

STATE OF MICHIGAN
COUNTY OF LEELANAU
SUTTONS BAY TOWNSHIP
LAND DIVISION ORDINANCE NO. 1

Adopted: July 9, 1997

Amended: ^{Nov.} October 12, 1997

Amended: March 11, 1998

Effective: 30 days after adoption/amendment

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 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.

SUTTONS BAY TOWNSHIP

LEELANAU COUNTY, MICHIGAN

ORDAINS:

SECTION I.

TITLE

This Ordinance shall be known and cited as the Suttons Bay Township Land Division Ordinance. References herein to "this Ordinance" shall refer to the Suttons Bay Township Land Division Ordinance as amended by this or any subsequent amendments.

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 Township, 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 meanings:

- A. "Applicant" or "proprietor" means a natural person, firm, association, partnership, corporation, or combination of any of them that holds an interest in land, whether recorded or not.
- B. "Board" means the Suttons Bay Township Board of Trustees.
- C. "Divided" or "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, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act. 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 this Ordinance.
- D. "Exempt split" or "exempt 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, that does not result in one or more parcels of less than 40 acres or the equivalent. Any resulting parcel must be accessible by utilities and by vehicular travel from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access. For a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel, 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 this Ordinance.
- E. "Forty acres or the equivalent" means 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
- F. "Land Division Review Committee" means the committee responsible for reviewing land division applications upon request by the Assessor, which shall consist of the Township

Assessor, the Zoning Administrator, and the Township Supervisor. Hereinafter referred to as "LDRC".

- G. "Parcel" means a continuous area or acreage of land which can be described as provided for in the State Land Division Act.
- H. "Parcel area" means the area of land encompassed by the legally described boundaries of the parcel.
- I. "Parent parcel" or "parent tract" means a parcel or tract, respectively, lawfully in existence on March 31, 1997.
- J. "Resulting parcel" means any parcel resulting from a land division.
- K. "Tract" means two or more parcels that share a common property line and are under the same ownership.
- L. "Township" means Suttons Bay Township.

SECTION IV.

PRIOR APPROVAL REQUIRED FOR LAND DIVISIONS

No parcel or tract located wholly or in part within the Township may be divided without prior review and approval of the Suttons Bay Township LDRC, in accordance with this Ordinance and the State Land Division Act; provided that the following shall be exempted from this requirement:

- A. A parcel or tract proposed for subdivision through a recorded plat pursuant to the Township'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 Township's Subdivision Control Ordinance and the State Land Division Act.
- C. An exempt split as defined in this Ordinance.

This Ordinance shall not be applicable to divisions of land located wholly within the Village of Suttons Bay.

SECTION V.

APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Township Clerk for review and approval of a proposed land division by the LDRC before making any division by deed, land contract, lease for more than one year, or for building development:

- A. A completed application on such form as may be provided by the Township, together with such attachments as are required by the application.
- B. Proof of fee ownership or a land contract vendee's interest in the land proposed to be divided.
- C. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of 1970 Public Act 132, as amended, (MCL 54.211) by a land surveyor licensed by the State of Michigan, and showing the dimensions and legal descriptions of the existing parcel or tract, the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads. Survey documents are an official part of the final documents and must clearly indicate that all access easements are also for public utilities, unless public utility access is specifically provided elsewhere.

In lieu of such survey map, the applicant may opt to waive the 45 day statutory requirement for a decision on the application until such survey map is filed with the Township, and submit a tentative preliminary parcel map drawn to a scale of not less than that provided for on the Land Division Application, including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval, or denial by the Assessor prior to a final application under Section V.

The LDRC may waive the survey map requirement where the tentative parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all proposed divisions shall be required at all times.

- D. Proof that all standards of the State Land Division Act and this Ordinance have been met. A "Land Division Application" which accompanies this Ordinance may be used as a guide.

