

**LAND DIVISION ORDINANCE**

COPY

**TOWNSHIP OF HOMER**

**COUNTY OF MIDLAND, STATE OF MICHIGAN  
ORDINANCE NO. 6000**

**Adopted: 3/4/98  
Effective: 4/11/98**

An ordinance to regulate partitioning or division of parcels or tracts of land enacted pursuant but not limited to Michigan Public 1967 PA 288, as amended, Act 591 of 1996, as amended, and Act 246 of 1945, as amended; 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.

**TOWNSHIP OF HOMER**

**MIDLAND COUNTY, MICHIGAN  
ORDAINS:**

**SECTION I  
TITLE**

This ordinance shall be known and cited as the Homer Township 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 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 meaning set forth herein. Additionally, where terms and words are set forth in the State Land Division Act, those terms and words shall have the definitions ascribed to them in the State Land Division Act, except as set forth within this section.

- A. "Administrator" - the Township Assessor.
  
- 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. "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 109 of the State Land Division Act. "Divide" or "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 parcels shall not be considered a building site unless the parcel conforms to the requirements of the State Land Division Act.
  
- D. "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.
  
- E. "Forty acres or the equivalent" - either 40 acres, a quarter-quarter section containing not less than 30 ares, or a government lot containing not less than 30 acres.
  
- F. "Governing body" - the Township Board of Homer Township, Midland County, Michigan.
  
- G. "Township" - the Township of Homer, Midland County, Michigan.

**SECTION IV**  
**PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS**

Land in the Township shall not be divided without the prior review and approval of the Administrator, or other official designated by the Township Board, 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 State Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act.
- C. An exempt split as defined in this Ordinance, or other partitioning or splitting that only results in parcels of 20 acres or more where each parcel is not accessible (as defined in the State Land Division Act) and either the parcel was in existence on March 31, 1997, or resulted from exempt splitting under the State Land Division Act.

**SECTION V**  
**APPLICATION FOR LAND DIVISION APPROVAL**

An applicant shall file all of the following with the administrator for review and approval of a proposed land 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 is attached to, and made a part of this ordinance.
- B. Proof of fee ownership of the land proposed to be divided or written consent to the application signed by the fee owner of the land.
- C. A tentative parcel map showing the parent parcel or parent tract which is the subject of the application, and the area, parcel lines, public utility easements, and the manner of proposed access for each resulting parcel. A tentative parcel map shall include:
  - 1. Proposed boundary lines and the dimensions of each parcel;
  - 2. Accurate legal description of each resulting parcel;

3. The location, dimensions and nature of proposed ingress to and egress from any existing public or private road;
  4. The location of any public or private street, driveway or utility easement to be located within any resulting parcel.
- D. Proof that all standards of the State Land Division Act and this Ordinance have been met.
  - E. If requested by the Administrator, 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. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
  - G. The fee as may from time to time be established by resolution of the Township Board 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 a land division application package, the Administrator shall approve, approve with reasonable conditions or disapprove the land division applied for within 45 days after receipt of the application package conforming to this Ordinance's requirements, and shall 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 Administrator shall return the same to the applicant for completion and refile in accordance with this Ordinance and the State Land Division Act.
- B. Any person or entity aggrieved by the decision of the assessor or designee may, within 30 days of said decision appeal the decision to the Township Board which shall consider and resolve such appeal by a majority vote of said Board at its next regular meeting or session affording sufficient time for a 10 day written notice to the Applicant of the time and date of said meeting. The Township Board may affirm, modify or reverse the decision of the Administrator and its decision shall be final.

- C. A land division approval is effective for 90 days from its issuance, after which it shall be revoked unless within such period there is recorded with the County Register of Deeds office and filed with the Administrator a conveyance of the approved land division or survey evidencing same.
- D. The Administrator shall maintain an official record of all approved and accomplished land divisions or transfers.

**SECTION VII**  
**STANDARDS FOR APPROVAL OF LAND DIVISION**

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

- A. The proposed land division, including resulting parcels, comply with all requirements of the State Land Division Act and this Ordinance.
- B. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio. In the event that the Township zoning ordinance shall specify a depth to width ratio which differs from that set forth within this sub-section, the ratio contained in the Township Zoning ordinance shall control.

**SECTION VIII**  
**LIMITED EFFECT OF LAND DIVISION APPROVAL**

Approval of a land division is not a determination that the created or resulting parcels comply with other laws, ordinances of the Township or applicable regulations. The Township and its officers and employees shall not be liable for approving a land division if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to that effect.

**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 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 civil action, legal or equitable proceedings arising from the violation.

**SECTION XI**  
**SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision to 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, or the Township Building Code.

