

VILLAGE COUNCIL
VILLAGE OF NASHVILLE
ORDINANCE NO. 1-27-2000

Council Member Wolff, supported by Council Member Pash, moved the adoption of the following ordinance:

LAND DIVISION ORDINANCE

The Village of Nashville Ordains:

SECTION 1 TITLE

This ordinance shall be known and cited as the “Village of Nashville Land Division Ordinance”

SECTION 2 PURPOSE & SCOPE

- A. The purpose of this Ordinance is to implement the provisions of the Michigan Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act) (“Act”) and 1897 PA 3, as amended. Without limitation, it is further the intent of this Ordinance to prevent the creation of parcels of property and access easements that do not comply with applicable ordinances, zoning regulations and the Act, to minimize potential boundary disputes, to monitor the creation of new parcels and easements, to prevent illegal land divisions, to ensure that newly-created parcels are not landlocked, to prevent the creation of unusable lots due to non-compliance with the Village of Nashville Zoning Ordinance or other ordinances, to assure orderly development of the community, and to otherwise provide for the health, safety, and welfare of the residents and property owners of the Village of Nashville by establishing reasonable standards for prior review and approval of land division within the Village of Nashville.
- B. Approval of any land division pursuant to this Ordinance shall not provide, constitute, or imply zoning approval of any such division or resulting parcels or assure or imply buildability. Such use of land must still comply with the Village Zoning Ordinance and any other applicable ordinances, laws, or regulations, and it remains the responsibility of the property owner to ensure such compliance.
- C. It is not intended by this Ordinance to repeal, abrogate, annul, or in any other way impair or interfere with provisions of the Village Zoning Ordinance or of other laws or ordinances (except as otherwise expressly stated in Section 12 hereof) or of any private restrictions placed upon property by covenant, deed, or otherwise; provided, however, that where any provision of this Ordinance imposes more stringent requirements, regulations, or restrictions than any other law or ordinance, then the provisions of this Ordinance shall govern.

SECTION 3 DEFINITIONS

Certain terms and words used in this Ordinance shall have the following meanings:

- A. "Act"- Act No.288 of the Public Acts of 1967, as amended (including, but not limited to Public Act No.591 of 1996), being the Michigan Land Divisions Act.
- B. "Applicant" - a natural person, firm, association, partnership, corporation, estate, entity, or combination of any of them that holds an ownership interest in land whether recorded or not.
- C. "County" - Barry County, Michigan
- D. "Divided" or "Division" - the creation, partitioning, or splitting of a parcel or tract of land by the owner or by his heirs, executors, administrators, legal representatives, successors, or assigns, for the purpose of sale, transfer, or lease of more than one (1) year, or of building development that results in one or more parcels. For purposes of this definition, "divided" or "division" shall include, but not be limited to the creation of one or more access easements, parcels, lots or site condominium units whether created by partition, deed, land contract, a lease over one (1) year or other written agreement, whether or not recorded with the county register of deeds records. "Divided" or "division" shall also include the adjustment or reconfiguration of property lines.
- E. "Governing body" - the Nashville Village Council
- F. "Village" - the Village of Nashville, Barry County, Michigan
- G. Except as otherwise provided in this Ordinance, the definitions of the Act, as amended, are incorporated by reference and made a part of this Ordinance.
- H. For purposes of Section 105(b) and 109(1)(d) of the Act, the word "area" shall mean any dimensional or space required in accordance with the Nashville Zoning Ordinance, including but not limited to size, road frontage, easement regulations and similar requirements.
- I. For purposes of Section 105(b) and 109(1) (c) of the Act, the word "width" shall mean the width and frontage requirements provided by the Village of Nashville Zoning Ordinance including, but not limited to, road frontage, private road, easement regulations and similar requirements.
- J. For the purposes of this Ordinance, "lot" or "parcel" shall be used interchangeably.

SECTION 4 PRIOR APPROVAL FOR LAND DIVISIONS

Land in the Village shall not be divided and access easements shall not be created without the prior review and approval of the Village Zoning Administrator (or such other official as designated by the governing body by resolution) in accordance with this Ordinance and the Act, except that a parcel proposed for subdivision through a recorded plat pursuant to an applicable Subdivision Ordinance and the Act shall be exempted from this requirement. If a proposed land division involves the division of one or more existing platted lots or the reconfiguration or adjustment of a boundary line of an existing platted lot, this Ordinance (including, but not limited to, its review and approval requirements) shall be applicable.

