

TOWNSHIP OF GERRISH
COUNTY OF ROSCOMMON, MICHIGAN

At a regular meeting of the Township Board of the Township of Gerrish, Roscommon County, Michigan, held at the Township Hall, in said Township, on the 14th day of October 1997, at 7:30 p.m.

PRESENT: Members: Supervisor Carlson, Clerk Boyle, Treasurer Carter,
Trustee Lippert, Trustee Weatherly.

ABSENT: Members: None.

The following ordinance was offered by Member Weatherly and supported by Member Carter.

The Township of Gerrish ordains:

ORDINANCE NO. XX

AN ORDINANCE to regulate the division of parcels or tracts of land in order to carry out the provisions of Michigan Public Act 288 of 1967, as amended, being the Land Division Act; to establish minimum requirements and procedures for the approval of such land divisions and to prescribe penalties for the violation of this ordinance.

Section 1. TITLE AND PURPOSE

1.1 This ordinance shall be known and may be cited as the Gerrish 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"), including without limitation Sections 105 and 109(5) thereof, 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

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.

2.1 "Administrator" means Building Administrator.

2.2 "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; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this act or the requirements of an applicable local ordinance.

2.3 "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.

2.4 "Parcel" means a contiguous area of land which can be described as stated in Section 102(g) of the Act.

2.5 "Parent parcel" or "parent tract" means a parcel or tract, respectively, lawfully in existence on March 31, 1997.

2.6 "Road authority" means the governmental authority having jurisdiction of a public road or public street.

2.7 "Resulting parcel(s)" means one or more parcels which result from a land division.

2.8 "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 partitioning or splitting of land requires the approval of the Township in order to qualify as a land division under the Act and shall satisfy the requirements of Sections 4 and 5, and any other applicable provisions of this Ordinance.

Section 4. APPLICATION FOR LAND DIVISION APPROVAL

4.1 A proposed land division shall be filed with the Building 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 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) Three copies of 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 a scale of not less than one inch=20 feet for parent parcels or parent tracts of less than three acres in area, and to a scale of at least 1"=100 feet for parent parcels or parent tracts of three acres or more in area. 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) A drawing or description of all previous land divisions from the same parent parcel or parent tract, identifying the number, area and date of such divisions;
 - (4) The location, dimensions and nature of proposed ingress to and egress from any existing public or private streets; and

- (5) 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.
- (f) The application for a tract or parcel split shall show that each proposed tract or parcel meets all soil evaluation requirements of the County Health Department and show each proposed tract or parcel to have a septic tank site, two (2) drainfield sites and a well site, all as approved by the County District Health Department. The applicant shall submit copies of the permits issued by the District Health Department for proposed wells and septic tanks to the Township. Soil evaluation tests for septic tanks, drainfields and wells shall not be required for parcels of more than thirty (30) acres from which the parcel or tract splits are made if the 30 acre or more parcels are not to become a separate principal-building site. However, if in the future the parcel or parcels are to become separate principal-use building site or sites, then it will be required to have the required soil boring tests for septic tank, drainfields and wells prior to the issuance of any land use or building permit. All tracts or parcels which do not pass the soil boring test shall only be sold on the condition that they are not to be used for a building site.
- (g) The requirements of subparagraph (e) do not apply to any resulting parcel which is 40 acres or larger as long as such parcel satisfies the requirements of Section 5.1(b) below.
- (h) Other information reasonably required by the Administrator in order to determine whether the proposed land division qualifies for approval.
- (i) Payment of the application fee and other applicable fees and charges 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 5.3 commence, until all of the requirements for an application for land division approval have been complied with by the applicant.

Section 5. MINIMUM REQUIREMENTS FOR APPROVAL OF LAND DIVISIONS

5.1 A proposed land division shall be approved by the Township Board upon satisfaction of all of the following requirements:

- (a) The application requirements of Section 4.
- (b) Each resulting parcel shall have a means of vehicular access to an existing public street or road. Such means of access shall comply with all applicable location standards of the governmental authority having jurisdiction of the existing street or road. If a private road is proposed, the applicant shall also comply with the requirements of subsection 5.2.

- (c) 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.
- (d) 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.
- (e) Each resulting parcel which is 10 acres or less in size shall have a depth which is not more than four times the width of the parcel. If the width of the parcel is irregular, the average width of the parcel shall be calculated and used for purposes of this provision. This depth to width ratio shall not apply to the remainder of the parent parcel or parent tract retained by the applicant. The 4 to 1 ratio need not be considered or adhered to providing conditions exist limiting the petitioner meeting stated requirements. These conditions may include, but are not limited to, topographical or physical irregularities or features of the parcel or area, and compatability with surrounding and or adjacent parcels or properties. Gerrymandering of property lines to accommodate existing structures and/or physical irregularities will be viewed with a concern of future potential septic and ground water problems, or to cause structures to be too close to one another. The petitioner shall submit, in writing, in addition to the applications, any and all reasons the 4 to 1 ratio cannot be met. The final decision will be made by the Township Board.
- (f) 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.
- (g) Proposed or existing roads shall not be included as part of the tract or parcel when computing area or frontage requirements.

