

TOWNSHIP OF LINCOLN
COUNTY OF MIDLAND STATE OF MICHIGAN
ORDINANCE NO. 4
LAND DIVISION ORDINANCE

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public 1967 PA 288, as amended, Act 591 of 1996, as amended, and Act 246 of 1945, as amended; 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 LINCOLN, MIDLAND COUNTY, MICHIGAN,
PURSUANT TO THE AUTHORITY VESTED IN IT BY ACT 12 OF THE
PUBLIC ACTS OF THE STATE OF MICHIGAN FOR 1929, AS AMENDED,
ORDAINS:**

SECTION I - TITLE

This ordinance shall be known and cited as the Lincoln 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 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 meaning set forth herein. Additionally, where terms and words are set forth in the State Land Division Act, those terms and words shall have the definitions ascribed to them in the State Land Division Act, except as set forth within this section.

- A. "Administrator"
- B. "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.

- 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” 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.

- 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.

- E. “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.

- F. “Governing body” - the Township Board of Lincoln Township, Midland County, Michigan.

- G. “Township” - the Township of Lincoln, Midland County, Michigan.

SECTION IV - PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land in the Township shall not be divided without the prior review and approval of the Administrator, or other 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 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, or other partitioning or splitting that only results in parcels of 20 acres or more where each parcel is not assessable (as defined in the State Land Division Act) and either the parcel was in existence on March 31, 1997 or resulted from exempt splitting under the State Land Division Act.

SECTION V - APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Administrator 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 provided by the Township.
- B. Proof of fee ownership of the land proposed to be divided or written consent to the application signed by the fee owner of the land.
- C. A tentative parcel map showing the parent parcel or parent tract which is the subject of the application, and the area, parcel lines, public utility easements, and the manner of proposed access for each resulting parcel. A tentative parcel map shall include:
 - 1. Proposed boundary lines and the dimensions of each parcel;
 - 2. Accurate legal description of each resulting parcel;
 - 3. The location, dimensions and nature of proposed ingress to and egress from any existing public or private road;
 - 4. The location of any public or private street, driveway or utility easement to be located within any resulting parcel.
 - 5. The location of any existing buildings and the distances to any existing or proposed boundary lines.
- D. If requested by the Administrator, the history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.
- E. A history of any prior transfers of division rights within the parent parcel or tract.
- F. 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 Administrator shall approve, approve with reasonable conditions 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 Administrator 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 assessor or designee may, within 30 days of said decision appeal the decision to the Township Board which shall consider and resolve such appeal by a majority vote of said Board at its next regular meeting or session affording sufficient time for a 10 day written notice to the applicant of the time and date of said meeting. The Township Board may affirm, modify or reverse the decision of the Administrator and its decision shall be final.
- C. A land division approval is effective 120 days from its issuance, after which it shall be revoked unless with such period there is recorded with the County Register of Deeds office and filed with the Administrator a conveyance of the approved land division or survey evidencing same.
- D. The Administrator 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 in the following criteria are met:

- A. All parcels to be created by the proposed land division(s), including resulting parcels, fully comply with the applicable lot, dimension, width, yard, area, frontage and access requirements of the Township zoning and other applicable ordinances.
- B. The proposed land division, including resulting parcels, comply with all requirements of the State Land Division Act and this Ordinance.
- C. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio. In the event that the Township zoning ordinance shall specify a depth to width ratio which differs from that set forth within this sub-section, the ratio contained in the Township Zoning ordinance shall control.

SECTION VIII - LIMITED EFFECT OF LAND DIVISION APPROVAL

Approval of a land division is not a determination that the created or resulting parcels comply with other laws, ordinances of the Township or applicable regulations. The Township and its officers and employees shall not be liable for approving a land division if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to the effect.

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 enforcements 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 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 civil action legal or equitable proceedings arising from the violation.

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 Township zoning ordinance, or the Township Building code.

SECTION XIII - EFFECTIVE DATE

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

Adopted by the Township board, Township of Lincoln, Midland County,
Michigan.

Date: _____

Gerald T. Nightlinger
Lincoln Township Supervisor

Delmar Tomlinson
Lincoln Township Clerk

CERTIFICATION

The above Ordinance No. ____ was adopted at a meeting of the Lincoln Township Board
on the ____ day of _____, 1998, and published in the Midland Daily News, a
newspaper of general circulation in the Township of Lincoln on the ____ day of
_____, 199__.

Delmar Tomlinson
Lincoln Township Clerk