

ORDINANCE NO. 7000
Township of Homer
County of Midland, Michigan

An Ordinance to set standards and specifications to control the construction of Private Roads.

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.

PURPOSE

This Ordinance is intended to provide a uniform standard for the development and utilization of a private road with access to a public road. It is recognized that standards are necessary because of the need for road services adequate to provide year round access by fire, police and emergency vehicles. This Ordinance shall be known and referred to as the Homer Township Private Road Ordinance.

**ARTICLE I
DEFINITIONS**

- Section 1.1 For purposes of this Ordinance, the following terms shall have the meanings set forth.
- Section 1.2 DRIVEWAY: The route providing a means of ingress and egress to a single lot, structure, dwelling use or unit from a Public or Private Road.
- Section 1.3 ROAD, PRIVATE: A thoroughfare affording the principal means of access to abutting property that serves two or more lots, structures, dwellings, uses or units. Private road shall include those rights of way, easements or routes for vehicular traffic designated as common elements in a condominium project or condominium subdivision under Condominium Act, Act No. 59 of the Public Acts of 1978, as amended, MCL 559.101, et. seq.
- Section 1.4 ROAD, PUBLIC: A thoroughfare affording the principal means of access to abutting property constructed to Midland County Road Commission standards, maintained and accepted by the Midland County Road Commission.

**ARTICLE II
PROHIBITIONS**

Section 2.1 From and after the effective date of this Ordinance, no person or other legal entity shall construct, extend, widen or increase the number of parcels served by a Private Road in the Township unless the Private Road meets the requirements, standards and approval process of this Ordinance. The Township Building Inspector shall not issue a building or occupancy permit for any building proposed to be constructed upon a Private Road which, when required by this Ordinance, does not comply with the standards and approval process of this Ordinance

**ARTICLE III
PRIVATE ROAD APPLICATION**

Section 3.1 All persons or other legal entities which construct, extend, widen or increase the number of parcels served by a Private Road shall make application to the Township Building Inspector. Permits for the construction of Private Roads shall be issued by the Building Inspector or Planning Commission, as set forth within this Ordinance..

Section 3.2 Applications for a Private Road permit shall contain a survey of proposed Private Road by a surveyor licensed by the State of Michigan.

Section 3.3 Private Roads serving five (5) or fewer lots, structures, dwellings, uses or units may be approved and permit issued by the Township Building Inspector. Private Road serving six (6) or more lots, structures, dwellings, uses or units requires Planning Commission approval and its permit issuance.

Section 3.4 Application fees shall be established by the Township Board. In addition, in the event that the Building Inspector or Planning Commission deems it reasonably necessary to have an application, plans or specifications for a Private Road reviewed by a design professional, all costs incurred by the Township in such review shall be paid by the applicant. The Building Inspector or Planning Commission shall have the right to request prepayment of such

expenses with the application and to withhold issuance of a permit pending such payment.

**ARTICLE IV
PRIVATE ROAD RIGHT OF WAY
AND CONSTRUCTION STANDARDS**

Section 4.1

All Private Roads shall have a minimum right of way or easement of at least sixty-six (66) feet wide and recorded at the Midland County Register of Deeds along with a maintenance agreement binding upon all properties utilizing the Private Road which allocates and imposes on those properties the costs, maintenance and improvement of the Private Road. All Private Road easements shall include an easement granting the properties served the right to install and maintain utilities; such as water, gas, electrical, telephone and cable lines, etc.

Section 4.2

Private Road that provides access to two (2) dwelling units, lots, parcels or principal buildings, shall meet these requirements:

1. The roadbed surface must have an elevation higher than the surrounding grade.
2. Roadbed and surface must be served by ditches and proper drainage.
3. Must be surveyed and recorded.
4. Must be assigned a name.
5. Alternately, a Private Road constructed to the then existing minimum requirements for acceptance by the Midland County Road Commission for width, materials, soils base, strength and other construction standards shall be deemed to satisfy the requirements of this Section.

Section 4.3

Private Road that provides access to three (3) or more dwelling units, lots, parcels or principal buildings, shall meet the following additional requirements:

1. Minimum roadbed width of twenty two (22) feet shall be constructed and maintained throughout the length of the Private Road.

2. The roadbed shall be constructed of a minimum of six (6) inches of road gravel or aggregate.
3. The roadbed base, before application of the road gravel or aggregate, must have an elevation higher than the surrounding grade.
4. Alternately, a Private Road constructed to the then existing minimum requirements for acceptance by the Midland County Road Commission for width, materials, soils base, strength and other construction standards shall be deemed to satisfy the requirements of this Section.

Section 4.4 No building, structure or development activity, other than sidewalks or driveways leading to the Private Roads, shall be established within the right-of-way or easements.

Section 4.5 All turn-arounds shall be designed and constructed to provide a minimum outside radius of forty-five (45) feet. If an island is constructed, the maximum island radius shall be twenty-three (23) feet. Alternate turn-arounds, other than circles, may utilized when approved by the Building Inspector, provided these minimum turning limitations are met

Section 4.6 All Private Roads shall be provided with facilities for adequate drainage. Storm drainage shall further be designed and constructed sufficient to handle anticipated increase in flow caused by future Private or Public Road extensions or additional burdens places on drainage systems. Storm drainage shall be established and coordinated on all Private Roads through the Midland County Drain Commission and when required by the Midland County Drain Commission made a portion of the Midland County Drain Commission system.

ARTICLE V MISCELLANEOUS

Section 5.1 Private Roads with easements recorded at the Midland County Register of Deeds as of the effective date of this Ordinance are exempt from the requirements of this Ordinance.

Section 5.2 The requirements of this Ordinance do not apply to a driveway as defined herein.

**ARTICLE VI
VIOLATIONS**

Section 6.1 Any person(s) or other entity who violates any provision of this ordinance, is responsible for a municipal civil infraction as defined by Michigan laws and subject to a civil fine set by the court which shall be in addition to all other costs, attorney fees, damages, expenses (direct and indirect) to which the township has been put and other remedies as provided by law. All violations of this Ordinance or any part thereof are declared a nuisance per se. In addition to pursuing a municipal civil infraction the Township specifically reserves the right and shall have the authority to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to abate said nuisance and to compel compliance with this ordinance. All remedies available to the Township under this ordinance and Michigan law shall be deemed to be cumulative and not exclusive. Each day that a violation shall continue is to constitute a separate offense.

**ARTICLE XII
SEVERABILITY**

Section 7.1 Should any clause, phrase, or other portion of this Ordinance be found to be invalid for any reason whatsoever, such invalidity shall not affect the remaining portions of this Ordinance in any respect but this Ordinance shall be otherwise deemed to be enforceable.

**ARTICLE XIII
EFFECTIVE DATE**

Section 8.1 This ordinance was adopted by the Homer Township Board at a regular board meeting on the 18 day of April, 2007.



Todd Lee, Clerk