The split of a tract or parcel resulting in a smaller area than prescribed herein may be permitted for the purpose of adding to an existing site or sites. Provided further that the parcel or parcels which are smaller in area than permitted by ordinance or state law shall be conveyed only to the owner or owners of the property immediately adjoining said remaining parcel. All property so joined shall not thereafter be conveyed individually, separate from each other without additional Township Board approval under this ordinance. The instrument of conveyance shall contain a deed restriction prohibiting a conveyance separate and apart from the adjoining land.

5.2 If a means of vehicular access to a resulting parcel does not lawfully exist at the time a land division is applied for, the proposed division shall not be approved unless the following requirements are satisfied:

- (a) If a private road is proposed as a means of access, each resulting parcel shall have access to a private road that is in compliance with the Gerrish Township Zoning Ordinance.
- (b) If a new public street is proposed as a means of access, the applicant shall provide proof that the road authority having jurisdiction has approved the proposed layout and construction design of the street and of utility easements and drainage facilities associated therewith.
- (c) When the tracts or parcels resulting from a proposed tract or parcel split will be serviced by an existing private road or easement which is less than 66 feet wide, or the road bed is less than required, the owner may apply for a Special Exception Permit, provided however, that if the property over which the private road or easement is located is now or has been in the past owned by the party proposing to (in whole or in part) split the tract or parcel, the tract or parcel split will not qualify for a Special Exception Permit.
 - (1) No Special Exception Permit for a narrower right-of-way or improved road bed shall be issued unless it is established that such modification is necessary to secure an appropriate development of a specific parcel of land; provided, that any such modification will not be inconsistent with the spirit and purpose of this Ordinance, with public safety and with substantial justice, and that the resulting tracts or parcels can adequately be serviced by fire, ambulance and other emergency vehicles or other public service vehicles, including school buses, utility trucks, etc. The resulting road or easement must be a minimum width of twelve (12) feet.
 - (2) The owner of any tract or parcel which is granted a Special Exception Permit shall record with the Roscommon County Register of Deeds a notice that the private road used for ingress and egress is of a sub-standard size.

5.3 The Township Board 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 applicant with written notice of such approval or disapproval. If disapproved, the Administrator shall provide the applicant with a description of the reasons for disapproval. Any notice of approval for a resulting parcel of less than one acre in size shall contain a statement that the Township is not liable if a building permit is not issued for the parcel for the reason that the parcel fails to satisfy the requirements of Section 109a of the Act, including approval of on-site water supply and on-site sewage disposal under the standards set forth in Section 105(g) of the Act.

Section 6. APPROVAL OF LAND DIVISIONS.

6.1 The Administrator shall maintain a record of all land divisions approved by the Township.

6.2 A decision approving a land division shall be effective for not more than 180 days after such approval by the Township Board, unless the following requirements are satisfied within such 180-day period:

- (a) A deed or other recordable instrument of conveyance, accurately describing the resulting parcel(s) other than the remainder of the parent parcel or parent tract retained by the applicant, 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. A copy of each deed or other instrument of conveyance shall contain the statement required by Section 109(3) of the Act concerning the right to make further divisions.
- (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.
- (c) The property is serviced by a completed public or private road. Completion shall mean inspection and written approval and acceptance by the Gerrish Township Board for private roads, and in the case of public roads, also approved and accepted by the Roscommon County Road Commission. If the parcel is serviced by a public road, the Road Commission approval shall also include a driveway and culvert approval.

If paragraphs (a), (b) and (c) are not 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 180th day following such approval by the Township Board.

6.3 All deeds and other recordable instruments of conveyance and all surveys submitted in compliance with Section 5.1 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.

6.4 The approval of a land division shall not, of itself, constitute an approval or permit required under other applicable Township ordinances. Approval of a division is not a determination that the resulting parcels comply with other Township ordinances or regulations.

6.5 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.

If a tract or parcel split is approved and the property owner only intends to develop one parcel and requests a building permit for that one parcel but only constructs or intends to construct a road (public or private) to that one parcel or does not construct or intend to construct a road which will serve all parcels; the property owner must deposit the approved estimated amount for construction of the access road to all parcels which complies with this Ordinance. The estimated construction amount may be deposited in:

1. Cash
2. Approved surety bond
3. Approved irrevocable letter of credit

Section 7. PENALTIES AND OTHER REMEDIES

A violation of this ordinance is a municipal civil infraction, for which the fine shall be not more than \$500 for the first offense and not more than \$1,000 for a subsequent offense, in the discretion of the court, and in addition to all other costs, damages, expenses and other remedies provided by law. For the purpose of this section, a subsequent offense means a violation of this ordinance committed by the same person or party within one year after a previous violation of the same provision of this ordinance for which such person or party admitted responsibility or was determined by law to be responsible.

Section 8. 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 9. EFFECTIVE DATE

This ordinance shall become effective 30 days after its publication or 30 days after the publication of a summary of its provisions in a local newspaper of general circulation.

AYES: Members: Carlson, Boyle, Carter, Lippert, Weatherly.

NAYS: Members: None.

ORDINANCE DECLARED ADOPTED.



Norma Lee Boyle, Township Clerk

STATE OF MICHIGAN)
)ss.
COUNTY OF ROSCOMMON)

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Township Board of the Township of Gerrish 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.



Norma Lee Boyle, Township Clerk