

**TOWNSHIP OF CLAY
PRIVATE ROAD ORDINANCE
ORDINANCE NO. 108**

An Ordinance to regulate the design, construction, inspection, approval, and maintenance and use of existing and new private roads within the Township and to provide for a review and approval process related to such.

The Township of Clay ordains:

Section 1 General Requirements.

- A. This Ordinance shall apply to all land which is divided into parcels or lots with the following exceptions:
 - 1. If a private road exists prior to adoption of this Ordinance, is maintained and used for access by existing homes, the applicant for land division will be responsible for improving only the portion of the road or easement owned by the applicant, not any portion which is owned by others.
 - 2. Any small Island connected to the mainland by a bridge or tube, and having less than six (6) lots will be excused from the standards of private road development.
 - 3. Islands which are not accessible by auto are excluded from the provisions of this Ordinance.
- B. No private road shall be constructed or extended within the Township unless it is in compliance with the requirements of this Ordinance.
- C. No building permit or certificate of occupancy for any new structure shall be issued within the Township unless the parcel or lot fronts on a private road 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 driveway.
- D. Private roads shall not be dedicated to the Township.

Section 2 Requirements for Private Road Approvals.

- A. For purposes of this Ordinance, the term "Private Road" shall mean a roadway serving two (2) or more parcels of land or residential building sites and constructed on a privately owned easement.
- B. Plans for a private road shall be submitted to the Township Planning Commission for review. Materials submitted shall include:
 - 1) All applicable fees.
 - 2) A legal description and survey of all properties to be served by the private road, together with a letter from the Township Zoning Administrator that all proposed parcels are in compliance with the Zoning Ordinance and the Land Division Act requirements.
 - 3) A legal description and survey of the proposed private road easement.
 - 4) Drawings showing the existing and proposed structures, roads, drives, drains and other significant physical features on the property.

- 5) The engineering plans shall show all signage which shall conform to the "Michigan Manual of Uniform Traffic Control Devices."
 - 6) Engineering plans for the proposed private road which comply with Section 3 of this Ordinance.
- C. No private road construction shall begin until the Planning Commission has approved the proposed road by a recorded vote and a permit has been issued by the Zoning Administrator.
- D. 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 and/or abutting property owners and shall run with the land. The proposed maintenance agreement shall be reviewed and approved by the Township Attorney prior to being recorded with the Township Clerk and the St. Clair County Register or Deeds providing for:
- 1)
 - a) A method of initiating and financing of such road in order to keep the road up to properly engineered specifications and free of snow or debris.
 - b) A workable method of apportioning the costs of maintenance and improvements to current and future users.
 - c) A notice that no public funds of the Township of Clay are to be used to build, repair, or maintain the private road.
 - d) The United States mail service and the local school district are not required to traverse this private improvement and may provide service only to the closest public access. (Maintenance of Private Roads Act, PA 139 of 1972, as amended.) All conditions and requirements concerning public roads shall be deemed the same for private roads, i.e., location on a public road, setbacks (front yard measured from the right-of-way or easement line), etc.
 - 2) Road easement agreement signed by the proprietor(s) to be recorded with the Township Clerk and St. Clair County Register of Deeds providing for:
 - a) Easements to the public for purposes of emergency and other public vehicles and for whatever public utility services are necessary.
 - b) A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, vendors, tradesman, delivery persons, and others bound to or returning from any of the properties and having a need to use the road.
- E. Private roads with only one connection to a county road or state highway or another approved private road meeting the requirements of this Ordinance shall not be longer than fifteen hundred (1500) feet.

- F. No private road easement shall be permitted to parallel a property boundary line. However, a private access easement may have its centerline along a common property line if all parcels are granted full rights of access and all parcels agree to a maintenance agreement approved by the Township Attorney and recorded with the County Register of Deeds. All costs shall be borne by the property owners.

Section 3 Minimum Design Standards for Private Roads.

- A. Preliminary plans, final plans and construction methods for private roads shall be in accordance with the requirements of the St. Clair County Road Commission as published in "Procedures and Specifications for Plat Development and Street Construction," adopted on January 1, 1968, including all subsequent amendments and/or revisions.
- B. Any items not specified by paragraph "A" of this section, but which are essential to proper construction of this private road, shall be in accordance with the requirements of the Michigan Department of Transportation. These requirements are set forth in the publications titled "Standard Specifications for Construction" and "Standard Plans," including all subsequent amendments and/or revisions.
- C. All private roads shall be designated by name, subject to approval of the Township Planning Commission and the St. Clair County Road Commission. The proprietor shall furnish and erect street name and stop signs at all intersections with both public and private roads. The design of the signs shall be the same as those used by the St. Clair County Road Commission for similar purposes. Signs marked "Private Road" shall be erected and maintained by the proprietor at the entrance to all private roads of the development.

Section 4 Inspections, Fees, and Permits for Private Roads

- A. The Township shall not grant final approval for the use of any private road until the completed road or drive has been inspected for compliance with this Ordinance.
- B. The Township shall contract with a public agency, qualified engineer, or surveyor to inspect private road improvements. All such costs shall be borne by the applicant.
- C. The Township Board shall establish fees to cover the cost of review and inspections.
- D. A permit shall be obtained as to compliance with the Michigan Soil Erosion and Sedimentation Act prior to the commencement of private road construction.
- E. Permits shall be obtained from the County Road Commission before entrances are constructed on to any county rights-of-way.
- F. A permit shall be obtained from the County Drain Commission.
- G. The proprietor's engineer shall certify that he has personally supervised and inspected all construction, that drainage facilities have been installed and all roads have been built in accordance with the approved plans and specifications.

Section 5 Performance Bond for Private Roads.

The applicant shall file with the Township Clerk a cash deposit, certified check, certificate of deposit, irrevocable bank letter of credit acceptable to the Township, sufficient to cover the total cost of the required road improvements. The Applicant will be entitled up to a 50% refund or a cash bond as work progresses. Final amount would be refunded when complete and final inspection is approved.

Section 6 Appeals.


- A. The Township Board of Zoning Appeals shall have jurisdiction to consider appeals for variances from this Ordinance.
- B. A variance may only be granted by the Board of Zoning Appeals provided that the variance is for the minimum necessary to relieve hardship while acting in the interest of the public health, safety and welfare..
- C. In granting a variance, the ZBA shall not vary from the standards of Section 2, Subsection D. Specifically, the ZBA may grant variance from the design standards but not from the maintenance agreement requirements.

Section 7 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 reasons, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

SECTION 8 EFFECTIVE DATE.

This ordinance shall become effective thirty (30) days after its publication as required by law.

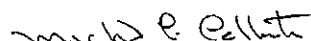

Michael P. Pellerito
Clay Township Clerk

CERTIFICATION

I, hereby, certify that the foregoing is a true and complete copy of an ordinance adopted by the Township Board of the Township of Clay, County of St. Clair, State of Michigan, at a regular meeting held on November 3, 1997 and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meeting Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Vote on this ordinance, seven (7) members being present was as follows:

AYES: Supervisor Manos, Clerk Pellerito, Treasurer Turner, Trustee Sharrow, Trustee Dr. Kasperowicz, Trustee Webster, Trustee Heslet.
NAYS: None.
ABSENT: None.


Michael P. Pellerito
Clay Township Clerk