

LAND DIVISION ORDINANCE
Ord. No. 59A
Effective: September 19, 1997

An Ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to the Land Division Act, Michigan Public Act 288 of 1967, as amended, and the Township General Ordinance Statute, Michigan Public Act 246 of 1945, as amended; to provide a procedure therefore; to repeal any Ordinance or provision in conflict with this Ordinance; and to prescribe penalties and enforcement remedies for the violation of this Ordinance.

TOWNSHIP OF HOWELL, LIVINGSTON COUNTY, MICHIGAN ORDAINS:

Section I TITLE.

This Ordinance shall be known and cited as the Howell Township Land Division Ordinance.

Section II PURPOSE.

The purpose of this Ordinance is to carry out the provisions of the Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property that do not comply with this Ordinance and said Act, to minimize potential boundary disputes, to further the orderly development of the community and layout and use of land, to require that land be suitable for building sites, to provide for proper ingress and egress to lots, and to otherwise provide for the health, safety and welfare of the residents and property owners of Howell Township by establishing reasonable standards for prior review and approval of land divisions within Howell Township.

Section III DEFINITIONS.

For purposes of this Ordinance, certain terms and words used herein shall have the following meaning:

- A. **Accessible:** In reference to a parcel, means that the parcel meets one or both of the following requirements:
- 1) Has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department or county road commission under Act No. 200 of the Public Acts of 1969, being sections 247.321 to 247.329 of the Michigan Compiled Laws, or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards; or
 - 2) Is served by an existing easement that provides vehicular access to an existing road or street and that meets all applicable location standards of the state transportation department or county road commission under Act No. 200 of the Public Acts of 1969, or can be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable location standards.
- B. **Applicant or Proprietor:** A natural person, firm, association, partnership, corporation, or combination of any of them that hold an ownership interest in land whether recorded or not.
- C. **Development site:** Any parcel or lot on which exists or which is intended for building development other than the following:
- 1) Agricultural use involving the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.
 - 2) Forestry use involving the planting, management, or harvesting of timber.
- D. **Divided 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 forty (40) acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the Land Division Act.

- E. **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 forty (40) acres or the equivalent.
- F. **Forty acres or the equivalent:** Either forty (40) acres, a quarter-quarter section containing not less than thirty (30) acres, or a government lot containing not less than thirty (30) acres.
- G. **Parcel:** A continuous area or acreage of land which can be described as provided for in the Land Division Act.
- H. **Parent parcel or Parent tract:** A parcel or tract, respectively, lawfully in existence on March 31, 1997.
- I. **Tract:** Two (2) or more parcels that share a common property line and are under the same ownership.

Section IV PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS.

Land in Howell Township shall not be divided without the prior review and approval of the Howell Township Assessor, or other official designated by the Howell Township Board in accordance with this Ordinance and the 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 Howell Township Subdivision Control Ordinance and the Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the Howell Township Subdivision Control Ordinance and the Land Division Act.
- C. An exempt split as defined in this Ordinance.
- D. An exempt split or partitioning or splitting of a parcel or tract which results in parcels of twenty (20) acres or more in size if the parent parcel or tract is not accessible and one (1) of the following:
 - 1) The parent parcel or tract was in existence on March 31, 1997.
 - 2) The parent parcel or tract resulted from an exempt split or other partitioning or splitting of an inaccessible parcel or tract pursuant to the Land Division Act.
- E. Property transfers between two (2) or more adjacent unplatted parcels, if the property taken from one (1) parcel is added to an adjacent parcel.

Section V APPLICATION FOR LAND DIVISION APPROVAL.

The Howell Township Assessor shall provide an applicant with an application form. At a minimum, an applicant shall file all of the following with the Howell Township Assessor, or other official designated by the Howell Township Board in accordance with this Ordinance and the Land Division Act, for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one (1) year, or for building development.

- A. Proof of fee ownership of the land proposed to be divided.
- B. Adequate and accurate legal descriptions of each resulting parcel.
- C. A tentative parcel map (which shall show the approximate dimensions of the resulting parcels) of the land proposed to be divided. The tentative parcel map must show the following for the parent parcel and the proposed resulting parcels: area, parcel lines, public utility easements, accessibility, and compliance with the requirements of this Ordinance and the Land Division Act.
- D. The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish that the parcel or tract to be divided was lawfully in existence as of March 31, 1997, the effective date of the Land Division Act. Such history and specifications shall describe the parent parcel or tract of which the parcel or tract to be divided was a part as that parent parcel or tract existed on March 31, 1997. Such history and specifications shall also identify both the owner of the parent parcel or tract on March 31, 1997 and the owners, on March 31, 1997, of parcels sharing a common property line with the parent parcel or tract on March 31, 1997.
- E. Proof that each resulting parcel is accessible.
- F. For resulting parcels meeting the definition of "development site," proof that such parcels have adequate easements for public utilities from the parcel to existing public utility facilities.
- G. Proof that all standards of the Land Division Act and this Ordinance have been met.
- H. The fee as may from time to time be established by resolution of the Howell Township Board for review of land division applications pursuant to this Ordinance to cover the costs of review of the application and administration of this Ordinance and the Land Division Act.

