

LAND DIVISION ORDINANCE

TOWNSHIP OF MANCELONA

COUNTY OF ANTRIM, STATE OF MICHIGAN

ORDINANCE NUMBER 4

Adopted: February 16, 1998

Effective: April 3, 1998

LAND DIVISION ORDINANCE

An ordinance to preserve the peace, general welfare, order, health and safety of persons and property in the Township and to regulate partitioning or division of parcels or tracts of land, 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 this ordinance.

TOWNSHIP OF MANCELONA

Antrim County, Michigan

ORDAINS:

SECTION I

TITLE

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

SECTION II

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 municipality by establishing reasonable standards for prior review and approval of land divisions within the municipality.

SECTION III

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. Divided or division - the partitioning or splitting of a parcel or tract of land by the applicant 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, as amended. 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.

C. Exempt split - 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; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the applicant 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 legislative body or the Township Board of Mancelona Township.

F. Subdivide or subdivision - the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrations, 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 is not exempted from the platting requirements of this act by sections 108 and 109. "Subdivide" or "subdivision" 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.

G. Parcel - a continuous area or acreage of land which can be described as provided for in this act.

H. Tract - two or more parcels that share a common property line and are under the same ownership.

I. Parent parcel or parent tract - a parcel or tract, respectively, lawfully in existence on, or prior to, March 31, 1997.

J. Accessible - in reference to a parcel, means that the parcel meeting one or both of the following requirements:

1. Has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department (M.D.O.T.) and the Antrim County Road Commission under Act No. 200 of the Public Acts of 1969, being sections 247.321 to 247.329 of the Michigan Compiled Laws, and of the city or village, or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards.
2. Is served by an existing easement that provides vehicular access to an existing road or street and that meets all applicable location standards of the state transportation department (M.D.O.T.) and the Antrim County Road Commission under Act No.

200 of the Public Acts of 1969 and of the city or village, or can be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable location standards.

K. "Development site" - any parcel or lot on which exists or which is intended for building development other than the following:

1. Agricultural use involving the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetable; Christmas trees; and other similar uses and activities.
2. Forestry use involving the planting, management, or harvesting of timber.

SECTION IV

PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land in the municipality shall not be divided without the prior review and approval of the township Assessor, together with any other official(s) designated by the governing body, 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 municipality's Subdivision Control Ordinance and the State Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the municipality's Subdivision Control Ordinance and the State Land Division Act.
- C. An exempt split as defined in this Ordinance.

SECTION V

APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file two (2) copies of all of the following with the Mancelona Township Clerk, or other official designated by the governing body, 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, together with all attachments, on the form provided by the municipality.

B. Proof of fee ownership of the land proposed to be divided in the form of a warranty deed, title insurance, or other satisfactory proof which, in the opinion of the township attorney, establishes that the applicant is the owner of the property in fee simple.

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 54.211) by a land surveyor licensed by the State of Michigan, and showing the size, area, dimensions and legal descriptions of the existing parcel and the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

In lieu of such survey map, at the applicant's option, the applicant may waive the 45-day statutory requirement for a decision on the application until such survey map and legal description are filed with the municipality, and submit a tentative preliminary parcel map drawn to scale showing the approximate size and dimensions of each proposed parcel, including the parcel lines and area, an adequate and accurate legal description of each proposed division, and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the said designated official(s) prior to a final application under Section V.

The governing body of the municipality or its designated agent(s) delegated such authority by the governing body, may waive the survey map requirement

where the foregoing tentative parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the underdeveloped 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.

Applicant shall grant permission to the township Assessor, or other official designated by the governing body, to enter upon the subject property for purposes of inspection and to investigate the apparent boundaries, location of survey stakes, buildings and/or easements or roads on any proposed parcel or tract.

D. Proof that all standards of the State Land Division Act, as amended, and this Ordinance, as amended, have been met, including, but not limited to, compliance with sections 108 and 109 of said Act, as amended, regarding the number of permissible parcels and the dimensions of the proposed parcels.

E. 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. 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 transfer of division rights are proposed in the land transfer, detailed information about the appropriateness and availability of the proposed transfer of division rights, including whether the parent parcel has unallocated divisions under the Land Division Act and how many such unallocated divisions are being transferred to each newly created parcel.

H. Unless a division creates a parcel which is acknowledged and declared to be "not buildable" under Section VIII of this Ordinance, all divisions shall result in parcels containing sufficient buildable area outside of unbuildable wetlands, flood plains, and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, on-site sewage disposal and water well locations (where public water and sewer service is not available), and minimum allowed area coverage of buildings and structures on the site.

