

**FREEMAN TOWNSHIP ORDINANCE NO. 21**

**LAND DIVISION ORDINANCE.**

**An ordinance 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.**

**SECTION I. TITLE.**

**This ordinance shall be known and cited as the “Freeman 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 township.**

**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. “Divide” or “Division” – 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, 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, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms**

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to the requirements of the State Land Division Act, this Ordinance, and other applicable Ordinances.

- C. **“Exempt Split” or “Exempt Division”** – 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 require 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 owner of the parcel 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 Freeman Township Board.

**SECTION IV. PRIOR APPROVAL REQUIREMENTS FOR LAND DIVISIONS.**

Land in Freeman Township shall not be divided without the prior review and approval of the Freeman Township Assessor, or other official 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 division through a recorded plat pursuant to the State Land Division Act.
- B. A lot in a recorded plat purposed to be divided in accordance with 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 all of the following with Freeman Township Assessor 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:

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- A. A completed application form on such form as may be approved 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 54.211) 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), 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 opinion, the applicant may waive the 30 day statutory requirement for a decision on the application until such survey map and legal description are filed with Freeman Township, and submit a preliminary parcel map drawn to scale of not less than 200 feet to the inch including 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 for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the assessor or other official designated by the Governing Body prior to a final application under Section V.**

**The Freeman Township Assessor or other official designated by the Governing Body may waive the survey map requirement where the forgoing 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. Proof 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 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.**

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- 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 VIII of this Ordinance, all divisions shall result in “buildable” parcels with sufficient area to comply with all required set back provisions, minimum floor areas, off-street parking spaces, approved on-sight sewage disposal and water well locations “where public water and sewer service is not available”, access to existing public utilities and public roads, and maximum 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 Freeman Township for land divisions 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 VI. PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL.**

- A. The Freeman Township 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 30 days (unless waived under Section V.C.) after receipt of the application package conforming to this ordinance’s requirements, and shall promptly notify the applicant of the decision and the reasons for any denial. If the application package does 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 refilling in accordance with this ordinance and the State Land Division Act.**
- B. Any person or entity aggrieved by the decision of the Freeman Township Assessor or designee may, within 30 days of said decision appeal the decision to the governing body of the township or such other body 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 it’s 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**

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recorded with the Clare County Register of Deeds office and filed with the Freeman Township Clerk or other designated official accomplishing the approved land division or transfer.

- D. The Freeman Township Assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.**

**SECTION VII. STANDARDS FOR APPROVAL OF LAND 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 lot (parcel), yard and area requirements of the pertinent Freeman Township Zoning Ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, and maximum lot (parcel) coverage and minimum set-backs for existing building/structures or have received a variance from such requirement(s) from the appropriate Freeman Township Zoning Board of Appeals.**
- B. The proposed land division(s) comply with all requirements of the State Land Division Act and this ordinance.**
- C. All parcels created and remaining have existing adequate accessibility, or an area of available therefore, to a public road for public utilities and emergency and other vehicles not less than the requirements of all applicable ordinances.**
- D. The ratio of depth to width of any parcel created by the division does not exceed a 4 to 1 ratio exclusive of access roads, easements, or non-buildable parcels created under Section VIII of this ordinance. 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. The width of a parcel shall be measured at the abutting road or right-of-way line, or as otherwise provided in any applicable ordinances.**

**SECTION VIII. ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS.**

Notwithstanding the provisions of Section VII of this Ordinance, a division which creates a parcel that satisfies all of the requirements of Section VII except it does not satisfy one or more of the standards of Sub-Sections A and D of Section

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**VII, shall be approved if the applicant executes and records an 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 IX. CONSEQUENCES OF NON-COMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT.**

**Any parcel created in non-compliance with this ordinance shall not be eligible for any permits, or zoning approvals, such as conditional land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment role. 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. 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 XI. SEVERABILITY.**

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

**SECTION XII. REPEAL.**

**All 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 in the applicable Freeman Township Zoning Ordinance or Building Code.**

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**SECTION XIII. EFFECTIVE DATE.**

**This ordinance shall take effect on the date of its publication. All ordinances or parts of ordinances in conflict herewith are hereby repealed.**

**This ordinance becomes effective thirty (30) days after newspaper publication.**

**Newspaper publication date: \_\_\_\_\_**

**Effective Date: \_\_\_\_\_**

**Adopted by the Freeman Township Board: \_\_\_\_\_**

**Al Housler, Freeman Township Supervisor, Clare County, Michigan**

\_\_\_\_\_, Date \_\_\_\_\_

**Patricia Humphrey, Freeman Township Clerk, Clare County, Michigan**

\_\_\_\_\_, Date \_\_\_\_\_