

**LAND DIVISION ORDINANCE
VILLAGE OF MACKINAW CITY, MICHIGAN
ORDINANCE NO. 144**

An ordinance to regulate partitioning or division of lots, parcels, condominium units or tracts of land and 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 VILLAGE OF MACKINAW CITY ORDAINS:

Sec. 1. TITLE.

This Ordinance shall be known and cited as the Village of Mackinaw City Land Division Ordinance.

Sec. 2. 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 lots, parcels, condominium units or tracts of land or property which do not comply with applicable local 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 Village by establishing reasonable standards for prior review and approval of land divisions within the Village.

Sec. 3. DEFINITIONS.

For purposes of this Ordinance certain terms and words used herein shall have the following meaning:

- A. *Applicant* means 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. *Divided* or *Division* means the partitioning or splitting of a lot, condominium unit, 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.
- C. *Land* shall mean an existing lot, parcel or tract of land.
- D. *Lot* shall mean a plat, plot or parcel or land occupied or designated to be occupied by a development or structure and the accessory buildings or uses customarily incidental to it including such open spaces as are arranged and designed to be used

in connection with such buildings. A lot may or may not be the land shown on a duly recorded plat. If more than one (1) lot of record is held in common ownership and said lots are contiguous, substandard in size to the minimum lot standard in the zoning district, or needed to be combined in order to receive a zoning permit for development, they shall for the purpose of this ordinance, be held as one (1) lot so as to not leave any lot development or structure within a lot substandard to the applicable Zoning Ordinance.

- E. *Condominium Unit* shall mean a portion of a condominium project designed and intended for separate ownership and use, as described in a Condominium Master Deed recorded pursuant to the Condominium Act, MCL 559.101 et seq.
- F. *Exempt split* or *Exempt 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, that does not result in one or more parcels of less than forty (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.
- G. *Forty acres or the equivalent* shall mean either forty (40) acres, a quarter-quarter section containing not less than thirty (30) acres, or a government lot containing not less than thirty (30) acres.
- H. *Governing body* means the Village Council of Mackinaw City.

Sec. 4. PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS.

Land in the Village shall not be divided, split or combined without the prior review and approval of the Village Manager, or other official designated by the governing body or Village Council, 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 Village Ordinances and the State Land Division Act.
- B. An exempt split as defined in this Ordinance.

Sec. 5. APPLICATION FOR LAND DIVISION APPROVAL.

An applicant shall file all of the following with the Village Manager or other official designated by the governing body for review and approval of a proposed land division before making any division either or by deed, land contract, lease for more than one year, or for building development.

- A. A completed application form or such form as may be provided by the Village.

- B. Proof of fee ownership of the land proposed to be divided, split or combined.
- C. A survey map of the land proposed to be divided, split or combined 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, at the applicant's option, the applicant may waive the thirty (30) day statutory requirement for a decision on the application until such survey map and legal description are filed with the municipality, and submit a tentative preliminary parcel map drawn to scale of not less than that provided for on the application form 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 locally designated official prior to a final application under Section 5.

The Village Council, or its designated agent delegated by the Council, may waive the survey map requirement where the foregoing tentative 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 the 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 or 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.
- F. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided, split or combined are paid in full.
- G. If transfer of division rights is proposed in 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 buildable" under Section 8 of this Ordinance, all divisions shall result in "buildable" parcels containing sufficient "buildable" area outside of unbuildable wetlands, flood plains and other areas where buildings are prohibited there from,

and with sufficient area to comply with all required setback provisions, minimum floor area, off-street parking spaces, on-site sewage disposal and water well locations (where public water and sewer service is not available), and maximum allowed area coverage of buildings and structures on the site.

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

Sec. 6. PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION.

