

LAND DIVISION ORDINANCE

VILLAGE OF EDWARDSBURG

COUNTY OF CASS

STATE OF MICHIGAN

ORDINANCE NUMBER: 97-01

Adopted: November 17, 1997

Effective: December 26, 1997

LAND DIVISION ORDINANCE

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 Village 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.

VILLAGE OF EDWARDSBURG

CASS COUNTY, MICHIGAN,

ORDAINS:

SECTION I
TITLE

This ordinance shall be known and cited as the Village of Edwardsburg 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 Village by establishing reasonable standards for prior review and approval of land divisions within the Village.

**SECTION III
DEFINITIONS**

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

- 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. **"Development site"** - 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; poultry and poultry 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.
- 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, or the requirements of other applicable Village 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. **"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. **"Parcel"** - a continuous area or acreage of land which can be described as provided for in the Land Division Act.

- G. "Parent parcel" or "parent tract" - a parcel or tract, respectively, lawfully in existence on March 31, 1997.
- H. "Planning Commission" - the Planning Commission of the Village of Edwardsburg.
- I. "Tract" - two or more parcels that share a common property line and are under the same ownership.
- J. "Village Council" - the Village Council of Edwardsburg.

**SECTION IV
PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS**

Land in the Village shall not be divided without the prior review and approval of the Village Assessor, with recommendation by the Planning Commission, 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 State Act.

**SECTION V
APPLICATION FOR LAND DIVISION APPROVAL**

An applicant shall file all of the following with the Village Assessor 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 on such form as may be provided by the Village.
- B. Proof of free ownership of the land proposed to be divided.
- C. A survey 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 vehicular traffic and public utilities.
- D. Proof that all standards of the State Land Division Act and this Ordinance have been met.
- E. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability for the proposed division rights transfer.

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

SECTION VI
PROCEDURE FOR REVIEW OF APPLICATIONS FOR
LAND DIVISION APPROVAL

- A. The Village Assessor, with recommendation of the Planning Commission, shall approve or disapprove the land division applied for within 45 days after receipt of the application package conforming to the requirements of this Ordinance and the State Land Division Act, and shall promptly notify the applicant of the decision and, if denied, the reasons for the denial.
- B. The Village Assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.
- C. Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.
- D. The Village 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 shall be approved if the following criteria are met:

- A. All the parcels to be created by the proposed land division(s) shall fully comply with the applicable lot (parcel), yard and area requirements of the Village Zoning Ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, and minimum lot (parcel) area.
- B. The proposed land division(s) shall 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 shall not exceed three to one exclusive of access roads, easements, or non-buildable parcels created under Section VIII 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 the distance between the front and rear lot lines, measured along the median between the side lot lines.

The permissible minimum width shall be as defined in the Village Zoning Ordinance.

- D. All parcels created and remaining shall have adequate accessibility, or an area available therefor, for public utilities and emergency and other vehicles.

**SECTION VIII
CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL
REQUIREMENT**

A. Civil Infraction Sanction.

Any person who violates any provision of this Ordinance and the exempt split provision of the State Land Division Act and sells resulting parcel of land shall be responsible for the payment of a civil fine of \$100.00 for each parcel sold. A default in the payment of said fine or any installment of said fine may be remedied, being Act 36 of the Public Acts of 1961 (MCL 600.101 to 600.9948).

B. Other Consequences of Noncompliance

1. Any division of land in violation of any provision of this Ordinance shall not be recognized as a land division on the Village tax roll and no construction thereon which requires the prior issuance of a construction or building permit shall be allowed.
2. The Village shall further have the authority to initiate injunctive or other relief to prevent any violation or continuance of any violation or continuance of any violation of this Ordinance.
3. Any unlawful division or split shall also be voidable at the option of the purchaser and shall subject the seller to the forfeiture of all consideration received or pledged therefor, together with any damages sustained by the purchaser, recoverable in an action at law.

**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 of portion thereof.

**SECTION X
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 Village Zoning Ordinance, the Village Subdivision Control Ordinance, or the Village Building Code.

SECTION XI
EFFECTIVE DATE

This ordinance shall take effect thirty (30) days after publication.

VILLAGE OF EDWARDSBURG



Bernadine Tilbury
Village Clerk



Albert L. Strükel
Village President

A motion was made by Trustee George Pabreza and supported by Trustee George Monaghan that the Land Division Ordinance be approved and become effective thirty (30) days after publication of November 27, 1997. The effective date is December 26, 1997.

JoAnn Mackling	-	yes
Wendy Taghon	-	yes
George Pabreza	-	yes
George Monaghan	-	yes
Gary Chambers	-	yes
Richard Cox	-	yes

I hereby certify that a notice of Ordinance adoption was published on the 27th day of November 1997.

Bernadine Tilbury
Village Clerk