

AN ORDINANCE TO AMEND TITLE XV OF THE LAND USAGE SECTION OF CITY ORDINANCES SPECIFICALLY TO ADD CHAPTER 158 BY ENACTING A NEW CHAPTER THAT PROVIDES FOR THE REGULATIONS OF LAND DIVISIONS/COMBINATIONS OTHER THAN BY PLAT

CHAPTER 158 - LAND DIVISIONS / COMBINATIONS OTHER THAN BY PLAT

Effective August 8th, 2022

The division or splitting/and or combination of any lot, also synonymous with parcel, tract, or outlot, for the purpose of this article, that does not require the preparation of an official plat as directed in the subdivision control act, shall be regulated as follows:

§ 158.01 - Application.

Proposed lot divisions shall be initiated with an application to the city assessor, and which division may be approved by the city manager or at the discretion of the manager by the planning commission, subject to satisfying the provisions of this article.

§ 158.02. - Assessment roll.

The fact of any lot division shall be noted upon the city assessment roll and thereafter any enlarged lot, divided lot, combined lot or newly created lot shall be recorded as such on the tax roll for assessment purposes.

§ 158.03. - Zoning compliance.

No lot shall be divided, created, or combined which is not in compliance with at least the minimum lot requirements of the city zoning ordinance, including, but not by way of limitation, requirements of lot width, area, and open space.

§ 158.04. - Special assessments.

In those cases where water, sewer or other services have been installed by special assessment and the lot proposed to be divided, attached or created has been assessed therefore, the applicant shall agree in writing to pay into the special assessment district an additional amount to be determined by the city assessor, which amount shall reflect the increased share of the cost of such services to the special assessment district determined to benefit the lot(s) in question.

§ 158.05. - Land survey.

Any lot, parcel, or tract proposed to be divided or enlarged by attaching land or decreased in area by detaching land, and which land division is not required to be platted by state law shall be required to provide a survey and legal description. All surveys shall be prepared by a registered professional surveyor or engineer.

In cases where there is insufficient survey information, boundary disputes or similar circumstances, the applicant may be required to file an affidavit or similar instrument documenting agreement among the parties of record that the parcel to be divided is identifiable on the ground by marker, monuments, natural features or other agreed upon reference points.

Whenever any unplatted lot, tract or parcel is divided so as to create two, three, or four new building sites, a survey of the proposed land division shall be required, unless waived by the City Manager and Assessor because existing survey information is available or existing reference points are sufficiently complete or accurate to make additional survey information unnecessary.

§ 158.06. – Recorded Plat Lot Division

The division of a lot in a recorded plat is prohibited, unless approved following application to the City Manager and/or Zoning Administrator. The application shall be filled with the City Assessor and shall state the reasons for the proposed division. The City Manager and/or Zoning Administrator may request review and comment by the City Planning Commission. The division to be approved by the City Manager and/or Zoning Administrator may require submission of a professionally prepared boundary survey report. No Zoning Permit shall be issued, nor any building construction commenced, prior to the City's approval. No lot in a recorded plat shall be divided into more than four (4) parts, and the resulting lots shall not be less in area than permitted by the City Zoning Ordinance. The division of a lot resulting in a smaller area than prescribed herein may be permitted but only for the purpose of adding to the existing building site or sites. The application shall so state and shall be in affidavit form.

§ 158.07. Compliance Standards - Approvals required before installation.

The approvals required under the provisions of this ordinance shall be obtained prior to the installation of any subdivision or project improvements within the municipality, in public streets, public alleys, public rights-of-way, and public easements, or under the ultimate jurisdiction of the municipality. All subdivision or project improvements within the municipality installed in public streets, public alleys, public rights-of-way or public easements, or under the ultimate jurisdiction of the municipality, shall comply with all of the provisions and requirements of this or any other related city ordinance.

§ 158.08. Interpretation.

The provisions of these regulations shall be held to be the minimum requirements adopted for the promotion and preservation of public health, safety and general welfare of the City of Cheboygan. These regulations are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or law of the City of Cheboygan, nor conflict with any statutes of the State of Michigan or the County of Cheboygan except that these regulations shall prevail in cases where these regulations impose a greater restriction than is provided by existing statutes, laws or regulations.

§ 158.09 Review Fees - Payment by proprietor.

Preliminary and final plat review fees, planning fees, engineering fees, inspection fees, water and sewer connection charges and other applicable development charges shall be paid by the proprietor as may be required by the City of Cheboygan or Cheboygan County.

§ 158.010. - Violations and penalties.

Any person, persons, firm or corporation or anyone acting in behalf of said person, persons, firm or corporation, violating any of the provisions of this ordinance shall, upon conviction thereof, be subject to a fine of not more than \$100.00 and the costs of prosecution or in default of the payment thereof, by imprisonment in the county jail for a period not to exceed 90 days, or both such fine and imprisonment in the discretion of the court. Each day that a violation is permitted to exist shall constitute a separate violation.

§ 158.11. - Severability.

If any section, paragraph, clause, phrase or part of these regulations is for any reason held invalid by any court of competent jurisdiction, such decisions shall not affect the validity of the remaining provisions of these regulations, and the application of those provisions to any persons or circumstances shall not be affected thereby.

§ 158.12 – Repeal.

All ordinances and amendments thereto enacted or adopted by the governing body inconsistent with the provisions of this ordinance are hereby repealed, as of the effective date of this ordinance. The repeal of the above ordinance and its amendments does not affect or impair any act done, offense committed or right accruing, accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

§ 158.13. Variance - Variance for hardship.

The governing body or planning commission may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance and provided the variance does not pertain to requirements of the zoning ordinance. In granting any variance, the governing body or commission shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its finding the governing body or commission shall consider the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the governing body or commission finds:

- (1) That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his land.
- (2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
- (3) That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated.

§ 158.14. Effective Date.

This ordinance shall take effect twenty (20) days from and after its passage.

Made and passed by the City Council of the City of Cheboygan, Cheboygan County, Michigan, on this 19 day of July, 2022.

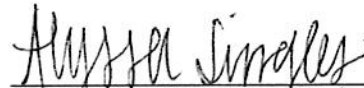
Date of Publication: July 9, 2022

Date of Adoption by City Council: July 19, 2022

Date Ordinance Shall Take Effect: August 8, 2022

Clerk's Certificate

The City Clerk for the City of Cheboygan does hereby certify that the foregoing Amendment to Ordinance was adopted at a regular meeting of the City Council of the City of Cheboygan on the 19 day of July, 2022 and notice thereof was caused to be published in the Cheboygan Tribune on the 9th day of July, 2022.



Alyssa Singles, City Clerk