**SECTION XIII**  
**EFFECTIVE DATE**

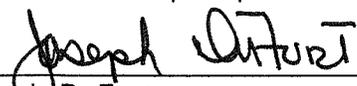
This ordinance shall take effect thirty (30) days following its publication after adoption.

Adopted by the Township Board, Township of Homer, Midland County, Michigan.

Date: 3-4-98

  
\_\_\_\_\_  
Barbara Radosa

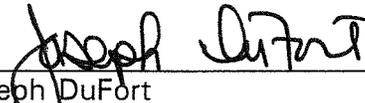
Homer Township Supervisor

  
\_\_\_\_\_  
Joseph DuFort

Homer Township Clerk

**CERTIFICATION**

The above ordinance no. 6000 was adopted at a meeting of the Homer Township Board on the 4th day of March, 1998, and published in the Midland Daily News, a newspaper of general circulation in the Township of Homer on the \_\_\_ day of \_\_\_\_\_, 199\_\_.

  
\_\_\_\_\_  
Joseph DuFort  
Homer Township Clerk

ADOPTED:

YEAS: 7

NAYS: 0

MIDLAND COUNTY  
HOMER TOWNSHIP APPLICATION  
FOR PROPOSED LAND DIVISIONS

YOU MUST ANSWER ALL QUESTIONS AND INCLUDE ALL ATTACHMENTS, OR  
THIS WILL BE RETURNED TO YOU.

BRING OR MAIL TO: BARBARA RADOSA  
1308 S HOMER RD  
MIDLAND, MI 48640

For Township Use Only

NUMBER OF SPLITS ALLOWED BY STATUE: _____	PARCEL NUMBER: _____
NUMBER OF SPLITS REQUESTED: _____	NAME: _____
CONTROL NUMBER: _____	DATE: _____

APPROVAL OF A LAND DIVISION IS REQUIRED BEFORE IT IS SOLD. THE TOWNSHIP  
ASSESSOR MUST APPROVE OR DISAPPROVE APPLICATION WITHIN 45 DAYS.

In the box below, fill in where you want this form sent, when the review is complete.

NAME: _____
ADDRESS: _____
CITY, STATE, ZIP: _____

This form is designed to comply with applicable land division ordinances and 109 of the Michigan Land Division Act, P.A.288 of 1967, as amended, MCL560.101. This applies to all splits made after March 31, 1997.

1. LOCATION OF PARCEL TO BE SPLIT:

ADDRESS: \_\_\_\_\_ PARCEL NUMBER: \_\_\_\_\_  
LEGAL DESCRIPTION OF PARCEL: (attach extra sheets if needed) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. PROPERTY OWNER INFORMATION:

NAME: \_\_\_\_\_ PHONE( ) \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CITY, STATE, ZIP \_\_\_\_\_  
LIST OWNER ON MARCH 31, 1997 \_\_\_\_\_  
LIST OWNERS, AS OF MARCH 31, 1997, OF PARCELS SHARING A COMMON  
PROPERTY LINE: \_\_\_\_\_

3. PROPOSAL: DESCRIBE THE DIVISION BEING PROPOSED:

- A. NUMBER OF NEW PARCELS \_\_\_\_\_  
B. INTENDED USE(residential, commercial, etc.) \_\_\_\_\_  
C. THE DIVISION OF THE PARCEL PROVIDES ACCESS TO AN EXISTING PUBLIC ROAD BY:  
(check one)  
 Each new parcel has frontage on an existing public road  
 A new public road, proposed road name: \_\_\_\_\_  
 A new private road or easement, proposed road name: \_\_\_\_\_  
 Driveway

4A. Write here, or attach, a legal description of the proposed new road or easement:

4B. Write here, or attach, a legal description for EACH PROPOSED NEW PARCEL:

(attach extra sheets if needed)

5. A DESCRIPTION OF ANY DIVISION RIGHTS BEING TRANSFERRED FROM THE PARENT PARCEL TO ANOTHER PARCEL? \_\_\_\_\_ IDENTIFY THE OTHER PARCEL:

(See Section 109(2) of the Land Division Act. Make sure your deed includes both statements as required in section 109(3) and 109(4) of the Act.)

