

ADOPTION OF AMENDMENT TO LAND DIVISION ORDINANCE

AMENDMENT # 1

ORIGINAL

The Board of Powell Township of Marquette County, Michigan ordains that Ordinance # 1, the Powell Township Land Ordinance as adopted September 15, 1997 be amended to add the following language to Section VII:

Sect.VII, para 5, (Lake shore/river depth to width ration exemption)

- (A) Lots on Lake Superior, Lake Independence, and Saux Head Lake that are zoned Lake shore/river, are exempt from 4 to 1 ratio due to existing development pattern and physical location which has led to unusually deep lots.

Sect. VII, para 8, VARIANCES:

The Zoning Board of Appeals shall have the power and duty to authorize upon appeal in specific cases a variance from the literal enforcement of the provisions of the 4 to 1 depth to width ratio, where compliance would result in unnecessary hardship or practical difficulty owing to special conditions.

The Zoning Board of Appeals shall make findings that the requirements of this section have been met by the applicant.

- (a) The Zoning Board of Appeals shall further find that the reasons set forth in the application justify the granting of the variance, and that it is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- (b) The Zoning Board of Appeals shall further find that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public interest.
- (c) The site exhibits unique topographic or physical conditions, which justify the granting of the variance.

In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted shall be deemed a violation of this Ordinance.

ROLL CALL:

AYES: 5

NAYS: 2

MOTION CARRIED

Diane J Burns

DIANE J. BURNS
CLERK, POWELL TOWNSHIP

ATTESTED:

Sarah J Pelto

SARAH J. PELTO, SUPERVISOR
POWELL TOWNSHIP

I certify that this is the official revision of the Zoning Ordinance of the Township of Powell, Marquette County, Michigan, adopted by the Township Board on June 11, 2002. This Ordinance shall take effect and be in full force on the date following its passage by the Powell Township Board.

Diane J. Burns, Clerk Powell Township

Dates of Publication (Mining Journal)

ATTESTED:

Sarah J. Pelto, Supervisor

- 1.
- 2.

**STATE OF MICHIGAN
COUNTY OF MARQUETTE
TOWNSHIP OF POWELL
LAND DIVISION ORDINANCE NO. 99701
Adopted: 090997
Effective: 091797**

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

**TOWNSHIP OF POWELL
MARQUETTE COUNTY, MICHIGAN
ORDAINS:**

**SECTION I
TITLE**

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

**SECTION II
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), 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 within the Township.

**SECTION III
DEFINITIONS**

For 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. "Divide" 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 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act. "Divide" and "Division" does not include a property transfer between two or more adjacent parcels, if the 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 State Land Division Act, or the requirements of other applicable local ordinances.

C. "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 40 acres or the equivalent.

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 Power Township Board.

SECTION IV
PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS

Land in the Township shall not be divided without the prior review and approval of the Township assessor, or other 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 State Land Division Act.

B. A lot in a recorded plat proposed to be divided in accordance with the State 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 State Act.

SECTION V
APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Township assessor or other official designated by the governing body for review and approval of a proposed land division before making any division 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.
- C. A tentative parcel map drawn to scale including an accurate legal description of each proposed division, and showing the boundary lines, approximate dimensions, and the accessibility of each division for automobile traffic and public utilities.
- D. Proof that all standards of the State Land Division Act and this 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 filing fee to cover the costs of review of the application and administration of this Ordinance and the State land Division Act as set by resolution of the Township Board. The fee shall be adjusted from time to time to reflect changes in cost to the Township of Administering this Ordinance and State Law.

SECTION VI
PROCEDURE FOR REVIEW OF APPLICATIONS
FOR LAND DIVISION APPROVAL

- A. The Township shall approve or disapprove the land division applied for within 45 days after receipt of a complete application conforming to this Ordinance's requirements and the State Land Division Act, and shall promptly notify the applicant of the decision, and if denied, the reasons for denial.
 - B. Any person or entity aggrieved by the decision of the assessor or designee may, within 30 days of said decision appeal the decision to the governing body of the Township or such other body or person designated by the governing body which shall consider and resolve such appeal by a majority vote of said Board or by the appellate designee at its next regular 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. VBA
 - C. The assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.
 - D. Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations or that the resulting parcels are suitable for building or development.
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E. The Township and its officers and employees shall not be liable for approving a land division if the building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities, non-compliance with zoning ordinances or otherwise, and any notice of approval shall include a statement to this effect.

SECTION VII
STANDARDS FOR APPROVAL OF LAND DIVISIONS

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

A. A proposed land division shall be approved upon satisfaction of all of the following requirements:

- (1) The application requirements of Section V
 - (2) Each resulting parcel shall have a means of vehicular access to an existing street or road from an existing proposed driveway or access easement. Such means of access shall comply with all applicable locations standards of the governmental authority having jurisdiction of the existing street or road. If a driveway or access easement does not lawfully exist at the time a division is proposed, the applicant shall also comply with the requirements of Subsection B.
 - (3) 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.
 - (4) 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.
 - (5) 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 a 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.
 - (6) Each resulting parcel shall have the depth to width ratio specified by the Township zoning ordinance of the zoning district(s) in which the resulting parcel is located. If the Township zoning ordinance does not specify a 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
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in the same manner provided by the Township zoning ordinance for the measuring of the minimum width and maximum depth of parcels.

- (7) All resulting parcels to be created by the proposed land division(s) shall fully comply with the applicable lot area and lot width requirement so the Township zoning ordinance for the zoning district(s) in which the resulting parcels are located.

B. 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:

- (1) If a driveway is proposed as a means of access, each resulting parcel shall have an area where a driveway will lawfully provide vehicular access in compliance with applicable Township ordinances.
- (2) If an easement is proposed as a means of access, the proposed easement shall be in writing and signed by the owner of the parcel(a) within which the easement is to be located. Such easement shall provide a means of access over and across such parcel(s), in compliance with applicable Township ordinances.
- (3) If a new public street is proposed as a means of access, the application 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.

SECTION VIII
CONSEQUENCES OF NONCOMPLIANCE WITH
LAND DIVISION APPROVAL REQUIREMENT

A. 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 and no construction thereon which requires the prior issuance of a construction or building permit shall be allowed. 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.

B. 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 therefor, together with any damages sustained by the purchaser, recoverable in an action at law.

C. A violation of this ordinance is a municipal civil infraction for which the fine shall be not less than for \$100.00 for the first offense and not more than \$500.00 for a subsequent offense, in the discretion of the court in addition to all other remedies provided by 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 unplatted 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 which shall remain in full force and effect notwithstanding any land division approval hereunder.

SECTION XI
EFFECTIVE DATE

This ordinance shall take effect upon publication following its adoption.

TOWNSHIP OF POWELL


Clerk Marilyn Hume

Township of Powell

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906/345-9345
(Telephone)