

**LAND DIVISION ORDINANCE
MATHIAS TOWNSHIP, ALGER COUNTY, MICHIGAN
ORDINANCE NO. 2012-6-14 OF 2012**

An ordinance to regulate the creation, partitioning and division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended, being the Michigan Land Division Act, Act 359 of 1947, 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.

The Township of Mathias ordains:

SECTION 1: TITLE

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

SECTION 2: PURPOSE AND SCOPE

- A. The purpose of this Ordinance is to implement the provisions of the Michigan Land Division Act (1967 P.A. 288, as amended, formerly known as the Subdivision Control Act) ("Act"), to prevent the creation of parcels of property and access easements which do not comply with applicable ordinances, zoning regulations and said Act, to minimize potential boundary disputes, to monitor the creation of new parcels and easements, to prevent illegal land divisions and to ensure that newly-created parcels are not landlocked, to prevent the creation of unusable lots due to noncompliance with the Mathias Township Zoning Ordinance or other ordinances, to assure orderly development of the community, and to otherwise provide for the health, safety and welfare of the residents and property owners of Mathias Township by establishing reasonable standards for prior review and approval of land divisions within Mathias Township ("Township").
- B. Approval of any land division pursuant to this Ordinance shall not provide, constitute, infer or imply use or zoning approval of any such division or resulting parcels or assure or imply buildability. Such use of land must still comply with the Township Zoning Ordinance and any other applicable ordinances, laws or regulations, and it remains the responsibility of the property owner to ensure such compliance.
- C. It is not intended by this Ordinance to repeal, abrogate, annul, or in any other way impair or interfere with provisions of the Township Zoning Ordinance or of other laws or ordinances (except as otherwise expressly stated in Section 12 hereof) or of any private restrictions placed upon property by covenant, deed, or other private agreement; provided, however, that where any provision of this Ordinance imposes more stringent requirements, regulations, restrictions, or limitations upon the division or use of land, easements or buildings than are imposed or required by the provisions of any

restrictions or any other law or ordinance, or any of said rules, regulations or permits, then the provisions of this Ordinance shall govern.

SECTION 3: DEFINITIONS

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

- A. "Act" - Public Act No.288 of 1967, as amended (including, but not limited to, Public Act No.591 of 1996), being the Michigan Land Division Act (MCLA 560.101 et seq.)
- B. "Applicant" - a natural person, firm, association, partnership, corporation, estate, entity, governmental unit, or combination of any of them which holds an ownership interest in land whether recorded or not.
- C. "County" - Alger County, Michigan.
- D. "Divided" or "Division" - the creation, partitioning or splitting of a parcel or tract of land by the owner thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale, transfer or lease of more than one (1) year, or of building development that results in one or more parcels. For purposes of this definition, "divided" or "division" shall include, but not be limited to, the creation of one or more access easements, parcels, lots or site condominium units whether created by partition, deed, land contract, a lease over one (1) year or other written agreement, whether or not recorded with the county register of deeds records, "Divided" or "division" shall also include the adjustment or reconfiguration of property lines.
- E. "Governing body" - the Mathias Township Board.
- F. "Parent Tract" - means a parcel or tract respectively, lawfully in existence on the effective date of this ordinance.
- G. "Township" - Mathias Township, Alger County, Michigan
- H. Except as expressly otherwise stated in this Ordinance, the definitions of the Act, as amended, are hereby incorporated by reference and are made a part of this Ordinance.
- I. For purposes of Sections 105(b) and 109(1)(d) of the Act, the word "area" shall mean any size, width, frontage, dimension, or space requirement of the Mathias Township Zoning Ordinance.
- J. For purposes of Sections 105(b) and 109(1)(c) of the Act, the word "width" shall mean the width and frontage requirements of the Mathias Township Zoning Ordinance.
- K. For purposes of this Ordinance, "lot" or "parcel" shall be used interchangeably.

SECTION 4: PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land in the Township shall not be divided without the prior review and approval of the Township Board (or designee) in accordance with this Ordinance and the Act, except that a parcel proposed for subdivision through a recorded plat pursuant to the Township's Land Subdivision Ordinance(s) and the Act shall be exempted from this requirement. If a proposed land division involves the division of one or more existing platted lots or the reconfiguration or adjustment of a boundary line of an existing platted lot, the Mathias Township Subdivision Ordinance shall be applicable.

SECTION 5: APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Township Clerk (or designee) for review and approval of a proposed land division before making any division:

- A. A completed Township application form, together with all required supporting materials.
- B. Signature on the application by the fee title owner of the property.
- C. A survey map prepared and sealed by a licensed Michigan Professional Surveyor of the land proposed to be divided, showing the dimensions and legal descriptions of the existing parcel, the parcels proposed to be created by the division(s) (including "remnant" parcels or those to be retained by the owner) and any easements, the location of all existing structures and other land improvements, including the location of any well or septic systems on the lot, and the accessibility of the parcels for vehicular traffic and utilities from existing public/private roads.
- D. Proof that all standards of the Act, this Ordinance and other applicable ordinances and laws have been met.
- E. The Township may require that the applicant provide a title search from a title insurance company if it is reasonably necessary to show that previous land divisions do not preclude the proposed land division(s).
- F. Proof that all due and payable property taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.
- G. 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 non-developable land area, as defined by the Mathias Township Subdivision Ordinance, and with sufficient area to comply with all required setback provisions, minimum floor areas, 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.
- H. The full fee in an amount as may from time to time be established by resolution of the Township Board for land division reviews pursuant to this Ordinance to cover the costs of review of the application and administration of this Ordinance.

