

ORDINANCE V23- 12

**AN ORDINANCE AMENDING ARTICLE 115 DESIGN STANDARDS, SECTION 115-30 (b)(2)(b)
DESIGN OF SITE FOR THE VILLAGE OF HARRISON, WISCONSIN**

WHEREAS, to provide developers of condominium developments greater flexibility in design to take the greatest advantage of natural land, trees, historical and other features; and

WHEREAS, more efficient use of land may result in reduction in development and maintenance costs of street and utility systems for Village of Harrison residents; and

WHEREAS, the Village desires to clarify when private streets would be allowed in new developments in the Village of Harrison; and

NOW THEREFORE BE IT RESOLVED, the Village Board of the Village of Harrison, Wisconsin, does hereby adopt the following ordinance revisions.

115-53, Design of Site (b) Streets, (2) Design, j. "Private Streets. New private streets shall not be permitted" shall be revised as follows:

Private Streets. New private streets shall not be permitted "unless in a condominium development."

Private streets shall be permitted in condominium developments built in RS-1 Zoning, subject to the following conditions:

1. Private Street. In the Village of Harrison, a private street is designed for motor vehicle usage which is completely contained within a condominium development, certified survey map, planned unit development, or other similar recorded development, which recording document establishes the right-of-way of the street and that said street has at least one connection to a public roadway which is under the ownership, supervision or control of the Village of Harrison, County of Calumet/Outagamie or State of Wisconsin.
2. Approval by the Village Board of any private street in the Village of Harrison shall not be considered a waiver of any right or obligation of the Village Board of the Village of Harrison pursuant to the Wisconsin State Statutes, and specifically the Village of Harrison has reserved all rights to lay out, widen, alter, discontinue or refuse to establish roads/highways/streets, pursuant to Ch. 61, Wis Stats.
3. A private street shall be legally described in the document setting forth development, and shall be permanently marked on a map, plat, survey, or other recording device.
4. All streets, whether designation as private streets or not, shall be constructed in conformity with all the specifications of the Village of Harrison Code of Ordinances,

and shall further comply with all applicable specifications which establish specifications for public roadways, including the setback lines and other requirements of the ordinance of the Village of Harrison and Counties of Calumet/Outagamie, and laws of the State of Wisconsin. All water system and sanitary sewer improvements shall further comply with the applicable specifications of Harrison Utilities or Darboy Joint Sanitary District.

5. Easements shall be contained in the recording devices reserving and allowing the use of designated private street rights-of-way of public utilities, including sanitary districts, sewer and water, stormwater drainage, natural gas, electricity, telephone, and all other utilities having authority to use public rights-of-ways in the Village of Harrison.
6. The recording device used for the establishment of a private street under this section shall contain restrictive covenants which shall run with the land to the benefit of the Village of Harrison and as a part of those restrictive covenants shall establish an association of the owners and/or residents of the development and shall at all times maintain on file with the Village of Harrison a registered agent for the purpose of notices from the Village of Harrison to the owners'/residents' association where notice is required under this section.
7. The recorded restrictive covenants shall allow the Village of Harrison to enter upon the roadway for inspections, for maintenance, for rebuilding, repairs, plowing, or all other necessary work upon said private roadways in the event that the appropriate notice is given under this section to the owners'/residents' association.
8. The Village of Harrison shall have the authority to repair, rebuild, plow, or do any other necessary work on said roadways when the Village Board or Village Manager or the Village President determines that it is in the public interest or in the interest of the health and safety of any resident and/or owner of the property contained in the development to expend funds of the Village of Harrison to do any work upon said roadways in relationship to repairs, maintenance, plowing, or other improvement in order to remove the detriment to public interest or health and safety of residents or owners.
9. The covenants shall recite that the Village of Harrison, by its acceptance of this private roadway, covenants and easement shall not be required to accept as a public roadway the designated rights-of-way in response to a petition by residents pursuant to Wisconsin Statutes. Acceptance or approval of the private roadway under this section shall not constitute a waiver of the covenants nor require the Village Board to accept said roadways.
10. Establishment of private roadways under this procedure shall not entitle any owner/resident adjacent to said roadways to any of the following:


