

**RUTLAND CHARTER TOWNSHIP**

**BARRY COUNTY, MICHIGAN**

**NOTICE OF ORDINANCE SUBMITTAL**

TO: THE RESIDENTS AND PROPERTY OWNERS OF THE CHARTER TOWNSHIP OF RUTLAND, BARRY COUNTY, MICHIGAN, AND ANY OTHER INTERESTED PERSONS:

PLEASE TAKE NOTICE proposed Ordinance #2016-159 as appended hereto was introduced for first reading by the Rutland Charter Township Board at its November 9, 2016 meeting.

This proposed ordinance will be considered for adoption by the Township Board at a regular meeting on December 14, 2016 commencing at 7:30 p.m. at the Charter Township Hall.

Rutland Charter Township will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting/hearing upon seven (7) days' notice to Rutland Charter Township. Individuals with disabilities requiring auxiliary aids or services should contact the Township.

**RUTLAND CHARTER TOWNSHIP BOARD  
Rutland Charter Township Hall  
2461 Heath Road  
Hastings, Michigan 49058  
Telephone: (269) 948-2194**

**Robin J. Hawthorne, Clerk  
Charter Township of Rutland**

**CHARTER TOWNSHIP OF RUTLAND  
COUNTY OF BARRY, STATE OF MICHIGAN**

**ORDINANCE NO. 2016-159**

**ADOPTED:**

**EFFECTIVE:**

**LAND DIVISION, COMBINATION, AND BOUNDARY ADJUSTMENT ORDINANCE**

An ordinance to regulate the division, combination, and adjustment of boundaries of parcels or tracts of land, enacted pursuant to Michigan Public Act 288 of 1967, as amended (Land Division Act), and Act 246 of 1945, as amended (Township Ordinance Act).

**CHARTER TOWNSHIP OF RUTLAND**  
**COUNTY OF BARRY, STATE OF MICHIGAN**

**ORDAINS:**

**SECTION 1**

**TITLE**

This ordinance shall be known and cited as the Rutland Charter Township Land Division, Combination, and Boundary Adjustment Ordinance.

**SECTION 2**

**PURPOSE**

The purpose of this Ordinance is to carry out those provisions of the Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act) enacted by 1996 PA 591 and 1997 PA 87, and as subsequently amended (MCL 560.101 et seq) pertaining to the division of unplatted land; to prevent the creation of parcels of property which do not comply with applicable ordinances or the 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 requirements for prior review and approval of land divisions, combinations, and boundary line adjustments.

Note: the division of platted lots (lots in subdivisions) and the development of land into plats/subdivisions is regulated by the Rutland Charter Township Subdivision/Site Condominium Ordinance (Ordinance No. 2002-93; §200-10 through §200-19 of the Rutland Charter Township Code), under provisions of the Land Division Act generally not applicable to the division of unplatted land as addressed in this Land Division, Combination, and Boundary Adjustment Ordinance. That Ordinance also regulates the development of land into a "site condominium" under the Condominium Act (*MCL 559.101 et. seq.*).

**SECTION 3**

**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.
  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. “Administrator” or “Land Division, Combination, and Boundary Adjustment Ordinance Administrator” – means the Township Assessor, or such other official as may be designated by the Township Board to administer the provisions of this Ordinance.
- C. "applicant" and “proprietor” – means a person, firm, association, partnership, corporation, or other entity of any kind, or combination of any of same, that holds a recorded or unrecorded ownership interest in land.
- D. “area” – means, with reference to the area of a parcel, the total horizontal area within the boundary lines of the parcel, except any portion of the parcel within a public street right-of-way.
- E. “boundary line adjustment” – means the splitting and intended transfer of land from one parcel to a contiguous parcel where the result moves the common boundary line between the contiguous parcels but does not create a new parcel.
- F. “buildable” – means, in reference to a parcel of land, that the parcel meets the requirements of this Ordinance and any other applicable ordinances and laws to be developed for a legally permissible use involving a building or other structure.
- G. “combine” or “combination” – means, in reference to property, the putting together (combining) of two or more existing parcels or lots into a lesser number of parcels than existed before being combined.

- H. “depth” – means, with reference to the depth of a parcel, the average horizontal distance from the front property line to the rear property line of the parcel.
- I. “development site” – means any parcel or lot on which exists a building, or which is intended for building development, other than any of 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.
- J. "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 for the purpose 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 (MCL 560.108-109) and this Ordinance. “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 (a “boundary line adjustment”).
- K. “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.
- L. “40 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.
- M. “front property line” – means that portion of a parcel abutting the right-of-way of a public street (or the right-of-way of a lawful private road or easement, in the case of a lawfully created parcel abutting a lawfully established private road or easement).
- N. “Land Division Act” or “Act” – means the Land Division Act of the State of Michigan as cited in Section 2 of this Ordinance (*MCL 560.101 et. seq.*).

