

LAND DIVISION ORDINANCE NO. 14

TOWNSHIP OF LIMA

COUNTY OF WASHTENAW

Adopted: June 1, 1998

Effective: July 11, 1998

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, being the Land Division Act and Act 246 of 1945, as amended, being the Township General Ordinance statute; to provide a procedure therefore and require township approval for certain divisions; 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 LIMA
WASHTENAW COUNTY, MICHIGAN
ORDAINS:**

SECTION I

TITLE

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

SECTION II

PURPOSE

The purpose of this ordinance is to carry out the provisions of the State Land Division Act, PA 288 of 1967, as amended, formerly known as the Subdivision Control Act, herein referred to as the "Act;" to prevent the creation of parcels of property which do not comply with applicable ordinances and the Act; to minimize potential boundary disputes; to maintain orderly development of the Lima Township community; and to otherwise provide for the health, safety and welfare of the residents and property owners of Lima Township by establishing reasonable standards and requirements for prior review and approval of land divisions within Lima Township.

SECTION III

DEFINITIONS

For purposes of this ordinance certain terms and words used herein shall have the meanings stated in this section. Other words and phrases, if defined by the Act, shall have the meaning stated in the Act.

- 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. "Parent Parcel" - means a parcel or tract lawfully in existence on March 31, 1997.
- C. "Divided" 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 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.
- D. "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.
- E. "Resulting Parcel" - means one or more parcels that result from a land division.
- F. "Forty acres or 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. "Governing body" - the Lima Township Board of Trustees.
- H. "accessible" in reference to a parcel, means that the parcel meets one or both of the following requirements:
- (i) 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 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, and of the township, or has an area

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

(ii) 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 county road commission under Act No. 200 of the Public Acts of 1969 and of the township, 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.

I. "Development site" means any parcel or lot on which exists or which is intended for building development other than the following:

(i) 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; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.

(ii) Forestry use involving the planting, management, or harvesting of timber.

SECTION IV

PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land in Lima Township shall not be divided without the prior review and approval of the official designated by the Township Board, 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 Lima Township's Subdivision Control Ordinance and the State Land Division Act.

B. A lot in a recorded plat proposed to be divided in accordance with the Lima Township's Subdivision Control Ordinance and the State Land Division Act.

C. An exempt split as defined in this Ordinance.

D. Any division or splitting of land from an inaccessible tract or parcel that results only in parcels that are 20 acres or greater in size, and either the inaccessible tract or parcel was in existence on March 31, 1997, or it was created from a previous exempt division under this subsection or section 109b of the Act.

SECTION V

APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Lima Township Clerk 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 as provided by the Township, including Michigan Department of Treasury form L-4260, Property Transfer Affidavit.

B. Proof of fee ownership of the land proposed to be divided.

C. Proof of the right to make the proposed division by such evidence as is acceptable to the Township assessor or other designated person and that shows the history and succession of division rights from the parent tract or parcel to the parcel or tract proposed for division. If ownership interest was obtained after March 31, 1997 from a previous division or exempt split, a copy of the deed(s) conveying ownership must specify land division rights.

D. 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 such survey map, and as a minimum requirement for and division approval, a tentative parcel map drawn to scale and showing all of the following:

1. Total area of parent parcel;
2. area, dimensions, and boundary lines of each resulting parcel;
3. proposed use of each resulting parcel;
4. location of proposed development sites;
5. existing and proposed public utility easements;
6. existing structures and other improvements; and
7. accessibility of each resulting parcel for automobile traffic and public utilities.

E. For each resulting parcel that is a development site, adequate easements for public utilities from the parcel to existing public utilities must be established.

F. Proof that all standards of the State Land Division Act and this Ordinance have been met.

G. If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed transfer of division rights. A proprietor transferring the right to make future divisions exempt from platting under this Ordinance or the Act shall give written notice to the Township Assessor within 45 days of the transfer on the form prescribed by the state tax commission under section 27a of the general property tax, Public Act 206 of 1893, MCL 211.27a.

H. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.

I. The fee as may from time to time be established by resolution of the Township Board 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. Upon receipt of a land division application package, the Township Clerk or other official designated by the Township Board shall forthwith submit the same to the designated official for decision. The designee 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 45 days after receipt of the application package conforming to this Ordinance's requirements, and shall promptly notify the applicant of the decisions and the reasons for any denial. If the application package does not conform to this Ordinance requirements and the State Land Division Act, the assessor or other designee shall return the same to the applicant for completion and refile in accordance with this Ordinance and the State Land Division Act.

B. Any person or entity aggrieved by the decision of the designee may, within 30 days of said decision appeal the decision to the Township Board of Lima Township which shall consider and resolve such appeal by a majority vote of said 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 said 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 such period a document is recorded with the County Register of

Deeds office and filed with the Township Clerk or other designated official accomplishing the approved land division or transfer.

D. The land division designee 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 applicable zoning ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, and maximum lot (parcel) coverage and minimum set-backs for existing buildings/structures.

B. The proposed land division(s) comply 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, to a public road for public utilities and emergency and other vehicles not less than the requirements of the Township Zoning Ordinance, The Township Private Road Ordinance, Township Driveway Standards, or this Ordinance.

D. Where accessibility is to be provided by a proposed new dedicated public road, proof that the Washtenaw County Road Commission or Michigan Department of Transportation has approved the proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith.

E. Where accessibility by vehicle traffic and for utilities is permitted through other than a dedicated and accepted public road or easement, such accessibility shall comply with the following:

If accessibility is by a private road or easement, a document acceptable to the Township shall be recorded with the County Register of Deeds and filed with the assessor or designee specifying the method of private financing of all maintenance, improvements, and snow removal, the apportionment of these costs among those benefited, and the right of the Township to assess such costs against those properties benefited, plus a 25 percent administrative fee, and to perform such improvements in the event of a failure of those benefited to privately perform these duties for the health, safety and general welfare of the area.

SECTION VIII

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 lot, yard, accessibility and area requirements of the applicable zoning ordinance may be approved where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to the township, 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 lot and/or area requirements, and shall not be developed with any building or above ground structure exceeding four feet in height. The "not buildable" status of any parcel created and allowed under this subsection shall continue until such time as the zoning ordinance of Lima Township is amended and because of such amendment the parcel would be classified as "buildable" under the new zoning ordinance.

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 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 X of this ordinance, and as may otherwise be provided by law.

SECTION X

PENALTIES AND ENFORCEMENT

Any 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. 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 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 any court of competent jurisdiction, it shall not affect any portion of this ordinance other than 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 Lima Township zoning ordinance, the Lima Township Subdivision Control Ordinance, or the Lima Township Building Code.

SECTION XIII

EFFECTIVE DATE

This ordinance shall take effect 30 days following its publication after adoption.

LIMA TOWNSHIP

Arline B. Barcia CLERK

June 1, 1988 DATED