- E. A land title search, abstract of title, or other evidence of land title acceptable to the LDRC which is sufficient to establish that the parent parcel or parent tract of the land which is proposed to be divided was lawfully in existence on March 31, 1997.
- F. The history and specifications of any previous divisions of land of which the proposed division was a part, sufficient to establish the parcel or tract 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 a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- I. A copy of each deed or other instrument of conveyance which contains the statement required by Section 109(3) of the Act concerning the right to make further divisions.
- J. 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 in which buildings are prohibited, 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 (if public water and sewer service are not available), and maximum allowed area coverage of buildings and structures on the site.
- K. The fee of \$200.00 per application, plus an additional fee of \$10.00 for each parcel in excess of 20 which is proposed in the application, to cover the costs of review of the application and administration of this Ordinance and the State Land Division Act. This fee may from time to time be amended by resolution of the Board.

SECTION VI.

PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

- A. Upon receipt of a land division application and the required documentation, the Township Clerk shall promptly submit the same to the Suttons Bay Township LDRC for decision. The LDRC shall in writing approve, approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the proposed land division within 45 days after receipt of the application and the required documentation, and shall promptly notify the applicant of the decisions and the reasons for any denial. If the application does not conform to the requirements of this Ordinance or the State Land Division Act, the LDRC shall return

the same to the applicant for completion and refile in accordance with this Ordinance and the State Land Division Act. If the application is disapproved by the LDRC, the LDRC shall provide the applicant a written notice of all the reasons for disapproval.

- B. Any applicant or other person aggrieved by the decision of the LDRC may, within 45 days of said decision, appeal the decision to the Board, or such other board or person designated by the Board, 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, provided at least 20 days written notice has been given to the applicant or other aggrieved person of the time and date of such meeting or session.
- 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 Leelanau County Register of Deeds and filed with the Township Clerk accomplishing the approved land division or transfer.
- D. The Township Assessor shall maintain an official record of all applications for land divisions, and the decision made with respect to each such application.
- E. An application shall not be considered filed with the Township, nor shall the time period stated in paragraph A. above commence, until all of the requirements for an application for land division approval have been complied with by the applicant.

SECTION VII.

STANDARDS FOR APPROVAL OF LAND DIVISIONS

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

- A. All resulting parcels will fully comply with the applicable dimensional requirements of the Suttons Bay Township Zoning Ordinance, including but not limited to, minimum lot frontage, minimum road frontage, minimum lot area, minimum lot depth-to-width ratio, maximum lot coverage ratio, and minimum set-backs for existing buildings and other structures.
- B. The proposed division(s) comply with all requirements of the State Land Division Act and this Ordinance.
- C. All resulting parcels will have existing adequate accessibility, or an area available therefor, to a public road, for public utilities, and for emergency and other vehicles, not less than that required by the Suttons Bay Township Zoning Ordinance, any major thoroughfare plan, any road ordinance, or this Ordinance. In determining adequacy of accessibili-

ty, any ordinance standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create six (6) or more parcels.

- D. The ratio of depth-to-width of any resulting parcel will not exceed a four to one ratio. For purposes of this Ordinance, the width of a parcel shall be defined as the average length of the front lot line at the road right-of-way and the rear lot line; the depth shall be defined as the average length of the two side lot lines.

This ratio does not apply to access roads, easements, or non-buildable parcels created under this Section VIII, or to parcels added to contiguous parcels if the result is that the combined parcels comply with said ratio.

The permissible depth of a parcel created by a land division shall be measured within the boundaries of the 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 width shall be as defined in the Suttons Bay Township Zoning Ordinance or, in the absence thereof, as specified in subparagraphs E.1. and E.2. of this Section.

- E. In the absence of applicable zoning or other ordinances providing a different standard, all resulting parcels will comply with the following minimum standards:
1. A minimum road frontage of 150 feet on a public road or municipally approved private road.
 2. A minimum width of 150 feet as measured on a line parallel to the abutting road right-of-way and/or lake frontage and 40 feet therefrom.
 3. A minimum parcel area of 43,560 square feet.
- F. In the absence of applicable zoning or other ordinances providing a different standard, all resulting parcels will comply with the following minimum standards:
1. Where accessibility is to be provided by a proposed new dedicated public road, proof that the Leelanau County Road Commission or Michigan Department of Transportation has approved the proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith.
 2. Where accessibility by vehicle traffic and for utilities is permitted through other than a dedicated and accepted public road, such accessibility shall comply with the following:

