

ORDINANCE # 155
VILLAGE OF CONCORD STATE OF MICHIGAN
COUNTY OF JACKSON
LAND DIVISION ORDINANCE

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 3 of 1895, as amended being the General Law Village Charter; 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.

SECTION I
TITLE

This ordinance shall be known and cited as the Concord Village 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 community, and otherwise provide for the health, safety and welfare of the residents and property owners of the municipality by establishing reasonable standards for prior review and approval of the land division within the municipality.

SECTION III
DEFINITIONS

For purposes of this ordinance certain terms and words used 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 and 108 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 hers 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 roads through existing adequate roads or easements.

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 legislative body or council of the Village.

SECTION IV
PRIOR APPROVAL REQUIREMENTS FOR LAND DIVISIONS

Land in the municipality shall not be divided without the prior review of the Zoning Administrator and approval of the Village Council, 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 Village Subdivision Control Ordinance and the State Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the Village subdivision Control Ordinance and 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 municipal Clerk for review and approval of a 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 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 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 and 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.

In lieu of such survey map, at the applicants option, the applicant may waive the 30 day statutory requirement for a decision on the application until such survey map and legal description are filed with the village, and submit a tentative preliminary parcel map drawn to scale of not less than that provided for on the application form 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, and/or denial by Zoning Administrator prior to a final application under Section VI.

The Zoning Administrator may waive the survey map requirement where the foregoing 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 the proposed divisions, however, shall at all times be required.

D. Proof that all standards of the State Land Division Act and this Ordinance have been met.

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 was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.

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

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

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

I. The fee as may from time to time be established by resolution of the Village Council 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 land division application package the municipal clerk shall forthwith submit the same to the Village Zoning Administrator for review. The Zoning Administrator shall forward the completed application with recommendations to 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 the Village Council. The Council shall within 30 days after receipt of the application package conforming to this Ordinance's requirements, promptly notify the applicant of the decisions and the reasons for any denial. If the application package does not

conform to this Ordinance requirements and the State Land Division Act, the Zoning Administrator shall return the same to the applicant for completion and refilling in accordance with this Ordinance and the State Land Division Act.

B. Any person or entity aggrieved by the decision of the Zoning Administrator may, within 30 days of said decision appeal the decision to the Village Council which shall consider and resolve such appeal by a majority vote at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellate 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 County Register of Deeds office and filed with the Village Clerk.

D. The municipal assessor and Zoning Administrator shall maintain an official record of all approved and accomplished land divisions or transfers.

VILLAGE OF CONCORD LAND DIVISION APPLICATION INCLUDED

SECTION VII
STANDARDS FOR APPROVAL OF LAND DIVISIONS

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

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

B. The proposed land division(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 for a public road for public utilities and emergency and other vehicles not less than the requirements of the zoning ordinance, major thoroughfare plan, road ordinance or this Ordinance. In determining adequacy of accessibility, 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 4 or more parcels.

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 nonbuildable 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 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 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, 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 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 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.

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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 Village Zoning Ordinance, the Village Subdivision Control Ordinance, or the Village Building Code.

SECTION XIII
EFFECTIVE DATE

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

Adopted June 10, 1997 by Village Council. Effective July 10, 1997.



Halsey D. Jenks

Village President



Sheryll A. Dishaw

Village Clerk

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Motioned by Cecil, seconded by Brigham to amend the Police and Public Safety Ordinance #147 with the following:

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SECTION 1
ADOPTION BY REFERENCE

The Village of Concord hereby adopts by reference the Traffic Regulations set forth in Act No. 300 of Public Acts of 1949, as amended, through July 31, 1997, being the Michigan Motor Vehicle Code, and in particular all of the provisions of Act 514, Public Acts of 1978, for the regulation of traffic within the Village boundaries, and as hereafter amended.

Adopted by Village Council August 26, 1997, effective September 26, 1997.


Halsey D. Jenks
Village President


Sheryll A. Dishaw
Village Clerk

AN ORDINANCE TO REGULATE THE POSSESSION
AND/OR CONSUMPTION OF ALCOHOL BY MINORS

ORDINANCE NO. 153

THE VILLAGE OF CONCORD ORDAINS:

Section 1. Preamble

This ordinance is a police Ordinance adopted by the Village of Concord to preserve the public health, safety and morals of the community by regulating the possession and/or consumption of alcohol by persons who have not reached the age of emancipation.

Section 2. Minor

"Minor" means a person not legally permitted by reason of age to possess alcoholic beverages pursuant to Michigan Compiled Laws, Section 436.33 (b), as the same may be amended from time to time.

Section 3. Violation

a. Any minor possessing and/or consuming alcohol within the Village of Concord is in violation of this Ordinance, and is guilty of a misdemeanor. This Ordinance does not apply to minors who are exempt from prohibitions against possession and/or consumption of alcohol by reason of any State Statute.

b. Any minor, whether he be the driver or passenger who is in a motor vehicle containing open intoxicants shall be deemed in violation of this Ordinance.

c. Any minor transporting or possessing alcohol in a motor vehicle shall be deemed in violation of this Ordinance.

d. Any minor using a fraudulent identification to purchase or attempt to purchase an alcoholic beverage or intoxicating liquor shall be deemed in violation of this ordinance.

e. Any minor attempting to purchase, consume or possess alcoholic liquor or purchasing, consuming or possessing alcoholic liquor shall be deemed in violation of this Ordinance.

Section 4. Penalty

A violation of this Ordinance constitutes a misdemeanor and is punishable by a fine not to exceed Five Hundred (\$ 500.00) Dollars and/or ninety (90) days in the County jail. Providing further, that where a State Statute specifically sets forth a different fine, and/or possible jail sentence a person convicted under this Ordinance shall not be subject to any fine and/or jail sentence greater than that imposed by State law. Providing further, that where State Statute specifically defines a violation occurring under this Ordinance as a civil infraction the same shall be deemed a civil infraction under this Ordinance.


Section 5. Severability

Should any section, subsection, clause or phrase of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so invalidated.

Section 6. Effective Date

This Ordinance shall be published in the manner provided by law and shall take effect thirty (30) days after publication.

Adopted by Village Council September 9, 1997, effective October 17, 1997.


Halsey D. Jenks

Village President


Sheryll A. Dishaw

Village Clerk