

**VERGENNES TOWNSHIP, KENT COUNTY, MICHIGAN
ORDINANCE AMENDMENT
Ordinance 2004-8
Adopted May 17, 2004**

Private Road Ordinance Amendments

An ordinance to amend portions of Section 202.000 Private Roads.

The changes are on pages 5-7.

The Township of Vergennes hereby ordains:

Section 1. Amend Section 202.000, Private Roads, to read as follows:

202.000 PRIVATE ROADS
Ord. No. 90-2
Adopted: November 12, 1990

***Cross reference(s)**--Building numbering, Pt. 161; building and construction codes, Pt. 181; zoning, Pt. 201.

An Ordinance to provide for the regulation and inspection of private roads constructed within the Township of Vergennes pursuant to but not limited to the Township Ordinance Act (Act 246, P.A. 1945); the Subdivision Control Act (Act 288 of 1967); the Township Rural Zoning Act (Act 184 to 1943), and the Condominium Act (Act 59 of 1978).

202.001 Legislative determination.

Sec. 1.0. It is hereby determined necessary in the maintenance of orderly development of the community and in providing for the health, safety, and welfare of the residents and property owners of the Township of Vergennes to regulate the construction of private roadways in the Township which are not otherwise subject to platting procedures and requirements.

(Ord. No. 2000-1, 2-21-00)

202.002 Scope.

Sec. 2.0. Any lot or parcel of land which does not abut a public street shall abut a private road meeting the standards of this Ordinance. This Ordinance shall not apply to:

- (a) Access roads internal to any individual lot or parcel of land, as defined herein, if such lot or parcel of land has direct public street frontage access and is under the control of one person, firm, corporation or association, and provided further that the access road does not provide access to any abutting lot or parcel of land. Examples of access roads that may be exempted from the permitting procedures of this Ordinance include those serving apartment complexes, mobile home parks, nursing homes, hospitals, factories, schools and shopping centers which are otherwise subject to site plan review and approval under the provisions of the Vergennes Township Zoning Ordinance.
- (b) Any lot(s) which met the following conditions on or before November 28, 1990:
 - (1) The lot is served by an existing private street having a continuous improved surface at least eight (8) feet in width consisting of gravel road base, and is in other respects reasonably capable of providing sufficient access for the uses permitted on the lot and for the provision of fire protection, police, ambulance, and other emergency services; and
 - (2) The lot in question also met one of the following conditions:
 - (a) The lot consists of a "condominium unit" (i.e., a portion of a condominium project designed and intended for separate ownership and use as described in the condominium master deed) located within a "site condominium" development for which a condominium master deed has been recorded with the Kent County Register of Deeds in accordance with the requirements of

the Michigan Condominium Act (PA 59 of 1978, as amended, MCLA 559.101 et seq.) and other applicable laws and ordinances;
or

- (b) The lot consists of a parcel described by metes and bounds for which a deed has been recorded with the Kent County Register of Deeds, or of a parcel described by a land contract or memorandum of land contract which has been recorded with the Kent County Register of Deeds; or
- (c) The lot has been assigned a unique permanent parcel number by the Kent County Property Description and Mapping Department and is individually assessed and taxed on that basis.

(Ord. No. 2000-1, 2-21-00)

202.003 Definitions.

Sec. 3.0.

Driveway: A driveway is that portion of a lot intended to be the area upon which vehicles travel from a road (public or private) to a dwelling or other improvements located upon the lot.

Shared Driveway: A driveway as defined in this Ordinance but used by two (2) lots.

Parent Parcel: A parcel of land lawfully in existence and through which a private road was extended prior to the effective date of this Ordinance.

Easement: A grant of one or more property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

Private Road: Any road or thoroughfare for vehicular traffic contained within a private road easement which is privately owned and maintained and which provides access to three (3) or more parcels abutting the private road easement.

Private Road Easement: An easement which is granted exclusively for private access to three (3) or more abutting parcels of land and which contains or is intended to contain a private road.

Shared Driveway Easement: An easement which is granted exclusively for a private access to two (2) abutting parcels of land and which contains or is intended to contain a private driveway.

Public Street: A publicly owned and maintained thoroughfare dedicated for the purpose of traffic circulation and principal means of access to abutting property.

Street Right-of-Way: A general term denoting land, property, or a property interest, usually in a strip, acquired for or devoted to transportation purposes which has been dedicated for public use.

