

Henrietta Township
Private and Public Road Ordinance
Ordinance #16 Revised 8/26/97

Adopted October 8, 1997
Effective 30 days after publication.
Amended February 28, 2002

AN ORDINANCE UNDER THE PROVISIONS OF PUBLIC ACT 246 OF 1945 AS AMENDED TO REGULATE THE CONSTRUCTION, MAINTENANCE AND USE OF PUBLIC ROADS WITHIN HENRIETTA TOWNSHIP, THE USE THEREOF BY TRAFFIC, THE PARKING OF VEHICLES THEREON, THE ADMINISTRATION AND ENFORCEMENT THEREOF, FEES TO DEFRAY THE ADMINISTRATIVE AND ENFORCEMENT COSTS INCIDENT THERETO, AND TO INSURE THAT RESIDENCES AND BUILDINGS WITHIN THE TOWNSHIP OF HENRIETTA MAY BE ACCESSIBLE TO POLICE AND FIRE PROTECTION, AND FOR OTHER PURPOSES AS FOLLOWS:

ORDINANCE #16 Revised 8/26/97

At a regular meeting of the Township Board held in the Township Hall on the 8th day of October 1997, at 8:00 p.m., Eastern Standard Daylight Time, the following Ordinance was heard and passed:

THE TOWNSHIP OF HENRIETTA ORDAINS AS FOLLOWS:

SECTION 1. INTENT

Unobstructed, safe, and continuous access to lots is necessary to promote and protect the health, safety and welfare of the public through police and fire protection, and ambulance service. Such access is necessary to insure that such services can safely and quickly enter and exit private property at all times. Access to the interior of certain sections within Henrietta Township should meet minimum standards and specifications to permit dedication of such access rights of way to the Jackson County Board of Road Commissioners. The procedures, standards and specifications hereinafter set forth are determined to be the minimum procedures, standards and specifications necessary to meet the intention of this Ordinance.

SECTION 2. DEFINITIONS

- 2.1 *Building* – an enclosed structure used or intended for use for the housing, enclosure or shelter of people, animals or chattels.

- 2.2 *County Road Commission* – The Road Commission of Jackson County, Michigan.
- 2.3 *Lot* – a parcel of land; real estate.
- 2.4 *Permit* – a permit issued pursuant to this Ordinance.
- 2.5 (a) *Private Drive* – a route which provides vehicular access to only one lot and which has not been dedicated to public use.
- 2.5 (b) *Private Road* – a road that provides vehicular access to more than one lot but which is not a dedicated public road.
- 2.6 *Public Road* – a road serving two (2) or more lots which has been dedicated, designed, and constructed to the Jackson County Board of County Road Commissioners Requirements for Plat Development and Subdivision Street Construction in Jackson County.
- 2.7 *Township Board* – The Board of Henrietta Township.
- 2.8 *Township Clerk* – The Clerk of Henrietta Township.
- 2.9 *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 this Ordinance.

SECTION 3. GENERAL ACCESS AND PERMIT REQUIREMENTS

- 3.1 Every lot in Henrietta Township that is improved with a building shall:
 - a. either abut a road dedicated to the public which meets the requirements of this Ordinance, a private drive or a private road not dedicated to the public but which meets the requirements of this Ordinance: and
 - b. Have access for ingress and egress for all vehicular traffic including fire, police and ambulance services and vehicles by means of such public road or private drive.
- 3.2 No lot shall be improved with a building subsequent to the date of adoption of this Ordinance, unless a permit in accordance with this Ordinance has been issued.

- 3.3 No person shall construct, alter, or extend a private drive without compliance with this Ordinance and obtaining a permit as hereinafter provided.
- 3.4 All lots which have been improved with a building prior to the date of adoption of this Ordinance shall comply with the provisions of this Ordinance, if 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 set forth in Section 1 herein.

SECTION 4. APPLICATION FOR PERMIT: REQUIREMENTS

Applications for permits shall be delivered to the Township Zoning Administrator and filed with the Clerk and shall consist of the following information:

- 4.1
 - a. A legal description of each lot to be served by the right of way, a legal description of the right of way, the names and addresses of all persons or parties owning an interest in the title to the lots and right of way area.
 - b. A survey drawing showing the outline of the proposed right of way and the dimensions and bearings thereof; existing topographic contours at two foot intervals of the right of way area and all adjacent land within ten feet thereof, or within such greater area as may be necessary to determine whether drainage methods will be adequate; soil characteristics and wet areas; trees; streams and all bodies of water within ten feet from the right of way area, or within such greater area as may be necessary to determine whether drainage methods will be adequate; existing buildings within fifty feet of the proposed right of way; the proposed right of way in relation to the nearest property lines; and the location of all proposed improvements in the right of way area. The survey drawing shall be prepared by a Registered Land Surveyor or Civil Engineer, registered in the State of Michigan, and shall bear the seal of the same.
 - c. Plan and profile drawing and cross sections of the proposed improvements showing clearly all materials, grades, and dimensions, prepared by a civil engineer registered in the State of Michigan, and bearing the seal of the same.
 - d. 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.

- e. A fee as established by resolution of the Township Board to defray the costs of inspections, plan review, administration, and enforcement of this Ordinance.
- f. 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.