- A. Upon receipt of a land division application package, the Village Clerk or other official designated by the Village Council shall forthwith submit the same to the Village Manager or other designated official for decision. The Village Manager or other 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 thirty (30) 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's requirements and the State Land Division Act, the Village Manager 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 Village of Manager or designee may, within thirty (30) days of said decision, appeal the decision to the Village Council or such other board or person designed by the Village Council which shall consider and resolve such appeal by a majority vote of said Council or by the designee at its next regular meeting or session affording sufficient time for a twenty (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 ninety (90) days, after which it shall be considered revoked unless within such period a document is recorded with the County Register of Deed's office and filed with the Village Clerk or other designated official accomplishing the approved land division or transfer.
- D. The Village Manager or designee shall maintain an official record of all approved and accomplished land divisions or transfers.

Sec. 7. STANDARDS FOR APPROVAL OF LAND DIVISIONS.

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

- A. The division of a lot, parcel, condominium unit or tract shall not create any non-conformities in regards to the zoning ordinance. The division shall not create any new violations of the zoning ordinance, including but not limited to minimum lot (parcel, unit or tract) frontage or width, minimum road frontage, minimum lot (parcel, unit or tract) area, minimum lot depth to width ratio, and maximum lot (parcel, unit or tract) coverage, minimum setbacks for existing buildings/ structures and parking.
- B. The proposed land division(s) comply with all requirements of the State Land Division Act and this Ordinance.
- C. All lots, parcels, condominium units and tracts created and remaining shall have adequate accessibility, or an area available therefore, to a public road or approved private road for public utilities and emergency and other vehicles not less than the requirements of the applicable Zoning Ordinance, major thoroughfare plan, road ordinance or this Ordinance. In determining adequacy of accessibility, any ordinance standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create four (4) or more parcels.
- 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 nonbuildable parcels created under Section 8 of this Ordinance and parcels added to contiguous parcels that result in all involved parcels complying with said ratio.

The permissible 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 permissible minimum width of a parcel shall be as defined in the Zoning Ordinance.

- E. Where accessibility is to be provided by a proposed new dedicated public road, proof that the County Road Commission, Michigan Department of Transportation or Village Council has approved the proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith shall be provided, as applicable.
- F. 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 Village's Private Road Standard Ordinance.

G. Satisfactory evidence of the suitability of each proposed land division for on-site sewage disposal and a potable on-site water supply is provided from the County Health Department or State Department of Environmental Quality, unless public water and sewer service is available to the site, in which case the parcel must be serviced by the public water and sewer supply according to the Village's Ordinance.

Sec. 8. ALLOWANCE FOR APPROVAL OF OTHER LAND/LOT DIVISION.

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 or this Ordinance may be approved by Variance according to the Village's Zoning Ordinance.

Sec. 9. CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT.

Any lot, parcel, condominium unit or tract created in violation of 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 10 of this Ordinance, and as may otherwise be provided by law.

Sec. 10. 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 Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not to exceed ninety (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.

Sec. 11. 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.

Sec. 12. **REPEAL.**

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Sec. 13. **EFFECTIVE DATE.**

This Ordinance shall become effective twenty (20) days after adoption.

First Reading: December 16, 2004.

Second Reading:

Adoption of Ordinance #144 offered by: Trustee

Supported by: Trustee

Ayes:

Nays:

Absent:

Ordinance #144 adopted:

Robert R. Heilman
Village President

Attests:

Sandra M. Krueger
Village Clerk

I, Sandra M. Krueger, Village Clerk of the Village of Mackinaw City, hereby certify that the foregoing Ordinance #144 was duly enacted by the Village Council of the Village of Mackinaw City, Cheboygan, and Emmet Counties, Michigan on the _____ day of _____ 2005 and published in the Cheboygan Tribune, a newspaper of general circulation in the Village of Mackinaw City, on _____. 2005. Public notice of said meeting was given pursuant to Act No. 267, Public Acts of Michigan, 1976, as amended.

I further certify that said Ordinance #144 has been recorded in the Ordinance Book of the Village of Mackinaw City and such recording has been authenticated by the signature of the Village President and Village Clerk.

Dated: _____

Sandra M. Krueger, Village Clerk