

TOWNSHIP OF PENTWATER
COUNTY OF OCEANA, MICHIGAN

At a regular meeting of the Township Board of the Township of Pentwater, Oceana County, Michigan, held at the Pentwater Township Hall, 327 Hancock Street, within the Township, on the 13th day of February 2019, at 7:00 p.m.

PRESENT: Members: Spitler, Ruggles, Johnson and Siska

ABSENT: Members: Flynn

The following preamble and ordinance were offered by Member Spitler and supported by Member Ruggles:

ORDINANCE NO. 19-01

**AN ORDINANCE TO REPLACE ORDINANCE NO. 97-1,
THE PENTWATER TOWNSHIP LAND DIVISION ORDINANCE**

THE TOWNSHIP OF PENTWATER ORDAINS:

Section 1. **Replacement of Land Division Ordinance.** Ordinance No. 97-1, the Pentwater Township Land Division Ordinance, is hereby replaced so as to read in its entirety as follows:

Section 1. **TITLE AND PURPOSE**

- 1.1 This ordinance shall be known and may be cited as the Pentwater Township Land Division Ordinance.
- 1.2 The purpose of this ordinance is to carry out the provisions of the Land Division Act, Michigan Public Act 288 of 1967, as amended (the “Act”) in order to prevent the creation of parcels of land which do not comply with the Act or with applicable Township ordinances; to provide for the orderly development of land and otherwise to provide for the health, safety and welfare of the residents and property owners of the Township by establishing minimum requirements for review and approval of certain land divisions within the Township.
- 1.3 This ordinance shall not be construed to repeal, abrogate, rescind, or otherwise to impair or interfere with provisions of other ordinances of the Township.

Section 2. DEFINITIONS

- 2.1 Certain words and phrases used in this Ordinance shall have the meanings stated in this section. Other words and phrases, if defined by the Act, shall have the meanings stated in the Act.
- 2.2 “Administrator” or “Land Division Administrator” means the Township Zoning Administrator or such other person as may be designated by the Township Board to serve as Land Division Administrator.
- 2.3 “Division” or “land division” means 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 (as defined in the Act), and that satisfies the requirements of Sections 108 and 109 of the Act. Division does not include a property transfer between two or more adjacent parcels, if the land taken from one parcel is added to an adjacent parcel.
- 2.4 “Exempt split” means 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.
- 2.5 “Parcel” means a contiguous area of land which can be described as stated in Section 102(g) of the Act.
- 2.6 “Parent parcel” or “parent tract” means a parcel or tract, respectively, lawfully in existence on March 31, 1997.
- 2.7 “Private road” means a private road which complies with the requirements of the Township zoning ordinance or the Township private road ordinance, whichever is applicable.
- 2.8 “Road authority” means the governmental authority having jurisdiction of a public road or public street.
- 2.9 “Resulting parcel(s)” means one or more parcels which result from a land division.
- 2.10 “Tract” means two or more parcels that share a common property line and are under the same ownership

Section 3. LAND DIVISION APPROVAL REQUIRED

Any division of land, including any partitioning or splitting of land, within the Township which requires the approval of the Township in order to qualify as a land division under the Act shall satisfy the requirements of Sections 4, 5 and 7 and the other applicable provisions of this ordinance.

