

ORDINANCE NO. 3 OF 2018

AN ORDINANCE TO REGULATE THE DIVISION OF PARCELS OR TRACTS OF LAND IN ORDER TO CARRY OUT THE PROVISIONS OF MICHIGAN PUBLIC ACT 288 OF 1967, AS AMENDED, BEING THE LAND DIVISION ACT; TO ESTABLISH MINIMUM REQUIREMENTS AND PROCEDURES FOR THE APPROVAL OF SUCH LAND DIVISIONS AND TO PRESCRIBE PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND REPEALING PREVIOUS ORDINANCES.

SECTION 1.0. TITLE AND PURPOSE.

- 1.1 This ordinance shall be known and may be cited as “the Clarendon Township Land Division Ordinance”.
- 1.2 The purpose of this ordinance is carry out the provisions of the Land Division Act, Michigan Public Act 288 of 1967, as amended (the “Act”), including without limitation Section 105 and 109(5) thereof, in order to prevent the creation of parcels of land which do not comply with the Act or with applicable Township ordinances; to provide for the orderly development of land; and, otherwise, to provide for the health, safety, and welfare of the residents and property owners of the Township by establishing minimum requirements for review and approval of certain land divisions within the Township.
- 1.3 This Ordinance shall not be construed to repeal, abrogate, rescind, or otherwise to impair or interfere with provisions of other ordinances of the Township.

SECTION 2.0. DEFINITIONS.

Certain words and phrases used in this ordinance shall have the meanings stated in this section. Other words and phrases, if defined by the Act, shall have the meanings stated in the Act:

- 2.1 “Act” means the Michigan Land Division Act, 1967 PA 288, as amended (MCL 560.101 et seq.).
- 2.2.1 “Administrator” means the Township Assessor or other designated person.
- 2.3 “Applicant” means a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.
- 2.4 “Division” or “land division” means the partitioning or slitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal

representative, 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 (as defined in the Act) and that satisfies the requirements of Section 108 and 109 of the Act. Division does not include a transfer between two or more adjacent parcels, if the land taken from one parcel is added to an adjacent parcel. Any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the Act and the requirements of all other applicable ordinances.

- 2.5 “Exempt split” means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representative, successors, or assigns that does not result in one or more parcels of less than forty (40) acres or the equivalent.
- 2.6 “Forty acres or the equivalent” means either 40 acres, a quarter-quarter section containing not less than 30 acres or a government lot containing not less than 30 acres.
- 2.7 “Governing body” means the Clarendon Township Board of Trustees.
- 2.8 “Lawfully in existence” for purpose of this ordinance shall mean a parcel in existence by recorded or unrecorded legal document conveying title, a proposed division requested by a property owner to assessor by March 31, 1997, or a survey drawing prepared by a state licensed surveyor dated prior to April 1, 1997.
- 2.9 “Parcel” means a contiguous area of land which can be described as provided for in the Act.
- 2.10 “Parent parcel” or “parent tract” means a parcel or tract respectively, lawfully in existence on March 31, 1997.
- 2.11 “Resulting parcel(s)” means one or more parcels which result from a land division.
- 2.12 “Road authority” means the governmental authority having jurisdiction of a public road or public street.
- 2.13 “Tract” means two or more parcels that share a common property line and are under the same ownership.

SECTION 3.0. LAND DIVISION APPROVAL REQUIRED.

Any partitioning or splitting of land which requires the approval of the Township in order to qualify as a land division under the Act shall satisfy the requirements of Section 4 and 5 and the other applicable provisions of this Ordinance.

SECTION 4.0. APPLICATION FOR LAND DIVISION APPROVAL.

- 4.1 A proposed land division shall be filed with the administrator and shall include the following:
- A A completed application on such written form as the Township may provide, including any exhibits described therein.
 - B Proof of an ownership interest in land which is the subject of the proposed division or written consent to the application signed by the owner of such land.
 - C A land title search, abstract of title, or other evidence of land title acceptable to the Administrator which is sufficient to establish that the parent parcel or parent tract of land which is the subject of the proposed division was lawfully in existence on March 31, 1997.
 - (D) A copy of each proposed deed or other proposed instrument of conveyance which contains the statement required by Section 109(3) of the Act concerning the right to make further divisions
 - E Two copies of 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. The tentative parcel map prepared by a Michigan registered land surveyor, including the resulting parcels, shall be accurately and clearly drawn to a scale of not less than one inch = 100 feet for parent parcels or parent tracts of less than three acres and to a scale of at least one inch = 200 feet for parent parcels or parent tracts of three acres or more in area. A tentative parcel map shall include:
 - 1 Date, north arrow, scale, and the name of the person or responsible for the preparation of the tentative parcel map.
 - 2 Proposed boundary lines and dimensions of each parcel.
 - 3 An adequate and accurate legal description of each parcel.
 - 4 A drawing or written description of all previous land divisions from the same parent parcel or parent tract, identifying the number, area, and date of such divisions.
 - 5 The location, dimensions, and nature of proposed ingress to and egress from any existing public or private streets.