- O. “lot” – means a measured portion of a parcel or tract of land which is described and fixed in a recorded plat.
- P. “parcel” – means a contiguous area or acreage of land which can be described as provided for in the Land Division Act.
- Q. “rear property line” – means that boundary line of a parcel which is opposite and most distant from the front property line; provided that in the case of a parcel pointed at the rear, the rear property line shall be that assumed line parallel to the front property line not less than 10 feet long lying farthest from the front property line and wholly within the parcel.
- R. “side property lines” – means any parcel boundary line that is not the front property line or the rear property line.
- S. “tract” – means two or more parcels that share a common property line and are under the same ownership.
- T. “parent parcel” or “parent tract” – means a parcel or tract, respectively, lawfully in existence on March 31, 1997.
- U. “width” – means, with reference to a parcel, the horizontal distance between the side property lines measured at the front property line; or as otherwise specified by the definition of the terms “lot frontage” and “lot width” in the Rutland Charter Township Zoning Ordinance.
- V. “Zoning Ordinance” – means the zoning regulations of Rutland Charter Township as set forth in Chapter 220 of the Rutland Charter Township Code.

#### **SECTION 4**

#### **PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS, COMBINATIONS, AND BOUNDARY LINE ADJUSTMENTS**

- A. Land shall not be divided without the prior approval of the Administrator in accordance with Sections 5-7 this Ordinance and the Land Division Act; provided that the following shall be exempted from this requirement:
  - 1. A parcel proposed for subdivision through a recorded plat pursuant to the Land Division Act and any corresponding Township subdivision development ordinance.
  - 2. A lot in a recorded plat proposed to be divided in accordance with the Land Division Act and any corresponding Township subdivision development ordinance.

3. An exempt split, where all resulting parcels are accessible, as defined in this Ordinance.
  4. An exempt split or other partitioning or splitting of a parcel or tract that only results in parcels of 20 acres or more in size, where the parcel or tract is not accessible, and either of the following applies:
    - a. The parcel or tract was in existence on March 31, 1997.
    - b. The parcel or tract resulted from an exempt split or other partitioning or splitting under Section 109b of the Land Division Act (MCL 560.109b).
- B. Boundary line adjustments and combinations of land shall be subject to the prior approval of the Administrator in accordance with Section 9 of this Ordinance and the Act.

## **SECTION 5**

### **APPLICATION FOR LAND DIVISION APPROVAL**

An applicant for approval of a proposed land division shall file all of the following with the Administrator to constitute a complete application:

- A. A completed application form on such form as may be provided by the Township.
- B. Evidence of land title sufficient to establish that the parent parcel or parent tract which is the subject of the proposed division was lawfully in existence on March 31, 1997.
- C. An adequate and accurate legal description of each parcel proposed to result from the division.
- D. A tentative parcel map, drawn to an identified scale, showing all of the following with respect to each parcel proposed to result from the division:
  1. Dimensions.
  2. Area.
  3. Parcel boundary lines.
  4. Public utility easements.
  5. Accessibility.

6. The location of all existing buildings and structures, and the distances from the building/structures to all existing and proposed parcel boundary lines.

If the Administrator determines any of the content required by D. 1-6 above is not adequately or accurately shown on the tentative parcel map, the Administrator may require the applicant to supplement the initial filing with an adequate and accurate tentative parcel map or with a survey prepared by a surveyor licensed by the State of Michigan, in the reasonable discretion of the Administrator.

- E. Such additional information as may be reasonably required by the Administrator to make a determination on the application pursuant to the requirements of this Ordinance and the Land Division Act; including, where applicable, information pertaining to a proposed transfer of division or development rights.
- F. The fee as may from time to time be established by motion of the Township Board for land division, combination, and boundary line adjustment reviews pursuant to this Ordinance to cover the costs of review of the application and administration of this Ordinance and the Land Division Act.

## **SECTION 6**

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

- A. Within 45 days after the filing of a complete application, as provided in Section 5 of this Ordinance, the Administrator shall determine whether the proposed land division qualifies for approval pursuant to Section 7 of this Ordinance.
- B. The Administrator shall provide the applicant with written notice of the determination, by personal delivery or by regular first class mail at the address of the applicant on the application form.
- C. If an application is not approved the Administrator's notice of such determination to the applicant shall state the reason(s) for the disapproval.
- D. A notice of approval of a proposed land division resulting in a parcel of less than 1 acre in size shall include a statement that the Township and its officers and employees are not liable if a building permit is not issued for the parcel for the reason that the parcel does not have the applicable approvals of a water supply and sewage disposal required by law.

Note: the statement required by the preceding paragraph is required by Section 109a of the Act with a notice of approval of a proposed land division resulting in a parcel of less than 1 acre in size (*MCL 560.109a(2)*).

