

CHARTER TOWNSHIP OF SUPERIOR

WASHTENAW COUNTY, MICHIGAN

PRIVATE ROAD ORDINANCE

ORDINANCE NO. 163

AN ORDINANCE OF THE CHARTER TOWNSHIP OF SUPERIOR ESTABLISHING PROVISIONS FOR APPROVAL OF PRIVATE ROADS

IT IS ORDAINED BY THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF SUPERIOR, MICHIGAN, as follows:

Section 163.01. Purpose

Unobstructed, safe, and continuous access to private property is necessary to promote and protect the health, safety, and the welfare and to ensure that police, fire, and emergency services can safely and quickly enter and exit such property at all times. It is also the purpose of this Ordinance to ensure that the building of a private road does not adversely affect the natural drainage courses or change the drainage in such a way that neighboring properties or public roads are impacted by the private road.

It is further the purpose of this Ordinance to ensure that private roads and rights-of-way are maintained and repaired by the private property owners who own and use the road. Furthermore, whenever public dedication is desirable or required, access to the interior of certain sections within Superior Charter Township should meet minimum standards and specifications to permit the subsequent upgrading and dedication of such access rights of way to the Washtenaw County Board of Road Commissioners.

It is further the purpose of this Ordinance to ensure that the construction of private roads will not negatively affect drainage, water runoff, and retention on adjacent properties.

The procedures, standards and specifications hereinafter set forth are determined to be the minimum procedures, standards, and specifications necessary to satisfy the purpose of this ordinance and protect the health, safety and welfare of the citizens of the Township.

Section 163.02. Definitions.

Building. Any structure, either temporary or permanent, having a roof or other covering and used or built for the shelter or enclosure of persons, animals, or property of any kind.

Building/Zoning Official. The authorized Building/Zoning Official of Superior Charter Township or any other person authorized by the Township Board to perform the duties of Township Building/Zoning Official as set forth in this ordinance.

County Road Commission. The Washtenaw County Road Commission.

Lot. A parcel of land with at least sufficient size to meet the minimum requirements for use excluding any street or other right-of-way and any easement area for a private street.

Maintenance Agreement. An agreement executed by the owner(s) of a private road that provides the terms for maintaining the private road and the financing thereof.

Permit. A private road permit issued pursuant to this ordinance.

Private Road. A road, street or driveway serving two or more residential properties under private ownership which has been constructed for the purpose of providing access to adjoining property which has not been accepted as a public road by the Washtenaw County Road Commission.

Public Street or Road. A street or road, accepted by and under the jurisdiction of the Washtenaw County Road Commission or the State of Michigan Department of Transportation, for the purpose of providing access to adjoining property, and open to the public so that persons other than the occupants of adjoining property may travel thereon.

Right-of-Way. The right of an owner of property by reasons of such ownership, to use the property of another for purposes of ingress egress, utilities, drainage and similar uses. In the context of this Ordinance, private right-of-way shall be designated for purposes of vehicle ingress and egress.

Township Engineer. An engineer appointed by the Township Board to the position of Township Engineer or any other person authorized by the Township Board to perform the duties of Township Engineer as set forth in the ordinance.

Section 163.03. Exemptions from the Private Road Ordinance.

A. The provisions of this ordinance shall not apply where private roads are created as part of a planning process required by the Superior Charter Township Zoning Ordinance and are reviewed and approved by the Planning Commission and/or the Township Board. Such processes include but are not limited to: Planned Community area plans, subdivision plats, site condominiums, site plans and other special zoning districts.

B. Existing lots, rights-of-way and drives in existence prior to the enactment of this ordinance shall be exempt from the provisions of this ordinance unless the Township Board, by resolution, determines that such compliance is necessary to protect and promote the public health, safety and welfare in accordance with the purposes of this Ordinance or unless additional lots are connected to the private road.

Section 163.04. General Requirements

A. No lot shall be created subsequent to the date of adoption of this Ordinance, unless a

permit in accordance with this Ordinance has been issued, if required.

