

Caldwell Township Ordinance No. 14

**CALDWELL TOWNSHIP
MISSAUKEE COUNTY, MICHIGAN
ORDINANCE NO. 14**

An ordinance to regulate partitioning, division, splitting, and subdivision of parcels or tracts of land, enacted pursuant but not limited to the Land Division Act, Public Act 288 of 1967, as amended, (MCL 560.101, et seq.) and the Township Ordinances Act, Public Act 246 of 1945, as amended, (MCL 41.181, et seq.), being the Township General Ordinance statute; to provide a procedure for partition, subdivision, lot-splitting, and division; to repeal any ordinance or provision in conflict with this ordinance; and to prescribe penalties and enforcement remedies for the violation of this ordinance.

THE TOWNSHIP OF CALDWELL, MISSAUKEE COUNTY ORDAINS:

1. **Title.** This ordinance will be known as the Caldwell Township Land Division Ordinance.
2. **Purpose and Enabling.** The purpose of this ordinance is to carry out the provisions of the Land Division Act, Public Act 288 of 1967, as amended, (MCL 560.101, et seq.), formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and the 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 certain land divisions within the Township.
3. **Definitions.** The terms defined in the Land Division Act, including MCL 560.102, will have the same meaning as used in this ordinance.
4. **Prior Approval Requirement for Division or Subdivision of Land.**
 - A. Land in the Township may not be divided or subdivided without the prior review and approval of the Township Assessor, or other official designated by the Township Board, in accordance with this Ordinance and the Land Division Act.
 - B. The Township Board may attach to a variance conditions that reasonably further this ordinance's purposes.
5. **Application for Division or Subdivision Approval.** An applicant must file all of the following with the Township Assessor or other official designated by the Township Board for review and approval of a proposed

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division or subdivision before dividing or subdividing land 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 or subdivided.
- C. A tentative parcel map drawn to scale showing the approximate location of all proposed structures, 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 Land Division Act and this Ordinance have been met, including Section 7 of this Ordinance.
- E. History of any prior land division.
- 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. A fee of \$100 to cover the costs of review of the application and administration of this Ordinance and the Land Division Act. Upon adoption of this ordinance, the Township Board may change the amount of such application fee prospectively, by motion or resolution.

6. Procedure for Review of Applications

- A. The Township must approve or disapprove the application within 45 days after receipt of a complete application conforming to this Ordinance's requirements and the Land Division Act, and must promptly notify the applicant of the decision, and if denied, the reasons for denial.
- B. Any person or entity aggrieved by the decision of the Assessor or designee may, within 30 days, appeal the decision to the Township Board. Upon receiving notice of appeal, the Township Board must send notice of the hearing date to the appealing party; the hearing must be scheduled at the next regularly-scheduled hearing that allows for at least 20 days' written notice to the appealing party.

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During the appeal, the Township Board must consider and resolve the appeal by a majority vote.

- C. The Assessor or designee must maintain an official record of all approved and accomplished subdivisions.
 - D. Approval of an application is not a determination that the resulting parcels comply with other ordinances or regulations.
 - E. The Township and its officers and employees may not be liable for approving an application if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise. Any notice of approval must include a statement to this effect.
7. **Variances.** The Township Board may, upon application from the party seeking the division or combination, permit the subdivision or combination of a lot or parcel that would not otherwise comply with this Ordinance. Before granting a variance, the Board must find:
- A. Absent a variance, strict application of this Ordinance would cause undue hardship to the applicant.
 - B. The undue hardship results from characteristics of or conditions on the land that make compliance with this Ordinance impractical. Examples of such conditions include unusual dimensions of the lot or parcel, neighboring lots or parcels, topography, road access, soil conditions, wetlands, floodplains, water bodies, or similar unusual conditions.
 - C. The variance would not conflict with other federal, state, county, or municipal ordinances or regulations.
 - D. The variance would not substantially impair the public good and this ordinance's purposes.
 - E. The relief granted shall be no greater than necessary to relieve the practical difficulty or undue hardship.

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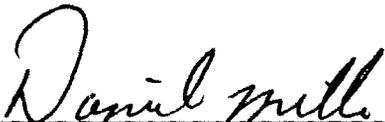
8. Consequences of Noncompliance with Approval Requirement.

- A. Generally.** Any division or subdivision in violation of any provision of this Ordinance may not be recognized 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 or subdivision, and the person suspected of the violation or potential non-conformity of such referral to the prosecuting attorney.
- B. Injunctive Relief.** The Township may seek injunctive or other relief to prevent any violation or continuance of any violation of this Ordinance.
- C. Freeze on Permits.** Any division or subdivision of land in violation of this Ordinance is ineligible for any zoning or building permit for any construction or improvement to it.
- D. Civil Infraction.** Any person, firm or corporation who violates any of the provisions of this Ordinance is responsible for a municipal civil infraction as defined by Michigan statute, 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, may costs of less than \$9.00 or more than \$500.00 be ordered.
- E. Voidability of Sale.** An unlawful division or subdivision may also be voidable at the option of the purchaser and may subject the seller to the forfeiture of all consideration received or pledged for it, together with any damages sustained by the purchaser, recoverable in an action at law.
- F. Other Remedies.** Nothing in this Section prevents the Township from taking additional lawful action necessary to restrain or prevent any violation of this Ordinance or the Michigan Land Division Act. Instead, a violator of this Ordinance may also be subject to such additional sanctions and judicial orders as are authorized under Michigan Law.

- 9. Severability.** This Ordinance and its various parts are severable. If any portion of this Ordinance is declared to be invalid, such declaration does not affect the validity of the remainder of the Ordinance.

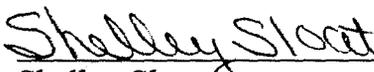
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10. **Repeal.** All previous land division ordinances affecting land divisions and subdivisions in conflict with this Ordinance are repealed. This Ordinance may not, however, be construed to repeal any provision in any applicable Zoning Ordinances, Building Codes or other ordinances of the Township that remain in effect notwithstanding any approval under this Ordinance.
11. **Effective Date.** This Ordinance takes effect upon publication following its adoption.



Daniel Mills,
Caldwell Township Supervisor

Shelley Sloat, Caldwell Township Clerk, certifies that this Ordinance was adopted by the Caldwell Township board on April 17, 2008.



Shelley Sloat,
Caldwell Township Clerk