Lot(s): For the purpose of this Ordinance, a lot is a parcel of land of at least sufficient size, and containing sufficient buildable area, to meet the minimum zoning requirements for use, coverage and area and to provide such yards and other open spaces as are required by the Vergennes Township Zoning Ordinance as amended. The word lot includes the word plot and parcel. In the context of the Condominium Act, Act 59 of the Michigan Public Acts of 1978, word lot shall also mean the same as building site and is that portion of a site condominium subdivision project designed and intended for separate ownership and/or exclusive use, as described in the site condominium subdivision project's Master Deed and which meets minimum

zoning requirements for use, coverage and area as required by the Vergennes Township Zoning Ordinance as amended.

In the context of the Condominium Act, lot may be further defined as:

- (a) A condominium unit consisting of the area under a building or building envelope and the contiguous area around the building or building envelope; or
- (b) The contiguous limited common element under and surrounding a condominium unit that is or shall be assigned to the owner(s) of the condominium unit for the owner(s) exclusive use.

(Ord. No. 2000-1, 2-21-00)

202.004 General provisions.

Sec. 4.0.

- (a) All private roads and shared driveways shall be located within a private road easement or shared driveway easement. A shared driveway easement shall be a minimum of sixty-six (66) feet in width or within a thirty-three-foot easement if subject to a permanent deed restriction to prevent further extension to any additional parcels. Private road easements shall not be less than sixty-six (66) feet in width at any point. At any dead end of an easement that exceeds two hundred (200) feet in length, the easement shall widen such that there is a minimum radius of sixty (60) feet.
- (b) The maximum grade for any private road shall not exceed six (6) percent or, up to ten (10) percent upon recommendation of the Township Engineer based upon unique circumstances of the site and appropriate engineering design standards with the exception that the private road shall have a maximum grade of four (4) percent for a minimum distance of thirty (30) feet from its intersection with a public road right-of-way or other private road.
- (c) The improved surface of the private road or shared driveway shall be located and constructed a minimum of fifteen (15) feet from any adjoining lot or parcel which does not derive access from the easement or private road.
- (d) A dead end private road or cul-de-sac shall not exceed either two thousand, six hundred forty (2,640) feet in length measured in a straight line from the intersection with the public road to the end of the private road, or three thousand, nine hundred sixty (3,960) feet measured along the centerline of the private road. Any extension or new private road shall be required to meet the maximum length standards of this Ordinance.
- (e) The location and design of the intersection of a private road with the public street network shall be approved by the Kent County Road Commission. After the effective date of this Ordinance, no private road shall be approved which is closer than five hundred (500) feet from another public or private road, as measured along the centerline of the intersecting public road. Private roads shall not interconnect with the public street network in a manner that will preclude the extension of public streets within areas where the future extension of public streets is necessary to further the logical, orderly, and efficient development of the overall public street network. In making such determination, the Township Board shall consider the circulation pattern and traffic volumes on nearby public streets, existing and proposed land use in the general area, the

recommendations contained within the Vergennes Township Master Plan and Major Street Plan, if any and if applicable, the Street and Highway Plans of the Kent County Road Commission and Michigan Department of Transportation.

- (f) All private roads shall be given a street name that is not the same or similar to any other street name in the county. A street sign bearing the street name given the private road meeting Kent County Road Commission standards as to design, location, and maintenance shall be erected and maintained where such private road adjoins any public road. A "Stop" sign shall be installed at the intersection of the private road with the public road and a speed limit of no more than twenty-five (25) miles per hour shall be posted on all private roads located in any residential zoning district. All residential lots shall have sequential address numbers assigned in accord with the numbering convention for Kent County and said address numbers shall be clearly posted at the driveway entrance.
- (g) All private road easements shall contain easements granted to the Township for the purpose of providing for the installation, operation, inspection, maintenance, alteration, replacement, and/or removal of public and private utilities, including conveyance of sewer, water, stormwater, electrical distribution, telephone, natural gas, and cable television.
- (h) The maximum number of lots situated on a single access road (dead-end) or cul-de-sac shall not exceed twenty-five (25) unless the private road includes a dual drive entrance (i.e., boulevard entrance) and/or is configured in a continuous loop.
- (i) Where private roads in existence prior to the effective date of this Ordinance are to be extended within the original parent parcel, but not to adjacent parcels, the existing road may be extended at its present easement width, provided that the entire private road is improved to the construction specifications of this Ordinance, except for width.
- (j) All improvements installed or constructed as required under the terms of this Ordinance shall be made and maintained at the expense of the property owner(s) or developer.
- (k) For the purposes of this Ordinance, a lot as defined herein, is determined to be served by a private road or shared driveway if it has access rights to the private road or shared driveway easement as recorded with the Kent County Register of Deeds.
- (l) A private road may not be located or extended where such location or extension would result in the creation of non-conforming lot dimensions, setback or yard areas on any adjoining parcel.
- (m) Lots that are located at the intersection of public and private roads (corner lots) shall construct their driveways and be addressed on the private road, except in the case of an existing lot or structure or where topography, such as wetlands or steep slopes make such access unfeasible or where prohibited by the Kent County Road Commission.
- (n) The area in which the private road is to be located shall have a minimum cleared width of twenty-eight (28) feet and a minimum trimmed height of fifteen (15) feet. The cleared area shall always be maintained for visual safety and fire vehicle access.