Notwithstanding this statutory requirement to only include such a statement in a notice of approval of a proposed land division resulting in a parcel of less than 1 acre in size, the approval of any proposed land division as required by this Ordinance and by the Act shall not be interpreted as making any determination or representation with respect to the potential issuance of a building permit or applicable approvals of a water supply and sewage disposal system for any resulting parcel, regardless of the size of such parcel.

- E. The Administrator shall consult with the Zoning Administrator as necessary to determine the potential implications under the Rutland Charter Township Zoning Ordinance of an application filed pursuant to this Ordinance, and shall not knowingly approve an application under this Ordinance that creates a violation of the Zoning Ordinance or this Ordinance.

## **SECTION 7**

### **REQUIREMENTS FOR APPROVAL OF LAND DIVISIONS**

- A. An application for a proposed land division shall be approved if all the following requirements are met:
  - 1. The applicant has filed a complete application pursuant to the requirements of Section 5 of this Ordinance.
  - 2. The total number of parcels proposed to be created does not exceed the number allowed pursuant to Section 108 of the Land Division Act (MCL 560.108) and otherwise complies with same.
  - 3. The width of each resulting parcel complies with the applicable minimum parcel (lot) width requirements of the Township Zoning Ordinance.
  - 4. The area of each resulting parcel complies with the applicable minimum parcel (lot) area requirements of the Township Zoning Ordinance.
  - 5. The depth of each resulting parcel is not more than four times its width; provided that this requirement does not apply to the remainder of a parent parcel or parent tract retained by the proprietor.
  - 6. Each resulting parcel that is a development site has adequate easements for public utilities from the parcel to existing public utility facilities.
  - 7. Each resulting parcel is accessible.



8. The division does not isolate a cemetery so that it is not accessible.
  9. Each resulting parcel complies with all other applicable requirements of the Land Division Act.
- B. The Administrator shall disapprove an application for a proposed land division that does not meet all the requirements for approval in the above Section 7.A of this Ordinance, or that will otherwise create or cause a violation of another ordinance or law, unless the application was submitted for approval of a division to create one or more parcels not intended to be buildable and the application is approvable pursuant to Section 7.C of this Ordinance.
- C. The Administrator shall approve an application for a proposed land division where the width and/or area and/or depth-to-width of each resulting parcel does not comply with Section 7.A.3, 4, or 5 of this Ordinance (the applicable minimum width/area/depth-to-width requirements) if all of the following requirements, circumstances and conditions are met:
1. The application includes the explicit statement of the applicant that “the requested land division is not intended to create a new separate buildable lot”.
  2. The Administrator determines all of the requirements for land division approval specified in Section 7.A of this Ordinance are met, other than Section 7.A.3 and/or 4 and/or 5.
  3. The Administrator determines, after consultation with the Zoning Administrator, that the requested division will not cause any remaining portion of the property associated with the proposed land division which is already developed, or intended for development and previously approved, to violate any provision of the Zoning Ordinance concerning minimum lot frontage/width, minimum lot area, minimum building/structure setbacks, or maximum lot coverage requirements in effect at the time of such application.
  4. The Administrator explicitly designates the resulting parcel(s) as “not buildable” in the approval determination on the application, and assures this same designation in the assessing and zoning records of the Township.
  5. The approval determination is subject to the condition that before the approval becomes effective the applicant shall file with the Administrator a copy of a document (on a form either prepared or approved by the Township) as recorded with the Barry County Clerk/Register of Deeds explicitly and conspicuously identifying the parcel(s) as “not buildable” and “not a development site”, and “not

subject to a request by the applicant or any successor owner to render the property buildable by variance relief granted by the Rutland Charter Township Zoning Board of Appeals”.

- D. A parcel designated as “not buildable” pursuant to this provision shall itself be subject to further division to create a parcel(s) intended for building development only to the extent all the following requirements are met:
1. The applicant has retained the right to make such division(s) or is otherwise the lawful transferee of such division rights under the Land Division Act.
  2. Any resulting parcel created by such division and intended for development complies with the applicable minimum parcel (lot) width and area requirements of the Zoning Ordinance for a buildable lot, and can otherwise be lawfully developed under the Zoning Ordinance.
  3. The division is otherwise approvable pursuant to this Ordinance and the Land Division Act.

