

WEBSTER TOWNSHIP LAND DIVISION ORDINANCE

Ordinance No. 2012 – 02
As Adopted 04-17-12

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, (MCL 560.101, et seq.) and the Township Ordinances Act, Public Act 246 of 1945, as amended, (MCL 41.181, 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.

THE TOWNSHIP OF WEBSTER, WASHTENAW COUNTY, MICHIGAN, ORDAINS:

SECTION 1: TITLE. This ordinance shall be known and cited as the Webster Township Land Division Ordinance.

SECTION 2: PURPOSE. The purpose of this Article is to carry out the provisions of the Land Division Act, Public Act 288 of 1967, as amended, [MCL §560.101, *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 within the Township.

SECTION 3: DEFINITIONS. For purposes of this ordinance, certain terms and words used herein shall have the following meaning:

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.

Divide or Division. 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, 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 (MCLs §560.108 and 560.109). “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 Land Division Act, or the requirements of other applicable local ordinances.

Exempt Split or Exempt Division. 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.

Forty Acres or the equivalent. Forty (40) acres or a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

SECTION 4: APPROVAL OF DECISION. Land in the Township shall not be divided without prior review and approval of the Zoning Administrator and Township Assessor or other official(s) 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 twenty (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 Land Division Act.

SECTION 5: APPLICATION AND FEE. An applicant shall file all of the following with the Zoning Administrator and Township Assessor or other official(s) designated by the Township Board, 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. A copy of the most recent paid tax bill pertaining to the parcel.
- C. A drawing of the lot as it exists prior to the proposed split/combination.
- D. A survey showing lot splits/combinations being proposed, with lot size, as prepared by a registered land surveyor or civil engineer.
- E. A copy of all restrictions and covenants, which apply to, or run with the land, whether recorded or not.
- F. Driveway permit(s) from the Washtenaw County Road Commission.
- G. An application fee in an amount as established by resolution of the Township Board.
- H. Such other information and documentation as may be necessary to show compliance with the provisions of the Land Division Act and this Ordinance.

SECTION 6: PROCEDURE.

- A. The Township shall approve or disapprove the land division applied for within forty-five (45) days after receipt of a complete application conforming to the 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. Any person or entity aggrieved by the decision of the Zoning Administrator, Assessor or designee may, within sixty (60) days of said decision, appeal the decision to the Zoning Board of Appeals.
- 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 provisions of this Ordinance or regulations.

- E. The Township and its officers and employees shall not be liable for approving a land division 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 7: STANDARDS. The standards in this Ordinance have been adopted to provide a uniform basis for decisions and to allow land division where it would protect public health, safety and welfare: be consistent with the Master Plan; minimize danger from fire and floods; protect and conserve the value of the land and the value of the buildings and improvements upon the land; minimize conflict between land uses; further the orderly layout and use of the land; and provide the most beneficial relationship between the uses of land and buildings and circulation of traffic.

A. Compliance with State Law. An application for division or combination of land shall not be approved unless it is in compliance with the Land Division Act, Michigan Public Act 288 of 1967, as amended or replaced. Accordingly, the following conditions apply:

- 1. An acreage tract or acreage parcel of land may be divided as permitted in Section 109 of the Land Division Act.
- 2. A subdivision lot, outlot, or other parcel of land in a recorded plat may be divided pursuant to the requirements of this Ordinance only if such lot, outlot, or other parcel is divided as permitted in the Land Division Act, and provided that all of the following apply:
 - a. The resulting parcels shall comply with all applicable zoning requirements;
 - b. The total number of lots in the subdivision shall not increase above the number originally platted; and
 - c. The total land area within the subdivision shall not decrease below the area of the original plat.

B. Requirements - Lot and Dimensional. It is generally the intention of these regulations to create lots that conform to the minimum specifications of the zoning district where the new lots are located. Under certain circumstances as described herein, nonconforming lots may be modified as a result of a division of land.