- 6 The location of any public or private street, driveway, or utility easement to be located within any resulting parcel. Copies of the instruments describing and granting such easements shall be submitted with the application.
 - F The requirements of subparagraph (E) do not apply to any resulting parcel which is 40 acres or larger, as long as such parcel satisfied the requirements of Section 5.1(B) below.
 - G Other information reasonably required by the Administrator in order to determine whether the proposed land division qualifies for approval.
 - H Payment of application fee and other applicable fees and charges established by resolution of the Township Board and on file with the Township Clerk.
- 4.2 A proposed division shall not be considered filed with the Township nor shall the time period stated in Subsection 5.3 commence until all of the requirements for an application for land division approval have been complied with.

SECTION 5.0. MINIMUM REQUIREMENTS FOR APPROVAL OF LAND DIVISION.

- 5.1 A proposed land division shall be approved by the administrator upon satisfaction of all of the following requirements:
- A The application requirements of Section 4.0 (The Application for Land Division Approval).
 - B Each resulting parcel has an adequate and accurate legal description and is included in a tentative parcel map showing area, parcel lines, public utility easements, accessibility, and other requirements of this ordinance and Section 108 of the Act. The tentative parcel map shall be a scale drawing showing the approximate dimensions of the parcels.
 - C Each resulting parcel shall have a means of vehicular access to an existing street or road from an existing or proposed driveway or access easement, such means of access shall comply with all applicable location standards of the governmental authority having jurisdiction of the existing street or road. If a driveway easement does not lawfully exist at the time a division is proposed, the applicant shall also comply with the requirements of Subsection 5.2.
 - D The proposed division, together with any previous division(s) of the same parent parcel or parent tract, shall not result in a number of resulting parcels that is greater than permitted under Section 108 of the Act.

- E Each resulting parcel that is a development site (as defined in the Act) shall have adequate easements for public utilities from the resulting parcel to existing public utility facilities.
- F All resulting parcels to be created by the proposed land division(s) shall fully comply with the applicable lot area and lot width requirements of the Township Zoning Ordinance for the Zoning District(s) in which the resulting parcels are located.
- G The ratio of depth to width of any parcel created by the division shall not exceed a 4:1 ratio exclusive of access roads, easements, or non-development sites. The depth of a parcel created by a land division shall be measured entirely within the boundary lines 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.
- H The proposed land division(s) shall comply with all requirements of this Ordinance and the state Land Division Act.
- I The proposed land division(s) shall comply with all requirements of this Ordinance and the state Land Division Act.

5.2 If a means of vehicular access to a resulting parcel does not lawfully exist at the time a land division is applied for, the proposed division shall not be approved unless the following requirements are satisfied:

- A If a driveway is proposed as a means of access, each resulting parcel shall have an area where a driveway will lawfully provide vehicular access in compliance with applicable Township ordinances.
- B If an easement is proposed as a means of access, the proposed easement shall be in writing and signed by the owner of the parcel(s) within which the easement is to be located. Such easement shall provide a lawful means of access over and across such parcel(s) in compliance with applicable Township Ordinances.
- C If a new street is proposed as a means of access, the applicant shall provide proof that the road authority having jurisdiction has approved the proposed layout and construction design of the street and of utility easements and drainage facilities associated therewith.

5.3 The Administrator shall approve or disapprove a proposed land division within forty-five (45) days after the complete filing of the proposed division with the Administrator, and shall provide the applicant with written notice of such approval or disapproval. If disapproved, the Administrator shall provide the applicant with a description of the reasons for disapproval. Any notice of approval for a resulting parcel of less than one (1)

acre in size shall contain a statement that the Township is not liable if a building permit is not issued for the reason that the parcel fails to satisfy the requirements of Section 109a of the Act, including approval of on-side water supply and on-site sewage disposal under the standards set forth in Section 105(g) of the Act.

