

TOWNSHIP OF FREMONT

PRIVATE ROAD AND DRIVEWAY EASEMENT ORDINANCE

ORDINANCE NO. 103

An ordinance to regulate the design, construction, inspection, approval, and maintenance of private roads and drives within the Township.

THE TOWNSHIP OF FREMONT ORDAINS:

Section 1. GENERAL REQUIREMENTS.

- A. This Ordinance shall apply to all private roads and private driveways constructed within the Township.
- B. No private road or driveway shall be constructed within the Township unless it is in compliance with the requirements of this Ordinance.
- C. No zoning compliance permit, building permit, or certificate of occupancy for any structure shall be issued within the Township unless the parcel or lot fronts on a private road or driveway improved to the standards of this Ordinance or on a public road. Each lot or parcel shall have road frontage equal to the minimum lot width required by the applicable provisions of the Zoning Ordinance or shall be served by an approved private driveway.
- D. Private roads shall not be deeded or dedicated to the Township.
- E. Private roads shall not be maintained by the Township except pursuant to a duly established special assessment district which requires property owners to fully pay for all maintenance.

Section 2. REQUIREMENTS FOR PRIVATE DRIVEWAY APPROVALS.

- A. For purposes of this Ordinance, the term "private driveway" shall mean a driveway to a residential building site which does not have sufficient frontage on a public or private road to comply with the road frontage requirements of the Township Zoning Ordinance.
- B. An application for a private driveway approval for a parcel shall be filed with the Township Planning Commission. The application shall include a site drawing which shows the location, dimensions and setbacks of all buildings and driveways proposed or existing on the subject property. The site drawing shall also indicate the location and dimensions of the easement on which the private driveway is proposed to be located.

- C. The Planning Commission shall have the authority to modify the site drawing so as to minimize any adverse effects on surrounding properties and residential building sites.
- D. Any private driveway easement approved under this Ordinance shall connect directly on to a private road improved to the standards of this Ordinance or else on to a public road.
- E. All private driveways shall be located on a legally valid and recorded easement or other interest in land at least 66 feet in width.
- F. No private driveway shall serve more than three (3) dwellings.
- G. No more than one private driveway, as defined in Section 2.A., shall be allowed within any 330 feet of road frontage.
- H. The approved private driveway shall be completed before a building permit is issued for any structures on the property.

Section 3. MINIMUM DESIGN STANDARDS FOR DRIVEWAYS.

In order for a private driveway to be deemed to be fully completed, the following requirements must be met:

- A. All vegetation and top soil must be removed for the full length of the driveway at a width of at least twelve (12) feet.
- B. Sufficient gravel to support construction and emergency vehicles as well as regular driveway traffic shall be placed on the driveway.
- C. The driveway shall be adequately drained.
- D. A document describing the private drive and the provisions for maintenance shall be recorded with the Register of Deeds and also provided to the purchaser. The maintenance provisions shall apportion the maintenance responsibilities among the benefitting property owners and shall run with the land. The proposed maintenance agreement shall be reviewed and approved by the Township Attorney prior to recording.
- E. The requirements of Section 6 of this Ordinance shall be complied with.

Section 4. REQUIREMENTS FOR PRIVATE ROAD APPROVALS.

- A. Plans for a private road shall be submitted to the Township Planning Commission for review. Materials submitted shall include:
 - 1. A legal description and survey of all properties to be served by the private road, together with a letter from the Township Supervisor or Zoning Administrator that

all proposed parcels are in compliance with Zoning Ordinance and Subdivision Control Act requirements.

2. A legal description and survey of the proposed private road easement.
 3. Drawings showing the existing and proposed structures, roads, drives, drains and other significant physical features on the property.
 4. Engineering plans for the proposed private road which comply with Section 5 of this Ordinance.
 5. A proposed maintenance agreement. The agreement shall utilize the model agreement provided by the Township or else shall be accompanied by a letter from the Township Attorney indicating that the alternate agreement complies with this Ordinance.
- B. No private road construction shall begin until the Planning Commission has approved the proposed road by a recorded vote.

Section 5. MINIMUM DESIGN STANDARDS FOR PRIVATE ROADS.

