

DEXTER TOWNSHIP ORDINANCE NUMBER 27

LAND DIVISION TRANSFER ORDINANCE

ADOPTED: JANUARY 20, 1998

EFFECTIVE: FEBRUARY 28, 1998

AN ORDINANCE TO REGULATE PARTITIONING, TRANSFERS OR DIVISION OF PARCELS OR TRACTS OF LAND, ENACTED PURSUANT BUT NOT LIMITED TO MICHIGAN PUBLIC ACT 288 OF 1967, AS AMENDED, SUBDIVISION CONTROL ACT, ACT 591 OF 1996 AS AMENDED BY ACT 87 OF 1997, LAND DIVISION ACTS, AND ACT 246 OF 1945, AS AMENDED, 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.

THE TOWNSHIP OF DEXTER ORDAINS:

SECTION I

1. **TITLE.** This ordinance shall be known and cited as the Dexter Township Land Division and Transfer Ordinance.

SECTION II

1. **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 and Act 591 of 1996 as amended by Act 87 of 1997) 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 and transfers within the Township.

SECTION III

1. **DEFINITIONS.** For the 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. "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, that results in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.

DEXTER TOWNSHIP ORDINANCE NUMBER 27

- C. “Transfer”- A property transfer between two (2) or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel. Any resulting parcel shall not be considered a building site unless each resulting parcel conforms to the requirements of the Act, this Ordinance, the Dexter Township Zoning Ordinance, and all other applicable Ordinances, regulations and laws.
- 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 Dexter Township Board.
- F. “Designated official”- the Dexter Township Supervisor.
- G. “Wetlands”- Lands characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances support wetland vegetation or aquatic life and are commonly referred to as bogs, swamps, marshes, and wet meadows.
- H. “Regulated Wetlands Activities”- regulated activities in any wetland area within the Township without a permit from the Michigan Department of Environmental Quality (MDEQ) and/or Washtenaw County for regulated wetlands or a review and approval by the Township at the time of issuing a land division permit under this Ordinance for non-regulated wetlands. A wetland is a “regulated wetland” if it is regulated by the Michigan Department of Environmental Quality and/or Washtenaw County. Regulated activities in wetland include, but are not limited to:
 - H.1 Depositing or permitting the depositing of any material including but not limited to hazardous chemicals, non-biodegradable aquatic pesticides and herbicides, and harmful fertilizers.
 - H.2 Dredging, removing, or permitting the dredging or removing of material or minerals.
 - H.3 Erecting or building any structure including but not limited to buildings, roadways, bridges of any type, tennis courts, paving, utility, or private poles, or towers.
 - H.4 Constructing, operating or maintaining any land use or development.
 - H.5 Constructing, placing, enlarging, extending or removing any temporary, seasonal, or permanent operation or structure upon wetlands, except seasonal docks, rafts, diving platforms, and other water recreational devices.
 - H.6 Constructing, extending, enlarging, or connecting any conduit, pipe, culvert, or open or closed drainage facility carrying storm water runoff from any site, within a wetlands area, or any other land use permitting discharge of silt, sediment, organic or inorganic material, chemicals, fertilizers, flammable liquids, or other polluting substances except in accordance with requirements of County, State, Federal agencies, and the Township.

DEXTER TOWNSHIP ORDINANCE NUMBER 27

- G. "Flood plain"- the area of lands designated by the United States Army Corps of Engineers, the Department of Housing and Urban Affairs, and/or the United State Geodesic Survey datum as being within a 100-year flood plain.

SECTION IV

1. **PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS AND TRANSFERS.** Land in the Township shall not be divided or transferred without the prior review and approval of the 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 Township's Subdivision Control Ordinance and the State Land Division Act.
 - B. A lot in a recorded plat proposed to be divided in accordance with the Township's Subdivision Control Ordinance and the State Land Division Act.
 - C. An exempt split as defined in this Ordinance.

SECTION V

1. **APPLICATION FOR LAND DIVISION OR TRANSFER APPROVAL.** An applicant shall file all of the following with the designated official for review and approval of a proposed land division or transfer before making any division or transfer 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 provided by the Township.
 - B. Proof of fee ownership of the land proposed to be divided or transferred.
 - C. Four copies of an original survey map, with original stamp and signature, of the land proposed to be divided or transferred, prepared pursuant to the survey map requirements of 1970 Public Act 132, as amended, (MCL 54.211) by a land surveyor licensed by the State of Michigan, and showing the dimensions and legal descriptions of the existing parcel and the parcels proposed to be created, divided or transferred, the location of all existing structures and other land improvement, the accessibility of the parcels for vehicular traffic and utilities from existing public roads, wetlands, any existing or proposed regulated wetland activities, and flood plains.

In lieu of such survey map, at the applicant's option, the applicant may waive the 30 day statutory requirement for a decision on the application until such survey map and legal description are filed with the Township, and submit four copies, a tentative preliminary parcel map drawn to scale of not less than that provided for on the application from including an accurate legal description of the parent parcel or parent tract, and showing the boundary lines, dimensions area and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the locally designated official prior to a final application under Section V.

