

VILLAGE OF SOUTH ROCKWOOD
LAND DIVISION AND COMBINATION ORDINANCE

NO. 173

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, Public Act 591 of 1996 and Public Act 87 of 1997, as amended to provide a procedure therefore; to provide for the combination of parcels or tracts; 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 SOUTH ROCKWOOD HEREBY ORDAINS:

SECTION 1. TITLE

This Ordinance shall be known and cited as the Village of South Rockwood Land Division and Combination Ordinance.

SECTION 2. 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 Subdivision Control Act as amended by P.A. 591 of 1996 and P.A. 87 of 1997 to prevent the creation of parcels of property which do not comply with said Act to minimize potential boundary disputes, to provide for the combination of parcels or tracts to maintain orderly development of the community and otherwise provide for the health, safety and welfare of the residents and property owners of the Village by establishing reasonable standards for prior review and approval of land division within the Village.

SECTION 3. DEFINITIONS

For purposes of this Ordinance certain terms and words used herein shall have the following meaning:

- A. "Accessible"-In reference to a parcel, means that the parcel meets 1 or both of the following requirements:
 - 1. Has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location

standards of the State Transportation Department or Monroe County Road Commission under Act No. 200 of the Public Acts of 1969, being sections 247.321 to 247.329 of the Michigan Compiled Laws or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards.

2. Is served by an existing easement that provides vehicular access to an existing road or street and that meets all applicable location standards of the State Transportation Department or Monroe County Road Commission under Act No 200 of the Pubic Acts of 1969, or an be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable location standards.
-
- B. "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.
 - C. "Development Site"-Any parcel or lot on which exists or which is intended for building development other than agricultural use or forestry use as defined in the State Land Division Act.
 - D. "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 satisfies the requirement of Section 108 and 109 of the State Land Division Act. "Divide" or "Division" shall 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 and the requirements of other applicable local Ordinances.
 - E. "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.
 - F. "Forty acres or the equivalent"-Either 40 acres a quarter-quarter section containing not less than 30 acres, or government lot containing not less than 30 acres.
 - G. "Village Board"-The Village of South Rockwood.

- H. "Net Area"-the total horizontal area within the lot/parcel lines of the lot or parcel lines of the lot or parcel exclusive of any abutting public street right of way or private road easement.
- I. "Width"-the straight line distance between the side lot/parcel lines, measured at the two points where the minimum front yard setback line required by the Village Zoning Ordinance intersects the side lot/parcel lines.
- J. "Depth"-the depth of a lot/parcel is the mean horizontal distance from the center of front street or property line to the center of the real lot/parcel line. In the case of a lakefront lot/parcel, it is from the lake frontage line to the street frontage line. In the case of an acreage parcel it is from the right of way line to the real lot/parcel line.
- K. "Front Lot/Parcel Line"-In the case of a lot/parcel not located on a corner, the front lot/parcel line is the line separating said lot/parcel from the street right-of-way. In the case of a corner lot/parcel or double frontage lot/parcel, the front lot/parcel line shall be that line that separates said lot/parcel from the street which is designated as the front yard or the front yard on the site plan review application or request for a building permit.
- L. "Rear Lot/Parcel Line"-Ordinarily, that lot/parcel line which is opposite and most distant from the front lot/parcel line. In the case of lots/parcels that are pointed at the rear the rear lot/parcel line shall be an imaginary line parallel to the front lot/parcel line not less than ten (10) feet in length, lying farthest from the front lot/parcel line and wholly within the lot. In any case, when this definition does not apply, the Building Official shall designate the real lot/parcel line.
- M. "Setback Yard"-the distance between a front, side or real lot/parcel line and the nearest supporting member of a structure on the lot/parcel. The minimum required setback is the minimum distance between a front lot/parcel line (as determined by the street setback line) the side or real lot/parcel line and the nearest supporting member of a structure in order to conform to the required yard setback requirements of the Village Zoning Ordinance.
- N. "Setback, Street"-The distance measured from the centerline of the road to establish the front, real and/or side lot/parcel line for the purpose of establishing yard and/or the other requirements of the Village Zoning Ordinance.
- O. "Side Lot/Parcel Line"-Any lot or parcel line other than the front or real lot/parcel lines. A side lot line separating a lot/parcel from a street is a side street lot/parcel line. A side lot/parcel line separating a lot/parcel from another lot/parcel or lots/parcels is an interior side lot/parcel line.

