

DISPOSAL WASTE MATERIALS ORDINANCE

AN ORDINANCE TO REGULATE THE DISPOSAL OF WASTE MATERIALS IN HOMER TOWNSHIP AND FOR THE PURPOSE OF THE PRESERVATION AND PROTECTION OF THE LAND AND PUBLIC HEALTH AND WELFARE OF THE CITIZENS OF THE TOWNSHIP.

THE TOWNSHIP OF HOMER, MIDLAND COUNTY, MICHIGAN, ORDAINS, PURSUANT TO THE AUTHORITY VESTED IN IT BY ACT 246 OF THE PUBLIC ACTS OF 1945 OF THE STATE OF MICHIGAN, AS AMENDED:

SECTION 1. TITLE. This Ordinance shall be known and may be cited as the HOMER TOWNSHIP WASTE DISPOSAL ORDINANCE.

SECTION 2. PURPOSE. The purpose of this Ordinance is to preserve the public health, safety and welfare of the citizens of Homer Township and to protect the land and ground water by the prevention of disposal or storage of toxic or radioactive materials in the Township and to regulate the disposal of other wastes.

SECTION 3. ADMINISTRATION AND ENFORCEMENT.

A. This Ordinance shall be enforced by the Township Supervisor or such other persons authorized by the Township Board of Homer.

B. Nothing in this Ordinance shall be construed or interpreted to prohibit the necessary preparation of land by the balancing or filling thereof with earth materials in connection with any immediate lawful use, including but not necessarily limited to, the development of land for which a building permit has been issued.

SECTION 4. DEFINITIONS.

A. Person - Any individual or combinations thereof, including partnerships, corporations, associations or firms.

B. Toxic Materials - "Toxic substance" means that quality of a natural or man-made element or compound, metal, or metallic, organic, or inorganic compound, which in an appropriate concentration, alone or in combination, poses a threat of damage to or destruction of the health, safety, or welfare of human, animal, or plant life, or of the environment. This includes a substance that may reasonably be expected to result in human carcinogenesis, teratogenesis, or mutagenesis.

C. Radioactive Materials - A solid, liquid, or gas material which emits ionizing radiation spontaneously.

D. Mean Grade - The arithmetic average of elevations of points on the boundary lines of the property uniformly spaced and not more than one hundred (100) feet apart. In no event shall such elevation points be determined below the surface elevation of any boundary waters.

E. Finish Grade - Those earth elevations established and delineated on the plot plan that will result upon completion of the proposed operation for which the permit is issued.

F. Existing Grade - The various elevations of the surface of the land as it actually exists upon the site.

G. Solid Waste - "Solid Waste" means refuse, garbage, rubbish, trash, ashes, incinerator ash, incenerator residue, municipal and industrial sludges, animal waste, and all other solid or liquid private, public, commercial, industrial or other waste, but not human body waste.

SECTION 5. PERMIT REQUIRED.

A. It shall be unlawful from and after the effective date of this Ordinance for any person to deposit toxic materials, radioactive material and solid waste materials with the exception of animal waste upon the land within the Township of Homer without a permit granted by the Township Board so to do as hereinafter provided.

B. Application for permit

- (1) Written application shall be made on forms provided therefor by the township clerk.
- (2) Such application shall be accompanied by a plot plan of the proposed site drawn in accordance with the following requirements and showing the information herein after required:
 - (a) Drawn to a scale not less than 100 feet to the inch.
 - (b) Showing the location of the land involved and all existing and proposed structures thereon.
 - (c) All existing grade elevations shall be indicated at the intersection of perpendicular parallel lines not more than one hundred (100) feet apart and expressed to the nearest tenth of a foot.
 - (d) Location of existing and proposed streets, roadways, parking areas, entrances and exits.
 - (e) Location of all public facilities and services.
 - (f) Finish grading plan showing proposed elevations upon completion at 5 foot intervals.
 - (g) Mean grade elevations at 5 foot intervals.
 - (h) Such additional information as the applicant deems necessary and/or pertinent to the application of proposed operation.
- (3) The application shall contain or be accompanied by a written statement of the extent, development, improvement and general purpose of the proposed filling or disposal operations and the program therefor.
- (4) The application and all plans and supplement statements of information required therewith shall be filed in triplicate, with the Township Clerk, together with the fee therefor as shall be established by resolution of the Township Board, and which shall be sufficient to cover the expense of hearing, the cost of publication of notices as required herein, and the reasonable expenses incurred by and for inspections.