- A. All private road rights-of-way shall be a minimum of 66 feet in width and shall be shown on the land division drawing as an easement for roadway purposes.
- B. Intersecting streets shall meet at as close to 90 degree angles as possible, with a variation of no more than 10 degrees.
- C. Minimum sight distances shall be 400 feet at intersections with local roads and 750 feet at intersections with primary roads.
- D. Curves shall be constructed so as to have a minimum design speed of 35 miles per hour.
- E. Road grades shall be a minimum of 0.2 percent and a maximum of 6.0 percent.
- F. All vegetation and top soil shall be removed and excavated at least 34 feet in width, centered on the 66 feet, for the full length of the road. The completed traveled way shall be a minimum of 24 feet in width.
- G. Roadside ditches shall be at least 50 feet apart, center to center, and shall have a minimum depth of 18 inches from the shoulder. Minimum width at the bottom of the ditch shall be 24 inches.
- H. There shall be a minimum sub-base of compacted material consisting of (8) eight inches of sand and a top six (6) inches of #22A gravel. All trees, stumps, brush and the roots thereof shall be entirely removed from within the grading limits of all private roads.

- I. All driveway culverts shall be a minimum of 12 inches in diameter, 20-feet in length, and 16-gauge corrugated metal pipe. Sodding, planting, seeding, rip-rapping or other measures of soil erosion control shall be used within roadside ditches and private road easements.
- J. Each permanent dead-end street shall be provided with a turn-around which has a minimum easement diameter of 150 feet and a minimum road diameter of one hundred twelve (112) feet.
- K. Road signs for private roads must be properly placed at the intersections of the private road and any public roads. Such signs shall conform to minimize size standards as set by the Road Commission.
- L. A document describing the private road and the provisions for maintenance shall be recorded with the Register of Deeds and also provided to the purchaser. The maintenance provisions shall apportion the maintenance responsibilities among the benefitting property owners and shall run with the land. The proposed maintenance agreement shall be reviewed and approved by the Township Attorney prior to recording.

Section 6. INSPECTIONS, FEES, AND PERMITS FOR PRIVATE ROADS AND DRIVEWAYS.

- A. The Township shall not grant final approval for the use of any private road or driveway until the completed road or driveway has been inspected for compliance with this Ordinance.
- B. The Township may contract with a public agency or a civil engineer to inspect private road or driveway improvements.
- C. The Township Board shall establish fees to cover the cost of review and inspections.
- D. When applicable, a permit shall be obtained as to compliance with the Michigan Soil Erosion And Sedimentation Act prior to the commencement of road or driveway construction.
- E. Permits shall be obtained from the County Road Commission before entrances are constructed on to any county rights-of-way.

Section 7. PERFORMANCE BOND.

An applicant for a private road shall file with the Township Clerk a cash deposit, certified check, certificate of deposit, irrevocable bank letter of credit or surety bond acceptable to the Township sufficient to cover the total cost of the required private road improvements. When the work is completed by the applicant and approved by the Township, the bond will be released to the applicant.

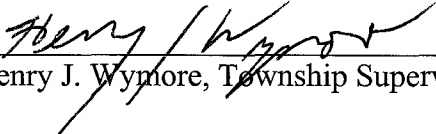
Section 8. APPEALS.

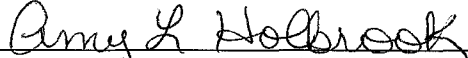
- A. The Township Zoning Board of Appeals shall have jurisdiction to consider appeals for variances from this Ordinance.
- B. A variance may only be granted by the Zoning Board of Appeals if the applicant can show that the property owner would suffer a unique hardship if the strict requirements of the Ordinance are applied.

Section 9. SEVERABILITY CLAUSE.

This Ordinance and each section, sub-section, sentence, and provision thereof are hereby declared to be severable. If any part is adjudged by a court of competent jurisdiction to be invalid for any reason, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

The undersigned Supervisor and Clerk of the Township of Fremont hereby certify that this Ordinance was adopted by the Township Board at a meeting duly held on the 7 day of January, 2010 and was published in the Tuscola Co. Adv. on the 23 day of January, 2010. This Ordinance became effective upon the date of publication.


Henry J. Wymore, Township Supervisor


Amy Holbrook, Township Clerk