

TOWNSHIP OF ODESSA
COUNTY OF IONIA, MICHIGAN

At a special meeting of the Board of Trustees of the Township of Odessa, Ionia County, Michigan, held at the Page Building, Lake Odessa, Michigan, on the 22nd day of September, 1997, at 9:00 a.m.

PRESENT: GOODEMOOT, WILLIAMS, ROHRBACHER, BUCHE AND POSSEHN

ABSENT: NONE

The following ordinance was offered by GOODEMOOT and supported by WILLIAMS:

The Township of Odessa ordains:

ORDINANCE NO. 8

AN ORDINANCE to regulate the division of parcels or tracts of land in order to carry out the provisions of Michigan Public Act 288 of 1967, as amended, being the Land Division Act; to establish minimum requirements and procedures for the approval of such land divisions and to prescribe penalties for the violation of this ordinance.

Section 1. TITLE AND PURPOSE

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

The purpose of this ordinance is to carry out the provisions of the Land Division Act, Michigan Public Act 288 of 1967, as amended (herein the "Act") in order to prevent the creation of parcels of land which do not comply with the Act or with applicable township ordinances; to provide for the orderly development of land and otherwise to provide for the health, safety and welfare of the residents and property owners of the township by establishing minimum requirements for review and approval of certain land divisions within the Township.

1.3 This Ordinance shall not be construed to repeal, abrogate, rescind or otherwise to impair or interfere with provisions of other ordinances of the Township.

Section 2. DEFINITIONS

2.1 Certain words and phrases used in this Ordinance shall have the meanings stated in this section. Other words and phrases, if defined by the Act, shall have the meanings stated in the Act.

2.1 "Administrator" means the township assessor or other administrator appointed by the Township Board.

2.2 "Division" or "Land 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 of building development that results in one or more parcels of less than 40 acres or the equivalent (as defined in the Act), and that satisfies the requirements of Sections 108 and

109 of the Act. Division does not include a property transfer between two or more adjacent parcels, if the land taken from one parcel is added to an adjacent parcel.

"Exempt split" 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.

"Parcel" means a contiguous area of land which can be described as stated in Section 102(g) of the Act.

"Parent parcel" or "parent tract" means a parcel or tract, respectively, lawfully in existence on March 31, 1997.

"Road authority" means the governmental authority having jurisdiction of a public road or public street.

"Resulting parcel(s)" means one or more parcels which result from a land division.

2.8 "Tract" means two or more parcels that share a common property line and are under the same ownership.

Section 3. LAND DIVISION APPROVAL REQUIRED

Any division of land, including any partitioning or splitting of land, within the Township which requires the approval of the Township in order to qualify as a land division under the Act, shall comply with the requirements of Sections 4, 5 and 6 and the other applicable provisions of this Ordinance.

Section 4. APPLICATION FOR LAND DIVISION APPROVAL

4.1 A proposed land division shall be filed with the Administrator and shall include the following:

A completed application, on such written form as the Township may provide, including any exhibits described therein;

Proof of an ownership interest in the land which is the subject of the proposed division, or written consent to the application, signed by the owner of such land;

A land title search, abstract of title, or other evidence of land title acceptable to the Administrator which is sufficient to establish that the parent parcel or parent tract of the land which is the subject of the proposed division was lawfully in existence on March 3, 1997.

A copy of each deed or other instrument of conveyance which contains the statement required by Section 109(3) of the Act concerning the right to make further divisions.

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. The tentative parcel map, including the resulting parcels, shall be accurately and clearly

drawn to a scale which shall clearly show the parcel boundaries and all details required by the Act and this ordinance. A tentative parcel map shall include:
Date, north arrow, scale, and the name of the person or firm responsible for the preparation of the tentative parcel map;
Proposed boundary lines and the dimensions of each parcel;
An adequate and accurate legal description of each resulting parcel;
A drawing or written description of all previous land divisions from the same parent parcel or parent tract, identifying the number, area and date of such division;
The location, dimensions and nature of proposed ingress to and egress from any existing public or private streets; and
The location of any public or private street, driveway or utility easement to be located within any resulting parcel. Copies of the proposed instruments describing and granting such easements shall be submitted with the application.