202.005 Private road construction specifications.

Sec. 5.0.

- (a) A private road which is to serve three (3) through nineteen (19) residential lots or parcels shall be built to meet or exceed the specifications illustrated on the "local road" typical cross section contained in the then existing Kent County Road Commission requirements and specifications for plat developments or similar successor regulations. Provided, however, that the minimum improved road width shall be eighteen (18) feet with a shoulder width of three (3) feet on each side of the road and that a paved improved surface in this instance is not required. The road gravel, including shoulders, shall meet MDOT 23 A for gravel roads or MDOT 22 A for roads that are intended for paving. The first 100 feet of the improved road, beginning at the public road right of way, shall have a twenty-two (22) foot width. The improved road surface shall widen at any dead end so there is at least an eighty (80) foot diameter turn-around.
- (b) A private road which is to serve twenty (20) through fifty (50) residential lots or parcels shall be provided with a paved surface. The pavement width, pavement surface, and subbase shall be constructed in conformance with the "local road" typical cross section contained in Kent County Road Commission requirements and specifications for plat developments or similar successor regulations. Provided, however, that the minimum shoulder width shall be four (4) feet. Provided, further, that the Planning Commission may upon request, recommend a temporary waiver of the pavement requirement set forth in this subparagraph for a proposed private road that would intersect with an unpaved public road. Said temporary waiver shall be removed at such time as the adjoining public road is paved and the maintenance agreement, deed restrictions, master deed and easement agreements shall provide for such future paving and incorporate a feasible mechanism satisfactory to the Township Attorney to assure completion of the required paving. Upon the recommendation of the Township Engineer, a private road which is required to be paved pursuant to this subsection may be paved in two (2) stages with a leveling course of two (2) inches (bituminous mix 3B) pavement installed initially and a final surfacing course of one and one-half (1^{1/2}) inches (bituminous mix 4B) pavement to be installed when building permits have been issued for seventy-five (75) percent of the lots or parcels served by the private road, or one year after installation of the base course, whichever ever occurs first. The road shall widen at any dead end so there is at least an eighty (80) feet diameter turn-around.
- (c) Any portion of a residential street which provides direct or indirect means of access to more than fifty (50) lots or parcels shall be dedicated to the public and shall be constructed in conformance with the then existing Kent County Road Commission requirements and specifications for residential and commercial-industrial plats or similar successor regulations of Kent County.
- (d) A private road which is to serve commercial or industrial uses shall be constructed to the then existing Kent County Road Commission requirements and specifications for commercial and industrial plats (see subsection (d) above) with the exceptions of any requirements requiring curb and gutter and provided that the pavement width shall be a minimum of twenty-six (26) feet. Such roads shall widen at any dead end so there is at least one hundred (100) feet of

traveled surface diameter turn-around.

(Amended: Ord. No. 93-11, 12-13-93; Ord. No. 96-1, 3-25-96; Ord. No. 98-9, 11-16-98; Ord. No. 2000-1, 2-21-00)

202.006 Private road approval.

Sec. 6.0. Prior to issuing a building permit for a building on a lot served by a private road, the private road shall be approved by the Township Board in accordance with the following procedures.

(a) *Preliminary Approval by Planning Commission:*

(1) Thirteen (13) copies of a site plan prepared and sealed by a registered land surveyor, civil engineer, or landscape architect at a scale of at least 1" = 100 feet together with a fee established by the Township Board shall be submitted to the Township Clerk or designated agent. In addition to the requirements of Section 201.502 D the site plan shall include the following information:

- (a) Proposed name of development.
- (b) Parcel identification number and/or legal description.
- (c) Names and addresses of proprietor, owner proprietor, and planner, design engineer, landscape architect or surveyor.
- (d) Scale of drawing.
- (e) Date of preparation and date of subsequent amendments.
- (f) North arrow.
- (g) A location map showing the general relationship of the affected property to the surrounding area within $1/2$ mile, in a scale not less than 1" = 2,000 feet.
- (h) Proposed property lines and dimensions.
- (i) Zoning classification.
- (j) Location of existing buildings and structures.
- (k) Locations, widths, and names of existing or prior easements of record, public and/or private.
- (l) Location of existing and proposed sanitary sewers, water mains, storm drains, and other utilities.
- (m) Existing and proposed topography drawn at contour intervals of five (5) feet.
- (n) Location of significant natural features such as lakes, streams, wetlands, and slopes over twenty (20) percent.
- (o) Layout and preliminary design of the proposed private road, indicating easement width and connections to adjoining rights-of-way.
- (p) Indication of possible future land divisions. This is for information

purposes.

