

**VERGENNES TOWNSHIP, KENT COUNTY, MICHIGAN  
PRIVATE ROAD ORDINANCE AMENDMENT**

**Adopted: 8-17-09**

**Ordinance # 2009-1**

**An ordinance to amend certain portions of the Private Road Ordinance No. 90-2 – 202.000.**

**The Township of Vergennes hereby ordains:**

**Section 1.** Amend Section 202.003 to clarify various current and add new definitions.

**Section 2.** Amend Section 202.004 to standardize language using all diameter rather than radius, to require portions of a gravel road to be paved due to erosion control, to clarify distance between private road intersections, to clarify when a boulevard entrance is required, all roads to comply with AASHTO standards and various other clarification and standardizing the language.

**Section 3.** Amend Section 202.005 to change language to add cross section drawings of the various road types for ease of understanding and to standardize text language.

**Section 4.** Amend Section 202.006 to clarify text language, adding a section on Board involvement in repairing a private road with process details, adding a section where the Board can require a bond of the estimated amount to build the road, to add a section on construction deviations process and certifying the completed road, adding testing details and process to receive final road approval.

**Section 5.** Amend Section 202.007 to add a new section on shared driveway standards.

**Section 6.** Amend Section 202.008 to describe method of allowing a building permit on a house while the road is under construction, clarification of fees and adding an indemnification section.

**202.000 PRIVATE ROADS**  
**Ord. No. 90-2**  
**Adopted: November 12, 1990**  
**Amended 8-17-09**  
**Clean Version**

\***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 Michigan Zoning Enabling Act (Act 110 of 2006), 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, Ord. No. 2007-1, 5-21-07)

**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, No. 2009-1, 8-17-09)

### **202.003 Definitions.**

#### **Sec. 3.0.**

*As-Built Drawings:* A complete set of the approved plans which have been modified to show the actual dimensions and materials of the private road as it was constructed.

*Base Course:* The layer or layers of specified material placed on a sub-base or subgrade to support a surface course.

*Bituminous mix:* A heated asphalt binder blended with an aggregate and mixed in plant controlled conditions. Designed for the application to create an improved surface. Also called hot mix asphalt, or black top (pavement). Mixtures are designed and certified by the Michigan Department of Transportation.

*Development:* That property to be served by a private road easement or a shared driveway easement.

*Drainage Easements:* Those easements and documents, which are necessary to grant and provide for adequate drainage within a development, including appropriate costs sharing and maintenance provisions as required by Section 202.006 or 202.007.

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

*Earth Grade:* The elevation of the completely graded roadway before placing the pavement structure.

*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.

*Improved Surface:* A durable, weather resistant material suitable for operation of traffic upon. Sometimes called a hard surface. Examples included: Hot mix asphalt, brick, and portland concrete.

*Leveling Course:* The layer or layers of specified materials placed on a base course.

*Lot(s) or Parcels:* For the purpose of this Ordinance, a lot or parcel 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, the word lot also means a site condominium unit within a project as depicted upon the subdivision plan attached to the Master Deed and which meets minimum zoning requirements for use, coverage and area as required by the Vergennes Township Zoning Ordinance as amended.

*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.

*Pavement:* All combinations of subbase, base course, and surface course, including shoulders, placed on a subgrade.

*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, including private roads created by a site condominium master deed.

*Private Road Maintenance Agreement:* An agreement, which satisfies the requirements of Section 202.006 and may be contained within the condominium documents for a development.

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

*Roadbed:* The portion of the roadway between the outside edges of finished shoulders, or the outside edges of berm immediately back of curbs or gutters, when constructed.

*Roadway:* A road or thoroughfare providing for vehicular access.

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

*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, including a shared driveway credited by a site condominium master deed.

*Shared Driveway Agreement:* An agreement, which satisfies the requirements of Section 202.007 and may be contained within condominium documents for a development.

*Shoulder:* The portion of the roadway adjacent to the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.

*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.

*Subbase:* The layer of specified material placed on the subgrade as a part of the pavement.

*Subgrade:* The portion of the earth grade upon which the pavement is placed.

*Surface Course:* The top layer of pavement, including Hot Mix Asphalt, brick, portland concrete, graded aggregate.

