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**PART 79: ORDINANCE 1**

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**PRIVATE ROAD ORDINANCE**

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THE TOWNSHIP OF LENOX ORDAINS:

**SECTION 1: Intent.**

The development of new private roads is prohibited within Lenox Township. There are, however, several existing private roads in the Township, which afford the only means of ingress and egress to residential homes and vacant properties. It is the intent of this ordinance to inventory the Township's existing private roads and to establish a policy for further development of properties served by the roads included in that inventory and to establish standards regulating the improvement and maintenance of existing private roads within Lenox Township, Macomb County, Michigan. It is recognized that such standards are necessary because of the need for road services adequate to provide year around access by fire, police, and like emergency services. It is further recognized that if roads are not maintained in accordance with certain minimum standards, such roads frequently become impassable, and vehicles are likely to become stuck, find it impossible to gain access to the persons or structures located on the roadway, block the roadway, and/or otherwise pose a threat to the health, safety and welfare of the residents located along the roadway, as well as those other residents who would find use of the roadway essential. It is the intention of this Ordinance to comply with the State of Michigan Land Division Act found at MCLA 560.101 et. Seq. and to define that no private road is accessible unless and until it is constructed in accordance with the standards for construction set forth herein and properly maintained thereafter in accordance with the Private Road Maintenance Agreement set forth herein.

**SECTION 2: Definitions.**

Private Driveway, shall mean any piece of privately owned and maintained property which is used for access by vehicular traffic to a single parcel of private property but is not open or normally used by the public.

Private Road, shall mean a privately owned and maintained road, allowing access to more than one residence or place of business, which is normally open to the public and upon which persons other than the owners located thereon may also travel. The erection of such signs as "Residents Only", or the like shall not be deemed to remove any roadway from the requirements of this Ordinance where said roadway is deemed to come within this Ordinance by the Lenox Township Building Inspector or his designee.

Road, shall mean a thoroughfare which affords vehicular traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, street and other thoroughfare, except an alley or private driveway.

**SECTION 3: Prohibitions.**

- A. *Construction of Private Roads:* No persons shall construct a private road within the Township of Lenox except in accordance with the standards as set forth herein.
- B. *Sale of Parcel of Land:* No person shall sell any parcel of land within the Township of Lenox unless said parcel of land fronts upon a public street which is dedicated to the public or unless said parcel of land fronts upon an existing private road which road meets the standards as herein set forth, or unless said contract, deed or other conveyance of sale contains the following language:

"This parcel is not a buildable site for the reason that said parcel does not front on an acceptable ingress and egress in accordance with standards as set forth by the Zoning Ordinance of the Township of Lenox."

- C. *Building Permits.* No building permit shall be issued, no construction shall take place, along an existing private road unless and until the private road in its entirety, is constructed in accordance with the standards for construction as set forth in Section 9 of the ordinance, and unless and until the Township engineers have certified that the road has been constructed in accordance with those standards of construction and unless and until Lenox Township is in receipt of an executed Private Road Maintenance Agreement as set forth in Section 8 of the Ordinance.

**SECTION 4: Conveyance Of Interest In Land Abutting Private Road.**

At the time of the conveyance of any interest in any parcel, and which parcel abuts a private road as herein set forth, which conveyance shall be deemed to include the acceptance of an offer to purchase, the grantor of such interest shall advise the grantee that said parcel abuts a private road, and that the maintenance, care, and other responsibilities concerning said private road rest with the abutting land owners and are not the responsibility of the Township of Lenox, the County of Macomb, or the State of Michigan.