11. There shall be no reduction in Village tax relative to street maintenance and plowing, and ownership subject to these covenants shall be considered a waiver of any consideration thereof.
12. Ownership shall further constitute a waiver to apply for a reduction in assessments on the grounds that said development is differentiated by bordering upon a private roadway as opposed to a public roadway and shall constitute a waiver of the establishment of any streetlighting facilities on said roadways which shall be the responsibility of the persons adjacent to the private roadway.
13. The Village of Harrison shall reserve under the covenants and hereby reserves by ordinance its authority to enforce all of the laws of the State of Wisconsin, the ordinances of the Village of Harrison and the ordinances of the County of Calumet/Outagamie regarding regulation of traffic and motor vehicles, pedestrians, and other usage of said roadways, but this subsection and condition shall not require the Village of Harrison to patrol said roadways, as any requirements for the purposes of regular patrol on said roadway shall be the responsibilities of the owners/residents, and in the event the Village of Harrison for any reason provides such patrol or police services within said area, special assessments may be levied against said property pursuant to the restrictive covenants established hereunder.
14. The establishment of a private street shall authorize the owners'/residents' association, acting on behalf of the owners and residents, to regulate the traffic on said roadways contained within the private roadway system.
15. The private roadway shall at all times be considered the private property belonging to the owners'/residents' association, and the authority of said association shall be equivalent to person's rights in the State of Wisconsin as it relates to any parcel of privately owned property.
16. The owners' association, however, shall be required to honor the exemptions set forth in the restrictive covenants for public officials and, in addition to the public officials designated above, shall be required to allow public official access for the purpose of assessments, inspections for public health and safety, and all other necessary inspections related to the public interest. The authority to regulate traffic on said roadways does not include the prevention of access of any police officers, Fire Department officials, firefighters, or any other similar public official from access to said property for the purpose of protection and for health and safety of the residents adjacent to the private roadway.
17. The restrictive covenants and conditions required in any subsection of this section shall be recorded so that they are applicable to all parcels or lots of land having frontage on the private street and shall contain language to allow the Village of Harrison to assess on a pro rata front-foot basis any costs incurred in conjunction with said private roadways in the event that the Village of Harrison, at any time in the

future, incurs any cost directly connected with the private roadway. The covenants shall set forth a waiver of statutory special assessment requirements so that the special assessment for any cost may be applied directly to the tax billing as a special assessment.

18. The applicant/owners of association/homeowner's association of the proposed private street and lots thereon shall provide the Village of Harrison with a recordable private service agreement between the owners of the private street, Village of Harrison/Harrison Utilities/Darboy Joint Sanitary District and any other parties having any interest therein or lots thereon to the Village of Harrison.
19. The applicant for a private street approval, all owners of the private street and lots thereon, all those who utilize the private street, and all persons securing a building permit to construct a building served by the private street all agree that, by applying for and securing a permit for a building that utilizes the private street and by utilizing the private street, they shall indemnify and will save and hold the Township (as well as its officers, agents, and employees) harmless for, from, and against any and all claims, causes of action, costs, and damages for personal injury and/or property damage arising out of the use of the private street or the failure to properly construct, maintain, repair, and/or install the private street or any appurtenances thereto. The owner/applicant shall inset the above language into the maintenance agreement (or other approved document) and it shall run with the land and shall bind all purchasers of properties benefited by the private street.
20. All maintenance/private service agreements for private streets shall be submitted to the Village board for review and approval prior to the maintenance agreement being recorded and prior to any construction on a private street.

EFFECT. This ordinance shall be in force and effect upon passage and publication as provided by law.

Adopted by the Village Board of the Village of Harrison, Wisconsin this 28th day of November, 2023.


Allison Blackmer, Village President


Attest: Vicki Tessen, Village Clerk