6. DEVELOPMENT SITE LIMITS Check each that represents a condition which exists on the PARENT parcel. Any part of the parcel:

- it is a river or lake front parcel
- includes a wetland
- includes a beach
- is within a flood plain
- includes slopes more than twenty five percent (a 14 degree angle)
- is on muck soils or soil having limitations for on site sewage systems
- is known or suspected to have an abandoned well
- is known or suspected to have underground storage tank or contaminated soils

7. ATTACHMENTS (all attachments MUST be included - letter each attachment as shown here)

- A. A survey sealed by a professional surveyor at a scale of 1"=200'

OR

- B. A map/drawing drawn to scale of 1"=100'

**THE SURVEY OR MAP MUST SHOW:**

1. CURRENT BOUNDARIES (as of March 31, 1997), and
  2. THE PROPOSED DIVISIONS and
  3. DIMENSIONS OF THE PROPOSED DIVISIONS and
  4. EXISTING AND PROPOSED ROAD/EASEMENTS RIGHT-OF-WAY and
  5. ANY EXISTING IMPROVEMENTS (buildings, wells, septic systems, driveways etc.)
  6. FOR DEVELOPMENT SITES, EASEMENTS FOR PUBLIC UTILITIES FROM EACH PARCEL TO EXISTING PUBLIC UTILITY FACILITIES.
- C. INDICATION OF APPROVAL, OR PERMIT FROM COUNTY ROAD COMMISSION OR MDOT FOR EACH PROPOSED NEW ROAD, EASEMENT OR SHARED DRIVEWAY
- D. A COPY OF ANY TRANSFERRED DIVISION RIGHTS IN THE PARENT PARCEL
- E. A FEE OF \$ -0-

**8. AFFIDAVIT and permission for municipal, county and state officials to enter the property for inspections:**

I agree the statements made above are true, and if found not to be true, this application and any approval will be void. Further, I agree to comply with the conditions and regulations provided with this parent parcel division. Further, I agree to give permission for officials of the municipality, county and the State of Michigan to enter the property where this parcel division is proposed for purposes of inspection to verify that the information on the application is correct at a time mutually agreed with the applicant. Finally, I understand this is only a parcel division which conveys only certain rights under the applicable local land division ordinance, the local zoning ordinance, and the State Land Division Act (formerly the Subdivision Control Act, P. A. 288 of 1967, as amended (particularly by P. A. 591 of 1996), MCL560.101, et seq.) and does not include any representation or conveyance of rights in any other statute, building code, zoning ordinance, deed restrictions or other property rights.

Finally, even if this division is approved, I understand zoning, local ordinances and State Acts change from time to time, and if changed the divisions made here must comply with the new requirements (apply for division approval again) unless deeds, land contracts, leases or surveys representing the approved divisions are recorded with the Register of Deeds or the division is built upon before the changes to laws are made.

PROPERTY OWNER'S SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

**DO NOT WRITE BELOW THIS LINE**

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Number of Splits: .....  approved  denied

1 to 4 depth ratio: .....  approved  denied

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Homer Township Assessor  
Barbara Radosa  
1308 S. Homer Road  
Midland, MI 48640  
(517) 835-5671



**AMENDMENT NO. 1**

**LAND DIVISION ORDINANCE**

**TOWNSHIP OF HOMER**

**COUNTY OF MIDLAND, STATE OF MICHIGAN**

**ORDINANCE NO. 6000**

**Adopted: May 6th 1998**

**Effective: June 5th 1998**

Section IX. **Consequences of Non-Compliance With Land Division Approval Requirement, Ordinance No. 6000** shall be deleted in its entirety and the following shall be substituted as the new Section IX:

Section IX. Consequences of Non-Compliance With Land Division Approval Requirement.

Any division of land in violation of any provision of this Ordinance shall not be recognized as a land division on the Township tax roll or assessment roll until the assessing officer refers the suspected violation or potential nonconformity to the county prosecuting attorney and gives written notice to the person requesting the division, and the person suspected of the violation or potential non-conformity of such referral to the prosecuting attorney. The Township shall further have the authority to initiate injunctive or other relief to prevent any violation or continuance of any violation of this Ordinance. Any division of land in violation of this Ordinance shall further not be eligible for any zoning or building permit for any construction or improvement thereto.

In addition any person, firm or corporation who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine of not more than \$500.00 along with costs which may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 nor more than \$500.00 be ordered. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan law.

Pursuant to Section 267 of the Michigan Land Division Act, an unlawful division or split shall also be voidable at the option of the purchaser and shall



proposed  
passed 8/24/05

**Section VII: Standards for Approval of Land Divisions**

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

- A. All parcels created by the proposed division(s) have a minimum width of 100 feet as measured at the required front setback line unless otherwise provided for in an applicable zoning ordinance.
- B. All such parcels shall contain a minimum area of One acre unless otherwise provided for in an applicable zoning ordinance.
- C. 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 non-development sites. The 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.
- D. The proposed land division(s) comply with all requirements of this Ordinance and the Land Division Act.
- E. All parcels created and remaining have existing adequate accessibility, or an area available therefor, for public utilities and emergency and other vehicles.