**SECTION 5: Inventory Of Existing Private Roads.**

The following are recognized by Lenox Township as existing private roads:

Road Name	Section Location	Easement Length in Feet	Easement Width in Feet
Donovan	9	1,087.36	60
Daldenhar	10	548.48	50
Cranston	18	1,904.38	30
Victoria	18	885.68	60
Avendt	30	380	60
Rogan	32	1,362	66

**SECTION 6: Policies For Existing Private Roads.**

Lenox Township hereby establishes the following policies regarding the existing private roads identified in the foregoing Section 5, Inventory:

- A. Owners of properties served by existing private roads are encouraged to develop a maintenance agreement for the private road and record the agreement in the chain of title of each parcel served by the private road.
- B. The extension of private roads will be regulated according to the table below:

Road Name	Section	Easement Length / Width	Extension Permitted <sup>1</sup>	Extension Not Permitted
Cranston	18	1,904.38 / 30	X	
Victoria <sup>2</sup>	18	885.68 / 60	X	
Donovan	9	1,087.36 / 60		X
Rogan	32	1,362 / 66		X
Avendt	30	380 / 60		X
Daldenhar	10	548.48 / 50		X

<sup>1</sup> Victoria and Cranston may be extended to serve landlocked parcels.

<sup>2</sup> May be extended to the Detroit Edison Easement only.

- C. For those private roads that may be extended, such extension shall be granted only if the existing private road is brought up to the standards as set forth in this Ordinance. All of such standards as set forth herein shall be deemed to apply to both the proposed extension and the existing roadway. Further, such applicant shall obtain consents from all of those persons who own any interest in the existing right-of-way, or have the right of access to their property therefrom, which consent shall be in writing and shall be filed with the Township along with the filing of the application for permit hereunder. Such consent shall provide:
  - (1) That the consenting party consents to the extension of the roadway pursuant to the application, and
  - (2) That the consenting party consents to the upgrading of their existing roadway to the standards as set forth herein, and where applicable, will agree to deed such easements or right-of-way as are necessary to create the width and the like requirements as set forth herein. Only the Township Board may vary this requirement as it concerns consents.
- D. In those instances where a land division or building permit request is being sought for the construction of a structure on a lot or parcel which has access to an existing private road which does not meet the standards of this Ordinance, prior to the issuance of any building permits the following shall apply:

- (1) The Township engineers shall certify that the road in its entirety has been constructed in accordance with the standards of this ordinance
- (2) A Private Road Maintenance Agreement with abutting property owners shall be executed as set forth in Section 8.3 of the Ordinance and provided to the Township Clerk.
- (3) New land divisions must comply with the minimum lot width and dimensional requirements for the applicable zoning district.

The applicant may request a waiver of this requirement from the Township Board who may, after review and recommendation by the Township engineering and planning consultants, and findings of unique circumstances and practical difficulties, grant a partial or complete waiver of this requirement.

**SECTION 7: Application Requirements For Extension Of Private Road.**

- A. A complete Private Road Application form.
- B. A true and accurate survey, including both a drawing to scale and full legal description, of the parent parcel, all parcels which would result from the proposed division of the parent parcel, and the private road easement for ingress, egress, road and public utility purposes. The survey shall include the following:
  - (1) All adjoining property within 100' of the parent parcel or parent tract;
  - (2) All dimensions of existing and proposed property lines and easements;
  - (3) Location of all existing buildings, wetlands, lakes, streams, ponds, drives, public and private roads, easements, wells and septic fields, including setbacks from all property lines;
  - (4) The size (in square feet and acres) of each resulting parcel;
  - (5) The proposed location and type of access to each resulting parcel.
  - (6) Setbacks from property lines to all proposed buildings, drives, easements, wells and septic systems.
- C. Engineering plans of the proposed roadway construction.
- D. A copy of the roadway maintenance agreement that will be recorded with the deed or land contract for each lot or parcel to be served by the private road.
- E. Application fee and consultant review fee, as established by resolution of the Township Board.