- (f) The requirements of subparagraph (e) do not apply to any resulting parcel which is 40 acres or larger, as long as such parcel satisfies the requirements of Section 5.1 (b) below.
- (g) Other information reasonably required by the Administrator in order to determine whether the proposed land division qualifies for approval.
- (h) Payment of the application fee and other applicable fees and charges established by resolution of the Township Board.

4.2 A proposed division shall not be considered filed with the Township, nor shall the time period stated in subsection 5.4 commence, until all of the requirements for an application for land division approval have been complied with.

Section 5. MINIMUM REQUIREMENTS FOR APPROVAL OF LAND DIVISIONS

5.1 A proposed land division shall be approved by the Administrator upon satisfaction of all of the following requirements.

The application requirements of Section 4.

Each resulting parcel which is 10 acres or less in size shall have a depth which is not more than four times its width. The width of the resulting parcel shall be measured at the street right-of-way line at the front of the parcel; provided however, that in the event a resulting parcel is not a square or a rectangle, the Township Board, upon written application showing good cause therefore, may permit the use of a point other than the street right-of-way line at which to measure the width of the parcel.

Each resulting parcel shall have a means of vehicular access to an existing street from an existing or proposed driveway or access easement. Such means of access shall comply with all applicable location standards of the governmental authority having jurisdiction of the existing street. If a driveway or access easement does not lawfully exist at the time a division is proposed, the applicant shall also comply with the requirements of subsection 5.2.

The proposed division, together with any previous division(s) of the same parent parcel or parent tract, shall not result in a number of resulting parcels that is greater than that permitted under Section 108 of the Act.

Each resulting parcel that is a development site (as defined in the Act) shall have adequate easements for public utilities from the resulting parcel to existing public utility facilities.

5.2 If a means of vehicular access to a resulting parcel does not lawfully exist at the time a land division is applied for, the proposed division shall not be approved unless the following requirements are satisfied:

If a driveway is proposed as a means of access, each resulting parcel shall have an area where a driveway will lawfully provide vehicular access in compliance with applicable requirements.

If an easement is proposed as a means of access, the proposed easement shall be in writing and signed by the owner of the parcel(s) within which the easement is to be located. Such easement shall provide a lawful means of access over and across such parcel(s), in compliance with applicable requirements.

If a new public street is proposed as a means of access, the applicant shall provide proof that the road authority having jurisdiction has approved the proposed layout and construction design of the street and of utility easements and drainage facilities associated therewith.

The Administrator shall approve or disapprove a proposed land division within 45 days after the complete filing of the proposed division with the Administrator and shall provide written notice of the approval or disapproval to the applicant and, if disapproved, all of the reasons for disapproval. Any notice of approval for a resulting parcel of less than one acre in size shall contain a statement that the Township is not liable if a building permit is not issued for the parcel for the reason that the parcel fails to satisfy the requirements of Section 109a of the Act, including approval of on-site water supply and on-site sewage disposal under the standards set forth in Section 105(g) of the Act.

An applicant aggrieved by the decision of the Administrator may, within 30 days of the decision, file a written appeal of the decision to the Township Board, which shall consider and decide the appeal by a majority vote of the members present and voting at a public meeting. At least 10 days' written notice of the date, time and place of the meeting at which the appeal is to be considered shall be given to the applicant by regular, first-class mail, directed to one applicants address as shown in the application or in the written appeal. The Township Board may affirm or reverse the decision of the Administrator, in whole or in part, and its decision shall be final.

Section 6. APPROVAL OF LAND DIVISIONS

The Administrator shall maintain a record of all land divisions approved by the township.