I. The fee as may from time to time be established by resolution of the governing body of the municipality for land division review 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 VI

STANDARDS FOR APPROVAL OF LAND DIVISIONS

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

A. Applicant submits all the information, documentation, fee(s), and form(s) required by Section V of this Ordinance.

B. All the parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of any applicable zoning ordinance, and this Ordinance, including, but not limited to, minimum lot (parcel) width, minimum lot (parcel) area, and minimum lot width to depth ratio.

C. The proposed land division(s) comply with all requirements of the State Land Division Act, as amended, and this Ordinance, as amended. To the extent permitted by the statute, this Ordinance shall control whenever any of its provisions differ from those contained in the statute.

D. All parcels 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 requirements of any applicable zoning ordinance, road ordinance and this Ordinance. In determining adequacy of accessibility, any ordinance standards applicable to plats will also apply as a minimum standard wherever a parcel or tract is proposed to be divided to create four (4) or more parcels. The area designated for access must meet all applicable location standards of the state transportation department (M.D.O.T.), Antrim County Road Commission, and city or village.

E. An exempt split or division of a parcel or tract that only results in parcels of twenty (20) acres or more in size is not subject to approval under this ordinance if the parcel is not accessible and one of the following applies:

1. The parcel or tract was in existence on March 31, 1997.
2. The parcel or tract resulted from an exempt split or division and the Grantor shall provide the Purchaser with the following written statement before closing - *"This parcel is not accessible as defined in the Land Division Act, 1967 PA 288, MCL 560.101 to 560.298."*

F. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio. This depth to width ratio requirement does not apply to a parcel larger than ten (10) acres or to the remainder of the parent parcel or tract retained by applicant.

The ratio of depth to width of a four (4) sided parcel shall be determined by dividing the longest boundary line by the shortest perpendicular boundary line. The ratio of depth to width of irregularly shaped parcels (with more or less than 4 sides) shall be determined in a reasonable manner by the township Assessor.

G. In the absence of applicable zoning or other ordinances providing a different standard, all parcels created by a land division shall comply with the following minimum 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 permitted through other than a dedicated and accepted public road or easement, such accessibility shall comply with the following:
 - a. Where such private road or easement extends for more than 1320 feet from a dedicated public road, or is serving or intended to serve more than one separate parcel, units, or ownerships, it shall be not less than sixty-six (66) feet in right of way width,

twenty-four (24) feet in improved roadbed width with at least three feet of improved shoulder width on each side and adequate drainage ditches and necessary culverts on both sides to accumulate and contain surface waters from the road area;

- b. Where the private road or easement is 1320 feet or less in length, and is serving and intended to serve not more than one (1) parcel, unit, or ownership, it shall not be less than forty (40) feet in right of way width, twenty (20) feet in improved roadbed width with at least two (2) feet of improved shoulder width on each side, and adequate drainage ditches on both sides with necessary culverts to accommodate and contain surface waters from the road area.
- c. If accessibility is by a private road or easement, pursuant to Section, G (2)(a) above, a document acceptable to the municipality shall be recorded with the Antrim County Register of Deeds and filed with the assessor or designee specifying the method of private financing of all maintenance, improvements, and snow removal, the apportionment of these costs among those benefitted, and the right of the municipality to assess such costs against those properties benefitted, plus a twenty-five (25%) percent administrative fee, and to perform such improvements in the event of a failure of those benefitted to privately perform these duties for the health, safety, and general welfare of the area;
- d. Any intersection between private and public roads shall contain a clear vision triangular area of not less

- than two (2) feet along each right of way line as measured from the intersecting right of way lines;
- e. No private road or easement shall extend for more than 1320 feet from a public road;
 - f. No private road shall serve more than 25 separate parcels.
- 3. A minimum lot (parcel) width of 100 feet as measured on a line parallel to the abutting road right-of-way;
 - 4. A minimum lot (parcel) area of 20,000 square feet.

SECTION VII

PROCEDURE FOR REVIEW OF APPLICATIONS

FOR LAND DIVISION APPROVAL

A. Upon receipt of a land division application package, the township Clerk or other official designated by the governing body shall forthwith submit the same to the township Assessor and/or other designated official(s) for decision. The township Assessor, together with any other designee(s) shall approve, approve with reasonable conditions or assure compliance with applicable ordinances and the protection of public health, safety, and general welfare, or disapprove the land division applied for within forty-five (45) days after receipt of the application package conforming to the Ordinance's requirements, and shall promptly provide written notice to 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 Assessor and/or other designee(s) shall return the same to the applicant for completion and refiling in accordance with this Ordinance and the State Land Division Act. Approval of a division or split is not a determination that the resulting parcels comply with other ordinances, codes, regulation, or statutes.