- 1. All parcels created as a result of division of land shall comply with the minimum lot dimensional requirements of the Zoning Ordinance in effect at the time a land division is approved, including minimum lot size and lot width. The only exceptions to this requirement are as specifically described in Subsection B(2) below. The lot depth shall not exceed four (4) times the lot width.
- 2. Land division proposals may also be approved in either of the following circumstances:

- a. If the land division and combination will reduce the degree of nonconformity for an existing lot with insufficient lot width to comply with the Zoning Ordinance's requirements;
- b. If the land division and combination will reduce the degree of nonconformity for an existing lot with insufficient lot area to comply with the Zoning Ordinance's requirements.

In each of these cases, a division shall be permitted only if the property owner records an affidavit or deed restriction at the Washtenaw County Register of Deeds that describes the property and the circumstances and conditions of approval. Such deed restrictions shall be drafted by an attorney licensed to practice law in Michigan. The affidavit and deed restrictions shall be approved by the Township before recording, and the property owner shall provide a copy of the recorded affidavit or deed restrictions to the Township.

3. In considering a proposed land division, the Township will also take into account the presence of existing or proposed easements or rights-of-way that restrict use of a parcel in addition to the shape of the resulting parcels and building footprints with respect to minimum required dwelling unit and yard setback dimensions. The burden of proof of buildability of any proposed land divisions lies with the applicant(s).

- C. Access.** An application for a division of land shall not be approved nor shall a certificate of zoning compliance be granted unless all parcels created as a result of such division have access to a public road or a private road approved in accordance with the provisions of this Ordinance.
- D. Taxes and Assessment Liens.** Any due or unpaid taxes or special assessments upon the property shall be paid before the division of land or combination is given final approval.
- E. Consent of the Title Holder.** No division or combination of land shall be approved without the written consent of the title or deed holder or any person holding a legal or equitable interest in the subject parcel. At the discretion of the Township, a title search may be required.
- F. Disruption to Flow of Water.** No division or combination of land shall be approved if subsequent development would result in disruption to the existing or natural flow of water within drainage ditches, natural water courses, or government maintained drains, as determined by the Township Engineer unless evidence of a feasible alternate method of drainage is presented and approved by the Township Engineer prior to approval of the proposed land division.
- G. Easements.** Approval of a proposed division of land or combination shall be subject to the dedication of any easements necessary for roads, public utilities, bicycle/non-motorized vehicle paths, sidewalks, or other necessary public facilities required.

SECTION 8: APPLICATION FOR SITE PLAN REVIEW. Following final approval of a division of land in accordance with this Ordinance, the property owner may apply for site plan review or a certificate of zoning compliance, as applicable, to allow development in accordance with this Ordinance. A certificate of zoning compliance shall not be issued for illegal or unapproved divisions of land. Notwithstanding this provision, nothing in this Ordinance is intended to prevent issuance of a certificate of zoning compliance or development on legal nonconforming lots of record, subject to compliance with all Ordinance requirements. Additionally, the applicant must satisfy all requirements of other related ordinances.

SECTION 9: NONCOMPLIANCE.

- A. Any division of land in violation of any provision of this Ordinance shall not be recognized as a land division of the Township tax roll or assessment roll until the assessing officer 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 in violation of this Ordinance shall further not be eligible for any zoning or building permit for any construction or improvement thereto.
- B. 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 10: SEVERABILITY. If a court of competent jurisdiction finds any provision, clause, or portion of this Ordinance to be invalid, the balance or remainder of this Ordinance shall remain valid and in full force and effect and shall be deemed “severable” from the portion, clause or provision deemed to be invalid by the court.

SECTION 11: EFFECTIVE DATE. This Ordinance shall become effective 30 days after publication as provided by law.

SECTION 12: REPEAL. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed; provided that this Ordinance shall not be construed to repeal expressly or by implication any provision of the Township Zoning Ordinance.

SECTION 13: SAVINGS CLAUSE. Except as expressly amended or repealed by this Ordinance, the balance of the Webster Township Ordinances, as amended, shall remain unchanged and in full effect.

The above Ordinance was offered for enactment by _____ and was supported by _____ at a regular meeting of the Webster Township Board, held at the Webster Township Hall on the ____ day of _____, 2012 at 7:30 p.m., the vote being as follows:

YEAS:

NEAS:

ABSENT/ABSTAIN:

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Webster Township Board at a meeting held on _____, 2012 pursuant to the procedures required by law.

Dated: _____

Mary Dee Heller
Webster Township Clerk