

LAND DIVISION ORDINANCE
KINROSS CHARTER TOWNSHIP
CHIPPEWA COUNTY, MICHIGAN

ORDINANCE NO. _____

Adopted: _____

Effective: _____

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.

CHARTER TOWNSHIP OF KINROSS ORDAINS:

SECTION I TITLE

This ordinance shall be known and cited as the "Kinross Charter Township Land Division Ordinance".

SECTION II PURPOSE AND SCOPE

A. 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 Kinross Charter Township by establishing reasonable standards for prior review and approval of land divisions within Kinross Charter Township ("Township")

B. Approval of any land division pursuant to this Ordinance shall not provide, constitute, infer or imply use or zoning approval of any such division or resulting parcels or assure or imply buildability. Such use of land must still comply with the Township Zoning Ordinance and any other applicable ordinances, laws or regulations, and it remains the responsibility of the property owner to ensure such compliance

C. It is not intended by this Ordinance to repeal, abrogate, annul, or in any other way impair or interfere with provisions of the Township Zoning Ordinance or of other laws or ordinances (except as otherwise expressly stated in Section 12 hereof) or of any private restrictions placed upon property by covenant, deed, or other private agreement; provided, however, that where any provision of this Ordinance imposes more stringent requirements, regulations, restrictions, or limitations upon the division or use of land, easements or buildings than are imposed or required by the provisions of any restrictions or any other law or ordinance, or any of said rules, regulations or permits, then the provisions of this Ordinance shall govern.

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 to the requirements of the State Land Division Act, or the requirements of other applicable local 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 result in one or more parcels of less than 40 acres or the equivalent.
- 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 Kinross Charter Township Board.
- F. "County" - Chippewa County, Michigan.

SECTION IV PRIOR APPROVAL REQUIREMENT FOR LAND 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 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 State Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act.
- C. An exempt split as defined in this Ordinance, or other partitioning or splitting that results in parcels of 20 acres or more if each is not accessible and the parcel was in existence on March 31, 1997 or resulted from exempt splitting under the State Act.

SECTION V APPLICATION FOR LAND DIVISION APPROVAL

- A. An applicant shall file all of the following with the 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:

1. A completed application form on such form as may be approved by the Township Board.
2. Written proof of fee ownership (warranty deed or recorded land contract) of the land proposed to be divided and a signature on the application by the fee title owner of the property.
3. A survey or map, drawn to scale, showing boundary lines; location of any existing improvements; dimensions of existing parcel and the dimensions of parcels proposed to be created by the division(s); and the accessibility of each division from existing or proposed roads for vehicular traffic and public utility easements.
(Proposed divisions of 10 acres or less must not exceed a 4 to 1 Depth to Width Ratio).
4. Other information reasonably required by the Township assessor or other official designated by the governing body in order to determine whether the proposed land division qualifies for approval.
5. Proof that all standards of the State Land Division Act and this Ordinance have been met.
6. 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.
7. A fee to cover the costs of review of the application and administration of this Ordinance and the Michigan Land Division Act. The amount of such fee shall be established by resolution of the Township Board.

B. A proposed division shall not be considered filed with the Township, nor shall the 45-day time period commence, until all of the requirements for an application for land division approval have been complied with.

SECTION VI MINIMUM REQUIREMENTS FOR APPROVAL OF LAND DIVISIONS

- A. A proposed land division reviewable by the Township shall be approved if the following criteria are met:
1. The application requirements are completed in full.
 2. All resulting parcels to be created by the proposed land division(s) shall fully comply with the applicable lot area and lot width requirements for the zoning district(s) in which the resulting parcels are located.
 3. Each resulting parcel shall have the depth-to-width ratio specified by the zoning district(s) in which the resulting parcel is located. If Zoning does not specify a depth-to-width ratio, each resulting parcel shall have a 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.

4. Each resulting parcel shall have a means of vehicular access to an existing street from an existing or proposed driveway or access easement. Such means of access shall comply with all applicable location standards of the governmental authority having jurisdiction of the existing street, including all Township zoning ordinances, private street requirements and other access requirements.
5. The proposed division, together with any previous division(s) of the same parent parcel or parent tract, shall not result in a number of resulting parcels that is greater than that permitted under Section 108 of the Act.
6. Each resulting parcel that is a development site (as defined in the Act) shall have adequate easements for public utilities from the resulting parcel to existing public utility facilities.

B. The Township 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 State Land Division Act, and shall promptly notify the applicant of the decision, and if denied, the reasons for denial.

C. 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 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 appellate designee 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.

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

E. Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.

The Township and its officers and employees shall not be liable for approving a land division if building permits for construction on the parcels are subsequently denied because of

SECTION VII CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT

Any division of land in violation of any provision of this Ordinance shall not be recognized as a land division on the Township tax roll or assessment roll until the assessing officer refers the suspected violation or potential non-conformity to the county prosecuting attorney and gives written notice to the person requesting the division, and the person suspected of the violation or potential non-conformity of such referral to the prosecuting attorney. 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 this Ordinance shall further not be eligible for any zoning or building permit for any construction or improvement thereto.

Pursuant to Section 267 of the Land Division Act, an unlawful division or split shall also be voidable at the option of the purchaser and shall subject the seller to the forfeiture of all consideration received or pledged therefore, together with any damages sustained by the

purchaser, recoverable in an action at law.

SECTION VIII 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 IX REPEAL

All previous Land Division Ordinances affecting unplatted land divisions in conflict with this Ordinance are hereby repealed; however, this Ordinance shall not be construed to repeal 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.

SECTION X EFFECTIVE DATE

This ordinance shall take effect upon publication following its adoption.