*Traveled Way:* The portion of the roadway designated for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

(Ord. No. 2000-1, 2-21-00, No. 2009-1, 8-17-09)

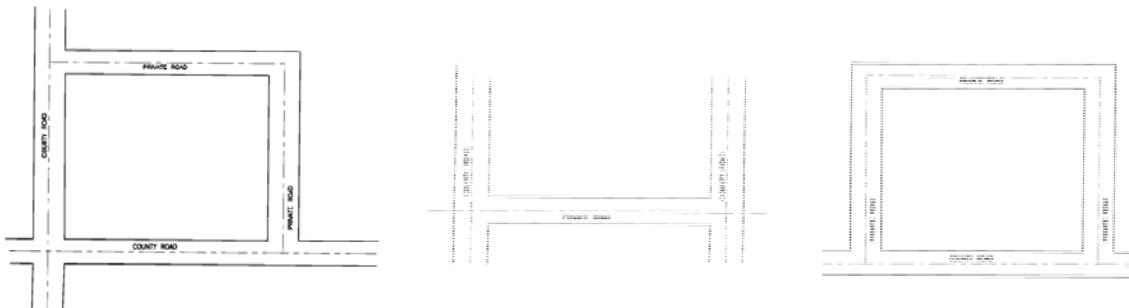
## 202.004 General provisions.

### 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 diameter of one hundred twenty (120) 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 development 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. Upon the recommendation of the Township Engineer, the Township may require that a portion or portions of the roadway be an improved surface as necessary to protect against erosion.
- (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 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 street 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 of a private road or a 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 a public street shall be approved by the Kent County Road Commission except that no private road shall be approved which is closer than five hundred (500) feet from another public street or private road, as measured along the centerline of the intersecting public road. Exceptions to that requirement will only be considered if the centerline of the proposed private road intersection lines up with the centerline of another private road or public street intersection on the opposite side of the intersection or if otherwise approved by the Township Engineer after confirming that the plan meets applicable AASHTO standards. 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 street. A "Stop" sign shall be installed at the intersection of the private road with the public street 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) All developments served by any combination of private roads providing access to more than twenty-five (25) lots shall connect at two (2) or more points to a County Primary road or County Local road as defined by the Kent County Road Commission. Examples of two (2) points of access to a County road include:



Where the Township determines that physical attributes on the site produce conditions that make it impractical to provide two (2) or more connections to a County road, alternative access may be permitted in the form of a boulevard entrance. A boulevard entrance shall only be permitted if the Township finds that:

- (1) Physical attributes of the development prevent a second connection to a County road, including without limitation, configuration of the development site; presence of water or significant wetlands; or steep topography or other natural features that are important to the character of the area.
- (2) Substituting a boulevard entrance for the required second access shall assure safe passage and maneuverability of motor vehicles and emergency service vehicles throughout the development served by the private road.
- (3) The total number of lots within the proposed development to be accessed exclusively by a private road boulevard entrance shall not significantly or unreasonably exceed twenty-five (25), as determined by the Township. In no event shall the total number of lots to be so accessed exceed thirty-two (32).

The layout and dimension of any proposed boulevard entrance shall be subject to review and approval by the Township and the Township Engineer.

- (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 private 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 owner(s) of the lots within the development pursuant to the terms of this Ordinance.
- (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 a private road easement or shared driveway easement. (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.
- (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 streets and private roads (corner lots) shall construct their driveways and be addressed on the private road, except in the case of an existing lot and 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.
- (o) Compliance with AASHTO standards: Except as otherwise provided below, private road design plans shall comply with the design criteria outlined in the most recent edition of the American Association of State Highway and Transportation Officials (AASHTO) Manual "A Policy on Geometric Design for Highways and Streets" as adopted by the Michigan Department of Transportation (MDOT).
- (p) Design Speed: The road geometry shall comply with a minimum design speed of twenty five (25) miles per hour.

(Amended: Ord. No. 94-4, 11-21-94; Ord. No. 2000-1, 2-21-00, Ord. No. 2004-8, 5-17-04, No. 2009-1, 8-17-09)

## **202.005 Private road construction specifications.**

### **Sec. 5.0.**

- (a) Except as otherwise specified in this Ordinance, a private road which is to serve three (3) through nineteen (19) lots or parcels may be gravel or paved and shall be built to meet or exceed the specifications illustrated on the applicable Private Road cross sections included with this Ordinance. The first 100 feet of the improved private road, beginning at the public street right of way, shall have a twenty-two (22) foot width. The improved traveled way shall widen at any dead end so there is at least an eighty (80) foot diameter turn-around.
- (b) Except as otherwise specified in this Ordinance, a private road which is to serve

twenty (20) through fifty (50) lots or parcels shall be paved and built to meet or exceed the specifications illustrated on the applicable Private Road cross sections included with this Ordinance. Provided, however, that the Planning Commission may upon request, recommend a temporary waiver of the pavement requirement set forth for a proposed private road that would intersect with an unpaved public street. Said temporary waiver shall be removed at such time as the adjoining public street is paved and the private maintenance agreement, 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 the leveling course installed initially and a final surfacing course 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 traveled way shall widen at any dead end so there is at least an eighty (80) foot diameter turn-around.