## **SECTION 8**

### **SIGNIFICANCE OF APPROVAL OF APPLICATION; APPEAL OF ADMINISTRATOR DETERMINATION; RETENTION OF RECORDS**

- A. The approval of an application for a land division is only a determination that the land division complies with the requirements of the Land Division Act and the applicable requirements of this Ordinance, and is not a determination that the resulting parcels comply with other applicable ordinances or regulations pertaining to the use or development of the parcels.
- B. Any person aggrieved by the determination of the Administrator on an application for a land division may appeal the Administrator’s determination to the Township Board by filing a written appeal with the Township Clerk not later than 21 days after the date notice of the Administrator’s determination was mailed or personally delivered to the applicant. At least 7 days written notice of the date, time and place of the Township Board meeting at which the appeal will be considered shall be given to the applicant (and the appellant where other than the applicant) by personal delivery or regular first class mail directed to the address of the applicant/appellant as shown in the application/written appeal. The Township Board shall affirm or reverse the determination of the Administrator, in whole or in part, pursuant to the requirements for approval of land divisions in Section 7 of this Ordinance and in the Land Division Act, but shall in no event reverse the Administrator’s

determination unless and except to the extent that determination was clearly erroneous under all applicable provisions of this Ordinance and the Act. The decision of the Township Board on such an appeal shall be a final decision of the Township for purposes of such judicial review as may be provided by law.

- C. The Administrator shall maintain an official record of all land division applications and the determinations thereon, including any appeals.

## **SECTION 9**

### **BOUNDARY LINE ADJUSTMENTS AND COMBINATIONS**

- A. Land shall not be subject to a boundary line adjustment, or a combination, without the prior approval of the Administrator in accordance with this Section.
- B. An applicant for approval of a proposed boundary line adjustment, or a combination, shall file with the Administrator an application with all of the information required by Section 5 of this Ordinance for a proposed land division, as applicable to the proposed boundary line adjustment/combination.
- C. An application for a boundary line adjustment or combination shall be subject to the review requirements for a land division application as specified in Section 6 of this Ordinance.
- D. An application for a boundary line adjustment or combination shall be approved if all of the following requirements are met:
  - 1. The applicant has filed a complete application as required above.
  - 2. The proposed boundary line adjustment or combination will not violate any provision of the Act.
  - 3. The proposed boundary line adjustment or combination will not cause any existing parcel that is a conforming lot under the Township Zoning Ordinance to become a nonconforming lot under that ordinance, and will not cause any existing nonconforming lot under that ordinance to become more nonconforming.
- E. Any person aggrieved by the determination of the Administrator on an application for a boundary line adjustment or combination may appeal the Administrator's determination to the Township Board as provided by Section 8 of this Ordinance with respect to an appeal of a land division application determination.

**SECTION 10**

**ENFORCEMENT AND VIOLATIONS; SANCTIONS FOR VIOLATION; OTHER  
CONSEQUENCES OF NONCOMPLIANCE**

- A. This ordinance shall be enforced by the Land Division, Combination, and Boundary Adjustment Ordinance Administrator, and by such other person or persons as the Township Board may designate.
  
- B. Each of the following constitutes a violation of this Ordinance, including the aiding or abetting of any of same:
  - 1. Including materially false information on any application submitted under this Ordinance.
  - 2. Executing a deed or other instrument of land conveyance involving a land division, boundary line adjustment, or combination, that is subject to an application and approval requirement under this Ordinance, before the approval of such application.
  - 3. Executing a deed or other instrument of land conveyance for any land division, boundary line adjustment, or combination, that is subject to an application and approval requirement under this Ordinance, for any property other than the property for which an application was approved under this Ordinance, or in any other manner contrary to any such approval.
  - 4. Failing to timely record with the Barry County Clerk/Register of Deeds any document required by this Ordinance (such as a document identifying a parcel as “not buildable” and “not a development site” as required by Section 7.C of this Ordinance).
  - 5. Any other action violating any provision of this Ordinance.
  
- C. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute, punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine
--- 1st offense	150.00
--- 2nd offense	300.00
--- 3 <sup>rd</sup> or subsequent offense	500.00

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

- D. Any violation of this Ordinance shall also constitute a basis for injunctive relief against the violator, restraining and prohibiting continuation of the violation, in addition to any other relief or sanction herein set forth or allowed by law.
- E. Any division or combination of land or boundary line adjustment created in noncompliance with this Ordinance shall not be recognized on the Township real property assessment and taxation records, or zoning records, and shall be subject to such other consequences as may be provided by law.

**SECTION 11**

**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 12**

**REPEAL/NON-REPEAL**

Any existing Land Division Ordinance as may have been previously adopted by the Township Board is hereby repealed, including Ordinance No. 63 adopted May 13, 1998; but this Ordinance shall not be construed to repeal any provision of the Township Zoning Ordinance, the Township Subdivision/Site Condominium Ordinance and any other ordinance regulating the subdivision of land, the Construction Code Ordinance, or any other existing ordinance.

**SECTION 13**

**EFFECTIVE DATE**

This ordinance shall take effect 30 days after publication as required by law.

Robin Hawthorne, Clerk  
Rutland Charter Township