A decision approving a land division shall be effective for not more than 180 days after such approval by the Administrator or, if appealed, by the Township Board, unless either of the following requirements is satisfied within such 180-day period:

A deed or other recordable instrument of conveyance, accurately describing

the resulting parcel(s) shall be recorded with the county register of deeds and a true copy thereof, showing proof of such recording, shall be filed with the Administrator; or

A survey accurately showing the resulting parcel(s) shall be recorded with the county register of deeds and a true copy thereof, showing proof of such recording, shall be filed with the Administrator. Such survey shall comply with the minimum requirements of Public Act 132 of 1970, as amended.

If neither paragraph (a) nor paragraph (b) is satisfied, such land division approval shall, without further action on the part of the Township, be deemed revoked and of no further effect after the 180th day following such approval by the Administrator or, if appealed, by the Township Board.

All deeds and other recordable instruments of conveyance and all surveys submitted in compliance with Section 7.1 shall be reviewed by the Administrator in order to determine their conformity with the approved tentative parcel map. The Administrator shall mark the date of approval of the proposed land division on all deeds, other recordable instruments of conveyance and surveys which are in conformity with the approved tentative parcel map and which otherwise comply with the requirements of this ordinance. Such documents shall be maintained by the Administrator in the township record of the approved land division.

The approval of a land division shall not, of itself, constitute an approval or permit required under other applicable ordinances, statutes or lawfully adopted administrative rules.

6.5 Any parcel created inconsistent with or in violation of this ordinance, where approval hereunder is required, shall not be eligible for issuance of building permits or other land use or building approvals under other township ordinances, nor shall any such parcel be established as a separate parcel on the tax assessment roll.

Section 7. PENALTIES AND OTHER REMEDIES

A violation of this ordinance is a municipal civil infraction, for which the fine shall be not more than \$500 for the first offense and not more than \$1,000 for a subsequent offense, in the discretion of the court, and in addition to all other costs, damages, expenses and other remedies provided by law. For the purpose of this section, a subsequent offense means a violation of this ordinance committed by the same person or party within one year after a previous violation of the same provision of this ordinance for which such person or party admitted responsibility or was determined by law to be responsible.

Section 8. SEVERABILITY

The provisions of this ordinance are severable and if any provision or other part hereof is determined to be invalid or unenforceable by any court of competent jurisdiction, such determination shall not affect the remaining provisions or other parts of this ordinance.

Section 9. EFFECTIVE DATE

This ordinance shall become effective 30 days after its publication or 30 days after the publication of a summary of its provisions in a local newspaper of general circulation.

AYES: Members: GOODEMOOT, WILLIAMS, ROHRBACHER, BUCHE AND POSSEHN

NAYS: Members: None

ORDINANCE DECLARED ADOPTED.

STATE OF MICHIGAN)
ss.
COUNTY OF IONIA)

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Township Board of the Township of Odessa at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.

LAND DIVISION APPLICATION
Odessa Township
PO Box 575, 3862 Laurel Drive
Lake Odessa, MI 48849
Phone 616-374-4237
Fax 616-374-4257

You MUST answer all questions and include all attachments, or this will be returned to you.

Approval of a division of land is required before it is sold, when the new parcel is less than 40 acres and not just a property line adjustment. When the review is complete, the form will be sent to the address filled in below.

Name _____

Address _____

City, State, Zip _____

This form is designed to comply with applicable land division ordinances and #109 of the Michigan Land Division Act (formerly the subdivision control act, PA 288 of 1967, as amended (particularly by PA 591 of 1996), MCL 560.101 et seq.)

LOCATION of parent parcel to be split:

Address: _____

Parent parcel number:34-____-____-____-____-____

Legal Description of Parent

Parcel:_____

attach extra sheets if needed

PROPERTY OWNER INFORMATION

Name:_____

Address:

City, State, Zip;

Phone:

APPLICANT INFORMATION (if not the property owner)

Name:_____

Address:

City, State, Zip;

Phone:

PROPOSAL: Describe the division(s) being proposed:

A. Number of new Parcels_____

B. Intended uses (residential, commercial, etc.):_____

C. The division of the parcel provides access to an existing public road by: (check one)

_____ Each new division has frontage on an existing public road

_____ A new public road, proposed road name:_____

Road name cannot duplicate an existing road name

_____ A new private road or easement, proposed road

name:_____

Road name cannot duplicate an existing road name

_____ A recorded easement (driveway). (Cannot service more than one potential site.)

Write here, or attach, a legal description of the proposed new road, easement or shared driveway

(Attach extra sheets if necessary)

Write here, or attach, a legal description for each proposed new parcel. (Attach extra sheets if necessary)

FUTURE DIVISIONS that might be allowed but not included in this application?