**SECTION 8: Roadway Description And Maintenance Agreement.**

- A. All private roads shall include an easement granted to Lenox Township for the purposes of constructing, operating, inspecting, maintaining, repairing, altering, replacing, and/or removing pipelines, mains, conduits and other installations of a similar character (hereinafter collectively called "Public Structures") for the purpose of providing public utilities, including conveyance of sewage, water and storm water runoff across, through and under the property subject to said easement, and excavating and refilling ditches and trenches necessary for the location of said structures.
- B. The legal description of the roadway easement shall be recorded as a part of the deed or land contract for every parcel of property to which it provides access.
- C. A Private Road Maintenance Agreement, in a form approved by the Lenox Township Board, shall be recorded as a part of the deed or land contract for every parcel of property to which the road provides access. The Maintenance Agreement shall be binding on all parties and shall guarantee a financial mechanism for and actual, regular maintenance of the private road by all benefited property owners. Neither Lenox Township nor the Road Commission of Macomb County has any responsibility or legal authority to maintain private roads. In addition, the Maintenance Agreement shall include each owner's written approval for the establishment of a Special Assessment District, for maintenance of the Private Road by the Township, upon failure of the owners to maintain the Private Road.

**SECTION 9: Standards For Construction.**

The design and construction of all existing private roads shall be in conformance with the specifications of this Section 9 current "Subdivision Development Procedures, Standards and Specify, as amended. Engineering plans, drawn to a minimum scale of 1"=100' and prepared by a Registered Civil Engineer shall be submitted to the Township which demonstrate conformance with the Road Commission of Macomb County Standards and Specifications and / or this ordinance, and shall include the following:

- A. A legal description of the entire parcel(s), all proposed property splits, and the proposed road easement.
- B. A minimum easement width of sixty-six (66) feet for road extensions and fifty (50) feet for existing roads not being extended.
- C. All dead-end roads shall terminate in a cul-de-sac turn-around with a minimum diameter of one hundred twenty (120) feet.

- D. Soil borings shall be taken by an independent testing laboratory or qualified professional at intervals not to exceed 500 feet. Additional borings may be required where the USDA Soil Survey of Macomb County or on-site inspection indicates unstable soil may be present.
- E. The applicant shall remove all unsuitable soil including muck, peat and marl, as well as brush, trees, tree stumps, and similar materials from the full width of the roadway, including the shoulders. These areas shall then be backfilled with MDOT Class II Granular Material to provide a stable sub-grade for the roadway construction.
- F. A cross-section of the roadway showing the proposed bituminous surfacing, granular sub-base, and the curb and gutter profile in conformance with the attached Lenox Township Minimum Private Road Cross-Section Standards.
- G. The plans shall show existing and proposed grades and the location of all existing and proposed drainage facilities and structures. Elevations shall be based on USGS data.
- H. The intersection of roads shall be as close to 90 degrees as possible with a variation of no more than 10 degrees.
- I. Road grades in excess of six percent (6%) shall be approved by the Township Board upon the recommendation of the Township's consulting Engineers. At the intersection of two roadways, however, the maximum grade shall be three percent (3%) for a distance of one hundred (100) feet from the point of intersection.
- J. Sight distances on horizontal and vertical curves and at intersections shall be a minimum of two hundred (200) feet measured at a point ten (10) feet from the edge of the traveled way at a height of forty-two (42) inches to an object height of forty-two (42) inches.
- K. The applicant shall obtain a soil erosion control permit from the Macomb County Drain Commissioner and shall install and maintain all erosion control devices throughout the construction period.
- L. The Township's consulting Civil Engineer and planner shall review the plans and the consulting Civil Engineer shall inspect construction of all private roads. The cost of the plan review and construction inspection(s) shall be paid by the applicant/developer.
- M. Construction permits from the Road Commission of Macomb County are required for connections to county roads and from the Michigan Department of Transportation for connection to State Highways.

- N. All required name signs and sign posts shall be erected by the Road Commission of Macomb County at the expense of the applicant.
- O. There shall be a minimum of sixty-five (65) feet of road frontage for all parcels of property to be located on a private road cul-de-sac.
- P. The traveled portion of all private roads that are less than 500' in length shall be a minimum of 24' wide. The traveled portion of all private roads that exceed 500' in length shall be a minimum of 26 and shall be subject to any further amendments of the International Fire Code as adopted by Lenox Township.