- P. "Valid Non-Conforming Dwelling"-A dwelling that was lawfully in existence at the effective date of the Village Zoning Ordinance and which does not conform to the provisions of the Zoning Ordinance in the zoning district in which it is located.

SECTION 4. PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS.

Land in the Village shall not be divided without the prior review and approval of the Village Administrator following the administrator's receipt of a favorable written recommendation from the village planning consultant and the village engineer. The village administrator has the discretion to submit the application and review of the village staff and consultants to the Village Planning Commission for review and approval or denial in accordance with this Ordinance and the State Land Division Act. The following shall be exempted from this requirement;

- A. A parcel proposed for subdivision through a recorded plat pursuant to the Villages Subdivision Control Ordinance and the State Land Division Act.
- B. An exempt split as defined in this Ordinance, or other partitioning or splitting those results in parcels at 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 Land Division Act.

SECTION 5. APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Village Administrator who shall forward the application to the village planning consultant and the village engineer for review and written analysis. Following receipt of the professional reports, the Village administrator has the discretion to submit the application and reports to the Village Planning Commission. For review, approval or denial of the application. These steps shall be accomplished before making any division either by deed land contract, lease for more than one year, or for building development:

- A. A completed application with all required attachments on the application form provided by the Village.
- B. Proof of fee ownership of the land proposed to be divided.
- C. A survey map of the land proposed to be divided prepared pursuant to the survey map requirement of 1970 Public Act 132 as amended, (MCL 54.211) by land surveyor licensed by the State of Michigan, and showing the dimensions and accurate legal descriptions of the existing parcel and the parcel 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.

In lieu of such survey map at the applicants option, the applicant may waive the 45 day statutory requirement for a decision on the application until such survey map and legal description are filed with the Village Administrator, and submit a tentative preliminary parcel map drawn to scale of not less than 200 feet per one inch showing the boundary lines, dimensions, and the accessibility of each division as defined in this Ordinance for vehicular traffic and public utilities for preliminary review, approval, and/or denial by the Village Building Official, village planning consultant and village engineer prior to a final approval under this ordinance.

Notwithstanding the requirements of 5(C), at the discretion of the Village Building Official and the Village administrator, the survey requirement may be waived in writing when considering a division of a lot in a recorded plat proposed to be divided in accordance with the Villages Subdivision Control Ordinance and the State Land Division Act.

- D. Proof that all standards of the State Land Division Act and this Ordinance have been met. (See Land Division Application).
- E. 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 are paid in full and proof of same upon request by Village Administrator or Building Official.
- F. Signed Affidavit on Application that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full and proof of same upon request by the Village Administrator or Building Official.
- G. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights to be transferred.
- H. Unless a division creates a parcel which is acknowledged and declared to be "not buildable" under Section 8 of this Ordinance, for all divisions of less than one (1) acre proof or a letter of approval that each division or resulting parcel shall result in 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, on-site sewage disposal and water well locations (where public water and sewer service are not available)

and maximum allowed area coverage of buildings and structures on the site.

- I. A fee as established in the Development Cost Escrow Ordinance must be paid to the Village of South Rockwood Treasurer to cover the costs of review and processing 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. The Village shall approve, or disapprove the land division applied for within 45 days after receipt of a complete application package conforming to this Ordinance's requirements, and shall promptly notify the applicant of the decision 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 application package shall be returned to the applicant for completion and refiling in accordance with this Ordinance and the State Land Division Act. If refilled within 30 days, no new application shall be required. After expiration of 30 days, fees must be paid before filing of application.
- B. 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 Monroe County Register of Deeds office and filed with the Village Administrator accomplishing the approve land division or transfer.
- C. The Village Clerk 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 to applicable regulations.
- E. The Village officers and employees shall not be liable for approving a land division if building permits for construction on the parcel 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 FOR APPROVAL OF LAND DIVISION; LAND DIVISION BOARD

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

- A. All parcels to be created by the proposed land division(s) meet the minimum width requirements of the Village Zoning Ordinance of the Zoning District in which it is located.
- B. All parcels to be created meet the minimum lot area requirement of the Village Zoning Ordinance for the Zoning District in which it is located.
- C. The proposed land division(s) comply with all requirements of the State Land Division Act and this Ordinance,
- D. All parcels created and remaining have existing adequate accessibility or an area available for public utilities and vehicular access of emergency and other vehicles.
- E. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio. Parcels which are access roads, easements, or non-development sites created under Section 8 of this Ordinance and parcels added to contiguous parcels that result in all involved parcels complying with said ratio are excluded from this review requirement. Further, the four to one depth to width ratio shall not apply to any parcel created which is 10 acres or larger.

