

PENINSULA TOWNSHIP LAND DIVISION ORDINANCE

**TOWNSHIP OF PENINSULA
COUNTY OF GRAND TRAVERSE, STATE OF MICHIGAN
ORDINANCE NO. 26**

Adopted: April 8, 1997

Effective: June 1, 1997

Amendment adopted August 13, 2002

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 PENINSULA
GRAND TRAVERSE COUNTY, MICHIGAN**

ORDAINS:

SECTION I

TITLE

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

SECTION 11

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 Peninsula Township by establishing reasonable standards for prior review and approval of land divisions within Peninsula Township.

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 by a recorded affidavit.

- B. "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, 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.
- C. "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 that meet the requirements of the Peninsula Township Zoning Ordinance regulating private roads.
- D. "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.

SECTION IV

PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land in Peninsula Township shall not be divided without the prior review and approval of the Township Assessor , 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 Peninsula Township's Subdivision Control Ordinance and the State Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with Peninsula Township's Subdivision Control Ordinance and the State Land Division Act.
- C. An exempt split as defined in this Ordinance.

SECTION V

APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Peninsula Township Assessor for review and approval of a proposed land division before making any division either by deed, land contract, or for building development:

- A. A completed application form on such form as may be provided by Peninsula Township.

- B. Proof of ownership (recorded Warranty Deed/Quit Claim Deed or recorded land contract/affidavit) of the land proposed to be divided.
- C. A survey map of the land proposed to be divided, 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, the location of existing power lines, the location and type of all easements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads or private roads meeting the requirements of the Peninsula Township Zoning Ordinance regulating private roads.

In lieu of such survey map, at the applicant's option, the applicant may waive the 30 day statutory requirement for a decision on the application until such survey map and legal description are filed with Peninsula Township, 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 Township Assessor prior to a final application under Section V.

The Peninsula Township Assessor 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 the parent parcel and 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 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 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 are paid in full.

- G. If transfer of division rights are 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 VIII 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 therefrom, and with sufficient area to comply with:
 - a) all required setback provisions;
 - b) minimum floor areas;
 - c) off-street parking spaces;
 - d) maximum allowed area coverage of buildings and structures on the site; and
 - e) area for sewage disposal and water supply pursuant to the rules of the Department of Environmental Quality or County Health Department relating to suitability of groundwater for on-site water supply for subdivisions or development sites not served by public water or to suitability of soils for subdivisions or development sites not served by public sewers.
- I. The fee as may from time to time be established by resolution of the Peninsula Township Board for land division reviews pursuant to this ordinance to cover the costs of review of the application and administration of this Ordinance and the State Land Division Act.

SECTION VI
PROCEDURE FOR REVIEW OF APPLICATIONS
FOR LAND DIVISION APPROVAL

- A. Upon receipt of a completed land division application package, the Peninsula Township Assessor 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 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 requirements and the State Land Division Act, the assessor 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 assessor may, within 30 days of said decision, appeal the decision to the Peninsula Township Board which shall consider and resolve such appeal by a majority vote of the Township 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. A decision approving a land division is effective for 90 days,

after which it shall be considered revoked unless within such period a document creating such land division is recorded with the Grand Traverse County Register of Deeds office and filed with the Peninsula Township Assessor.

- D. The Peninsula Township Assessor shall maintain an official record of all approved and accomplished land divisions or transfers.

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 or remaining by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of the Peninsula Township Zoning Ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, and maximum lot (parcel) coverage and minimum set-backs for existing buildings/structures.
- B. The proposed land division(s) comply with all requirements of the State Land Division Act and this Ordinance.
- C. All parcels created and remaining have existing adequate accessibility to a public road, or Peninsula Township approved private road, for public utilities and emergency and other vehicles and not less than the requirements of the Peninsula Township Zoning Ordinance or this Ordinance.
- D. The ratio of depth to width of any parcel created by the division does not exceed a three to one ratio exclusive of access roads, easements, or non-buildable parcels created under Section VIII of this Ordinance, except those parcels of five acres or more in the Agricultural A-1 Zoning District that front on a private road approved by Peninsula Township, and shall allow parcels to be added to contiguous parcels provided that the combined parcels comply 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 shall be as defined in the Peninsula Township Zoning Ordinance.

- E. A letter from the Peninsula Township Zoning Administrator that the proposed land division meets the current requirements of the Zoning Ordinance.

SECTION VIII
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, yard, accessibility and area requirements of the applicable zoning ordinance or this Ordinance, may be approved in any of the following circumstances:

- A. Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to Peninsula Township, designating the parcel as "not buildable". Any such parcel shall also be designated as "not buildable" in Peninsula 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 developed with any building or above ground structure other than a deck meeting the requirements of the Peninsula Township Zoning Ordinance.
- B. Where, in circumstances not covered by paragraph A. above, the Zoning Board of Appeals has, previous to this Ordinance, granted a variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.
- C. Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this Ordinance, the Peninsula Township Zoning Ordinance, or the State Land Division Act.

SECTION IX
CONSEQUENCES OF NONCOMPLIANCE WITH
LAND DIVISION APPROVAL REQUIREMENT

Any parcel created in noncompliance with this ordinance shall not be eligible for any land use permits, 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 X of this ordinance, and as may otherwise be provided by law.

SECTION X
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 \$500.00 or by imprisonment in the county jail for not to exceed 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.

SECTION XI
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 XII
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 Peninsula Township Zoning Ordinance or the Peninsula Township Subdivision Control Ordinance.

SECTION XIII
EFFECTIVE DATE

This ordinance shall take effect 30 days following its publication after adoption. Adopted by the Peninsula Township Board April 8, 1997. (Published May 2, 1997) (Amendment Adopted August 13, 2002)

TOWNSHIP OF PENINSULA 13235 Center Road, Traverse City MI 49686.

Robert K. Manigold
Township Supervisor

Monica A. Hoffman
Township Clerk