

AMENDMENT TO TOWNSHIP OF ELY, MARQUETTE COUNTY, MICHIGAN  
LAND DIVISION ORDINANCE 1997-2

The Board of Ely Township, Marquette County, Michigan AMENDS:

Section 4. Prior Approval Requirement for Land Divisions

Land in the Township shall not be divided without the prior review and approval of the Ely Township Planning Commission, 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 those 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 State Act.

Section 5. Application for Land Division Approval

An applicant shall file all of the following with the Ely Township Planning Commission 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. The fee as may from time to time be established by resolution of the governing body of the Township for land division 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.

Section 6. Procedure for Review of Applications for Land Division Approval

- A. After all application requirements have been fully satisfied, the Ely Township Planning Commission 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 all the requirements of this Ordinance, the Planning Commission shall promptly notify the applicant of the decision and the reasons for any denial. If the application package does not conform to the Ordinance requirements and the State Land Division Act, the Ely Township Planning Commission shall return the same to the applicant for completion and refile in accordance with this Ordinance and the State Land Division Act.
- B. Approval of a parcel division is not a determination that the resulting parcel(s) comply with any other ordinances or regulations. Parcel division approval is not a determination that adequate facilities are available for public water and/or sewer, not a determination that any parcel which results from the division will satisfy any applicable standards for on-site water supply and/or on-site sewage disposal.
- C. A building permit may not be issued for any parcel division of less than one acre in size until and unless the parcel has complied with all of the following:
  - a. Public water, or County or District Health Department approval for the suitability of an on-site water supply system based upon the Health Department standards for lots/parcels.
  - b. Public sewer, or County or District Health Department approval for an on-site sewage disposal system based upon the Health Department standards for lot/parcels.
- D. When the land owner has created a parcel(s) from the parent parcel or parent tract and transfers the right to make a further division(s) to the owner of the created parcel, such land division(s) shall not become effective until a complete and certified "Notice to Assessor of Transfer to the Right to Make a Division of Land" form (provided by the Township) has been filed with the Ely Township Assessor within forty-five (45) days of the date of delivery of the deed by the owner of the parent parcel or parent tract of land.
- E. The Zoning Administrator shall maintain an official record of all approved land divisions and transfers of land division rights.
- F. The Township and its agents, officers, and employees shall not be held liable for approving a land division if building permits for construction on the parcels are subsequently denied because of the inability of a parcel to be serviced by a public water supply or sanitary sewer, nor due to the inability of a parcel to receive approval for an on-site water or sewage disposal system.
- G. Any person or entity aggrieved by the decision of the Ely Township Planning Commission may, within thirty (30) days of said decision appeal the decision to the Ely Township Board which shall consider and resolve such appeal by a

majority vote of said Board at its next regular meeting or session affording sufficient time for a twenty (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.

#### Section 9. Consequences of Non-compliance with Land Division Approval Requirement

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 written notice to the person requesting the division, and the person suspected of the violation for the potential non-conformity. 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.

In addition, violation of this ordinance shall subject the violator to the penalties and enforcement actions as set forth in Section 10 of this Ordinance, and as may otherwise be provided by law.

Pursuant to Section 267 of the Land Division Act, 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. Penalties and Enforcement

- A. Civil Law: Any division of real property that violated the provisions of this Ordinance, is hereby declared to be a nuisance per se.
- B. Civil Infraction: Violations of the provisions of this Ordinance or the failure to comply with any of its requirements, shall constitute a civil infraction. The Zoning Administrator and/or the Assistant Zoning Administrator are authorized to issue civil infraction citations/appearance tickets to those individuals in violation of the provisions of this Ordinance. Any person or entity who admits responsibility or is adjudged to be responsible for a violation of the Ordinance, or who fails to comply with any of its requirements, shall, upon admission or judgement thereof, pay a civil fine of not more than One Thousand Dollars (\$1,000) for each parcel sold.
  - 1. A default in the payment of civil fines or costs ordered under this provision, or an installment of a fine and cost, may be remedied by any means authorized un the Revised Judicature Act of 1961, 1961 P.A. 236, MCL 600.101 to 699.48.
- C. Remedies: In addition to any other civil remedies provided for this Ordinance, the Township Board may also institute proceedings for injunctions, mandamus, abatement, or other appropriate remedies to prevent, enjoin, abate or remove any violations of this Ordinance. The imposition and payment of any civil penalty

shall not exempt the violator from compliance with the provisions of the Ordinance.

Section 12. Repeal

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

Section 13. Effective Date

This Ordinance shall take effect upon publication following its adoption.

Township of Ely  
David J. Bleau  
Township Clerk

May 21, 2003