**SECTION 10: Approval Procedure.**

- A. The complete plans, including the proposed maintenance agreement and the layout of all proposed lots or parcels to be served by the private road, shall be submitted to the Planning Commission at least two (2) weeks prior to a regular meeting. The Planning Commission shall make a recommendation for approval or disapproval after studying the plans and the written review of the Township Planner and Township Engineer.
- B. Upon receipt of the recommendation of the Planning Commission, the design review of the Township Planner, and the technical review of the Township Engineer, the matter will be placed on the agenda of a regular meeting of the Township Board for consideration. The Township Board shall approve the plans only upon a finding that they comply with all requirements of this Ordinance, the Lenox Township Zoning Ordinance and the Lenox Township Land Division Ordinance.

**SECTION 11: Inspections And Approval.**

- A. All construction shall conform to the plans approved by the Township. All inspections will be based upon the approved plan. Construction not according to the approved plan and/or not inspected according to the Township's requirements may not be approved.
- B. At least one week prior to the start of construction, the applicant shall schedule a pre-job meeting between the applicant and the Township Engineer to discuss the scheduling, inspection(s) and conduct of the work.
- C. Inspections shall be made:
  - (1) Upon completion of stripping operations;
  - (2) Upon completion of clay grade and ditch excavation;
  - (3) Upon completion of the sand sub-base;
  - (4) Upon completion of the aggregate base;
  - (5) During and following completion of aggregate surface or each course of paving if road is paved;
  - (6) After completion of fine grading, top soil, seeding and mulching.

- D. The contractor shall notify the Township Engineer 48 hours before the conclusion of each step in the roadway construction so that the required inspections can be completed without delay to the subcontractor.
- E. The applicant shall provide weigh slips that certify the weight and class of material used for sub-base, aggregate, and bituminous material used.
- F. No building permits shall be issued, no construction shall take place, along an existing private road unless and until the private road in its entirety, is constructed in accordance with the standards for construction and unless and until Lenox Township is in receipt of an executed Private Road Maintenance Agreement as set forth in Section 8.3 of this Ordinance.

**SECTION 12: Dedication.**

All rights-of-way, subject to the required easements to the Township as specified under Section 8.1 of this ordinance shall be dedicated to the adjoining property owner who gains access of said right-of-way. If a parcel adjoining said right-of-way is not to be served by said right-of-way, then the deed dedicating such right-of-way shall specifically provide for that exclusion, and said adjoining property owner shall not share in the ownership of the right-of-way.

**SECTION 13: Enforcement And Penalties.**

- A. An person, firm, corporation or other organization, which violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any provision of this Ordinance, shall be fined upon conviction not more than five hundred dollars (\$500) together with the costs of prosecution, or shall be punished by imprisonment in the County Jail for not more than thirty (30) days for each offense, or may be both fined and imprisoned as provided herein in the discretion of the court. Each and every day during which such violation continues shall be deemed a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the provisions of this Ordinance.
- B. If a violation occurs, the Township shall notify the party or parties in writing that the violation must be corrected within ten (10) days of receipt of the notice.
- C. The Township Board, or the Township Supervisor, may authorize the Lenox Township Attorney to institute court proceedings to prevent or enjoin any violation of the provisions of this Ordinance, or prosecute any misdemeanors as set forth in Section 14 (1) above.

**SECTION 14: Validity.**

This Ordinance and the various parts, sections, subsection, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause thereof irrespective of the fact that any one or more parts, section, subsection, phrases, sentences or clauses be declared invalid.

**SECTION 15. Relationship To Other Laws And Ordinances.**

Whenever regulations or restrictions imposed by the Ordinance are either more or less restrictive than regulations or restrictions imposed by governmental authority through legislation, rule or regulation, the more restrictive regulations or those which impose higher standards shall govern.

**SECTION 16. Effective Date.**

This Ordinance shall take effect 30 days following publication of a Notice of Adoption, as provided by law. The foregoing Private Road Ordinance was adopted by the Lenox Township Board at a meeting held on December 3, 2007 in the Lenox Township Hall.

Publication Date: December 12, 2007

Effective Date: January 11, 2008