

**TOWNSHIP OF ELMWOOD**

**ORDINANCE NO. 122020**

**LAND DIVISION ORDINANCE**

**Adopted: December 16, 2020**

**Effective: January 22, 2021**

An ordinance to regulate partitioning or division of parcels or tracts of land enacted pursuant but not limited to the Land Division Act, being Michigan Public Act 288 of 1967, as amended, Michigan Public Act 591 of 1996, as amended, and Michigan Public 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 ELMWOOD ORDAINS:**

**SECTION 1 TITLE**

This Ordinance shall be known and cited as the "Land Division Ordinance."

**SECTION 2 PURPOSE**

The purpose of this Ordinance is to carry out the provisions of the 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 3 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 Land Division Act, those terms and words shall have the definitions ascribed to them in the Land Division Act, except as set forth within this section.

A. "Assessor"- shall mean the public officer holding the position as the Township Assessor.

- B. "Applicant" – shall mean any person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.
- C. "Depth to Width Ratio" – is the measure 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.
- D. "Divided" or "Division" – shall mean 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 Section 108 and 109 of the 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 parcels shall not be considered a building site unless the parcel conforms to the requirements of the Land Division Act.
- E. "Exempt split" or "exempt division" – shall mean 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.
- F. "Forty acres or the equivalent"– shall mean either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
- G. "Governing body" – shall mean the Township Board of Elmwood Township, Tuscola County, Michigan.
- H. "Planning Commission"- shall mean the Elmwood Township Planning Commission.
- I. "Township" – shall mean the Township of Elmwood, Tuscola County, Michigan.
- J. "Width" – shall mean the straight line distance between the side lot lines measured at the two points where the minimum front yard setback intersects the side lot lines.
- K. "Zoning Administrator" – shall mean the official of Elmwood Township or authorized representative charged with the responsibility of administering this Ordinance.

#### **SECTION 4 EXEMPT DIVISIONS**

Land in the Township shall not be divided without the prior review and approval of the Township Assessor and the Zoning Administrator or other official designated by the Township Board, in accordance with this Ordinance and the 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 Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the Land Division Act and any applicable Elmwood Township ordinance.
- 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 accessible (as defined in the Land Division Act) and either the parcel was in existence on March 31, 1997, or resulted from exempt splitting under the Land Division Act.

## **SECTION 5 APPLICATION FOR LAND DIVISION APPROVAL**

Any Applicant desiring a Division as required by this Ordinance shall file a written application on a form provided by the Township and available through the Planning Department with an application fee, as provided by resolution of the Township Board, that should include the following documentation:

- A. 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.
- B. 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. An 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 or easement;
  - 4. The location of any public or private street, driveway or utility easement to be located within any resulting parcel;
  - 5. The location and measurements of any existing buildings or other existing land improvements on the parent parcel or parent tract; and
  - 6. The location and accessibility of public utilities.
- D. Proof that all standards of the Land Division Act and this Ordinance have been met.

- E. If requested by the Assessor or Zoning 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 Land Division Act.
- F. If transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- G. The required fee as may from time to time be established by resolution of the Township Board for land division reviews pursuant to this Ordinance.

## **SECTION 6 GENERAL PROCEDURES**

- A. Upon receipt of a complete land division application, the Township shall approve or disapprove the Division within 45 days after receipt of a completed application conforming to this Ordinance's requirements and the Land Division Act, and shall promptly notify the Applicant of the decision, and if denied, the reason for denial.
- B. Any Applicant aggrieved by the decision of the Assessor and/or Zoning Administrator 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 20 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 Assessor and/or Zoning Administrator and its decision shall be final.
- C. The Assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.

## **SECTION 7 STANDARDS FOR APPROVAL**

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

- A. The proposed land division, including all resulting parcels, complies with all requirements of the Land Division Act, this Ordinance including, but not limited to, accessibility as defined and required by the Township's zoning or other ordinances, and all applicable provisions of the Township zoning ordinance.
- B. The ratio of depth to width of any parcel created by the division does not exceed a four (4) to one (1) ratio. A greater depth to width ratio than that required by this subsection may be permitted if the resulting parcel(s) exhibit exceptional topographic or physical conditions such as wetlands, woodlands and/or steep slopes or is consistent with the land development pattern of the surrounding area. The depth to width ratio requirements of this subsection shall apply to parcels larger than 10 acres but shall not apply to the remainder of the parent parcel or parent tract retained by the proprietor. In the event that

the Township Zoning Ordinance shall specify a depth to width ratio for a particular area which differs from that set forth within this sub-section, the ratio contained in the Township Zoning Ordinance shall control.

- C. Each parcel created by the proposed Division(s) shall have the minimum width and lot area as established by the Township's Zoning Ordinance for the zoning district in which the resulting parcel(s) is (are) located.
- D. Each parcel created by the proposed Division(s) shall have the minimum area as established by the Township's Zoning Ordinance for the zoning district in which the resulting parcel(s) is (are) located.

## **SECTION 8 LIMITED EFFECT**

Approval of a 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 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 that effect.

## **SECTION 9 NONCOMPLIANCE**

Any parcel created contrary to any provision of this Ordinance or the Land Division Act shall not be eligible for any building permits or zoning approvals including, but not limited to, special land use approval, site plan approval or land use permit, 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, Penalties and Enforcement of this Ordinance, and as may otherwise be provided by law.

## **SECTION 10 PENALTIES AND ENFORCEMENT**

Violations of the provisions of this Ordinance shall constitute a municipal civil infraction. Any person, firm, association, partnership, corporation or entity who is found responsible or admits responsibility for a municipal civil infraction shall be subject to a civil fine and costs. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation of this Ordinance continues to exist shall constitute a separate violation of this Ordinance. The Township shall be entitled to its costs, including reasonable attorney fees, from any person that has violated or permitted the violation of any provision of this Ordinance.

## **SECTION 11 VALIDITY AND SEVERABILITY**

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision be 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 12 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.

**SECTION 13 EFFECTIVE DATE**

This Ordinance shall take effect thirty (30) days following its publication after adoption.

We certify that the foregoing Land Division Ordinance was duly enacted by the Elmwood Township board of the County of Tuscola, on the 16th day of December 2020.