrounding lands.
- c. Protection of the public health safety and welfare.
- d. No undue hardship will result to neighboring properties.
- e. Extenuating circumstances as to parcel which must be specified.

The permissible depth of a parcel created by a land division 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.

The permissible minimum width shall be as defined in this Ordinance and shall mean continuous frontage for the full width of the parcel.

F. There is hereby created a Land Division Board which shall consist of four (4) members who shall be the individuals holding the following positions at Frenchtown Charter Township: Building Official, Zoning Ordinance Administrator, Supervisor, Assessor. The Land Division Board shall sit to hear appeals for variances from the four to one depth to width ratio requirement of this Ordinance. The Land Division Board shall meet as necessary to promptly address the requests for variances as they are received. The concurring vote of at least three members of the Board shall be necessary to vary from the requirements of this Ordinance as to the required depth to width ratio. In deciding each matter, the Board shall state the grounds of its decision. The Land Division Board shall fix a reasonable time for the hearing of the appeal, give notice of the appeal to the interested parties and decide the appeal within a reasonable time. There shall be no additional fee for requests for variances made within 30 days after disapproval of a Land Division Application.

G. The division does not isolate a cemetery so that it does not meet the requirements of either Section 102(j)(i) or (ii) of the Land Division Act.

H. One of the following are satisfied:

(i) All property taxes and special assessments due on the parcel or tract subject to the proposed division for the 5 years preceding the date of the application have been paid, as established by a certificate from the county treasurer of the county in which the parcel or tract is located. If the date of the application is on or after March 1 and before the local treasurer of the local tax collecting unit in which the parcel or tract is located has made his or her return of current delinquent taxes, the county treasurer shall include with his or her certification a notation that the return of current delinquent taxes was not available for examination. The official having authority to approve or disapprove the application shall not disapprove the application because the county treasurer's certification includes such a notation. The county treasurer shall collect a fee for a certification under this subdivision in an amount equal to the fee payable under section 1(2) of 1895 PA 161, MCL 48.101, for a certificate relating to the payment of taxes under section 135 of the General Property Tax Act, 1893 PA 206, MCL 211.135.

(ii) If property taxes or special assessments due on the parcel or tract subject to the proposed division have not been paid, the unpaid property taxes or special assessments have been apportioned by the township assessing officer as provided by section 53 of the General Property Tax Act, 1893 PA 206, MCL 211.53. Any apportioned property taxes or special assessments are a lien against

the parcels or tracts as apportioned by the assessing officer and shall be treated in the same manner as property taxes and special assessments of the year of the original assessment for the purpose of collection and sale for delinquent taxes under the General Property Tax Act, 1893 PA 206, MCL 211.1 to 211.155.

Amended September 17, 2019, by Ordinance No. 181-4.

Section 8. 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 width, accessibility and area requirements of the applicable zoning ordinance or this Ordinance may be approved in any of the following circumstances:

- A. Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to the municipality, designating the parcel as "not buildable". Any such parcel shall also be designated as "not buildable" in the Township records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable width and/or area requirements, and shall not be developed with any building or above ground structure.
- B. Where, in circumstances not covered by paragraph A above, the Frenchtown Charter Township Zoning Board of Appeals has granted a variance from the width and/or area requirements with which the parcel failed to comply.
- C. Where two or more valid non-conforming dwellings were lawfully in existence and recognized by the Township as separate parcels on March 31, 1997, and which do not now conform to the provisions of this Ordinance and the Zoning Ordinance as to width and/or area in the zoning district in which they are located.
- D. 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 Zoning Ordinance, or the State Land Division Act.

Section 9. Land Combination.

- A. Applications for the combination of land located in Frenchtown Charter Township shall be made on applications provided by the Township. No combination of any lot(s) or parcels of land shall be made or approved until all information requested in the application has been furnished to the Township

Building Department as well as with any additional information required by this Ordinance.

- B. All applications for the combination of any lot or parcel of land located in Frenchtown Charter Township shall have attached a survey containing the following information:
- (1) Existing lot(s) or parcel(s) of land prior to combination.
 - (2) Resulting lot(s) or parcel(s) after combination which shall include parcel to which land was added and parcel from which land was taken.
 - (3) All existing structures on all lots or parcels and other physical features which would influence layout or description of lots or parcels to be combined.
 - (4) Legal descriptions of parcels described in 9(B)(1) and 9(B)(2) above.

All such surveys shall bear the seal of a licensed surveyor and said survey shall comply with Public Act 132 of 1970 as amended.

Notwithstanding the requirements of 9(B), combinations of residentially zoned and used parcels and agriculturally zoned and used parcels, may be exempt from the survey requirements of this Section in the discretion of the Township Supervisor, provided the combination sought results in the combination of entire parcels only and provided that the applicant signs a waiver concerning the accuracy of the legal descriptions. As to a combination in which any description less than the whole parcel description is being combined with another parcel, the survey requirement shall not be waived except at the discretion of the Township Supervisor when such combination is requested to correct a building intrusion or a property line correction.

Amended August 10, 1999, by Ordinance No. 181-1.

C. No application for combination shall be approved unless all due and payable taxes or installments of special assessments pertaining to the lots or parcels of land proposed to be combined are paid in full. Proof of same shall be provided to the Township by the Applicant upon the request of the Township Supervisor, Assessor, Building Official or the Zoning Ordinance Administrator. Failure to do so shall result in the denial of the application.

Amended October 22, 2002, by Ordinance No. 181-2.

Amended October 26, 2004, by Ordinance No. 181-3.

Section 10. Consequences of Noncompliance With Land Division Approval Requirement.

Any parcel created in noncompliance with this Ordinance shall not be eligible for any building permits, or zoning approvals, such as special land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of

this Ordinance shall subject the violator to the penalties and enforcement actions set forth in Section 11 of this Ordinance, and as may otherwise be provided by law.

Further, approval of a division under the Ordinance by the Township is not a determination that the resulting parcels comply with other ordinances or regulations or that the property owner will receive a building permit for newly created parcels.

Section 11. Penalties and Enforcement.

Any person, firm or corporation who violates any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the county jail for not to exceed 90 days or by both such fine and imprisonment.

Any person who violates any of the provisions of this Ordinance shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

Section 12. 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 13. Repeal.

All Ordinances or parts of Ordinances in conflict with this Ordinance including Ordinance 179 is hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Township Zoning Ordinance, the Township Subdivision Control Ordinance, or the duly adopted Township Building Code.

Section 14. Effective Date.

This Ordinance shall take effect thirty (30) days after final passage and publication in a newspaper having general circulation in Frenchtown Charter Township, Monroe County, Michigan.