SECTION 5 APPLICATION FOR LAND DIVISION APPROVAL

An applicant shall file all of the following with the Village Zoning Administrator (or such other official designated by the governing body) for review and approval of a proposed land division before making any division either by recorded or unrecorded deed, land contract, lease for more than one year, or for building development.

- A. A completed application form, together with all required supporting materials.
- B. Written proof of fee ownership (warranty deed or recorded land contract) of the land proposed to be divided and a signature on the application by the title owners of the property.
- C. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of Act No. 132 of the Public Acts of 1970, as amended, by a land surveyor licensed by the State of Michigan, and showing the dimensions and legal descriptions of the existing parcel, and parcels proposed to be created by the division(s) (including “remnant” parcels or those to be retained by the owner”) and any easements, the locations 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 a survey map, at the applicant’s option, the applicant may waive the 45 day statutory requirements 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 1” = 60’ including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, easements, 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 the Zoning Administrator or other designated official prior to a formal application under this Section 5. Additionally, the Village may waive the survey requirement for good cause show if adequate and accurate legal descriptions are demonstrated by the materials submitted by the applicant and additionally, such materials are sufficient to show that all the requirements of the Ordinance an the Act have been met.

- D. Proof that all standards of the Act, this Ordinance and other applicable ordinances and laws 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 that the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the Act. The Village may require that the applicant provide a title search from a title insurance company if it is reasonably necessary to show that previous land divisions do not preclude the proposed land divisions.
- F. If transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- G. Unless a division creates a parcel which is acknowledged and declared to be “not buildable” under Section 8 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.

H. The application fee as established by resolution of the governing body.

SECTION 6 PROCEDURES FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

A. Upon receipt of a complete land division application package from the applicant, the Zoning Administrator or other designed official shall (i) approve, (ii) approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety, and welfare, or (iii) disapprove the land division applied for within 45 days after receipt of the complete application package conforming to this Ordinance's requirements (including any and all required zoning and private road approvals) and shall promptly notify the applicant in writing of the decision(s) and the reason for any denial.

If the application package does not conform to this Ordinance and the Act, the Zoning Administrator or other designee shall return the same to the applicant for completion and refile in accordance with this Ordinance and the Act.

B. Any person or entity aggrieved by the decision of the Zoning Administrator or designee may, within 30 days of the decision, appeal the decision to the Planning Commission or other such board or person designated by the governing body which shall consider and resolve such appeal affording sufficient time for a 20 day prior written notice to the applicant (and the property owner where other than the applicant) of the time and date of the meeting and appellate hearing. Any such appeal shall be in writing and must be filed with the Village Clerk within the thirty (30) day time limit.

C. Land division approvals shall be valid only for a period of ninety (90) days from the date of the approval by the Village. If such lots, easements, parcels, or site condominium units proposed by the land division are not properly recorded and accepted by the County Register of Deeds within this period, the land division approval shall be considered null and void and a new application must thereafter be submitted in compliance with the requirements of this Ordinance. If an amendment to the Zoning Ordinance or other Village ordinance becomes effective prior to the land division being recorded and the amendment applies to any of the resulting parcels, easements, lots, or site condominium units in a way which would make the proposed lots, easements, parcels or site condominium units violate the Zoning Ordinance or other Village ordinance, the land division approval shall be null and void even if the 90-day time limit has not expired.

D. The Zoning Administrator or designee shall maintain an official record of all land division applications, including denied, approved, unrecorded and accomplished land divisions.

E. Approval of a land division does not grant or imply approval for the use of such resulting lots or parcels. Any lot, easement, parcel, site condominium unit created by

a land division must still comply with the requirements of the Zoning Ordinance (including, but not limited to minimum lot area and width, road frontage and width requirements and where applicable, private road requirements) and any other applicable ordinances or regulations.

- F. If the land division involves the use or creation of a private road, approval of the private road must be obtained from the Village in accordance with the Zoning Ordinance prior to the approval of the land division. Additionally, the applicant must submit evidence of review and approval of the private road location and entry by the Barry County Road Commission.