Section VI PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL.

- A. Upon receipt of a completed land division application package, the Howell Township Assessor, or other official designated by the Howell Township Board in accordance with this Ordinance and the Land Division Act, shall approve, approve with reasonable conditions to assure compliance with this Ordinance and the Land Division Act, or disapprove the proposed land division within forty-five (45) days after receipt of the completed application package, and shall promptly notify the applicant, in writing, of the decision and all reasons for any denial.

If the application package does not conform to the requirements of this Ordinance and the Land Division Act, the Howell Township Assessor shall return the application to the applicant for completion and refile in accordance with the requirements of this Ordinance and the Land Division Act.

- B. A notice of approval of a proposed division resulting in any parcels of less than one (1) acre in size shall include the following statement: "Howell Township and its officers and employees are not liable if a building permit is not issued for a resulting parcel because the parcel is less than one (1) acre in size, lacks either public water and sewer or health department approval for on-site water supply and on-site sewage disposal."
- C. A notice of approval of a proposed division shall include the following language: "The approval of this division is not a determination that the resulting parcels comply with other ordinances or regulations."
- D. Any person or entity aggrieved by the decision of the Howell Township Assessor may, within thirty (30) days of said decision, appeal the decision to the Howell Township Zoning Board of Appeals which shall hold a hearing to consider and resolve such appeal by a majority vote of said Board 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 appellate hearing.
- E. A decision approving a land division is effective for ninety (90) days, after which it shall be considered revoked unless within such period a document is recorded with the Livingston County Register of Deeds office and filed with the Howell Township Clerk or other designated official accomplishing the approved land division or transfer.
- F. The Howell Township Clerk 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 proposed land division complies with all requirements of the Land Division Act and the criteria of this Ordinance, as set forth below:

- A. All parcels to be created by the proposed land division fully comply with the minimum width and area requirements of the Howell Township Zoning Ordinance.
- B. All parcels to be created by the proposed land division are accessible.
- C. The ratio of depth to width of any parcel to be created by the proposed division does not exceed a four to one (4:1) ratio. For purposes of this subsection, depth and width shall be as defined in the Howell Township Zoning Ordinance. The four to one (4:1) maximum depth to width ratio applies to all parcels regardless of size, with the exception of the remainder of the parent parcel or parent tract retained by the proprietor. Nevertheless, the Howell Township Assessor may allow a depth to width ratio of greater than four to one (4:1) if failure to allow a greater depth to width ratio would result in practical difficulty or unnecessary hardship. Such practical difficulty or unnecessary hardship may consist of, but is not limited to, exceptional topographic or physical conditions with respect to the parcel and compatibility with surrounding lands.
- D. All parcels to be created by the proposed division and which meet the definition of "development site" have adequate easements for public utilities from the parcel to existing public utility facilities.
- E. The number of parcels to be created by division does not exceed the number of parcels allowed by Section 108 of the Land Division Act.

Section VIII ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS.

Notwithstanding disqualification from approval pursuant to this Ordinance, a proposed land division that does not comply with the minimum width and area requirements (but not including depth to width ratio requirements) of the Howell Township Zoning Ordinance or this Ordinance may be approved in any of the following circumstances:

- A. Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to Howell Township, designating the parcel as "not buildable". Any such parcel shall also be designated as "not buildable" in the Howell Township records, and shall not thereafter be the subject of a request to the Howell Township Zoning Board of Appeals for variance relief from the applicable width and/or area requirements, and shall not be developed with any building or above ground structure exceeding one (1) foot in height.
- B. Where, in circumstances not covered by Paragraph A above, the Howell Township Zoning Board of Appeals has granted a variance from the width and/or area requirements with which the parcel failed to comply.

Section IX CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT.

Any parcel created in noncompliance with this Ordinance shall not be eligible for any building permits, or zoning approvals, such as special land use approval and site plan approval. 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 and who sells a resulting parcel of land is responsible for the payment of civil fine of not more than \$1,000.00 for each parcel sold. A default in the payment of a civil fine or costs ordered under this Section or an installment of the fine or costs may be remedied by any means authorized under the Revised Judicature Act of 1961, 1961 Public Act 236, being Sections 600.101 to 600.9948 of the Michigan Compiled Laws.

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 Howell Township Zoning Ordinance, the Howell Township Subdivision Control Ordinance, or the Michigan Building Code.

Section XIII EFFECTIVE DATE.

This Ordinance shall take effect thirty (30) days following its publication after adoption.
(Ord. No. 59A eff. Sept. 19, 1997)