DEXTER TOWNSHIP ORDINANCE NUMBER 27

- D. Proof that all standards of the State Land Division Act and this Ordinance have been met.
- E. The history and specifications of any previous divisions or transfers of land of which the proposed divisions or transfer was a part sufficient to establish the parcel to be divided or transferred was lawfully in existence as of earliest effective date of the State Land Division Act.
- F. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided or transferred are paid in full.
- G. In transfer of division rights are proposed in the land division or transfer, detailed information about the terms and availability of the proposed division rights transfer.
- H. All divisions shall result in “buildable” parcels containing sufficient “buildable” area outside of unbuildable wetlands, flood plains and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, on-site sewage disposal and water well locations (where public water and sewer service is not available), and maximum allowed area coverage of buildings and structures on the site.
- I. The fee as may from time to time be established by resolution of the governing body of the Township for land division or transfer 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.
- J. Designate the existing zoning district of the parcels in the application and of each adjoining parcel.

SECTION VI

1. PROCEDURE FOR REVIEW OF APPLICATION.

For Land Division Approval.

- A. Upon receipt of a land division application package, the designated official 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 45 days after receipt of the application package conforming to this Ordinance’s requirements, and shall promptly notify the applicant of the decisions and the reasons for any denial. If the application package does not conform to this Ordinance requirements and the State Land Division Act, the designated official shall return the same to the applicant for completion and refilling in accordance with this Ordinance and the State Land Division Act. The designated official shall provide the applicant written notice whether the application is approved, conditionally approved, or disapproved, and, if disapproved or conditionally approved, all the reasons for the disapproval or conditional approval.
- B. Any person or entity aggrieved by the decision of the designated official may, within 30 days of said decision appeal the decision to the Township Zoning Board

DEXTER TOWNSHIP ORDINANCE NUMBER 27

of Appeals which shall consider and resolve such appeal by a majority vote of said Board at its next meeting or session affording sufficient time for a 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. The Zoning Board of Appeals shall obtain written reports from the Township Engineer and Township Planner and others if they deem appropriate for its use in deciding the appeal. The decision of the designated official is final, unless appealed to the Zoning Board of Appeals. The Zoning Board of Appeals shall review the decision and grant relief if it finds that the decision is arbitrary or capricious, an erroneous application of law, or an unreasonable exercise of discretion. The Zoning Board of Appeals shall have the power and duty to waive or relax the provisions of this Ordinance in specific cases. To this end, the Board of Appeals may grant appeals, which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship or practical difficulty. A appeal shall not be granted unless all the following standards are met:

- 1) Special conditions and circumstances exist which are unique to the land, structures or buildings involved, and are not applicable to other lands, structures or buildings;
 - 2) The special circumstances and conditions on which the appeal is based do not results from the actions of the applicant;
 - 3) Literal interpretation of this Ordinance would deprive the applicant of the rights commonly enjoyed by other property owners under the terms of this Ordinance;
 - 4) Granting the appeal will not confer upon the applicant any special privilege that is denied by this Ordinance to other lands;
 - 5) The existence of nonconforming parcels or nonconforming uses of parcels, structures, or buildings under the Township's Zoning Ordinance or other regulatory ordinances shall not be considered grounds for the issuance of an appeal.
 - 6) A appeal granting a waiver or variance of the ordinance shall be the minimum variance that will make possible a reasonable division of land in accordance with law and not otherwise detrimental to the public interest.
- C. A decision approving a land division is effective for 180 days, from the date of approval by the designated official, or if appealed to the Zoning Board of Appeals, 180 days from the Zoning Board of Appeals decision.
- D. The designated official or township clerk shall maintain an official record of all approved and accomplished land divisions or transfers.
- E. All deeds and other instruments of conveyance and surveys for all approved land divisions must be submitted to the designated official for review prior to recording. The designated official shall mark the date of approval of the land division on the deeds, instruments, and surveys, attesting to their conformity to

DEXTER TOWNSHIP ORDINANCE NUMBER 27

the approved divisions. Copies of the approved documents shall be retained by the designated official.

SECTION VII

1. **STANDARDS 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 the applicable zoning ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ration, and maximum lot (parcel) coverage and minimum setbacks for existing buildings/ structures.
 - B. The proposed land division(s) comply with all requirements of the State Land Division Act and this Ordinance.
 - C. Proof of approval by the Washtenaw County Road Commission of a driveway permit for each lot to be created by the proposed land division.
 - D. Proof of a wetland permit issued by MDEQ or Washtenaw County shall be provided for any proposed land division that involves, uses, includes, or impacts a regulated wetland or for any regulated wetlands activity.
 - E. The required minimum lot area of each parcel to be created, such area to be contiguous and equivalent to the applicable zoning ordinance, shall be outside the boundary of any wetland, whether or not regulated. The boundaries of wetlands shall be determined by reference to the Dexter Township Wetland survey.
 - F. 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-buildable parcels created under Section VIII of this Ordinance and parcels added to contiguous parcels that result in all involved parcels complying with said ratio.
 - G. All parcels created by a land division shall comply with a minimum road frontage, approvals, design, length, and construction standards of the Township Road Ordinance.

