

**GARDEN TOWNSHIP  
ORDINANCE NO. 2022-4**

**LAND DIVISION ORDINANCE**

An ordinance to regulate partitioning or divisions of parcels or tracts of land, enacted pursuant but not limited to the Land Division Act, Public Act 288 of 1967, as amended, (MCL 560.101 ,et seq.) and the Township Ordinances Act, Public Act 246 of 1945, as amended, (MCL 41.181 ,et seq.) 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 GARDEN, DELTA COUNTY, MICHIGAN, ORDAINS:**

**Title**

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

**Purpose**

The purpose of this ordinance is to carry out the provisions of the Land Division Act, Public Act 288 of 1967, as amended,(MCL 560.101 , et seq.), 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.

**Definitions**

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

- A. "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.
- B. "Divide" or "Division" shall have the same meaning as "Division" as defined in the Land Division Act, MCL as amended.
- C. "Exempt split" or "exempt division" shall have the same meaning as defined in the Land Division Act, MCL 560.102 amended.
- D. "Forty acres or the equivalent" means 40 acres, or a quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres, or as otherwise later amended by the Land Division Act which definition shall control.

**Prior Approval Requirement for Land Divisions**

Land in the Township shall not be divided without the prior review and approval of the Township Assessor, in accordance with this ordinance and the Land Division Act: provided that the following shall be exempted from this requirement:

- A. A parcel proposed for creation of a subdivision by means of a recorded plat pursuant to the Land Division Act.

- B. A lot in a recorded plat proposed to be divided in accordance with the Land Division Act and the Township's Platted Lot Split Ordinance.
- C. An exempt split as defined in this Ordinance, or that is otherwise not subject to the requirements of the Land Division Act

### **Application for Land Approval**

An applicant shall file all items listed below with the Township Assessor 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 Land Division Application form on such form that has been approved by the Township Board.
- B. Proof of fee ownership of the land proposed to be divided (if requested).
- C. Provide proof in the form of a Tax Certification from the County Treasurer that all taxes up to the most current tax bill have been paid. Parcels cannot be split if taxes are unpaid.
- D. A professional survey or (if accepted by Township Assessor) a tentative parcel map drawn to scale. These items must include an accurate legal description for the proposed split.
- E. Proof that all standards of the Land Division Act and this Ordinance have been met.
- F. 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.

### **Application Fees**

The fee for consideration of a Land Division Application pursuant to this Ordinance shall be established by the Township Board and may from time to time be revised by the Township Board as deemed necessary.

### **Procedure for Review of Applications for Land Division Approval**

The Township Assessor shall approve or disapprove the land division applied for within 45 days after receipt of a complete application conforming to this Ordinance's requirements and the Land Division Act, and shall promptly notify the applicant of the decision, and if denied, the reasons for denial.

- A. 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 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.
- B. The Assessor shall maintain an official record of all approved and accomplished land divisions or transfers.
- C. Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations, or that a site is buildable or capable of connection to public or private utilities or otherwise.

### **Standards for Approval of Land Divisions**

A proposed land division reviewable by the Township Assessor shall be approved if the following criteria are met:

- A. All parcels created by the proposed division(s) have appropriate road frontage or required front setback line.
- B. Each resulting parcel has an adequate and accurate legal description and is included in a survey or tentative parcel map showing area, parcel lines, public utility easements, accessibility, and other requirements of sections 108 and 109 of the Land Division Act. The survey or tentative parcel map shall be a scale drawing showing the approximate dimensions of the parcels.
- C. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-development sites. The 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.
- D. The proposed land division(s) comply with all requirements of this Ordinance and the Land Division Act.
- E. All parcels created and remaining have existing adequate accessibility, or an area available therefore, for public utilities and emergency and other vehicles.

### **Consequences of Noncompliance with Land Division Approval Requirements**

Any division of land in violation of any provision of this Ordinance shall not be recognized as a land division on the Township Assessment roll or Tax roll. 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 the Ordinance shall not be eligible for any zoning or building permit for any construction or improvement thereto.

- A. **MUNICIPAL CIVIL INFRACTION:** Violations of the provision of this Ordinance or failure to comply with any of its requirements, including violations or conditions and safeguards established in connection with an approved application, shall constitute a Municipal Civil Infraction. Any person, firm, association, partnership, corporation, or governmental entity who violates any of the provisions of this Ordinance shall be deemed to be responsible for a Municipal Civil Infraction as defined by Michigan Statute which shall be punishable by civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
1 <sup>st</sup> Offense within a 3-year period*	\$75.00	\$500.00
2 <sup>nd</sup> Offense within a 3-year period*	\$150.00	\$500.00
3 <sup>rd</sup> Offense within a 3-year period*	\$325.00	\$500.00
4 <sup>th</sup> Offense within a 3-year period*	\$500.00	\$500.00

\*Determined on the date of commission of the offense(s).

In addition to any criminal penalties imposed by law, including the Land Division Act, 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 Michigan statute 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 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. The Township may also take any action necessary to correct any official record to reflect the accurate boundaries of a parcel of property and charge such actual costs to the original parcel as permitted by law.

**Repeal**

All previous Land Division Ordinances affecting un-platted land division in conflict with this Ordinance are hereby repealed: however, this Ordinance shall not be construed to repeal the Boundary Line Adjustment Ordinance or the Platted Lot Split Ordinance, or any provision in any applicable Zoning Ordinances, Building Codes or other ordinances of the Township which shall remain in full force and effect notwithstanding any land division approval hereunder.

**Effective Date**

This ordinance shall take effect 30 days after publication of a summary thereof as required by law.

Approved this 13th day of September, 2022

AYES: 5

NAYS: 0

ABSENTIONS: None

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Steven J. Freeman, Township Supervisor

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Brenda Lee Lester, Township Clerk

**CERTIFICATION**

This is a true and complete copy of Ordinance No. 2022-4 which was declared adopted at a regular meeting of the Garden Township Board held on September 13, 2022. This ordinance was published in the Escanaba Daily Press on October 5, 2022 and will become effective on November 4, 2022.

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Brenda Lester, Garden Township Clerk

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Date