Section 4. APPLICATION FOR LAND DIVISION APPROVAL

- 4.1 A proposed land division shall be filed with the Administrator and shall include the following:
- (a) A completed application, on such written form as the Township may provide, including any exhibits described therein.
 - (b) Proof of an ownership interest in the land which is the subject of the proposed division, or written consent to the application, signed by the owner of such land.
 - (c) A land title search, abstract of title, or other evidence of land title acceptable to the Administrator which is sufficient to establish that the parent parcel or parent tract of the land which is the subject of the proposed division was lawfully in existence on March 31, 1997.
 - (d) A copy of each deed or other instrument of conveyance which contains the statement required by Section 109(3) of the Act concerning the right to make further divisions.
 - (e) A tentative parcel map showing the parent parcel or parent tract which is the subject of the application, and the area, parcel lines, public utility easements, and the manner of proposed access for each resulting parcel. The tentative parcel map, including the resulting parcels, shall be accurately and clearly drawn to scale. A tentative parcel map shall include:
 - (1) Date, north arrow, scale, and the name of the person or firm responsible for the preparation of the tentative parcel map;
 - (2) Proposed boundary lines and the dimensions of each parcel;
 - (3) An adequate and accurate legal description of each resulting parcel;
 - (4) A drawing or written description of all previous land divisions from the same parent parcel or parent tract, identifying the number, area and date of such divisions;
 - (5) The location, dimensions and nature of proposed ingress to and egress from any existing public or private streets;
 - (6) The location of any public or private street, driveway or utility easement to be located within any resulting parcel. Copies of the instruments describing and granting such easements shall be submitted with the application;
 - (7) If a resulting parcel is a development site (as defined in the Act), the location of all public utility easements serving the parcel; and

- (8) The Administrator may accept a tentative parcel map that does not meet each of the standards contained herein if the Administrator is able to determine that the application qualifies for approval based on the information submitted.
 - (f) Other information reasonably required by the Administrator in order to determine whether the proposed land division qualifies for approval.
 - (g) Payment of the application fee and other applicable fees and charges to cover the costs of review of the application and administration of this ordinance and the Act established by resolution of the Township Board.
- 4.2 A proposed division shall not be considered filed with the Township, nor shall the time period stated in subsection 5.2 commence, until an application has been submitted, containing all information necessary to ascertain whether the requirements of Sections 108 and 109 of the Act have been met.

Section 5. MINIMUM REQUIREMENTS FOR APPROVAL OF LAND DIVISIONS

- 5.1 A proposed land division shall be approved by the Administrator upon satisfaction of all of the following requirements:
- (a) The application requirements of Section 4.
 - (b) All resulting parcels to be created by the proposed land division(s) shall fully comply with the applicable lot area and lot width requirements of the Township zoning ordinance for the zoning district(s) in which the resulting parcels are located.
 - (c) Each resulting parcel shall have the depth-to-width ratio specified by the Township zoning ordinance for the zoning district(s) in which the resulting parcel is located. If the Township zoning ordinance does not specify a more restrictive depth to width ratio, each resulting parcel which is 10 acres or less in area shall have a depth which is not more than four times the width of the parcel. The width and depth of the resulting parcel shall be measured in the same manner provided by the Township zoning ordinance for the measuring of the lot width and lot depth of parcels.
 - (d) 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.
 - (e) 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.
 - (f) 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.

- (g) The division shall not isolate a cemetery such that the cemetery does not meet the requirements for accessibility under the Act or this Land Division Ordinance.
- 5.2 The Administrator shall approve or disapprove a proposed land division within 45 days after the complete filing of the proposed division with the Administrator, and shall provide the person who filed the application written notice whether the application is approved or disapproved and, if disapproved, all the reasons for the disapproval.
- 5.3 Any notice of approval of a division resulting in a parcel less than one acre in size shall contain a statement that the Township, its officers and employees are not liable if a building permit is not issued for the parcel for the reasons set forth in Section 109(a) of the Act, including requirements regarding suitability of on-site water supply and on-site sewage disposal, as described in Section 105(g) of the Act.
- 5.4 An applicant aggrieved by the decision of the Administrator may, within 30 days of the decision, file a written appeal of the decision to the Township Board, which shall consider and decide the appeal by a majority vote of the members present and voting at a public meeting. At least 10 days' written notice of the date, time and place of the meeting at which the appeal is to be considered shall be given to the applicant by regular, first-class mail, directed to the applicant's address as shown in the application or in the written appeal. The Township Board may affirm or reverse the decision of the Administrator, in whole or in part, and its decision shall be final.
- 5.5 The Administrator shall maintain a record of all land divisions approved by the Township.