- (c) No roadway which provides direct or indirect means of access to more than fifty (50) lots or parcels will be approved as a private road but rather such roadway must be dedicated to the public and accepted by the Kent County Road Commission 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) In addition to other applicable construction requirements, 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, Ord. No. 2004-8, 5-17-04, No. 2009-1, 8-17-09)

### **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, or an extension of a 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 of the lots and development.

- (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 or site condominium unit. 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, the applicant shall provide, for approval by the Township, drainage easements and a private road maintenance agreement. Following preliminary approval of a private road by the Township Board, and prior to the issuance of any building permits, the private road maintenance agreement and drainage easements shall be recorded. The private maintenance agreement shall create perpetual private road easements and shall include, at a minimum, provisions pertaining to the following:
- (a) A method of initiating and financing both the construction of the private road and the maintenance of the private 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 required 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) Satisfying the requirements of Section 202.008 and 202.004 including, but not limited to, providing easements to the public for purposes of public and private utilities, emergency and other public vehicles for whatever public services are necessary.
- (e) Including a provision that the owners of any land with a development served by the private road shall refrain from prohibiting, restricting, limiting, or in any manner interfering with normal ingress and egress and use of the private road. 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 lots having a right to use the private road.
- (f) Providing a method for apportioning any costs of road improvement required under this Ordinance occasioned by an extension of the private road.
- (g) Requiring that all future amendments to the private maintenance agreement, be provided to and approved by the Township and, after such approval, requiring their recording with the Kent County Register of Deeds.
- (h) Including a provision placing on notice all future purchasers, mortgagees and others with possible interest in the development is subject to the terms of the Vergennes Township Private Road Ordinance and the issuance of building permits for lots within the development may be contingent on full compliance with the terms of the Private Road Ordinance.
- (i) Including the parcel number and legal descriptions of all lots that have access to the private road easement.
- (j) Incorporating provisions (i) to permit the Township Board to authorize the repair of a private road which is not being maintained adequately, so as to permit safe access by users and emergency vehicles, and to assess the cost of such repair, including attorney fees and the costs of engineering and administration, to the owners of the property within the development served by the private road on an equitable basis; and (ii) which would require property owners within the development served by the property road to consent to, and/or execute, a petition for a special assessment district for the construction and maintenance of the private road. The decision to authorize repair of a private road or to proceed with a special assessment shall be at the Township Board's sole discretion.

- (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 a private road. 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) The Township Board or Planning Commission may require the developer to deposit a cash deposit, certified check, irrevocable letter of credit or surety acceptable to the Township and in an amount to be determined by the Township, to cover the estimated cost of the improvements and to insure faithful completion of the improvements in accordance with the approved plans. In addition, prior to start of construction, the applicant shall provide the Township with proof of, and maintain, adequate liability insurance coverage for the applicant and its engineer, contractor, agents and employees and which shall be in amounts deemed necessary by the Township Board to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of the applicant or its engineer, contractor, agents or employees.
- (4) All private roads may be visited 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.
- (5) If, at any time during road construction, a deviation from the information provided in the plan which has received preliminary approval by the Township Board occurs or is anticipated to occur, the applicant shall stop construction and submit on that portion of the private road which deviates from the plan and consult with the Zoning Administrator to determine whether the deviation requires approval by the Township Board. If, in the opinion of the Zoning Administrator, the deviation is not significant, construction may continue. If the deviations in the opinion of the Zoning Administrator and/or Township Engineer is significant, then the Applicant shall submit a request to deviate from the plans to the Township Board including:
  - a. A revised site plan, which conspicuously identifies location and nature of the deviation.
  - b. A written explanation of the cause of and reason justifying the deviation.

The Township Board shall hear and decide whether to permit the continued road construction with the deviation within 45 days of receipt of a request to deviate from the plan as described herein. If the Township Board denies the request to deviate from the plan, it shall record its reason for the denial in the Minutes of the meeting.

