

STATE OF MICHIGAN
COUNTY OF LEELANAU
TOWNSHIP OF EMPIRE

LAND DIVISION ORDINANCE NO. 97-01

Adopted June 10, 1997

Effective July 26, 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, as amended, 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.

The Township of Empire, Leelanau County, Michigan, ordains:

SECTION I - TITLE

This Ordinance shall be known and cited as the Empire Township Land Division Ordinance.

SECTION II - PURPOSE

The purpose of this Ordinance is to carry out the 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 otherwise provide for the health, safety and welfare of the residents and property owners of the municipality 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. **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.
- B. **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** and **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 a resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the State Land Division Act, this Ordinance and other applicable ordinances.
- C. **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; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.
- D. **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.
- E. **Governing Body** - the Empire Township Board.

SECTION IV - PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land in the Township shall not be divided without the prior review and approval of the Township Zoning Administrator and the Township Assessor, 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.
- B. A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act.
- C. An exempt split as defined in this Ordinance.

SECTION V - APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Township Zoning Administrator and the Township Assessor for review and approval of a proposed land division before making any decision either by deed, land contract, lease for more than one year, or for building development.

- A. A completed application form on a form as may be approved by the Township Board.
- B. Proof of fee ownership of the land proposed to be divided.
- C. A survey map of the 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 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 a survey map, at the applicant's option, the applicant may waive the 30 day statutory requirement for a decision on the application until a survey map and legal description are filed with the Township, and submit a preliminary parcel map drawn to scale of not less than 200 feet to the inch including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the Assessor prior to a final application under Section V.

The Assessor may waive the survey map requirement where the foregoing preliminary parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all proposed divisions, however, shall at all times be required.

- D. Proof that all standards of the State Land Division Act and this Ordinance have been met.
- E. The history and specifications of the land proposed to be divided sufficient to establish that the proposed division complies with Section 108 of the State Land Division Act.
- F. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.
- G. If a transfer of division rights is proposed on the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- H. Unless a division creates a parcel which is acknowledged and declared to be "not a development site" under Section VIII of this Ordinance, all divisions shall result in "buildable" parcels with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, approved on-site sewage disposal and water well locations (where public water and sewer service is not available), access to existing public utilities and public roads, and maximum allowed area coverage of buildings and structures on the site.

- I. The fee as may from time to time be established by resolution of the governing body of the Township for land division reviews pursuant to this Ordinance to cover the costs of review of the application and administration of this Ordinance and the State Land Division Act.

SECTION VI - PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

- A. The Zoning Administrator shall review the application for compliance with the Zoning Ordinance, after which the Assessor shall approve, approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within 30 days (unless waived under Section V.C.) after receipt of the 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 Assessor shall return the same to the applicant for completion and refile in accordance with this Ordinance and the State Land Division Act.
- B. A person or entity aggrieved by the decision of the Assessor may, within 30 days of the decision appeal the decision to the governing body of the Township, or a other body or person designated by the governing body, which shall consider and resolve an appeal by a majority vote of the Board or by the 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 the meeting and appellate hearing.
- C. A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within this period a document is recorded with the County Register of Deeds office and filed with the Assessor.
- D. The Assessor shall maintain an official record of all approved and accomplished land divisions or transfers.

SECTION VII - STANDARDS FOR APPROVAL OF LAND DIVISIONS

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

- A. All the parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of the pertinent Zoning Ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures or have received a variance from the requirement(s) from the appropriate Zoning Board of Appeals.
- B. The proposed land division(s) complies with all requirements of the State Land Division Act and this Ordinance.
- C. All parcels created and remaining have existing adequate accessibility, or an area available therefor, to a public road for public utilities and emergency and other vehicles not less than the requirements of all applicable ordinances.
- D. 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-buildable parcels created under Section VIII of this Ordinance. 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. The width of a parcel shall be measured at the abutting road or right-of-way line, or as otherwise provided in any applicable ordinances.

SECTION VIII - ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS

Notwithstanding the provisions of Section VII of this Ordinance, a division which creates a parcel that satisfies all of the requirements of Section VII except that it does not satisfy one or more of the standards of Subsections A and D of Section VII, shall be approved if the applicant executes and records an affidavit or deed restriction with the County Register of Deeds clearly designating the parcel as "not a development site, as defined under 1967 PA 288, as amended". A parcel so designated shall not thereafter be used as a development site as defined under 1967 PA 288, as amended.

SECTION IX - 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 conditional 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 IX of this Ordinance, and as may otherwise be provided by law.

SECTION X - PENALTIES AND ENFORCEMENT

A person 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.

A 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 XI - 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 a court of competent jurisdiction, it shall not affect any portion of this Ordinance other than the said part or portion thereof.

SECTION XII - REPEAL

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the applicable Zoning Ordinance or Building Codes.

SECTION XIII - EFFECTIVE DATE

This Ordinance shall take effect 30 days following its publication after adoption - July 26, 1997.

Township of Empire

Christine M. Neiswonger
Christine M. Neiswonger, Township Clerk