The ratio of depth to width may be greater than four to one with the approval of the Village Land Division Board created pursuant to this Ordinance. The greater depth to width ratio shall be permitted based only on a showing of the following:

- a. Exceptional or unique topographic and/or physical conditions of the parcels.
- b. Compatibility of the resulting parcel with the adjacent and surrounding lands.
- c. Protection of the public health safety and welfare.
- d. No undue hardship will result to neighboring properties.
- e. Extenuating circumstances as to parcel which must be specified. 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 width which shall be defined in this article and shall mean the continuous frontage for the full width of the parcel
- f. There is hereby created a Land Division Board which shall consist of five (5) members who shall be the individuals holding the positions of the Village of South Rockwood Zoning Board of Appeals and other residents of the village of South Rockwood. The Land Division Board shall sit to hear appeals for variances

from the four to one depth to width ratio requirements of this Ordinance. The Land Division Board shall meet as necessary to promptly address the request for variances as they are received. The concurring vote of at least three members of the Board shall be necessary to vary from the requirements of this Ordinance as to the required depth to width ratio. In deciding each matter, the Board shall state the grounds of its decision. The Land Division Board shall fix a reasonable time for the hearing of the appeal, give notice of the appeal to the interested parties and decide the appeal within a reasonable time. There shall be no additional fee for requests for variances made within 30 days after disapproval of a Land Division Application.

SECTION 8. 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 width, accessibility and area requirements of the applicable 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, designating the parcel as "not buildable". Any such parcel shall also be designated as "not buildable" in the Village records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable width and/or area requirements, and shall not be developed with any building or above ground structure
- B. Where, in circumstances not covered by paragraph A, the Village of South Rockwood Board of Appeals has granted a variance from the width and/or area requirements with which the parcel failed to comply.
- C. Where two or more valid non-conforming dwellings were lawfully in existence and recognized by the Village as separate parcels on March 31, 1997 and which do not now conform to the provisions of this Ordinance and the Zoning Ordinance as to width and/or area in the zoning district in which they are located.
- D. 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, the Zoning Ordinance, or the State Land Division Act.

SECTION 9. LAND COMBINATION

- A. Application for the combination of land located in the Village of South Rockwood shall be made on the applications provided by the Village. No combination of any lot(s) or parcels of land shall be made or approved until all information requested in the application has been furnished to the Village Administrator as well as any additional information required by this Ordinance.
- B. All applications for the combination of any lot or parcel of land located in the Village of South Rockwood shall have attached a survey containing the following information:

- 1. Existing lots or parcels of land prior to combination.
- 2. Lot or parcel after combination.
- 3. All existing structures on all lots or parcels and other physical features which would influence layout or description of lots or parcels to be combines.
- 4. Legal descriptions of parcels described in 9A and 9B above.

All such surveys shall bear the seal of a license surveyor and said surveys shall comply with Public Act 132 of 1970 as amended.

- C. Notwithstanding the requirements of 9 (B), combinations of residentially zoned and used parcels and agriculturally zones and used parcels may be exempt from the survey requirements of this section in the discretion of the Village Administrator provided that the applicant signs a waiver concerning the accuracy of the legal description.

SECTION 10. CONSEQUENCES OF NONCONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT

- A. 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 11 of this Ordinance, and as may otherwise be provided by law.
- B. Further, approval of a division under the Ordinance by the Village is not a determination that the resulting parcels comply with other ordinances or regulations or that the property owner will receive a building permit for newly created parcels.

SECTION 11. PENALTIES AND ENFORCEMENT

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

SECTION 12. 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 thereof.

SECTION 13. 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 Village Zoning Ordinance, the Village Subdivision Control Ordinance, or the duly adopted Village Building Code.

SECTION 14. EFFECTIVE DATE

This Ordinance shall become effective twenty (20) days after final passage and publication in a newspaper having general circulation in the Village of South Rockwood, Monroe County, Michigan.

I hereby certify that this Ordinance was passed at a regular meeting of the Village Council of the Village of South Rockwood, Michigan, held on May 07, 2018

By: Angela Hightower
Angela Hightower, Village Clerk

Publication Date: May 12, 2018

Effective Date: June 1, 2018