SECTION 7 STANDARDS FOR APPROVAL OF LAND DIVISIONS

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

- A. All parcels and easements to be created by the proposed land division(s) fully comply with the applicable lot (parcel) yard access and area requirements of the Zoning Ordinance and other applicable Village ordinances, including but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, setback areas and maximum lot (parcel) coverage and minimum setbacks for existing building/structures.
- B. All parcels created and remaining have existing adequate accessibility, or an area available therefore, to a public road for public utilities and emergency and other vehicles not less than the requirements of the Village Zoning Ordinance major thoroughfare plan, private road ordinance, or this Ordinance. All proposed parcels shall have frontage on an improved public street or approved private street, at a minimum, equal to the required lot width for the zoning district which the lot is located, as well as compliance with all applicable public or private street regulations.
- C. The ratio of depth to width of any parcel created by the division shall not exceed 4:1 unless otherwise provided by the Zoning Ordinance.
- D. Where accessibility is to be provided by a proposed new dedicated public road, proof that the County Road Commission or Michigan Department of Transportation has approved the proposed layout and construction design of the road and the utility easements and drainage facilities connected therewith.
- E. The Village may require such additional conditions and safeguards as are deemed necessary to ensure compliance with requirements of this Ordinance.
- F. The Village Council may establish reasonable fees for Village review and approval of land divisions, easements, and condominium hereunder. Additionally, the Village may require the applicant to reimburse the Village for fees and costs incurred by the Village Attorney and or Village Engineer in reviewing the proposed land division, easement, or condominium units. No land division or easement approval or permit shall be effective until all such fees and reimbursements have been paid to the Village in full.
- G. Within ten (10) days of the date the applicant receives the recorded copy of the deed, land contract, memorandum of land contract or easement agreement back from the County Register of Deeds Records (with the county stamps thereon), the applicant

shall provide the Village with copies of the same so that the Village can verify that the resulting lots, parcels, condominium units and/or easements created by the recordings complies with the Village approval.

SECTION 8 ALLOWANCES 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 Village Zoning Ordinance or this Ordinance may be approved in any of the following circumstances:

- A. Where the applicant executes and records a permanent deed restriction with the County Register of Deeds, in a form acceptable to the Village, designating the parcel as “not buildable” and also not usable for anything other than agricultural or passive uses, which restrictions shall be enforceable by the Village.

Any such parcel shall also be designated as “not buildable” in the Village records, and shall not hereafter 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 1 foot in height or used except for agricultural or passive uses.

- B. Where the proposed land division involves only the minor adjustments of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this Ordinance, the Village Zoning Ordinance, or the Act, and the Zoning Administrator (or designee) determines, in writing, that the boundary adjustments are minor.

SECTION 9 CONSEQUENCES OF NONCOMPLIANCE WITH THE LAND DIVISION APPROVAL REQUIREMENT

Any parcel or easement created in violation of or non-compliance with this Ordinance shall not be eligible for any building permits or zoning approvals such as zoning permit or special land use approval and site plan approval. Furthermore, no parcel, lot, site condominium unit or easement created in violation of this Ordinance or the Act shall be utilized for any purpose whatsoever, nor shall such land division be recognized. In addition, a violation of this Ordinance shall also subject the violator to the penalties and enforcement actions set forth in Section 10 of this Ordinance, and as may otherwise be provided by law.

SECTION 10 PENALTIES AND ENFORCEMENT

Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this Ordinance shall be responsible for a

municipal civil infraction and shall be punished by a civil fine of fifty dollars (\$50.00) for a first violation, two hundred and fifty dollars (\$250.00) for a second violation, and five hundred dollars (\$500.00) for a third or subsequent violation. Any person who violates any of the provisions of this Ordinance shall also be subject to civil action seeking invalidation of the land division and appropriate injunctive or other relief.

SECTION 11 SEVERABILITY

The provisions of this Ordinance are 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 the part or portion thereof.

SECTION 12 REPEAL

Village of Nashville Ordinance No. _____ is hereby repealed as of the effective date of this Ordinance. Additionally, all other 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, any adopted Subdivision Ordinance, or the applicable building codes

SECTION 13 EFFECTIVE DATE

This ordinance shall take effect thirty (30) days following its publication.

Aye: White, Pash, Wolff, Kellogg, Mapes.

Nay: Wheeler, Dunham.

Absent: none.

Ordinance No. 1-27-2000 Adopted.

Dennis Mapes, President

Cathy Lentz, Clerk

I, Cathy Lentz, the Clerk for the Village of Nashville, hereby certify that the foregoing is a true and accurate copy of an Ordinance adopted by the Village Council of the Village of Nashville at a regularly scheduled meeting held on January 27, 2000.

Cathy Lentz, Clerk