

**TOWNSHIP OF MARION
LIVINGSTON COUNTY, MICHIGAN
PRIVATE ROAD ORDINANCE NO. 07-03**

SECTION I: INTENT AND PURPOSE

There are many private roads in the township that are not maintained by any government agency. Some of these roads are covered by an agreement of the owners that is part of their condominium documents, Planned Unit Development Agreement or a township approved Private Road Maintenance Agreement. This ordinance is intended for private roads that are not covered by any provision for maintenance approved by the township and these roads are referred to as unapproved roads. A list of private roads is maintained by the township for reference. An approved private road maintenance agreement contains provisions for township intervention in the event that repairs and maintenance are not performed.

The Township realizes that at the time the private road was constructed, the developer voluntarily chose not to dedicate the road to the public and therefore maintenance became the responsibility of the owners.

This ordinance is enacted because of the Township's concern for the health, safety and welfare of township residents and others who may use private roads in the township. There are two situations that will trigger the township's involvement with private road maintenance on unapproved private roads:

1. A request for a land division that will create parcels with frontage on the road.
2. A written complaint about the road condition signed by the record owners of land constituting more than 50% of the total frontage upon the road.

It is the Marion Township Board of Trustees' goal to try to help owners of property on unapproved private roads that do not have a private road maintenance agreement approved by the Township, to establish a township approved road maintenance agreement and encourage the future care and maintenance of each private road.

SECTION II: PROCEDURE

Under this General Ordinance, the Board of Trustees can initiate an inspection of an unapproved private road when there is an application for a land division that results in a new parcel with frontage on an unapproved private road or the township receives a written complaint about the condition of the unapproved private road as described in Section I of this ordinance.

The zoning administrator, along with the township engineer, will perform an inspection and evaluate the condition of the unapproved private road to determine if the private road is acceptable. The guidelines for acceptability will be the specifications for new private roads taking into consideration the characteristics of the existing conditions. Items to be evaluated include but are not limited to: subbase, base, surface, drainage, length, width, shape, and traffic. Following the inspection, a written report of the road's condition will be provided to the Township Board. The report will include a cost estimate, if required, to address any perceived unacceptable condition of the road.

The Board of Trustees will review the engineer's report and estimates, if applicable, and decide if it is in the best interest of the property owners to facilitate the establishment of a road maintenance

agreement to help provide for improvement and maintenance of the road. If the Township Board determines a road maintenance agreement would be in the best interest of the property owners, or upon request by a property owner, the township zoning administrator will provide a sample private road maintenance agreement to the property owners. An acceptable road maintenance agreement shall contain a provision that indemnifies and holds harmless the township from any liability. The sample maintenance agreement may be modified if necessary. All property owners on the road must sign the maintenance agreement.

After the signature of every property owner is obtained, the maintenance agreement is then submitted to the Township Board for its review to determine thoroughness and to allow the Township Board to decide if the agreement adequately addresses road improvement and maintenance needs of the road and the property owners on the road. After this review and approval by the township board, the maintenance agreement shall then be filed with the Livingston County Register of Deeds for recording to insure future participation by new owners. A copy of the recorded maintenance agreement shall be provided to the Township. A non-profit corporation of property owners can be formed under PA 162 of 1982 for the funding of maintenance for the private road under the specifications of the road maintenance agreement.

If all property owners do not agree to participate in the private road maintenance agreement and the Board of Trustees feels there is a serious concern for health, safety and welfare of residents and others that use the road, a Special Assessment District could be created to fund the maintenance of the road. The Board of Trustees will then follow PA 188 of 1954 and if the residents vote down the Special Assessment then the road will be reclassified as an Unapproved Private Road and no further land divisions will be allowed until some means of maintaining the road has been provided by the owners of the road that is approved by the Township.

SECTION III: SEVERABILITY

Should any provision or part of this ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, such funding shall not affect the validity of enforceability of the remainder of this ordinance.

SECTION IV: EFFECTIVE DATE

This ordinance shall take effect thirty days after publication.

This ordinance was adopted by the Marion Township Board on October 11, 2007, and shall have an effective date thirty days after publication.

The Marion Township Private Road General Ordinance No. 07-03 can be purchased, examined or inspected at the Marion Township Hall, 2877 W. Coon Lake Road, Howell, MI 48843, between the hours of 9 am to 5 pm, Monday through Thursday.

Tammy L. Beal, Township Clerk Date

Moved by:

Supported by:

Yeas: Hanvey, Lowe, Andersen, Beal, Wyckoff, Hodge

Nays: Hamann

