

**SILVER CREEK TOWNSHIP**

**CASS COUNTY, MICHIGAN**

**LAND DIVISION ORDINANCE**

**ORDINANCE NO. 021-07**

Adopted: November 10, 2021

Effective: December 20, 2021

An ordinance to regulate the division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended (Land Division Act) and Act 246 of 1945, as amended, being the 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.

**TOWNSHIP OF SILVER CREEK**

**CASS COUNTY, MICHIGAN,**

**ORDAINS:**

**SECTION 1**

**TITLE**

This ordinance shall be known and cited as the "Silver Creek Township Land Division Ordinance."

**SECTION II**

**PURPOSE**

The purpose of this ordinance is to carry out those provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act); 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 to 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. "Accessible" or "Accessibility" - means, in reference to a parcel, that the parcel meets one or both of the following requirements:

- (1) the parcel has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the County Road Commission or, where applicable, the Michigan Department of Transportation, under Act No. 200 of the Public Acts of 1969 (MCL 247.321-247.329); or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards and the requirements of the Township Zoning Ordinance.
- (2) the parcel 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 County Road Commission or, where applicable, the Michigan Department of Transportation, under Act No. 200 of the Public Acts of 1969 (MCL 247.321-247.329); 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" - means 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" - means any parcel or lot on which exists or which is intended for building development other than the following:

- (1) 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 stocks; fruits; vegetables; Christmas trees; and other similar uses and activities.
- (2) forestry use involving the planting, management, or harvesting of timber.

D. "Divided" or "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 or more parcels of less than 40 acres or the

equivalent, and that satisfies the requirements of Sections 108 and 109 of the Land Division Act "Divided" or "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.

E. "Exempt split" or "exempt 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, that does not result in one or more parcels of less than 40 acres or the equivalent.

F. "Forty acres or the equivalent" - means either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

G. "Governing body" - means the Township Board.

H. "Tract" - means two or more parcels that share a common property line and are under the same ownership.

I. "Parent parcel" or "Parent tract" - means a parcel or tract, respectively, lawfully in existence on March 31, 1997.

#### SECTION IV

##### PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land in the Township shall not be divided without the prior 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 and any Township Subdivision Control Ordinance.
- B. A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act and any Township Subdivision Control Ordinance.
- C. 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 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; as well as the location of existing structures relative to the proposed boundary lines.
- 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. Pay the applicable fee. Said fee shall be established by a fee schedule covering the costs of review of the application and administration of this Ordinance and the State Land Division Act as set from time to time by resolution of the Township Board.

## SECTION VI

### PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

- A. The Township assessor or other township designee shall approve or disapprove the land division within 45 days after receipt of a complete application conforming to this Ordinance's requirements and the State Land Division Act, and shall promptly notify the applicant of the decision, and if denied, the reasons for denial. In determining whether to approve or disapprove a land division, the assessor or designee shall seek the advice or comments of the Zoning Administrator as to whether the proposed split is in compliance with the minimum parcel size and accessibility requirements of the Zoning Ordinance.

- 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 which shall consider and resolve such appeal by a majority vote of said Board or by the appellate designee at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing. The decision of the Township Board shall be a final decision for purposes of judicial review.
- C. The assessor or 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. Any notice of approval shall include a statement to this effect.
- E. The Township and its officers and employees shall not be liable for approving a land division if building permits for construction on the parcel 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 the following criteria are met:

- A. The width of each resulting parcel shall comply with the applicable minimum parcel (lot) width/frontage requirements of the Township Zoning Ordinance.
- B. The area of each resulting parcel shall comply with the applicable minimum parcel (lot) requirements of the Township Zoning Ordinance.
- C. Except for parcels meeting the requirements of C.1. herein, the ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-development sites. The 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, or from that side of the parcel nearest the road accessed by an approved and recorded easement.

1. **Exception to permit a greater depth-to-width ratio.** In the following circumstances, the land division officer is authorized to exceed the depth to width ratio provided in this ordinance:

a. Exceptional or topographical conditions, such as the existence of unbuildable or protected swamps and/or wetlands, extraordinary natural topographical changes such as steep slopes or irregular terrain, eliminating or reducing the potential for further division based on accessibility. In such case, the land division officer shall so identify the condition and indicate that no further divisions shall be permitted unless the depth-to-width ratio in this ordinance is met.

- D. The proposed land division(s) comply with all requirements of this Ordinance and the State Land Division Act.
- E. All parcels created and remaining shall have adequate accessibility, or an area available therefor, for public utilities and emergency and other vehicles.

## SECTION VIII

### CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT VIOLATION AND PENALTIES

- A. Any division of land in violation of any provision of this Ordinance 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 Ordinance.
- B. Any 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 therefor, together with any damages sustained by the purchaser, recoverable in an action at law.
- C. Any violation of this Ordinance shall constitute a basis for such judgement, writ or order necessary to compel compliance with the Ordinance and / or to restrain and prohibit continuation of the violation, or other appropriate relief in any court of competent jurisdiction, in addition to any other relief or sanction herein set

forth or allowed by law. Each day that an ordinance violation continues constitutes a separate offense.

- D. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
--- 1 <sup>st</sup> Offense	\$ 150.00	\$ 500.00
--- 2 <sup>nd</sup> Offense	\$ 325.00	\$ 500.00
--- 3 <sup>rd</sup> Offense	\$ 500.00	\$ 500.00

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township has incurred in connection with the municipal civil infraction.

#### **SECTION IX**

##### **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 X**

##### **REPEAL**

All previous Land Division Ordinances affecting unplatted land divisions in conflict with this Ordinance including, Silver Creek Township Ordinance No. 97-3, 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 XI**

##### **EFFECTIVE DATE**

This ordinance shall take effect 30 days following publication of a summary hereof after adoption.

SILVER CREEK TOWNSHIP  
Lorri Behnke, Clerk