

PRIVATE ROADS

Ordinance No. 97-2

An Ordinance to provide for the regulation and inspection of private roads constructed within the Township of Pinconning, County of Bay, State of Michigan, pursuant but not limited to the Township Rural Zoning Act (Act 184 of 1943 as amended) and the Pinconning Township Zoning Ordinance.

Legislative Determination

Section 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 Pinconning to regulate the construction of private roadways in the township.

Scope

Section 2.0 Any lot or parcel of land which does not abut a public street or roadway shall abut a private road meeting the standards, regulations and requirements of this Ordinance.

General Provisions

Section 3.0 The standards, regulations and requirements contained herein shall apply to all private roads within the Township of Pinconning. The construction and installation of private roads and development thereon may be permitted upon the approval of the Pinconning Township Board of Trustees, after a site plan has been reviewed and approved by the Pinconning Township Planning Commission.

Standards and Requirements

Section 4.0 The standards as herein set forth shall be considered as minimum standards. Should an unforeseen or problematic element arise during the site plan review, the Planning Commission or Township Board may require additional standards.

(a) A private road shall not be allowed where collector, major or secondary roads are required or planned by either the Bay County Road Commission or shown in the Pinconning Township Master Plan.

(b) A private road shall not be allowed if it abuts or runs adjacent to a separate parcel whose owner is not a joint applicant for said road and which road will not be appurtenant to said parcel.

(c) The placement of a private road shall allow for building sites on both sides of the road. No parcel of land shall be divided by a private road.

(d) All lots (parcels) abutting private roads shall comply with the Pinconning Township Zoning Ordinance including but not limited to, minimum lot (parcel) frontage/width, minimum road frontage and minimum lot (parcel) area.

(e) A private road or easement which is serving or intended to serve more than one separate parcel, unit or ownership, shall not be less than sixty-six (66) feet in right-of-way width, 24 feet of improved roadbed width with at least three feet of improved shoulder width on each side and adequate drainage ditches and necessary culverts on both sides to accumulate and contain surface water from the road area. It shall further be improved with not less than six (6) inches of a processed and stabilized gravel base over six inches of granular soil, have a grade of not more than seven percent (7 %), and if dead-ended, shall have a cul-de-sac with a radius of not less than fifty (50) feet of improved roadbed for the accommodation of emergency, commercial and other vehicles.

(f) All persons holding an interest in a private road shall dedicate an easement to the Township of Pinconning for utilization of the full width of said road for the installation of public utilities. Backyard and side yard easements, as required to maintain or provide storm drainage or provide utilities to subject or adjacent parcels, shall be dedicated to the township. The width and location of said easement shall be included in the site plan.

(g) All drainage structures and ditches shall meet the requirements of the Bay County Road Commission.

(h) All private roads shall be named with street identification signs provided at all intersections and identified on the site plan. Stop signs shall be placed at the intersection of any private road and public street/road. Signs shall clearly indicate the road is private, and all signs must be in accordance with the Michigan Manual of Uniform Traffic Control Devices.

(i) All vegetation and top soil shall be removed and excavated for the full sixty-six (66) foot width and full length of the road. All trees, stumps, brush and the roots thereof shall be removed from within the grading limits of all private roads.

(j) Any damage to public roads resulting from the construction of a private road shall be the responsibility of the private road developer. A bond or other suitable performance guarantee to cover the cost of such damage may be required by the Bay County Road Commission.

(k) Any intersection of a private road with a public road shall be constructed to the standards of the Bay County Road Commission.

(l) The visual clearance distance for a public road shall meet the requirements of the Bay County Road Commission.

(m) All private roads shall be brined annually with the cost for this requirement to be incorporated into the road maintenance.

✓ (b) All lots abutting private roads shall have front-to-front relationship across all roads/streets and arranged to maximize privacy and avoid the creation of nuisances.

(o) A certified survey and legal description of the private road and all abutting parcels with side and/or back yard easements dedicated to the township, prepared by a land surveyor or civil engineer, along with a documented maintenance agreement acceptable to Pinconning Township shall be recorded with the Bay County Register of Deeds and filed with the Pinconning Township Clerk and assessor specifying the method of financing the private road, all maintenance, improvements and snow removal. This document shall include the apportionment of these costs among those benefited, the right of Pinconning Township to assess such costs plus inflation against those properties benefited, plus a twenty-five percent (25 %) administrative fee and to perform such improvements in the event of a failure of those benefited to privately perform these duties for the health, safety and general welfare of the residents of the area.

