

**STATE OF MICHIGAN  
COUNTY OF NEWAYGO**

**TOWNSHIP OF BROOKS**

**LAND DIVISION ORDINANCE NO. 99-19**

Adopted: 2-15-99

Effective: 4-2-99

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 or 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 BROOKS  
NEWAYGO COUNTY, MICHIGAN**

**ORDAINS:**

**SECTION I: TITLE**

This ordinance shall be known and cited as the Brooks 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, to require that land be suitable for buildings sites, to provide for proper ingress and egress to lots, 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 with the Township.

**SECTION III: DEFINITIONS**

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 or less than 40 acres or the equivalent, and that satisfied the requirements of Sections 109 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, or quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

E. “Governing body” – The Brooks Township Board.

#### **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 by 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 the Ordinance, or other partitioning or splitting that results in parcels of 20 acres or more if each is not assessable and parcel was in existence on March 31, 1997, or resulted from exempt splitting under the State Act.

#### **SECTION V: APPLICATION FOR LAND DIVISION APPROVAL**

An applicant shall file all of the following with the Township Zoning Administrator or Supervisor 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 complete application form on such form as may be approved by the Township Board.

B. Proof of ownership of the land proposed to be divided.

C. A tentative parcel map drawn to scale including an accurate legal description of each proposed division, and showing the boundary lines, approximate dimensions, and the accessibility of each division for automobile traffic and public utilities.

D. Proof that all standards of the State Land Division Act and the Ordinance have been met.

E. 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.

F. The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish that the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the Act. The Township may require

that the applicant provide a title search by a title insurance company if it is reasonably necessary for the township to determine whether the proposed land division will meet the requirements of this ordinance and the Act.

G. Proof that all due and payable property taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.

H. Unless a division creates a parcel that is acknowledged and declared to be “not buildable” under Section 8 in this ordinance, all divisions shall result if “buildable” parcels contain sufficient buildable area outside of unbuildable wetlands, flood plains and other areas where buildings are prohibited, and with sufficient area to comply with all provisions of the Brooks Township Ordinance.

I. Fees - The Township Board shall establish by resolution a schedule of fees for administering this ordinance. NO permit or certificate shall be issued unless such fees have been paid in full.

#### **SECTION VI: PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL**

A. The Township shall approve or disapprove the land division applied for within 45 days after receipt of a complete application conforming to the 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.

B. The assessor or designee 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.

D. 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. Any notice of approval shall include a statement to this effect.

E. If the land division involves the use or creation of a private road, approval of the private road must be obtained from the Township in accordance with the Township Zoning Ordinance prior to the approval of the land division. Additionally, the applicant must submit evidence of review and approval of the private road location and entry by the Newaygo County Road Commission.

#### **SECTION VII: STANDARDS FOR APPROVAL OF LAND DIVISIONS**

A proposed land division reviewed by the Township shall be approved if the following criteria are met.

A. All parcels created by the proposed division(s) fully comply with the Size and Setback Standards specified in the Brooks Township Zoning Ordinance and the State Land Division Act.

B. All parcels created and remaining have existing adequate accessibility or an area available therefore, for public utilities and emergency and other vehicles.

### **SECTION VIII: ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS**

Where the applicant executes and records an affidavit or deed restriction with the County Register of Deed in a form acceptable to Brooks Township designating the parcel as non-buildable, any such parcel shall also be designated as not buildable in the Brooks Township records, and shall not, thereafter, be the subject of a request to the Brooks Township Board of Appeals for variance relief.

### **SECTION IX: 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.

In addition 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 less than \$50.00 nor 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.

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 of law.

### **SECTION X: 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 XI: 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 XII: EFFECTIVE DATE**

This ordinance shall take effect 30 days after publication following its adoption.

TOWNSHIP OF BROOKS

Lora L. Jones, CMC  
490 Quarterline Road  
P.O. Box 625  
Newaygo, MI 49337  
(231) 652-6763