- 5.4 An applicant aggrieved by the decision of the administrator may, within thirty (30) days of the decision, file a written appeal of the decision to the Zoning Board of Appeals, which shall consider the appeal by a majority vote of the members. Time and place of the meeting at which the appeal is to be considered shall be given to the applicant by regular, first class mail, directed to the applicant's address as shown in the application or in written appeal. The Zoning Board and its decision shall be final.

SECTION 6.0. APPROVAL OF LAND DIVISION.

- 6.1 The Administrator shall maintain a record of all land division approved by the Township.
- 6.2 A decision approving a land division shall be effective for not more than 180 days after such approval by the Administrator unless either of the following requirements is satisfied within such 180-day period:
- (A) A deed or other recordable instrument of conveyance, accurately describing the resulting parcel(s) other than the remainder of the parent parcel or parent tract retained by the applicant, shall be recorded with the county register of deeds and a true copy thereof, showing proof of such recording, shall be filed with the Administrator; or
 - (B) A survey accurately showing the resulting parcel(s) shall be recorded with the county register of deeds and a true copy thereof, showing proof of such recording, shall be filed with the Administrator. Such survey shall comply with the minimum requirements of Public Act 132 of 1970, as amended.

If neither paragraph (A) nor paragraph (B) is satisfied, such land division approval shall, without further action on the part of the Township, be deemed revoked and of no further effect after the 180th day following such approval by the Administrator.

- 6.3 All deeds and recordable instruments of conveyance and all surveys submitted in compliance with Section 5.1 shall be reviewed by the Administrator in order to determine their conformity with the approved tentative parcel map. The Administrator shall mark the date of approval of the proposed land division on the assessment roll and shall place such approved division on the next available assessment/tax roll.
- 6.4 The approval of a land division shall not, of itself, constitute an approval or permit required under other applicable Township ordinances. Approval of a division is not a determination that the resulting parcels comply with other Township ordinances or

regulations.

- 6.5 Any parcel created inconsistent with or in violation of this Ordinance, where approval hereunder is required, shall not be eligible for issuance of building permits, zoning ordinance approvals, or other land use or building approvals under other Township ordinances, nor shall any such parcel be established as a separate parcel on the tax assessment roll.

SECTION 7.0. PENALTIES AND OTHER REMEDIES.

Any division of land in violation of any provision of this Ordinance shall not be recognized as a land division on the Township tax roll or assessment roll until the assessing officer refers the suspected violation or potential non-conformity to the county prosecuting attorney and gives written notice to the person requesting the division, and the person suspected of the violation or potential non-conformity of such referral to the prosecuting attorney. The Township shall further have the authority to initiate injunctive or other relief to prevent any violation or continuance of any violation of this Ordinance. Any division of land in violation of this Ordinance shall further not be eligible for any zoning or building permit for any construction or improvement thereto.

In addition any person, firm or corporation who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Clarendon Township Municipal Civil Infraction Ordinance which shall be punishable by a civil fine of not more than \$500.00 along with costs which may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 nor more than \$500.00 be ordered. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan Law.

Pursuant to Section 267 of the Land Division Act (MCL 560.267), an 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 therefore, together with any damages sustained by the purchaser, recoverable in an action at law.

SECTION 8.0. REPEAL OF CONFLICTING PROVISIONS.

Ordinance No. 0198 currently in effect in the Township is hereby repealed.

SECTION 9.0. SAVINGS CLAUSE.

All suits, proceedings, or prosecutions, whether civil or criminal, for causes arising or acts done or committed prior to this ordinance, may be commenced, maintained, and/or prosecuted as if said amendment had not been made.

SECTION 10.0. SEVERABILITY.

The provisions of this Ordinance are severable, and, if any provision or part hereof is determined to be invalid or unenforceable by any court or competent jurisdiction, such determination shall not affect the remaining provisions or other parts of this Ordinance.

SECTION 11. EFFECTIVE DATE.

This Ordinance shall take effect thirty (30) days after the date of publication of this ordinance or a summary thereof pursuant to MCL 41.184, which publication shall take place within thirty days from the date of adoption and shall be in a local newspaper of general circulation.

This ordinance is hereby declared to have been passed and adopted by Clarendon Township, County of Calhoun, State of Michigan, at a regularly scheduled meeting thereof duly called and held on this _____ day of _____, 2018.

Steve R. Schrock, Supervisor

ATTEST:

Sharla Vincent, Township Clerk

Prepared by:
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