- a. Where such private road or easement extends for more than 1320 feet from a dedicated public road, and is serving or intended to serve more than two but not more than six separate parcels, units or ownerships, its right-of-way width shall be the greater of (1) forty feet or (2) the minimum right-of-way width required for easements by the Suttons Bay Township Zoning Ordinance, with not less than sixteen (16) feet in improved roadbed width with at least one (1) foot of improved shoulder width on each side and adequate drainage ditches and necessary culverts on both sides to accumulate and contain surface waters from the road area. It shall further be improved with not less than six inches of a processed and stabilized gravel base over six inches of granular soil, have a grade of not more than ten (10%) percent (except as hereinbelow provided), and if dead-ended, shall have a cul-de-sac with a radius of not less than 50 feet of improved roadbed for the accommodation of emergency, commercial, and other vehicles. Said private road or easement shall have a grade of not more than five (5%) percent within one hundred feet of an intersection or within the cul-de-sac.
 - b. Where such private road or easement extends for less than 1320 feet from a dedicated public road, or is serving or intended to serve two or less separate parcels, units or ownerships, its width shall be not less than that required for easements by the Suttons Bay Township Zoning Ordinance.
 - c. If accessibility is by a private road or easement, a document acceptable to the Township shall be recorded with the Leelanau County Register of Deeds and filed with the Assessor or designee specifying the method of private financing of all maintenance, improvements, and snow removal, the apportionment of these costs among those benefitted, and the right of the Township to assess such costs against those properties benefitted, plus a 25 percent administrative fee, and to perform such improvements in the event of a failure of those benefitted to privately perform these duties for the health, safety and general welfare of the area.
 - d. Any intersection between private and public roads shall contain a clear vision triangular area of not less than 20 feet along each right-of-way line as measured from the intersecting right-of-way lines.
 - e. No private road or easement shall extend for more than 2,640 feet from a public road.
 - f. No private road shall serve more than 25 separate parcels.
- G. For any resulting parcel(s) less than one acre in size, a building permit shall not be issued for the parcel unless the parcel has all of the following:

1. Public water or city, county, or district health department approval for the suitability of an on-site water supply under the same standards as set forth for lots under rules described in section 105(g) of the Act.
 2. Public sewer or city, county, or district health department approval for the suitability of an on-site sewage disposal under the health department standards as set forth for lots under rules described in section 105(g) of the Act.
- H. Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.

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 Suttons Bay Township 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 Leelanau County Register of Deeds, in a form acceptable to the Township, designating the parcel as "not buildable." Any such parcel shall also be designated as "not buildable" in the Township records, 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, shall not be developed with any building or above-ground structure exceeding four feet in height, and shall not be used for human habitation.
- B. Where, in circumstances not covered by paragraph A above, the Zoning Board of Appeals has, prior to the adoption of this Ordinance, granted a variance from the lot, yard, depth-to-width 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.
- D. Where the proposed land division will result in parcels of 20 acres or more in size if the parcel or tract is not accessible and 1 or more of the following applies:
 1. The parcel or tract was in existence on March 31, 1997.

2. The parcel or tract resulted from an exempt split or other partitioning or splitting under Section 109b of the Act.

If any such exempt parcels are created, the proprietor shall provide the purchaser of any resulting parcel with the following written statement before closing: "This parcel is not accessible as defined in the land division act, 1967 PA 288, MCL 560.101 to 560.298."

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 for the first offense and not more than \$1,000.00 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 purposes 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 this ordinance for which such person or party admitted responsibility or was determined by law to be responsible. Furthermore, any person who violates section 108, 109, or 109b of the Act, or the exempt split provision of section 103(1) of the Act and sells a resulting parcel is responsible for the payment of a civil fine of not more than \$1,000.00 for each parcel sold. A default in the payment of a civil fine or costs ordered under Section 264(2) of the Act or an installment of the fine or costs may be remedied by any means authorized under the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600. 9948.

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 Township Zoning Ordinance, the Township Subdivision Control Ordinance, or the Township Building Code, and shall not repeal any part of the original Land Division Ordinance until this amended Ordinance has become effective.

SECTION XIII.

EFFECTIVE DATE

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

SUTTONS BAY TOWNSHIP

Rose Marie Moe, Township Clerk

TWP/LANDDIV5.ORD
Rev. 3/2/98