- (6) Prior to granting final approval, the developer's engineer shall certify that the private road has been constructed in accordance with the approved plans and specifications and that the as-built plans represent the actual final constructed roadway. It is the applicant's responsibility to engage an engineer during construction to enable the applicant's engineer to provide the required certifications. Material certifications from the suppliers shall be provided to the Township upon request. Testing certifications shall be required as follows:

Item	Certification	Test Required	Frequency
Pipe	Manufacturer	ASTM std for material provided	NA.
Fine Aggregates	Supplier stock pile	Gradation, Compaction in place	1/1000tons
Dense or Open Graded Aggregates	Supplier stock pile	Gradation, Compaction in place	1/1000tons
Hot Mix Asphalt	Mix design by Supplier	Gradation, Compaction in place	1/1000tons
Hot Mix Asphalt		extraction test	1/1000tons
Concrete	Supplier design	28 Day break	1/50 cyd

- (7) Any significant changes from the approved plans shall be noted in the cover letter, along with the reasons for the changes. 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 or other acceptable software in addition to the required paper copy.

(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 the private road by the Township's Engineer.
  - (b) Installation of street sign and traffic control devices as required.
  - (c) Installation of underground utilities and drainage facilities 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 the 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 the recorded private road maintenance agreement and drainage 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, No. 2009-1, 8-17-09)

## **202.007 Shared Driveway.**

### Sec. 7.0.

(a) In order to construct a Shared Driveway, an applicant shall make a request to the Zoning Administrator and pay any required fees. Based upon the standards set forth in this Ordinance, including those set forth below, the Zoning Administrator shall grant or deny the request.

(b) In order to construct a Shared Driveway, the applicant must provide the township with a recorded Shared Driveway Agreement and, if required by the Zoning Administrator, with recorded Drainage Easements, which creates the necessary easements and set forth an acceptable mechanism for the joint owners to maintain the Shared Driveway and any drainage facilities.

## **202.008 Permits not to be issued; fees; severability; penalty; indemnification; effective date.**

### Sec. 8.0.

- (a) **Permits Not to be Issued:** No building permit shall be issued for any building, dwelling or structure, which derives its primary access from a private road or Shared Driveway unless:
- i. The private road or Shared Driveway has been completed in accordance with an approved permit; or
  - ii. For a private road, the applicant for the building permit or the owner(s) of the private road have provided the Township with those financial assurances required by a bond, per Section 202.006 (c)(3) to insure construction of the private road in accordance with the approved private road permit. The Township shall have the right to draw on the funds if the private road is not completed to the satisfaction of the Township prior to the expiration of the expiration date specified within the building permit.
- (b) **Exceptions:** Where appropriate, the Township Board may allow for a specified number of structures up to 25% of the project or one (1) structure, whichever is greater, to be constructed before a private road has been completed. However, under no circumstance shall a certificate of occupancy be issued until the private road has been completed or financial guarantee has been supplied in accordance with Section 202.007 (a) above.
- (c) **Fees:** Those fees and charges which may be charged pursuant to this Ordinance shall be set from time to time by Resolution of the Township Board, including an obligation to reimburse of all costs incurred by the Township (e.g. attorney fees and engineering fees) for its review and/or approval of a request made pursuant to this Ordinance.
- (d) **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.

- (e) *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. In addition to the penalty set forth above, a violation of this Ordinance shall be a violation of the Vergennes Township Zoning Ordinance and shall be subject to the penalties and remedies set forth by such Ordinance.
- (f) *Indemnification:* The applicant and all owners of the private road or shared driveway and lots served by a private road or shared driveway and those who utilize the private road and shared driveway and all persons securing a building permit to construct a building served by a private road or shared driveway, agree that they shall defend, indemnify and hold harmless the Township and its officials from any and all claims, causes of action, costs or damages for personal injury or property damage arising out of or in any way related to the private road or shared driveway, which obligations shall be part of the private road agreement and shared driveway agreement.
- (g) *Effective Date:* This Ordinance shall become effective 30 days after publication.

(Amended: Ord. No. 95-15, 9-18-95; Ord. No. 2000-1, 2-21-00, No. 2009-1, 8-17-09)

**Section 7. Conflicts.** If any provision of the Vergennes Township Zoning Ordinance conflicts with this amendment to the Zoning Ordinance, the most restrictive provision shall be applied.

**Section 8. 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 9. Effective Date.** This ordinance shall become effective thirty (30) days after its publication in a newspaper of general circulation in the Township.

VERGENNES TOWNSHIP

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Timothy Wittenbach, Supervisor

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Mari Stone, Clerk

Date Published: September 2, 2009