SECTION VIII

1. **EFFECT OF APPROVAL OF LAND DIVISIONS.** The designated official shall maintain a record of all land divisions approved in the Township. An approval of a land division shall be in effect for not more than 180 days after such approval by the designated official or, if approved on appeal, by the Zoning Board of Appeals, unless within such 180 day period, a deed, other instrument of conveyance, or survey with the designated official's mark of approval affixed thereto, accurately describing the resulting parcel(s) other than the parent parcel or tract retained by the applicant, is recorded in the office of the Washtenaw County Register of Deeds and a true copy thereof, showing proof of such recording, filed with the designated official 10 days thereafter. Such survey shall comply with the requirements of Public Act 132 of 1970, as amended. If the above recording is not done, within the 180 day period, such land division approval is void and revoked without further notice.

DEXTER TOWNSHIP ORDINANCE NUMBER 27

SECTION IX

1. PROCEDURE FOR REVIEW OF APPLICATION.

For Land Transfer Approval.

- A. Upon receipt of a land transfer application, the designated official shall approve, or disapprove the land transfer applied for within 45 days after receipt of the application conforming to this Ordinance's requirements, and shall promptly notify the applicant of the decisions and the reasons for any denial. If the application package does not conform to this Ordinance requirements and the State Land Division Act, the designated official shall return the same to the applicant for completion and refiling in accordance with this Ordinance and the State Land Division Act. The designated official shall provide the applicant written notice whether the application is approved, or disapproved, and, if disapproved, all the reasons for disapproval.
- B. Any person or entity aggrieved by the decision of the designated official may, within 30 days of said decision appeal the decision to the Township Zoning Board of Appeals which shall consider and resolve such appeal by a majority vote of said Board at its next meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than applicant) of the time and date of said meeting and appellate hearing. The decision of the designated official is final, unless appealed to the Zoning Board of Appeals. The Zoning Board of Appeals shall review the decision and grant relief if it finds that the decision is an erroneous application of law.
- C. A decision approving a land transfer is effective for 180 days, from date of approval by the designated official, or if appealed to the Zoning Board of Appeals 180 days from the Zoning Board of Appeals decision.
- D. The designated official or township clerk shall maintain an official record of all approved and accomplished land divisions or transfers.
- E. All deeds and other instruments of conveyance and surveys for all approved land transfers must be submitted to the designated official for review prior to recording. The designated official shall mark the date of approval of the land transfer on the deeds, instruments, and surveys, attesting to their conformity to the approved transfers. Copies of the approved documents shall be retained by the designated official.

SECTION X

1. **VIOLATIONS.** 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 or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. Any parcel transferred in 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 XI

DEXTER TOWNSHIP ORDINANCE NUMBER 27

1. Any person who violates any of the provisions of this ordinance shall be deemed guilty of a civil infraction.

Any person who violates any of the provisions of this ordinance shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

- A. For violation of the provisions of this Ordinance governing the division of land, including the failure to obtain a permit \$1,000.00 for each parcel sold.
- B. For violation of all provisions of this Ordinance, the violator shall pay costs, which shall include all direct or indirect expenses, including attorney fees reasonably and actually incurred, engineering fees and costs, Board members', assessor's, and other administrative salaries and costs, to which the Township has been put in connection with the violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan Law. Each day a violation of this Ordinance continues to exist constitutes a separate violation.

SECTION XII

1. **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 XIII

1. **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 Township Zoning Ordinance, the Township Subdivision Control Ordinance, or the Township Building Code.

SECTION XIV

1. **FEES AND DEPOSITS FOR COSTS.** The Township Board from time to time shall by resolution set fees and deposits for costs to be paid by land owners and applicants for land divisions, review and permits under this Ordinance. The applicant shall pay all review costs incurred by the Township, including planning consultants, engineers and attorneys, according to schedules determined by the Township Board, by deposit made at the time of application for a permit. The Clerk shall pay from the deposit all costs incurred by the Township to review the application, including all legal, engineering, planning and other Township consultants, whose services and charges are reasonable and necessary to the review of any appeal. If the amount on deposit is less than the required minimum deposit at any time, the applicant shall promptly deposit additional sums to increase the deposit to the minimum at the request of the Clerk. After a decision on an application for the permit is made and any final appeal decided, the Clerk shall refund the balance of the deposit to the applicant. The deposits herein provided shall be in addition to other costs provided by law, and may be modified from time to time by resolution of the Dexter Township Board.

SECTION XV

DEXTER TOWNSHIP ORDINANCE NUMBER 27

1. EFFECTIVE DATE. This ordinance shall have immediate effect.

Township Clerk