The number of future divisions being transferred from the parent parcel to another parcel?

Identify the other parcel:

(See section 109 (2) of the Statute. Make sure your deed includes both statements as required in section 109(3) and 109 (4) of the Statute.)

DEVELOPMENT SITE LIMITS check each that represents a condition which exists on the parent parcel. Any part of the parcel:

_____ is riparian or littoral (it is a river or lake front parcel)

_____ includes a wetland

_____ includes a beach

_____ is within a flood plain

_____ includes slopes more than twenty five percent (A 1:4 pitch or 14 degree angle) or steeper

_____ is on muck soils or soils known to have severe limitations for on site sewage systems

_____ is known or suspected to have an abandoned well, underground storage tank or contaminated soils

ATTACHMENTS (all attachments **MUST** be included). Letter each attachment as shown here.

A. 1. A survey, sealed by a professional surveyor at a scale of 40/1, of proposed division(s) of parent _____ parcel:

OR A map/drawing drawn to scale of 40/1, of proposed division(s) of parent parcel and the 30 day _____ time limit is waved:

Signature _____

The survey or map must show:

1. current boundaries (as of March 31, 1997) and

2. all previous divisions made after March 31, 1997 (indicate when made or none),

and

3. the proposed division(s), and

4. dimensions of the proposed divisions, and

5. existing and proposed road/easement rights-of-way, and

6. easements for public utilities from each parcel to existing public utility facilities, and

7. any existing improvements (buildings, wells, septic system, driveways, etc.)

8. any of the features checked in question number 6.

B. Indication of approval, or permit from County Road Commission, MDOT, or respective city/village street administrator, for each proposed new road, easement, or shared driveway.

C. A copy of any transferred division rights (109(4) of the Act) in the parent parcel.

D. A fee of \$100.00 per application and \$50.00 each split.

E. Other: (please list) _____

IMPROVEMENTS Describe any existing improvements (buildings, well, septic, etc.) which are on the parent parcel, or indicate none (attach extra sheets if necessary)

AFFIDAVIT and permission for municipal, county, and state officials to enter the property for inspections:

I agree the statements made above are true, and if found not to be true, this application and any approval will be void. Further, I agree to comply with the conditions and regulations provided with this parent parcel division. Further, I agree to give permission for officials of the municipality, county and the State of Michigan to enter the property where this parcel division is proposed for purposes of inspection to verify that the information on the application is correct at a time mutually agreed with the applicant. Finally, I understand this in only a parcel division which conveys only certain rights under the applicable local land division ordinance, the local zoning ordinance, and the State Land Division Act (formerly the Subdivision control Act, PA 288 of 1967, as amended (particularly by PA 591 of 1966), MCL 560.101 et. seq.), and does not include any representation or conveyance of rights in any other statute, building code, zoning ordinance, deed restriction or other property rights.

Finally, even if this division is approved, I understand zoning, local ordinances, and State Acts change from time to time, and if changed the divisions made here must comply with the new requirements (apply for division approval again) unless deeds, land contracts, leases, or surveys representing the approved divisions are recorded with the Register of Deeds or the division is built upon before the changes to laws are made.

Property Owner's Signature: _____ **Date:** _____

Do not write below this line

REVIEWER'S ACTION

Total \$ _____ **Receipt#** _____

_____ **APPROVED:** Conditions, if any _____

_____ **DENIED:** Reasons: _____

REVIEWER'S SIGNATURE: _____ **Date:** _____