

Land Division Ordinance

#1998-05-11

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.

Township of Briley, County of Montmorency, State of Michigan,

ORDAINS

SECTION I

TITLE

This ordinance shall be known and cited as the Briley 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 township 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 Section 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, 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 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 Briley Township Board.

SECTION IV PRIOR APPROVAL REQUIREMENT OF 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.

SECTION V APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all 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:

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 including an accurate legal description of each proposed division, and showing the boundary lines, approximate dimensions, and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities.

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. 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.

G. Unless a division creates a parcel which is acknowledged and declared in the instrument of conveyance to be "not a development site", all divisions shall result in "buildable" parcels with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, approved on-site 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. Declared agricultural land and land for forestry use shall not be subject to the foregoing as "development sites" as provided in the State Land Division Act at Section 102.

H. The fee as may from time to time be established by resolution of the governing body of the Township for land division 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
PROCEDURES FOR REVIEW OF APPLICATIONS
FOR LAND DIVISION APPROVAL

A. The 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 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 not 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 refile in accordance with this Ordinance and the State Land Division Act. The assessor or other designee shall act only on written applications.

B. Any person or entity aggrieved by the decision of the assessor or designee may, within thirty (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 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 appellant hearing.

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

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

E. 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 inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to this effect.

SECTION VII
STANDARD 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 pertinent Ordinances, 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 Briley 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 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 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 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
CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION
APPROVAL REQUIREMENT, PENALTIES AND ENFORCEMENT

Any division of land in violation 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 Five Hundred (\$500.00) Dollars 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 Fifty (\$50.00) Dollars nor more than Five Hundred (\$500.00) Dollars 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 at law.

Each day's violation of this Ordinance that continues to exist constitutes a separate violation.

SECTION IX
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 of portion thereof.

SECTION X
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 Zoning Ordinance or Building Codes.

SECTION XI
EFFECTIVE DATE

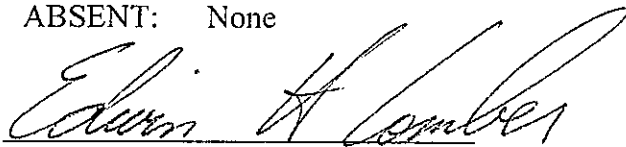
This Ordinance shall become effective 30 days following its publication after adoption as required by law.

The foregoing Ordinance was submitted upon motion of Clerk Comber, second by Treasurer Cheedie. Upon roll call the following voted:

Aye: Supervisor Edwards, Clerk Comber, Treasurer Cheedie, Trustee Wasek, Trustee Gohl

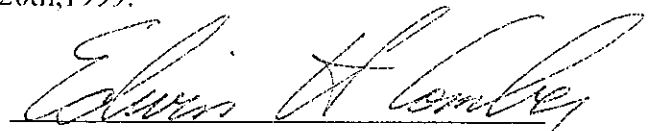
NO: None

ABSENT: None

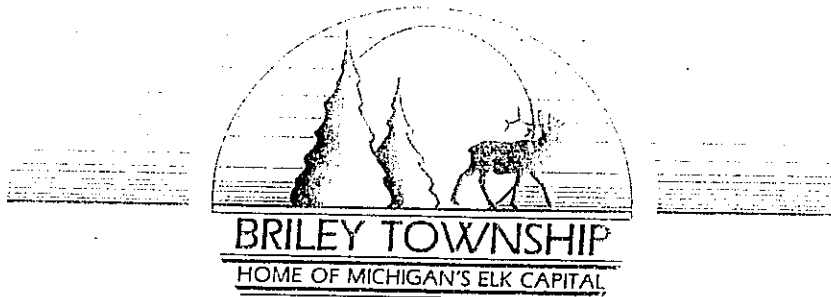


Edwin H. Comber, Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Township Board of the Township of Briley, Montmorency County, Michigan, at a Regular Meeting held on the 12th day of July, 1999, the same was published in the Montmorency County Tribune on July 21st, 1999. Effective date -August 20th, 1999.



Edwin H. Comber
Briley Township Clerk



RESOLUTION
AMENDMENT TO THE LAND DIVISION ORDINANCE

RESOLVED BY: THE BRILEY TOWNSHIP BOARD

NOW THEREFORE, BE IT RESOLVED, that effective May 14th, 2007 the following Briley Township Land Division Ordinance Amendment was adopted by the Briley Township Board.

{all divisions of family owned property are exempt from ONLY THAT PART OF Sec. 6 (A) { that requires a survey of the parent parcel.}}

The foregoing resolution is offered by Board Member Cheedie, and supported by Board Member Flynn .

Upon roll call vote, the following voted:

Ayes: Rose Cheedie, Bonnie Flynn, John Zollars, James Sipe, Dale LaClair
Nayes:None
Absent:None

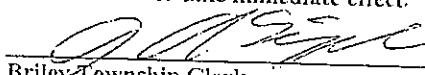
Supervisor Zollars, declared the resolution adopted.



Briley Township Supervisor

CERTIFICATE

I, James A Sipe, the duly elected and acting Clerk of Briley Township, hereby certify that the foregoing resolution was adopted by the Township Board at a regular meeting of said Board held on May 14th, 2007, at which meeting a quorum was presented by a roll call vote of said members as hereinbefore set forth; that said resolution was ordered to take immediate effect.



Briley Township Clerk