B. Any person or entity aggrieved by the decision regarding the application may, within thirty (30) days of said decision appeal the decision to the governing board of the municipality or such other board or person designated by the governing body which shall consider and resolve such appeal by a majority

vote of said Board or by the designee at its next regular meeting or session affording sufficient time for a twenty (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 ninety (90) days, after which it shall be considered revoked unless within such period a document is recorded with the Antrim County Register of Deeds office and filed with the municipal Clerk or other designated official accomplishing the approved land division or transfer.

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

SECTION VIII

ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS

Notwithstanding disqualification from approval pursuant to this Ordinance, a proposed land division which does not fully comply with the applicable lot, yard, accessibility, and area requirements of any applicable zoning ordinance or this Ordinance may be approved in any of the following circumstances:

A. Where the applicant executes and records an affidavit or deed restriction with the Antrim County Register of Deeds, in a form acceptable to the municipality, designating the parcel as "not buildable". Any such parcel shall also be designated as "not buildable" in the municipal records, and shall not thereafter be the subject of a request to the municipality for variance relief from the applicable requirements of this Ordinance, or any zoning ordinance, and shall not be developed with any building or above ground structure exceeding four (4) feet in height.

B. Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this Ordinance, any applicable zoning ordinance, or the State Land Division Act, as amended.

C. Where applicant has complied with all the requirements of the State Land Division Act and this Ordinance except that one or more parcels created by

the proposed division violate the ratio of depth to width or minimum, width or area requirements, and where it is determined that due to exceptional topographical or physical conditions, or type of proposed use, that a variance from said requirements will not violate the purpose of the State Land Division Act or this Ordinance and will be compatible with surrounding lands.

SECTION IX
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 X
PENALTY

Any person who violates any part of the provisions of this Ordinance regarding exempt splits, divisions, redivisions, or Township approval of the division or split, and sells a resulting parcel of land, is responsible for the payment of a civil fine of not more than \$ 1,000.00, for each parcel sold. A default in the payment of a civil fine or costs may be remedied by any means authorized under the Revised Judicature Act of 1961, 1961 PA 236, MCL 600.101 to 600.9948, as amended.

Any person who violates any of the other provisions of this Ordinance shall be deemed guilty of a misdemeanor for each parcel created in noncompliance to this Ordinance, and shall be punished by a fine of not more than \$ 500.00 or by imprisonment in the county jail for a period not to exceed ninety (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 XI
ENFORCEMENT

The Township Supervisor and/or Township Assessor is hereby authorized to enforce this ordinance. The Supervisor may delegate the enforcement of this ordinance to the Township Constables, the Antrim County Sheriff's Department, the Michigan State Police, or any other delegatee permitted by law. Prosecutions may be commenced by Appearance Ticket issued by the Township Constables, the Antrim County Sheriff's Department, the Michigan State Police, or by a Complaint and Warrant from the District Court.

SECTION XII
SEPARATE COURT ACTION

Nothing in this Ordinance shall prohibit the Township or any interested party or agency from seeking such other relief as may be permitted by law or in equity regarding the violation of this Ordinance or the State Land Division Act.

SECTION XIII
VALIDITY

If any section, provision, or clause of this Ordinance, or the application thereof, to any person or circumstance is held to be invalid, such invalidity shall not affect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

SECTION XIV
REPEAL

The previous Land Division Ordinance, and all ordinances, parts of ordinances, resolutions or parts of resolutions, in conflict with this Ordinance are hereby repealed upon the effective date of this Ordinance.

MANCELONA TOWNSHIP

ORDINANCE CERTIFICATION

At a regular meeting of the Township Board, Township of Mancelona, Antrim County, Michigan, held in the Mancelona Township Hall, located at 202 W. State St., Mancelona, Antrim County, Michigan, on February 16, 1998, at 7:00 p.m.:

PRESENT: Sue Robinson, Ray Merillat, Yousef Jabara, Gerald Patrick and Margaret Chapman

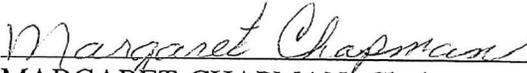
ABSENT: none

Ordinance No. 4, the LAND DIVISION ORDINANCE was considered by the Board and upon motion made and seconded, the Township Board duly adopted said Ordinance upon the following vote:

YES: Sue Robinson, Ray Merillat, Yousef Jabara, Gerald Patrick and Margaret Chapman

NO: none

I, Margaret Chapman, as Mancelona Township Clerk, hereby certify that said Ordinance was adopted by the Mancelona Township Board at said meeting as set forth above; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act; that a synopsis of said Ordinance was published in the Antrim County News on *March 4*, 1998, and that a true and complete copy of said Ordinance can be inspected or obtained at the office of the Mancelona Township Clerk in the Mancelona Township Hall.


MARGARET CHAPMAN, Clerk
Mancelona Township