- (q) Locations of proposed building sites including approximate grades and building setbacks.
- (r) Soil borings upon request.
- (s) Screening plan upon request.
- (t) Drainage plans and calculations as recommended by the Township Engineer and/or Kent County Drain Commission to assure adequate drainage and runoff.

(2) In addition to the above plans, a maintenance agreement, easement agreement, and deed restrictions which provide for the perpetual private (non-public) maintenance of the private road and easement to a necessary and reasonable standard to serve the several interests involved shall be provided. These documents shall be recorded and shall contain the following provisions:

- (a) A method of initiating and financing of such road and/or easements in order to keep the road in a reasonably good and usable condition.
- (b) A workable method of apportioning the costs of maintenance and improvements.
- (c) A notice that no public funds of the Township of Vergennes are to be used to build, repair, or maintain the private road, including road cuts, curbs and gutters that may be required at the entry of the private road onto a public road.
- (d) Easements to the public for purposes of public and private utilities, emergency and other public vehicles for whatever public services are necessary.
- (e) 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, tradesmen, employees, and other bound to or returning from any of the properties having a right to use the road.
- (f) A method for apportioning any costs of road improvement required under this Ordinance occasioned by an extension of the private road.
- (g) A requirement that all future amendments to the maintenance agreement, easement agreement, master deed and/or deed restrictions shall be provided to the Township and shall be recorded with the Kent County Register of Deeds.
- (h) A provision placing on notice all future purchasers, mortgagees and others with possible interest in the property that development on the property is subject to the terms of the Vergennes Township Private Road Ordinance and the issuance of building permits for development on the property may be contingent on full

compliance with the terms of the Private Road Ordinance.

- (i) Applicant must provide parcel number and legal descriptions of all parcels that have legal access to the private road easement.
 - (3) Prior to approval of an application for a private road or an extension of an existing private road, the Planning Commission shall hold a public hearing to consider public comment on the application. A notice of the public hearing on the application shall be given in the manner provided by Section 5.02 pertaining to procedures for consideration of special exception uses.
 - (4) The Planning Commission shall review all submitted material in accord with the standards and requirements of this Ordinance and may seek the professional advice of the Township Engineer, Planner, Attorney or others, as appropriate, to evaluate the proposed private road application. Should the Planning Commission find that all conditions have been satisfactorily met, it may recommend preliminary approval to the Township Board. All information and recommendations from the Planning Commission will be forwarded to the Township Clerk for Township Board consideration.
- (b) *Preliminary Approval by Township Board:*
- (1) After having received the Planning Commission's recommendation, the applicant may contact the Township Clerk to request Township Board review, which may be scheduled at the next Township Board meeting.
 - (2) The applicant shall submit ten (10) sets of the site plan including construction plans and other documents to the Township Clerk at least seven (7) days prior to the meeting. These plans shall include all recommendations of the Planning Commission.
 - (3) Upon preliminary approval of the site plan, construction plans and other documents by the Township Board, the Zoning Administrator may issue a private road construction permit. No work on a private road shall commence until and unless there has been both preliminary approval by the Township Board and a private road construction permit has been issued by the Zoning Administrator. Preliminary approval expires in one calendar year if the applicant fails to obtain final approval. The one year may be extended if applied for by the applicant and granted by the Township Board in writing for good cause shown.
 - (4) The Township Board shall have the final decision regarding application for private road and shared driveway construction. The Board may waive or revise any requirement of this Ordinance where unusual or extraordinary circumstances make compliance with the terms of the Ordinance impossible and where alternative approaches are proposed to accomplish the primary objectives of the Ordinance.
- (c) *Road Construction:*
- (1) All necessary approvals and permits of the Kent County Road Commission shall be obtained including approval of street name.
 - (2) Prior to the start of any clearing or grading, the work area shall be staked by the developer's engineer or surveyor and the developer shall deposit a

cash bond or other bond assurance of performance, in the amount to be determined by the Township, to guarantee that the clearing and grading will conform with the approved plans. In addition, copies of the proof of adequate liability insurance coverage for the developer's engineer and contractor shall be provided to the Township prior to commencement of construction.

