

STATE OF MICHIGAN

COUNTY OF ST. JOSEPH

TOWNSHIP OF BURR OAK

LAND DIVISION AND BOUNDARY CHANGE ORDINANCE NO. 2007-1

ADOPTED: 02/05/2007
EFFECTIVE: 03/21/2007

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to the Land Division Act, Public Act 288 of 1967, as amended, (MCL560.101, et seq.) and the Township Ordinances Act, Public Act 246 of 1945, as amended, (MCL41.181, et seq.), 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 BURR OAK, ST. JOSEPH COUNTY, MICHIGAN, ORDAINS:

Section I: Title

This ordinance shall be known and cited as the Township Land Division and Boundary Change Ordinance.

Section II: Purpose

The purpose of this ordinance is to carry out the provisions of the Land Division Act, Public Act 288 of 1967, as amended, (MCL560.101, 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 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 boundary changes within the Township.

Section III: Definitions

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

- A. "Applicant" means 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. "Boundary Change" means a property transfer between two or more adjacent parcels, if 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 Land Division Act or the requirements of other applicable local ordinances.

C. "Divide" or "Division" means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his/her heirs, executors, administrators, a 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 Sections 108 and 109 of the Land Division Act (MCL560.108 and 560.109) "Divide" and "Division" does not include a "boundary change" as defined above; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the Land Division Act, or the requirements of other applicable local ordinances.

D. "Exempt split" or exempt division" means the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his/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.

E. "Forty acres or the equivalent" means 40 acres, or a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

Section IV: Prior Approval Requirement for Land Divisions and Boundary Changes

Land in the Township shall not be divided nor shall a boundary change be made without the prior review and approval of the Township's Zoning Administrator, or other official designated by the 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 Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the Land Division Act.
- C. An exempt split as defined in this Ordinance, or other partitioning or splitting that results in parcels of 20 acres or more if each is not accessible and the parcel was in existence on March 31, 1997, or resulted from exempt splitting under the Act.

Section V: Application for Land Approval

An applicant shall file all of the following with the Zoning Administrator or other official designated by the Township Board for review and approval of a proposed land division or boundary change before making any division or boundary change 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 that is the subject of the boundary change.
- C. A tentative parcel map drawn to scale including an accurate legal description of each proposed division, and showing the boundary lines, approximate dimensions, the accessibility of each division for automobile traffic and public utilities, and the location of all existing structures and easements in relation to all property lines.
- D. Proof that all standards of the Land Division Act and the Ordinance have been met.

E. 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.

F. A fee established by the Township Board by resolution, 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 or Boundary Change Approval

A. The Township (through its designee) shall approve or disapprove the land division or boundary change applied for within 45 days after receipt of a complete application conforming to this Ordinance's requirements and the Land Division Act, and shall promptly notify the applicant of the decision, and if denied, the reasons for denial.

B. The Zoning Administrator or designee shall maintain an official record of all approved and accomplished land divisions or transfers and boundary changes.

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

D. The Township and its officers and employees shall not be liable for approving a land division or boundary change 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: Standards for Approval of Land Divisions and Boundary Changes

A proposed land division or boundary change reviewable by the Township shall be approved if the following criteria are met:

A. All applicable lot, yard and area requirements set forth in the Township's Zoning Ordinance are met.

B. The ratio of depth to width of any parcel created by the division or boundary change 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 or boundary change 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 measurement.

C. The proposed land division(s) or boundary change(s) comply with all requirements of this Ordinance and the Land Division Act.

D. All parcels created and remaining have existing adequate accessibility, or an area available therefore, for public utilities and emergency and other vehicles.

Section VIII: Consequences of Noncompliance

Any division of land in violation of any provision of this Ordinance shall not be recognized as a land division on the Township tax roll or assessment roll until the Zoning Administrator 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 or parcel created 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. A municipal civil infraction under this Ordinance shall be punishable by a civil fine of not more than \$1,000.00 for each parcel sold and/or conveyed, along with cost which may include all expenses, direct and indirect, to which the Township has been put in connection with municipal civil infraction. A person violating this Ordinance shall also be responsible to reimburse the Township for its reasonable attorney fees for obtaining its permitted remedies. 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 (MCL.560.267), 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.

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 or portion thereof.

Section X: Repeal

All previous Land Division Ordinances affecting un-platted land divisions in conflict with this Ordinance are hereby repealed; however, this Ordinance shall not be construed to repeal any provision in any applicable Zoning Ordinances, Building Codes or other ordinances of the Township that shall remain in full force and effect notwithstanding any land division approval hereunder.

Section XI: Effective Date

This ordinance shall take effect 30 days after its publication.

The foregoing Ordinance was offered by Lancaster, supported by Leverage, the vote being as follows:

YEAS: Kent Lancaster, Keith Leverage, Mary Gould, Tina Cronkhite
NAYS: None
ABSENT: George Letts

Ordinance declared adopted.

Tina N. Cronkhite, Township Clerk

I hereby certify that this is a true copy of an ordinance adopted at a regular meeting of the Burr Oak Township Board held on 02/05/2007. I further certify that a summary of this ordinance was published in the Sturgis Journal, Sturgis, Michigan on 02/21/2007, and a certified copy was filed with the St. Joseph County Clerk's office on 03/21/2007.