Site Plan Review

Section 5.0 The Pinconning Township Planning Commission shall review the site plan for the proposed road at the next scheduled meeting of the commission after receipt of the application and all required information. The commission may call a special meeting for this purpose if it is deemed necessary by the commission or township board. The commission shall make a recommendation to the Pinconning Township Board of Trustees for acceptance or denial of the proposed road within thirty (45) days of this meeting unless additional time is needed for site plan revisions or additional information. In the event additional information or revisions are necessary, the applicant shall be notified without delay as to the specific information or revisions needed. If the applicant fails to respond to the notification within sixty (60) days, the application shall be dismissed

Incurred Expenses

Section 6.0 If any additional expenses are incurred, from the time of site plan review through the actual construction of a private road, which would require the township to hire an expert in the related field, including but limited to, a certified surveyor or civil engineer, such expenses shall be the responsibility of the developer and shall be paid in full by the developer at the time the expense is incurred.

Application Standards

Section 7.0 An application for private road approval shall include all information required by this Ordinance and the following:

- (a) A certified survey and legal description of the road and all abutting parcels prepared by a land surveyor or civil engineer.
- (b) A typical cross section of the proposed road.
- (c) Detailed certified site plans prepared by a registered engineer showing elevations, proposed drainage systems for the road and abutting parcels and any other details as may be required by the Pinconning Township Planning Commission.
- (d) A site plan identifying all natural features on the site including but not limited to; topography, ponds, streams, lakes, drains (including existing farm and field drain tiles), floodplains, wetlands and woodlands.
- (e) Site location map.
- (f) Location of all utilities serving the site.
- (g) Yard setbacks and typical building footprints.
- (h) A proposed maintenance agreement. All persons owning lands which front upon or use said private road for ingress and egress shall hold said lands subject to a maintenance agreement which shall appear as a deed restriction or covenant and be recorded with the Bay County Register of Deeds. The agreement shall be approved or denied by the Township, following review by the Township Attorney, and shall include the following:
 - 1 - A method of initiating or financing whatever improvements and/or maintenance which may be needed from time to time to keep the road in good and useable condition.
 - 2 - A workable method of apportioning the cost of maintenance and improvements.
 - 3 - A prohibition against the owners of any lot, outlot or parcel of land holding an interest in said road from prohibiting, restricting, limiting or in any manner interfering with the utilization of said road by a guest, invitee, tradesman or others bound to or returning from any of the properties having the right to use said road.
- (i) Any and all proposed deed restrictions.
- (j) Other information as may be required by the Township.

Approval Procedures

Section 8.0 All applications for approval of private roads shall be submitted to the Pinconning Township Planning Commission in accordance with Section 5.0 and Section 7.0 (a) through (j) inclusive and further:

- (a) Notices of the date and time of the Planning Commission meeting at which the application for private road approval is to be considered shall be provided to all surrounding property owners within three hundred (300) feet of the site.
- (b) After approval of a private road by the Township, and before construction thereof is commenced, the applicant shall provide a financial guarantee assuring the proper and timely completion of said road with the Township. The financial guarantee shall be equal to the estimated cost of construction of said road. Such financial guarantee may be cash or irrevocable bank letter of credit. The financial guarantee shall remain on deposit with the Township until all construction and/or improvements have been completed in accordance with the approved plans.
- (c) Private road construction is to be completed within one (1) year of approval.
- (d) The Township Board may adopt by resolution a fee for the review of private roads sufficient to cover the costs incurred by the Township for engineering reviews, planning reviews, legal reviews, inspection fees and administration.
- (e) A permit shall be obtained from the Bay County Drain Commissioner and Department of Soil Erosion prior to the commencement of road construction.
- (f) A permit shall be obtained from the Bay County Road Commission before an entrance is constructed onto any County road right-of-way.
- (g) The Township Board of Appeals shall have jurisdiction to consider appeals for variances or exceptions from this Ordinance.

Violations and Penalties

Section 9.0 Any person, firm or corporation who violated the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be subject to a penalty not to exceed One Thousand (1,000) Dollars and/or imprisonment in the Bay County Jail for a period not to exceed one hundred and eighty (180) days.

Abrogation

Section 10.00 Failure to comply with the provisions contained herein and/or additional stipulations as may be required by the Planning Commission or Township Board shall result in revocation of the permit and forfeiture of the financial guarantee as placed on deposit with the Township.

Severability

Section 11.0 If any section, paragraph, clause, sentence or provision of this Ordinance is, for any reason, held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause, sentence or provision shall not affect any of the remaining provisions of this Ordinance.

Repeal

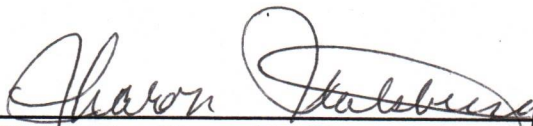
Section 12.0 All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Pinconning Township Zoning Ordinance.

Effective Date


Section 13.0 This Ordinance shall take effect thirty (30) days following its publication after adoption.

Adopted MAY 13, 1997

Published JULY 30, 1997



Pinconning Township Supervisor



Pinconning Township Clerk