

## **ORDINANCE NO. 235 LAND DIVISION ORDINANCE**

The Charter Township of Larkin ordains: An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public 1967 PA 288, as amended, Act 591 of 1996, as amended, and 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.

### **Section 1. Title**

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

### **Section 2. 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 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 State Land Division Act, those terms and words shall have the definitions ascribed to them in the State Land Division Act, except as set forth within this section.

A. "Administrator" - that person designated by resolution of the Township Board to administer this ordinance.

B. "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.

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.

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 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. "Governing body" - the Township Board of Larkin, Township, Midland County, Michigan.

G. "Township" - the Township of Larkin, Midland County, Michigan.

#### Section 4. Prior Approval Requirement for Land Divisions

Land in the Township shall not be divided without the prior review and approval of the Administrator, or other official designated by the Township Board, 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 only results in parcels of 20 acres or more where each parcel is not assessable (as defined in the State Land Division Act) and either the parcel was in existence on March 31, 1997 or resulted from exempt splitting under the State Land Division Act.

#### Section 5. 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 provided by the Township.

B. 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.

C. 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. 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;
4. The location of any public or private street, driveway or utility easement to be located within any resulting parcel.

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

E. If requested by the 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 State Land Division Act.

F. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.

G. The fee 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 and the State Land Division Act.

#### Section 6. Procedure for Review of Applications for Land Division Approval

A. Upon receipt of a land division application package, the Administrator shall approve, approve with reasonable conditions or disapprove the land division applied for within 45 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 Administrator shall return the same to the applicant for completion and refiling in accordance with this Ordinance and the State Land Division Act.

B. Any person or entity aggrieved by the decision of the assessor or designee 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 10 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 Administrator and its decision shall be final.

C. A land division approval is effective for 90 days from its issuance, after which it shall be revoked unless within such period there is recorded with the County Register of Deeds office and filed with the Administrator a conveyance of the approved land division or survey evidencing same.

D. The Administrator shall maintain an official record of all approved and accomplished land divisions or transfers.

#### Section 7. Standards for Approval of Land Divisions

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

A. All parcels to be created by the proposed land division(s), including resulting parcels, fully comply with the applicable lot, dimension, width, yard, area, frontage and access requirements of the Township zoning and other applicable ordinances.

B. The proposed land division, including resulting parcels, comply with all requirements of the State Land Division Act and/or this Ordinance.

C. If any parcel created by the division is less than five (5) acres, the ratio of depth to width of such parcel does not exceed four to one. If any parcel created by the division is five (5) acres or more, but ten (10) acres or less, the ratio of depth to width to such parcel does not exceed eight to one, provided the maximum depth of the parcel does not exceed 1320 feet. This eight to one depth to width ratio for resulting parcels of five (5) or more acres, but ten (10) acres or less, is designed to accommodate compatibility of existing surrounding lands. No minimum or maximum depth to width ratio is required for resulting parcels larger than ten (10) acres. In the event that the Township zoning ordinance shall specify a depth to width ratio which differs from that set forth within this subsection, the ratio contained in the Township Zoning ordinance shall control.

D. Except as otherwise provided in Section 7, The Township Board may approve a division in which one resulting parcel does not satisfy the requirements of this ordinance if all of the following conditions are met:

1. The division is the result of either the taking of a portion of the parcel by a government agency for use in a public project pursuant to that agency's validly-exercised power of eminent domain or a voluntary conveyance of a portion of the parcel to a government agency with the power to validly exercise eminent domain.

2. After the split, the resulting parcel that does not comply with this ordinance shall be owned by the government agency and used in a public project.
3. All other resulting parcels shall be in compliance with this Ordinance.
4. The Township Board finds that approval of the split is in the public interest.
5. After the split, the public agency records with the Register of Deeds a restrictive covenant on the resulting parcel. The restrictive covenant shall have the following terms:
  - a. The resulting parcel owned by the government agency shall not be eligible for any building permits or zoning approvals except as otherwise authorized under the applicable local ordinance or otherwise provided by law.
  - b. No structures shall be built on the resulting parcel unless those structures are a part of the public project for which the parcel was acquired and all proper permits and zoning approvals are obtained.
  - c. Should the parcel no longer be needed for the public project for which it was acquired, the parcel may only be conveyed to the Township, or to the owner of an adjoining parcel if the resulting combined parcel would comply with the requirements of this Ordinance. If the parcel is conveyed to an adjoining landowner and combined into a parcel in compliance with this Ordinance, the restrictive covenant may be removed.

The restrictive covenant must be reviewed by the Township Attorney for compliance with the provisions of this Section before recording.

The government agency and the owner of the parent parcel shall jointly submit an application to the Township Board for approval of any divisions requested pursuant to this Subsection.

#### Section 8. Limited Effect of Land Division Approval

Approval of a land 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 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 that effect.

#### Section 9. Consequences of Noncompliance with Land Division Approval Requirement

Any parcel created in noncompliance with this ordinance shall not be eligible for any 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 10. Penalties and Enforcement

Any person or entity who violates any provision of this Ordinance or any part thereof is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine of not more than \$1,000.00, plus costs, which may include all direct or indirect expenses to which the Township has been put in connection with the violation. In no case, however, shall costs of less than \$9.00 or more than \$500.00 be ordered. The Township specifically reserves the right and shall have the authority to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to restrain or prevent any violation of this Ordinance or any continuance of any such violation. The violations and remedies set forth within this Ordinance are in addition and cumulative to those violations and remedies in the Land Division Act, being PA 288 of 1967 of the Public Acts of the State of Michigan, as amended.

#### 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 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, or the Township Building Code.

#### Section 13. Effective Date

This ordinance shall take effect 30 days following its publication after adoption.

Adopted by the Township Board, Charter Township of Larkin, Midland County,  
Michigan.

Ordinance No. 235, adopted December 15, 1998  
Amended by Ordinance No. 245, adopted May 11, 2004  
Amended by Ordinance No. 273, adopted May 26, 2020