

ORDINANCE NO. 21

GARFIELD TOWNSHIP
ORDINANCE FOR
LAND/LOT DIVISION

AN ORDINANCE to regulate partitioning or division of parcels, tracts of land or recorded platted lots, 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 the ordinance.

The Township Board of Garfield Township, Clare County, Michigan ordains:

Section 1: TITLE

This ordinance shall be known and cited as the Garfield 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 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 not.
- B. "Divide" or "Division" - the partitioning or splitting of a parcel, tract of land or recorded platted lot 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" and "Division" does not include a property transfer between two or more adjacent parcels/lots, if the property taken from one parcel/lot is added to an adjacent parcel/lot.

C. "Exempt split" or "Exempt Division" - the partitioning or splitting of a parcel, tract of land or recorded platted lot 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; providing all resulting parcels/lots are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel/lot-that can provide such access.

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.

E. "Governing body" The Garfield

Township Board.

Section 4: PRIOR APPROVAL

REQUIREMENT FOR LAND/LOT

DIVISIONS

Land in the Township shall not be divided without the prior review and approval of the Township Assessor, or other official designated by the governing body, in accordance with this ordinance and the Stateland Division Act; provided that the following shall be exempted from the requirement:

A. A parcel proposed for subdivision through a recorded plat pursuant to the State Land Division Act.

B. An exempt split as defined in this ordinance.

Section 5: APPLICATION FOR LAND/LOT DIVISION APPROVAL

A. A completed application form on such form as may be provided by the Township Board.

B. Proof of fee ownership 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 54.2311) 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), and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

The Township Assessor, or other official designated by the governing body, may waive the survey map requirement where the applicant submits a preliminary parcel map drawn to scale, includes 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, private roads or easements, and the preliminary 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 all the proposed divisions, however, shall at all times be required.

D. Any additional proof or documentation, as may be required by the township, to confirm that all standards of the State Land Division Act and this Ordinance have been met.

E. The history and specifications of the land proposed to be divided sufficient to establish that the proposed division complies with Section 108 or 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 a transfer of division rights is 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 a development site" under Section 8 of this Ordinance, all divisions shall result in "buildable" parcels with sufficient area to comply with approved on-site sewage disposal and water well locations (where public water and sewer service is not available), access to existing public utilities and public roads.

I. The fee as may from time to time be established by resolutions of the governing body of the Township 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/LOT DIVISION APPROVAL

A. The assessor or other designee 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 45 days after receipt of the application package conforming to the Ordinance's requirements, and shall promptly notify the applicant of the decision and the reasons for any denial. If the application package does not conform to this Ordinance's requirements and the State Land Division Act, the assessor or other designee 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 governing body of the Township 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 (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 is recorded with the County Register of Deeds office and filed with the Township assessor or other designated official accomplishing the approved land division or transfer.

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

Section 7: STANDARDS FOR APPROVAL OF LAND/LOT DIVISIONS

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

A. All the parcels to be created by the proposed land division(s) fully comply with the applicable parcel/lot requirements. (Minimum 12,000 sqft for a buildable lot)

B. The proposed land division(s) comply with all requirements of the State Land Division Act and this Ordinance.

C. All parcels/lots created and remaining have existing adequate accessibility, or an area available therefore, to a public road for public utilities and emergency and other vehicles not less than the requirement of all applicable ordinances.

D. The ratio of depth to width of any parcel/lot (10 acres or less) created

by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-buildable parcels created under section 8 of this Ordinance. The depth and width of a parcel shall be measured from front to back and side to side on rectangular parcels and use an average depth and width on irregular shaped parcels. The depth to width ratio of a parcel may be exceeded where non-buildable wetland, marsh, or similar topographic conditions exist as part of that parcel.

E. All parcels created by a land division shall comply with the following minimum accessibility standards:

1. Where accessibility is to be provided by a proposed new dedicated public road, proof that the county road commission or Michigan Department of Transportation has approved the proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith.

2. Where accessibility by vehicle traffic and for utilities is by other than a dedicated public road (private road or easement) such accessibility shall be not less than 66 feet in width and if dead-ended shall have a cul-de-sac with a radius of not less than 60 feet for turn-around of emergency, commercial and other vehicles.

Section 8: ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS

Notwithstanding the provisions of Section 7 of this ordinance, a division which creates a parcel that satisfies all of the requirements Of Section 7 except that it does not satisfy one or more of the standards of Subsection A and D of Section 7, shall be approved If the applicant executes and records and affidavit or deed restriction with the County Register of Deeds clearly designating the parcel as "not a development site, as defined under 1967 PA 288, as amended". Any parcel so designated shall not thereafter be used as a development site as defined under 1967 PA 288, as amended.

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 and shall not be recognized as a separate parcel on the assessment roll, in addition, violation of this ordinance shall be 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 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 11: SEVERABILITY -

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word section 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 of portion thereof.

Section 12: REPEAL

AN 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 of the applicable building codes.

Section 13: EFFECTIVE DATE

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

This ordinance shall take effect on July 6, 1997

Ordinance Adopted by Garfield Township Board on the 27th day of May,
1997