- B. No person shall construct, alter, or extend a private road without compliance with this ordinance and without obtaining a permit.
- C. The construction and maintenance of the private road shall be constructed to allow for access of police and fire equipment on a year-round basis, allowing emergency equipment to safely enter and exit.
- D. All private rights-of-way for private roads shall maintain a minimum width of 66 feet.
- E. No land division approvals requiring a private road shall be granted for any lot or parcel until access, as required under the Superior Charter Township Zoning Ordinance, has been approved. The Building/Zoning Official shall have the authority to approve the provision of required access.
- F. No building permits shall be issued for any lot or parcel until access, as required under this section, has been constructed and approved by the Building/Zoning Official and the Fire Marshal in consultation with the Township Engineer, if necessary. The Building/Zoning Official shall have the authority to approve the construction of the road with consultation with the Township Engineer and/or Fire Marshal, if necessary. All private roads under the jurisdiction of the Township shall not affect drainage, water run-off, or retention on adjacent public roads or adjacent property.
- G. A maintenance agreement for the private road is required prior to the approval of a property division or the issuance of a building permit. The maintenance agreement shall provide for a minimum of annual maintenance, must specify the method of private financing for all maintenance of the private road, and must state that the owners of the property abutting the road will carry liability insurance for the road. The maintenance agreement shall first be approved by the Township Building/Zoning Official and then be recorded with the Washtenaw County Register of Deeds. (A sample Road Maintenance Agreement is available at the Township Hall which contains all necessary requirements.) A recorded copy shall be filed with the Township Building/Zoning Official and Township Assessor prior to the property division being approved.
- H. A private road accessing four (4) or more lots shall have road signs erected and maintained in accordance with the Michigan Manual of Uniform Traffic Control Devices.

Section 163.05. Application for Private Road Permit: Required Information

- A. When a private road permit is required by the terms of this Ordinance, the owner of a lot shall apply to the Township Building/Zoning Official for a private road permit which shall consist of the following information:

- (1) A legal description of each lot to be served by private road.

- (2) A legal description of the private road.
- (3) The names, addresses, and telephone numbers of all persons or parties owning an interest in the title to the lots and right-of-way area.
- (4) A survey drawing showing the outline of the proposed right-of-way and all lots served by the proposed right-of-way and the dimensions and bearings thereof.
- (5) A grading plan showing proposed finish contours at a minimum interval of two (2) feet correlated with existing contours so as to clearly indicate cut and fill required. The Building/Zoning Official is authorized to waive or modify this requirement at his/her discretion as determined to be warranted.
- (6) Streams, wetlands and all bodies of water within 100 feet from the right-of-way area, or within such greater area as may be necessary to determine whether drainage methods will be adequate.
- (7) Existing buildings within 100 feet of the proposed right-of-way and all existing buildings on lots to be served by the right-of-way.
- (8) The proposed right-of-way in relation to the nearest property lines.
- (9) The location of all proposed improvements in the right-of-way area.
- (10) A drawing showing a cross section of the proposed roadbed detailing the width of the actual roadbed, materials to be used, and depth of material.
- (11) A complete statement of all the terms and conditions of the proposed right-of-way including copies of all agreements or intended agreements regarding the maintenance and improvements of the right-of-way and roadway.
- (12) A fee as established by resolution of the Township Board to defray the costs of plan review, administration, inspection and enforcement of this ordinance.
- (13) The application shall be signed by the applicant or agent thereof (in which case, it shall be accompanied by a duly executed and notarized Power of Attorney) and shall represent that the applicant is making the application on behalf of all persons having an interest in the right-of-way or the abutting lots and shall be made under penalties of perjury.
- (14) In addition, the applicant shall provide evidence that the proposed right-of-way will be built in conformance with the Township's Wetland and Watercourse Protection and Restoration Ordinance, the Township Zoning Ordinance and the Washtenaw County Drain Commissioner's standards for storm water retention and drainage facilities.
- (15) A copy of the Washtenaw County Driveway/Road Permit.
- (16) A copy of the Washtenaw County Soil Erosion Permit.