- (3) All private roads shall be inspected by the Township engineer during the construction of the road. Reasonable (four (4) to five (5) working days) notification shall be given to the Township engineer's office before commencing construction of the road. The owner and/or contractor shall hold liability insurance for the road construction. Prior to granting final approval, the developer's engineer shall first certify that the road has been constructed in accordance with as-built plans which shall be submitted at the completion of the job (he should also submit test results for materials, compaction, etc.).
- (4) Any significant changes from the approved plans shall be noted in the cover letter, along with the reasons for the changes.
- (5) Upon receipt of acceptable as-built plans and verification of proper certification of construction, the Township Engineer may submit his recommendation to the Township to accept the road as completed. The Township and Township Engineer prefer to have as built plans on AutoCAD 14 disk in addition to the required paper copy. If there is any deviation from the plans, the Township Engineer shall report the deviation and reason for same to the Township Clerk. The Township Engineer has the right to reject the work and issue stop work orders if contractor or contractor's equipment creates any unnecessary disturbance beyond the limits of construction as shown on the approved plans and staked by the developer's engineer.

(d) *Final Approval by Township Board:*

- (1) In order to request placement on the Township Board agenda for final approval, the applicant shall obtain and/or complete the following:
 - (a) Final inspection and approval of private road by the Township's Engineer.
 - (b) Installation of street sign and traffic control devices as required.
 - (c) Installation of underground utilities if applicable.
- (2) The following information shall be submitted to the Township Clerk at least fourteen (14) days prior to the Board meeting.
 - (a) Eight (8) copies of recorded land survey and legal descriptions showing easements for underground electrical and communication service lines, drainage, sanitary sewer, private road and dedication of any public road right-of-way.
 - (b) Two (2) copies of recorded road maintenance agreement and drainage facilities maintenance agreement.
 - (c) Two (2) copies of recorded deed restrictions and easements.
- (3) If there is compliance with this and other applicable Township ordinances,

the Township Board may give final approval to the private road. A copy of the plan shall also be submitted to Kent County Road Commission and appropriate fire departments.

(Amended: Ord. No. 96-1, 3-25-96; Ord. No. 99-1, § 10, 2-15-99; Ord. No. 2000-1, 2-21-00)

202.007 Permits not to be issued; fees; severability; penalty; effective date.

Sec. 7.0.

- (a) *Permits Not to be Issued:* No building or occupancy permits shall be issued by the Building Inspector for the use of any parcel of land served by a private road unless such road has been approved by the Township Board as provided herein. No occupancy permits, unless waived by the Board, will be issued until the Township Board provides its final approval of the private road. If the Township Board allows an occupancy permit to be issued without final approval of the private road, the occupancy permit shall be issued on a conditional basis pending final approval of the road by the Township Board.
- (b) *Fees:* Fees to be charged pursuant to this Ordinance shall be as set, or from time to time amended by a Resolution of the Township Board.
- (c) *Severability:* This Ordinance and each of the various parts, subsections, sentences, phrases, and clauses hereof are hereby declared to be severable. If any part, section, subsection, sentence, phrase, or clause is determined to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this Ordinance shall not be affected thereby and shall remain in full force and effect.
- (d) *Penalty:* Violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for the first offense and not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for subsequent offenses, in the discretion of the Court, and in addition to all of the costs, damages and expenses provided by law. For purposes of this Ordinance, "subsequent offense" means a violation of this Ordinance committed by the same person within twelve (12) months of a previous violation of the Ordinance for which said person admitted responsibility or was adjudicated to be responsible. Each day that such violation occurs shall constitute a separate offense.
- (e) *Effective Date:* This Ordinance shall become effective upon its publication.

(Amended: Ord. No. 95-15, 9-18-95; Ord. No. 2000-1, 2-21-00)

Section 2. Conflicts. If any provision of the Vergennes Township Ordinance conflicts with this amendment to the Private Road Ordinance, the most restrictive provision shall be applied.

Section 3. Severability. Should any section or part of this Ordinance be declared unconstitutional, null or void by a court of competent jurisdiction, such declaration shall not have any effect on the validity of the remaining sections or parts of this Ordinance.

Section 4. Effective Date. This Ordinance shall become effective thirty (30) days after its publication in a newspaper of general circulation in the Township.

Certification

I, Mari C. Stone, Township Clerk of the Township of Vergennes, hereby certify that Ordinance 2004-8 was adopted at a regular meeting of the Vergennes Township Board on May 17, 2004, and the Ordinance or a summary of the ordinance was published in the Lowell Ledger, a newspaper of general circulation in the Township of Vergennes, on June 9, 2004.

Mari C. Stone
Vergennes Township Clerk