SECTION 6: PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

- A. Upon receipt of a complete land division application package from an applicant, the Township Board (or designee) shall (i) approve, (ii) approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and welfare, or (iii) disapprove the land division applied for within 45 days after receipt of the complete application package conforming to this Ordinance's requirements (including any and all required zoning and private street approvals) and shall promptly notify the applicant in writing of the decision(s) and the reasons for any denial. If the application package does not conform to these Ordinance requirements and the Act, the Township Board or other designee shall return the same to the applicant for completion in accordance with this Ordinance and the Act.

- B. Any person or entity aggrieved by the decision of the Township Board (or designee) may, within 30 days of said decision, appeal the decision to the Township Planning Commission, which shall consider and resolve such appeal by a majority vote at its next regular meeting.
- C. The Township Assessor (or designee) shall maintain an official record of all land division applications, including denied, approved, unrecorded and accomplished land divisions.
- D. If the land division involves the use or creation of a private road, approval of the private road must be obtained from the Township in accordance with all applicable Township regulations prior to the approval of the land division.

SECTION 7: STANDARDS FOR APPROVAL OF LAND DIVISIONS

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

- A. All of the parcels to be created by the proposed land division(s) must fully comply with the applicable lot (parcel) width, access, setback, and area requirements of the Township Zoning Ordinance, Subdivision Ordinance, Private Road Ordinance, and other applicable Township ordinances.
- B. The ratio of depth to width of any parcel created by a land division (including a remnant parcel) which is less than 10 acres shall not exceed 4:1 unless otherwise provided by the Township Zoning Ordinance.
- C. If the land division involves the use of a new curb cut to a public road, the applicant must submit evidence of review and approval of the curb cut location by the Alger County Road Commission or Michigan Department of Transportation.
- D. The Township may require reasonable additional conditions and safeguards as are deemed necessary to ensure compliance with the requirements of this Ordinance.
- E. The Township Board may establish reasonable fees for Township review and approval of land divisions. Additionally, the Township may require the applicant to reimburse the Township for fees and costs incurred by the Township Attorney and/or Township Engineer in reviewing the proposed land division. No land division approval or permit shall be effective until all such fees and reimbursements have been paid to the Township in full.
- F. No land division shall be approved until all ad valorem property taxes due and owing on the original parcel have been paid in full to the Township and/or County, and all special assessments and charges in lieu of special assessments, due and owing against the original parcel have been paid to the Township in full (unless exempted by Mathias Township). Additionally, no land division shall be approved until all indebtedness of the owners of the original parcel have been paid in full to the Township.

SECTION 8: ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS

Notwithstanding disqualification from approval pursuant to this Ordinance, a proposed land division which does not fully comply with the applicable lot, setback, accessibility and area requirements of the Township Zoning Ordinance or this Ordinance may be approved where the applicant executes and records a permanent deed restriction with the Alger County Register of Deeds, in a form acceptable to the Township, designating the parcel as "not buildable" and also

not usable for anything other than agricultural or passive uses, which restrictions shall be enforceable by the Township.

Any such parcel shall also be designated as "not buildable" in the Township records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be used except for agricultural or passive uses.

SECTION 9: CONSEQUENCES OF NONCOMPLIANCE WITH THE LAND DIVISION APPROVAL REQUIREMENT

Any parcel or easement created in violation of or noncompliance with this Ordinance shall not be eligible for any building permit or zoning approvals. Furthermore, no parcel, lot, site condominium unit or easement created in violation of this Ordinance or the Act shall be utilized for any purpose whatsoever, nor shall such land division be recognized. In addition, a violation of this Ordinance shall also 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.

SECTION 10: PENALTIES AND ENFORCEMENT

Any person, firm, corporation, trust, governmental unit, partnership or other legal entity which violates or refuses to comply with any provision of this Ordinance shall be responsible for a municipal civil infraction and shall be punished by a civil fine of one hundred and twenty five dollars (\$125.00) for a first violation two hundred and fifty (\$250.00) for a second violation and five hundred dollars (\$500.00) for a third or subsequent violation, as well as other applicable civil infraction remedies.. Any person who violates any of the provisions of this Ordinance shall also be subject to civil action seeking invalidation of the land division and appropriate injunctive or other relief.

SECTION 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.

SECTION 12: REPEAL

All other 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, the Mathias Township Subdivision Ordinance, or the Alger County building code.

SECTION 13: EFFECTIVE DATE

This Ordinance shall take effect 30 days following its publication (or summary thereof) after adoption.

Adopted June 14, 2012

The foregoing Ordinance was offered by Board Member Amy, Supported by Board member Kim.

The roll call vote was as follows:

Yeas: Kim Marilyn Ray Amy Carol

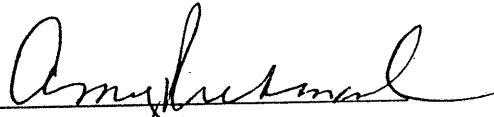
Nays: None

Absent: None


Township Clerk

CERTIFICATION

I hereby certify the foregoing to be true copy of an Ordinance adopted at a Regular Meeting of the Mathias Township Board on the 14th Day of June, 2012.


Township Clerk