Section 163.06. Permit Approval Procedure

- A. The Township Building/Zoning Official and the Fire Marshal shall consider the application, and if the information submitted by the applicant does not establish that the proposed right-of-way will conform to the standards and specifications of this ordinance, the Township Building/Zoning Official shall not grant the permit. The Building/Zoning

Official shall impose such conditions on the approval of the permit as it deems necessary to achieve the intent and objectives of this ordinance. The breach of any such condition proposed by the Building/Zoning Official or making a change that affects the approved plan adversely shall automatically invalidate the permit. The Building/Zoning Official will secure the services of the Township Engineer to assist in reviewing the application for the proposed private road for circumstances such as, but not limited to, soil type, topography, drains, wetlands, etc. The costs associated with the services of the Township Engineer shall be bourn by the applicant from an escrow account set up by the applicant. The Building/Zoning Official may waive the Township Engineer review in the case of a private road that has no engineering issues.

- B. Upon receipt of the required deposit and predetermined fees and approval of the application by the Township Building/Zoning Official, a permit shall be issued in accordance with this Ordinance.

Section 163.07. Expiration of approval of permits.

A Permit shall be valid for a period of one year from the date of issuance, or such longer period as determined by the Township Building/Zoning Official. If the required improvements have not been completed upon the expiration of the one year or the longer period of time then the Permit shall be void and of no force and effect and all deposits shall be forfeited to Superior Charter Township. ---

Section 163.08. Variances and Appeals

When there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this ordinance, such as topographical and other physical characteristics of a lot, the Township Board shall have the power to vary or modify the application of the provisions of this ordinance so that the intent and purpose of the ordinance shall be observed, public safety secured and substantial justice done.

If the Building/Zoning Official denies the issuance of a permit or if the applicant is aggrieved by the administrative decision of any official charged with enforcement and/or interpretation of this Ordinance, the applicant may appeal the decision to the Township Board.

Any applicant may apply for a variance or appeal to the Township Board by submitting a letter to the Township Clerk which clearly indicates the variance/appeal requested and the reasons for such a request.

Section 163.09. Recording of Rights-of-Way.

The right-of-way, including all maintenance agreements as identified in Section 4 (H), herein, shall be recorded in the office of the Register of Deeds for Washtenaw County. A recorded copy shall be filed with the Township Building/Zoning Official and the Township Assessor prior to

the granting of approval for any property division involving a private road.

Section 163.10. Violations

A. A person or entity that violates any provision of this Ordinance is responsible for a municipal civil infraction as defined by Michigan law, and subject to a civil fine determined in accordance schedule determined by the Township Board. In addition, a person or entity violating this Ordinance shall be responsible for payment of all direct and indirect costs and expenses which the Township incurs in connection with the violation, including reasonable attorneys' fees.

B. A person or entity violating this Ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan law.

C. Each day a violation of this Ordinance continues to exist constitutes a separate violation.

D. Any access that is used in violation of the terms of this Ordinance is a nuisance per se and such use may be abated, restrained, enjoined and prohibited, upon commencement of an appropriate action in the Circuit Court.

Section 163.11. Fees

Applications for a private road permit under this Ordinance shall be accompanied by a non-refundable administrative application fee in an amount specified from time to time by resolution of the Township Board.

Section 163.12. Effective Date.

This ordinance shall become effective immediately upon publication in a newspaper of general circulation throughout Superior Charter Township.

CERTIFICATION

I, Kay Williams, Clerk of the Charter Township of Superior, Washtenaw County, Michigan, hereby certify that this is a true copy of an Ordinance adopted by the Superior Charter Township Board for first reading at a regular meeting held on August 16, 2004 and for second and final reading on October 4, 2004. This Ordinance shall become effective on the eighth day following publication of second and final reading, or such later date as may be provided herein or by law.

William McFarlane, Supervisor
October 4, 2004

Kay Williams, Clerk