

**VILLAGE OF GRAND BEACH
COUNTY OF BERRIEN
STATE OF MICHIGAN**

ORDINANCE NO. 60

Adopted: December 19, 2002

Effective: January 31, 2003

LAND DIVISION ORDINANCE

An ordinance to regulate partitioning or division of parcels or tracts of land, 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 VILLAGE OF GRAND BEACH ORDAINS:

SECTION I

TITLE

This ordinance shall be known and cited as the Village of Grand Beach 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 Village, to assure proper access to public roads, and otherwise provide for the health, safety and welfare of the residents and property owners of the Village of Grand Beach by establishing reasonable standards for prior review and approval of land divisions within the Village.

SECTION III

DEFINITIONS

For purposes of this ordinance certain terms and words 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. "Divided" 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 Section 108, 109, and 109a of the State Land Division Act.

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; provided all resulting parcels are accessible for vehicular travel and utilities from existing public road through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.

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 Village Council.

F. "Road" or "Street" - a right-of-way for vehicular traffic which has been dedicated and accepted by the public.

SECTION IV

PRIOR APPROVAL REQUIREMENT FOR LAND DIVISION

Land in the Village shall not be divided without the prior review and approval of the Zoning Administrator 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 municipality's Subdivision Control Ordinance and 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.

SECTION V

APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Village Clerk 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 or such form as may be provided by the municipality.

B. Proof of fee ownership of the land proposed to be divided.

C. The land proposed to be divided shall be described with an adequate and accurate legal description. The application must include a tentative parcel map showing area, parcel lines, public utilities, accessibility, and all other requirements of the State Land Division Act.

D. In the event the land proposed to be divided includes parcels that are not served by streets or roads dedicated and accepted by the Village, the applicant shall construct, improve and develop roads or streets which shall meet Village Road Standards, dedicate and receive acceptance of said dedication by the Village as a condition for approval of any such land division.

E. Proof that all standards of the State Land Division Act and this Ordinance have been met. (See checklist accompanying this ordinance).

F. The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.

G. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full

H. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.

I. Unless a division creates a parcel which is acknowledged and declared to be "not buildable" under Section VIII of this Ordinance, all divisions shall result in "buildable" parcels containing sufficient "buildable" area outside of unbuildable wetlands, flood plains and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, on-site sewage disposal and water well locations (where public water and sewer service is not available), and maximum allowed area coverage of

buildings and structures on the site. The provisions of this Section are intended to assure that each division shall result in a buildable parcel; however, the approval of any division by the Village Council shall not imply that said property will satisfy regulatory approvals of the Michigan Department of Natural Resources, the Berrien County Health Department, or any other agency.

J. The fee as may from time to time be established by resolution of the governing body of the municipality 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 VI

PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

A. Upon receipt of a land division application package, the Village Clerk or other official designated by the governing body shall forthwith submit the same to the Zoning Administrator or other designated official for decision. The Zoning Administrator or other designee shall 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 30 days after receipt of the application package conforming to this Ordinance's requirements, and shall promptly notify the applicant of the decisions and the reasons for any denial. If the application package does not conform to this Ordinance's requirements and the State Land Division Act, the Zoning Administrator or other designee shall return the same to the applicant for completion and refiling in accordance with this Ordinance and the State Land Division Act.

B. Any person or entity aggrieved by the decision of the Zoning Administrator or designee may, within 30 days of said decision appeal the decision to the Village Council or such other board or person designated by the governing body which shall consider and resolve such appeal by a majority vote of said Board or by the 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.

C. A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such period a document is recorded with the Berrien County Register of Deeds office and filed with the Village Clerk or other designated official accomplishing the approved land division or transfer.

D. The Village Clerk or designee shall maintain an official record of all approved and accomplished land divisions or transfers.

SECTION VII

STANDARDS FOR APPROVAL OF LAND

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

A. All parcels to be created by the proposed land divisions(s) fully comply with the applicable lot (parcel), yard and area requirements of the applicable zoning ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum public road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, and maximum lot (parcel) coverage and minimum set-backs for existing buildings/structures.

B. The proposed land divisions(s) comply with all requirements of the State Land Division Act and this Ordinance.

C. All parcels created and remaining have existing adequate accessibility, or an area available therefor, to a public road for public utilities and emergency and other vehicles not less than the requirements of the applicable zoning ordinance, major thoroughfare plan, road ordinance or this Ordinance.

D. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-buildable parcels created under Section VIII of this Ordinance and parcels added to contiguous parcels that result in all involved parcels complying with said ratio.

The permissible depth of a parcel created by a land division 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 the measurement.

The permissible minimum standards for each parcel created shall be as defined in the Zoning Ordinance.

SECTION VIII

ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS

Notwithstanding disqualification from approval pursuant to this ordinance, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the Zoning Ordinance or this Ordinance may be approved in any of the following circumstances:

A. Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to the Village Council, designating the parcel as "not buildable". Any such parcel shall also be designated as "not buildable" in the Register of Deeds records of Berrien County with a copy filed with the Village

Clerk, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceeding four feet in height.

B. Where, in circumstances not covered by paragraph A above, the Zoning Board of Appeals has, previous to this Ordinance, granted a variance from the lot, yard, ratio, frontage and / or area requirements with which the parcel failed to comply.

C. Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this Ordinance, any applicable zoning ordinance, or the State Land Division Act.

SECTION IX

CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT

Any parcel created in noncompliance with this ordinance shall not be eligible for any building permits, or zoning approvals, such as special land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this ordinance shall subject the violator to the penalties and enforcement actions set forth in Section X of this ordinance, and as may otherwise be provided by law.

SECTION X

PENALTIES AND ENFORCEMENT

Any person who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the county jail for not to exceed 90 days or by both such fine and imprisonment.

Any person who violates any of the provisions of this ordinance shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

SECTION XI

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 XII

REPEAL

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Zoning Ordinance or the Building Code.

SECTION XIII

EFFECTIVE DATE

This Ordinance shall take effect 30 days following its publication after adoption.

ORDINANCE DECLARED ADOPTED.

John Deaner, Council President

Mary Robertson, Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Village Council of the Village of Grand Beach, County of Berrien, State of Michigan, at a Regular Meeting, held on the 19th day of December, 2002 and that said Meeting was conducted and public notice of said meeting was given, pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, and that the Minutes of said meeting were kept and will be or have been made available as required by said Act.

Mary Robertson, Clerk