

**GARDEN TOWNSHIP
ORDINANCE No. 2022-5**

PLATTED LOT SPLIT ORDINANCE

An ordinance to permit the Township Assessor the authority to approve boundary line adjustments in the Township; to provide application and approval procedures; to repeal inconsistent ordinance provisions and to provide an effective date.

TOWNSHIP OF GARDEN, DELTA COUNTY MICHIGAN ORDAINS:

Title

This ordinance shall be known as the Garden Township Platted Lot Split Ordinance.

Purpose

The purpose of this ordinance is to promote public safety, health and general welfare by facilitating the proper review and orderly layout and development of building sites created by splitting of lots previously platted under the Michigan Land Division Act (formerly Subdivision Control Act), Public Act 288 or 1967, as amended, (MCL 60.101, et seq.) to create one or more additional platted lots or to allow the split lot to be combined with existing platted lots to create a larger parcel; pursuant to the Land Division Act and the Township Ordinances Act, Public Act 246 of 1945, as amended (MCL 41.181, et seq).

Definitions

For the purposes of this ordinance, the following words shall have the following meanings:

- A. **Applicant:** The person or entity holding an ownership interest in the lot proposed to be split.
- B. **Split/Splitting:** To divide or partition an existing platted lot or otherwise modify the boundaries of such lot.
- C. **Recipient:** The person or entity that shall own the transferred property after the Platted Lot Split has been approved.

Lot Split Authority and Approval Criteria

After a plat has been fully approved and recorded, the Township Assessor may approve the partitioning or division of a lot therein in the following circumstances.

- A. **No Intent to Create a Separate Buildable Lot:** When the application states that the sole purpose of the requested split is to add land to the adjoining existing lots or parcels and not to create a new separate buildable lot, the Township Assessor may approve the application if the requested division will not cause any remaining portion of the original lot does not violate any provision of this Ordinance, or the provisions of such zoning ordinance that may be in effect at the time of such application concerning minimum lot frontage, lot width, minimum lot area, and minimum setbacks.

B. Intent to Create New Buildable Lot: In situations not within the scope of the subsection (A) above, the Township Assessor may approve one or more splits of a lot upon determining that the following criteria are satisfied:

1. All of the resulting lots comply with the applicable requirements of this Ordinance, such zoning ordinance as may be in effect at the time of said application with respect to minimum lot frontage, lot width, lot area, and setbacks (or that the resulting lots comply with the applicable requirements of a zoning variance grant as to a particular lot or groups of lots by the designated Zoning Board of Appeals), and all other applicable ordinances and the Land Division Act including the number, area and width limitations of Sections 186 and 263 of such Act. If approval of such a platted lot split is based on a variance granted by the designated Zoning Board of Appeals, the Township Assessor shall indicate the date on which the variance was granted, and the applicant shall attach a copy of the minutes to the application for platted lot split. No variance that may be granted by the designated Zoning Board of Appeals pursuant to the Zoning Ordinance in association with a proposed lot split such as a setback or lot width variance, shall be interpreted as an approval of a Platted Lot Split application. Such final approval is reserved for the Land Division Officer.
2. Access to such lots complies with the zoning ordinance as may be in effect at the time of such application and any other applicable ordinance.
3. The resulting lot(s) will each have access to public and/or private water and sanitary sewer or septic.
4. The proposed split and likely development that will result will not cause an unreasonable alteration in the essential character of the area or otherwise be detrimental to any adjoining property.
5. The proposed division will not for any other reason be contrary to the public health, safety, or general welfare.

Platted Lot Split Application Procedures

- A. A request for Platted Lot Split approval shall be initiated by filling an application with the Township Assessor setting forth the purpose of the proposed split. The application form shall be accompanied by a survey showing the original lot and all lots proposed to result from the requested split, including all dimensions thereof and the legal descriptions therefore, and a survey or other approved scaled drawing identifying property lines and existing buildings on all lots adjacent to the lot to be split.
 1. In the event the applicant is not the sole owner of the subject lot, the application shall not be approved until all owners have concurred with the filing of the application by signing the application or giving evidence of their approval.
- B. Upon receiving the completed application, the Township Assessor will review the application with the required attachments and act on the application within forty-five (45) days of receipt of a complete application.
 1. Township Board may, at its discretion, conduct a public hearing on a Platted Lot Split application. In such case, a minimum of fifteen (15) day notice shall be provided to all owners of land within three hundred (300) feet of the boundaries of the lot to be split. Notice shall be considered to be given when personally delivered or with the US Postal Service first class mail or other delivery service.

Prohibited Actions

The following actions are prohibited:

- A. The splitting of a lot in a recorded plat without prior approval as required by this Ordinance. Any resulting parcels shall not be deemed valid parcels by the Township for any purpose.
- B. The commencing of construction on, or the application for a building permit for such construction, on any portion of a lot in a plat that was split without prior approval by the Township as required by this Ordinance.
- C. The submission of any document for recording at the Register of Deeds involving the splitting of a lot in a recorded plat without prior approval in accordance with this Ordinance and such split will be deemed invalid by the Township for any purpose.

Application Fees

The fee for consideration of a Boundary Line Adjustment 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.

Violations and Sanctions

- 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 st Offense within a 3-year period*	\$75.00	\$500.00
2 nd Offense within a 3-year period*	\$150.00	\$500.00
3 rd Offense within a 3-year period*	\$325.00	\$500.00
4 th Offense within a 3-year period*	\$500.00	\$500.00

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

Additionally, the violator shall pay cost which may include all expenses direct and indirect to which the Township has incurred in connection with the Municipal Civil Infraction. In no case, however, shall Fines of more than \$500.00 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. The Township may also take any action necessary to correct any official record to reflect the accurate boundaries of a parcel of property and change such actual costs to the original parcel as permitted by law. Each day that a violation of Ordinance exists shall constitute a separate violation of this Ordinance.

- B. **REMEDIES:** The Township Board may institute other appropriate proceedings to prevent, enjoin, abate, or remove any violations of this Ordinance. The rights and remedies provided herein are civil and criminal in nature. The imposition of any fine shall not exempt the violator from compliance with the provisions of this Ordinance. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are

authorized under Michigan Law. The Township Attorney may initiate prosecution proceedings. If the threat to public health and or safety necessitates immediate action, this procedure may be circumscribed, and the Township Board may initiate injunctive action in Circuit Court, or any such other remedy provided by Law.

Severability

Should any section, clause or provision of this Ordinance be declared unconstitutional, illegal or of no force and effect by a court of competent jurisdiction such declaration shall not be deemed to affect the validity of any other part or portion of this Ordinance.

Repeal

This Ordinance is intended to repeal any existing Township Ordinance regulating the division of lots in recorded plats which conflict with this Ordinance, but only to the extent to give this ordinance full force and effect. This Ordinance shall not be construed to repeal a provision of any ordinance regulating the division of land outside of platted subdivisions 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

Steven J. Freeman, Township Supervisor

Brenda Lee Lester, Township Clerk

CERTIFICATION

This is a true and complete copy of Ordinance No. 2022-5 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.

Brenda Lester, Garden Township Clerk

Date