C. Public hearing, and standards to be considered.

- (1) The Township Clerk, upon receipt of the application and fee as hereinbefore provided, shall refer the application to the Planning Commission, which shall cause a notice of a public hearing to be published twice in a newspaper of general circulation in the Township containing the time, date, place and purpose of such hearing. Such notice shall be published once not less than twenty (20) days before and the second not more than eight (8) days before the date of the public hearing.
- (2) The public hearing shall be held by the Planning Commission at any regular meeting thereof at no additional expense to the applicant, or at any special meeting called therefor when requested by the applicant which special meeting shall be at the expense of the applicant for the purpose of making recommendations to the Township Board, and it shall consider in connection therewith:
 - (a) The effect of the proposed fill or waste disposal on the general vicinity where it is to be conducted.
 - (b) The character and use of adjoining lands and structures.
 - (c) The depth of the water table.
 - (d) Availability and adequacy of surface water drainage facilities.
 - (e) The period of time the operation will continue.

- (f) Avenues of ingress and egress and the effect of vehicular traffic.
- (g) The proposed hours of operation.
- (h) Whether or not perimeter fencing should be required.
- (i) Such other factors as may be necessary and appropriate for the preservation of public health, safety and welfare.

D. Granting and Issuance of Permit.

Upon receipt of the Planning Commission's recommendation, the Township Board shall determine whether the Permit shall be granted or denied. If granted, the Township Clerk shall issue the Permit upon the posting of a performance bond in an amount determined by the Township Board provided, however, such Permit shall be valid for one year only unless renewed thereafter by the Township Board for like periods in accordance with the provisions of this Ordinance.

E. Suspension or Revocation.

- (1) Suspension. Any permit may be suspended by the enforcing authority for a period of not more than 21 days whenever:
 - (a) Any provision of this Ordinance is being violated.
 - (b) Any condition of the permit is not being observed.
 - (c) It is necessary to preserve or protect public health, safety or welfare.

Provided, however, that the enforcing authority shall forthwith report his act of suspension and the reasons therefor to the Township Clerk.

- (2) Review and Revocation. The Township Clerk shall notify the permit holder that the Township Board will review the action of the enforcing authority at its next regular meeting to determine whether the permit shall be reinstated, suspended for a further period of time or permanently revoked.

SECTION 6. OPERATIONAL REGULATIONS.

A. All disposal or storage of any toxic or radioactive material is hereby prohibited.

B. Requirements for all Filling or Disposal of Waste Operations.

- (1) The hours of operation shall be limited both as to equipment and vehicles and operations allowed only between the hours of 7:00 A.M. and 7:00 P.M. and is prohibited entirely on Sunday and legal holidays.
- (2) All unpaved roads must be regularly chlorinated to control the generation of dust and to prevent its escape from the premises.
- (3) All public access roads must be kept free from debris falling off vehicles bringing materials to the site or leaving therefrom.
- (4) Such filling operations may only be permitted in use districts allowing such activities under the Township Zoning Ordinance and subject to the limitations of Paragraph A. of this Section.
- (5) The premises must be regularly graded to prevent the collection of standing water.
- (6) The owners and/or operators must consent to reasonable inspection by duly authorized Township representatives without prior notice.

- (7) A performance bond must be posted in an amount established by the Township Board.
- (8) Upon completion of the fill or the disposal of waste, the finished grade shall be composed of and provide a minimum of one (1) foot of earth materials of such quality as to be capable of growing turf, vegetation or crops.
- (9) Such other reasonable regulatory requirements as may be necessary to preserve public health, safety or welfare as the particular permit may require.

C. Earth Land Fills.

Are subject to all of the requirements of Paragraphs A and B of this Section.

SECTION 7. VIOLATIONS, PENALTIES AND REMEDIES.

A. Violations and Penalties.- A violation of any provision of this Ordinance shall constitute a misdemeanor. Each day a violation occurs or is permitted to exist, or does in fact exist, shall constitute a separate offense. Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine not exceeding Five Hundred (\$500.00) Dollars or Ninety (90) days in jail, or both, in the discretion of the Court.

B. Nuisances and the Abatement thereof - Any excavations or removal of earthen materials or the disposal or storage of wastes in violation of the provisions of this Ordinance are hereby declared to be a nuisance per se and may be abated by an Order of a Court of competent jurisdiction.

C. Injunctive Relief - In addition to or in lieu of the penalties and/or remedies provided in paragraphs A and B of this Section, any continuing violation of the Ordinance may be enjoined by a Court of competent jurisdiction.

SECTION 9. SEVERABILITY.

This Ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are found to be invalid or unenforceable for any reason by a Court of competent jurisdiction, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

SECTION 10. REPEAL, EFFECTIVE DATE AND ADOPTION.

A. Repeal - All ordinances or parts of ordinances in conflict with the provisions of this ordinance are repealed, provided, however, any proceedings pending, including prosecutions for violations, or rights and liabilities acquired or incurred under any previous ordinance being repealed hereby shall not be affected by this ordinance and may be continued pursuant to said previous ordinances.

B. Effective Date - This Ordinance shall become effective thirty (30) days after the date of its publication.

C. This Ordinance was adopted by the HOMER Township Board at a regular meeting thereof held _____.

Lester Varner
Homer Township Supervisor

Barbara Radosa
Homer Township Clerk