

BEAR CREEK TOWNSHIP
Emmet County, Michigan
LAND DIVISION ORDINANCE NO. 13 - OO
(to replace prior Land Division Ordinance
No. 8A-97, as amended)

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.

TOWNSHIP OF BEAR CREEK
EMMET COUNTY, MICHIGAN,
ORDAINS:

Section I
Title

This ordinance shall be known and cited as the Bear Creek 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, ("the Act") 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 standards for prior review and approval of land divisions within the Township.

Section III
Definitions

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.

A. "Administrator" - the Bear Creek Township employee or other individual designated by the Township Board to administer this ordinance.

B. "Applicant" - a natural person, firm, association, partnership, corporation, entity or combination of any of them that holds an ownership in land whether recorded or not.

C. "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 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.

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

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

H. "Planning Commission" - the Bear Creek Township Planning Commission.

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

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

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 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 results in parcels of 20 acres or more if each is not accessible and the parcel was in existence on March 31, 1997, or resulted from exempt splitting under the 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 approved by the Township board, including any exhibits described therein.

B. Proof of fee ownership of the land proposed to be divided, or written consent to the application, signed by the owner of such land.

C. A tentative parcel map drawn to scale including an accurate legal description of each proposed division, and showing the boundary lines, approximate dimensions, and the accessibility of each division for automobile traffic and public utilities.

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

E. If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.

F. 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 divisions.

G. Payment of an application fee established by resolution of the Township board to cover the costs of review of the application and administration of this ordinance and the State Land Division Act.

H. Copies of any instruments or documents describing or granting any easements or other access to the divisions for purposes of automobile traffic and public utilities.

I. Three copies of each application and all supporting documents.

Section VI
Procedure for Review of Applications
for Land Division Approval

A. The Administrator shall review the application with Township personnel such as the Zoning Administrator and Tax Assessor for purposes of determining compliance with this ordinance. The Administrator shall then approve or disapprove the land division applied for within 45 days after receipt of a complete application conforming to this ordinance's requirements and the State Land Division Act. The Administrator shall promptly notify the applicant of the decision, and if denied, the reasons for denial.

B. Any person or entity aggrieved by the decision of the Administrator may, within 21 days of said decision, appeal the decision to the Planning Commission 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 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. The Administrator shall maintain an official record of all approved and accomplished land divisions or transfers.

D. Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.

E. 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 this effect.

Section VII
Standards for Approval of Land Divisions

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

A. The ratio of depth-to-width of any parcel created by the division does not exceed a four-to-one ratio. The depth and width of a parcel to be created by a land division shall be measured in the same manner provided by the applicable zoning ordinance for the measuring of the minimum width and maximum depth of parcels. In the event of a hardship, greater depth-to-width ratios may be allowed when based upon the following considerations: Exceptional topographic or physical conditions with respect to the parcel, compatibility with surrounding lands, or the presence of wetlands on the parcel. This depth-to-width ratio requirement does not apply to a parcel larger than 20 acres and does not apply to the remainder of the parent parcel or parent tract retained by the proprietor.

B. All parcels created by the proposed division(s) must also meet all other applicable zoning requirements.

C. The proposed land division(s) comply with all requirements of this ordinance and the State Land Division Act.

D. All parcels created and remaining have existing adequate accessibility, or an area available therefor, for public utilities and emergency and other vehicles. Such means of access shall comply with all applicable location standards of the governmental authority having jurisdiction of the existing street or road, and shall otherwise be "accessible" as that term is defined in Section 102(j) of the Land Division Act.

Section VIII
Consequences of Noncompliance with
Land Division Approval Requirement

A. Any division of land in violation of any provision of this ordinance shall not be recognized as a land division on the Township tax roll and no construction thereon which requires the prior issuance of a construction or building permit shall be allowed. The Township shall further have the authority to initiate injunctive or other relief to prevent any violation or continuance of any violation of this ordinance.

B. A violation of this ordinance is a municipal civil infraction, for which the fine shall be not more than \$500.00, in addition to all other costs, damages, expenses, and other fees and remedies provided or allowed by law. Each day that a violation occurs shall be considered a separate violation.

C. The Administrator of this ordinance, the Zoning Administrator, and the Township Supervisor are each authorized to enforce this ordinance and are authorized to issue citations for violations. The issuance of a citation for a municipal civil infraction shall not in any way limit the Township from seeking enforcement of this ordinance in any other manner and to recover any costs, expenses, damages, and fees, including attorney fees, that may be permitted or allowed by law in connection with the enforcement of this ordinance.

Section IX
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 X
Repealer

All previous land division ordinances affecting unplatted land divisions in conflict with this ordinance are hereby repealed; however, this ordinance shall not be construed to repeal any provision in any applicable zoning ordinance, building codes or other ordinances of the Township or any other municipal body which shall remain in full force and effect notwithstanding any land division approval hereunder.

Section XI
Effective Date

This ordinance shall become effective thirty (30) days after publication as required by law.

Clerk's Certification

I hereby certify that this ordinance was adopted by the Bear Creek Township Board at a regular meeting held on _____, 2000, and that the vote was as follows:

FOR:

AGAINST:

I further certify that this ordinance, or a summary thereof, was published in the *Petoskey News-Review* on _____, 2000.

Judy Mays
Bear Creek Township Clerk