Section 6. EXEMPT SPLITS AND OTHER DIVISIONS NOT SUBJECT TO APPROVAL

- 6.1 An exempt split is not subject to approval by the Township if all resulting parcels are accessible (as defined in the Act) or if either Section 6.3(a) or 6.3(b) of this ordinance applies.
- 6.2 The Township shall not permit the creation of an exempt split if one or more of the resulting parcels are not accessible unless either Section 6.3(a) or 6.3(b) of this ordinance applies to all such inaccessible parcels.
- 6.3 An exempt split or other partitioning or splitting of a parcel or tract that only results in parcels of 20 acres or more in size is not subject to approval by the Township if the parcel or tract is not accessible and either of the following applies:
 - (a) The parcel or tract was in existence on March 31, 1997; or
 - (b) The parcel or tract resulted from an exempt split or other partitioning or splitting under Section 109b of the Act.

Section 7. APPROVAL OF LAND DIVISIONS

- 7.1 A decision approving a land division shall be effective for not more than 90 days after such approval by the Administrator or, if appealed, by the Township Board, unless either of the following requirements is satisfied within such 90-day period:
- (a) A deed or other recordable instrument of conveyance, accurately describing the resulting parcel(s), shall be recorded with the county register of deeds and a true copy thereof, showing proof of such recording, shall be filed with the Administrator; or
 - (b) A survey accurately showing the resulting parcel(s) shall be recorded with the county register of deeds and a true copy thereof, showing proof of such recording, shall be filed with the Administrator. Such survey shall comply with the minimum requirements of Public Act 132 of 1970, as amended.

If neither paragraph (a) nor paragraph (b) is satisfied, such land division approval shall, without further action on the part of the Township, be deemed revoked and of no further effect after the 90th day following such approval by the Administrator or, if appealed, by the Township Board.

- 7.2 All deeds and other recordable instruments of conveyance and all surveys submitted in compliance with Section 7.1 shall be reviewed by the Administrator in order to determine their conformity with the approved tentative parcel map. The Administrator shall mark the date of approval of the proposed land division on all deeds, other recordable instruments of conveyance and surveys which are in conformity with the approved tentative parcel map and which otherwise comply with the requirements of this ordinance. Such documents shall be maintained by the Administrator in the Township record of the approved land division.
- 7.3 The approval of a land division is not a determination that the resulting parcels comply with other ordinances or regulations.
- 7.4 Any parcel created inconsistent with or in violation of this ordinance, where approval hereunder is required, shall not be eligible for issuance of building permits, zoning ordinance approvals or other land use or building approvals under other Township ordinances, nor shall any such parcel be established as a separate parcel on the tax assessment roll.

Section 8. PENALTIES AND OTHER REMEDIES

- 8.1 *Municipal Civil Infraction.* A violation of this ordinance, or a violation of any approval granted hereunder, is a municipal civil infraction, for which the fine shall be \$500 for the first offense, and not less than \$1,000 nor more than \$2,500 for subsequent offenses, in the discretion of the court, and in addition to all other costs, damages, expenses and actual attorney fees incurred by the Township in enforcing the ordinance. For purposes of this section, “subsequent offense” means a violation of this ordinance committed by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that

offenses committed on subsequent days within a period of one week following issuance of a citation for a first offense shall be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.

8.2 *Injunctive Relief.* In addition, a violation of this ordinance or a violation of any approval granted hereunder is hereby declared to be a nuisance per se. The issuance of a municipal civil infraction and imposition of the foregoing municipal civil infraction penalties against a violator shall not prohibit the Township from also seeking injunctive relief against a violator, in order to abate the violation or to seek such other relief provided by law.

Section 9. SEVERABILITY

The provisions of this ordinance are severable and if any provision or other part hereof is determined to be invalid or unenforceable by any court of competent jurisdiction, such determination shall not affect the remaining provisions or other parts of this ordinance.

Section 2. Publication/Effective Date. This ordinance shall become effective 30 days following its publication or the publication of a summary of its provisions in a local newspaper of general circulation.

Upon motion made to adopt said ordinance, a roll call vote was taken as follows:

AYES: Members: Spitler, Ruggles, Johnson and Siska

NAYS: Members: None

ABSENT: Members: Flynn

ORDINANCE DECLARED ADOPTED.

Sue Ann Johnson, Township Clerk

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Township Board of the Township of Pentwater at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.

Sue Ann Johnson, Township Clerk