SECTION 5 PERMIT APPROVAL PROCEDURE

- 5.1 Upon receipt of an application, the Township Clerk shall bring the application before the Township Board at its' next regular meeting. The Board may, in its' discretion, refer the application to the Township Planning Commission or other appropriate body for review and comment.
- 5.2 The Township Engineer shall report in writing to the Board as to whether or not the proposed right of way and roadway conforms to the standards and specifications of this Ordinance. Said report may include any suggested conditions to be attached to the permit which, in the Township Engineer's judgment, are necessary to achieve the intent of this Ordinance.
- 5.3 The Township Board shall consider the application, the Township Engineer's report and all other relevant information in determining whether to grant the permit application. If the information submitted by the applicant does not establish that the proposed right of way and roadway will conform to the standards and specifications of this Ordinance, the Township Board shall not grant the permit. The Township Board shall impose such conditions on the approval of the permit as it deems necessary to achieve the intent and objectives of this Ordinance, which may include, but need not be limited to, conditions suggested by the Township Engineer. The breach of any such condition proposed by the Township Board shall automatically invalidate the permit.
- 5.4 As a condition to the granting of any permit under this Ordinance, the Township Board shall require that the applicant deposit with the Township Clerk a sum of money, bank letter of credit or certified check, in an amount sufficient to guarantee that the applicant shall

perform the terms and conditions of the permit, including the payment of required fees. Upon issuance of certificate of completion under Section 8 of this Ordinance, any unused portion of the deposit shall be refunded to the applicant.

5.5 Upon receipt of the required deposit and predetermined fees and approval of the applicant by the Township Board, the Township Building Inspector shall issue the permit pursuant to the terms established by the Township Board Resolution approving the application.

5.6 Only the Township Board shall have the authority to approve or deny the applications for permits. No other permit issued by any Township official or other governmental body or official shall be a substitute for a permit.

SECTION 6 SPECIFICATIONS FOR RIGHTS OF WAY AND ROADWAY

6.1a Private Drive –No specifications required – but a permit from the Jackson County Road Commission is required.

6.1b Private Road – a non-public road serving two (2) or more lots which has not been dedicated to the public, but which is designed and constructed to the Jackson County Board of County Road Commissioners Requirements for Plat Development and Subdivision Street Construction in Jackson County. (Bituminous Material)

6.2 Public Road – a road serving two (2) or more lots which has been dedicated, designed and constructed to the Jackson County Board of County Road Commissioners Requirements for Plat Development and Subdivision Street construction in Jackson County. (Bituminous Material)

SECTION 7 INSPECTION

All required improvements shall be inspected by the Township and/or Road Commission Engineer at various stages of construction. The Township Engineer and the Jackson County Road Commission shall make a final inspection upon completion of construction and shall report the results of the final inspection to the Township Board in writing. The applicant's engineer shall certify to the Township Engineer, before the final inspection and report thereon are made, that the required improvements were made in accordance with this Ordinance and all approved plans. A letter of completion by the Township Engineer shall be delivered to the Township Clerk and the Township Engineer, shall be paid by the applicant prior to the issuance of the certificate of completion. The Township

Board shall establish and determine the costs of inspection. If the applicant does not directly pay the costs of inspection, the same shall be paid from the deposit established by the Township Board and held by the Township Clerk, and the balance, if any, shall be returned to the applicant.

SECTION 8 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 Board. 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 Henrietta Township.

SECTION 9 RECORDING OF RIGHTS OF WAY

The right of way, including all agreements as identified in Section 4.1 (d) herein shall be recorded in the Office of the Register of Deeds for Jackson County prior to the issuance of the certificate of completion required in Section 7 herein.

SECTION 10 BUILDING PERMITS

No building permit shall be issued for any lot subject to the provisions of this Ordinance unless a drive/road permit has been issued.

SECTION 11 CERTIFICATES OF OCCUPANCY

No certificate of occupancy shall be issued for any building on a lot subject to the provisions of this Ordinance unless a certificate of completion has been received by the Township Clerk as provided in Section 7 herein. A certificate of occupancy may be issued prior to the issuance of a certificate of completion upon recommendation by the Township Engineer and upon deposit with the Township Clerk of a sum of money, certified check or bank letter of credit in an amount sufficient to guarantee completion of the remaining required improvements.

SECTION 12 VARIANCES

When there are practical differences or unnecessary hardships in the way of carrying out the strict letter of this Ordinance such as topographical and other physical characteristics of a parcel, 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. Any applicant may apply for a variance from any provision of the Ordinance by filing an application for variance with the Township Clerk. The Township shall hold a public hearing upon such application within forty-five (45) days from it's filing. The Township Clerk shall give notice of the

hearing to the owners of all property abutting and/or having access for ingress and egress of traffic by means of the proposed road described in the variance applications, as well as law enforcement officials, fire officials, and ambulance companies known by the clerk to serve such property. The notice shall be mailed to each party and published in a newspaper of general circulation in the Township not later than seven (7) days prior to the hearing. Any party may appear and comment at the hearing in person or by agent or by attorney. The Township shall keep a record of said hearing and shall render a written decision not later than the next regular Township Board meeting after the hearing date. The Township Board may attach reasonable conditions in granting any variance from any provision of the Ordinance, and the breach of any conditions or the failure of any application to comply with the conditions shall void the variance. This provision of the Ordinance is intended, in part, to enable variances to be granted and conditions attached to the variances to facilitate the upgrading of prior nonconforming rights of way and private roads to the standards of the Ordinance, in a reasonably practical manner, including, but not limited to such rights of way and private roads as have been established, recorded, constructed, or maintained prior to the date of adoption of this Ordinance, which cannot be brought into conformity with the Ordinance without unnecessary hardship or practical difficulty due to soil conditions, topographical considerations, or other factors.

SECTION 13 PENALTIES

Pursuant to the adoption of Ordinance #37, effective February 28, 2002 any person, firm, corporation or other organization which violates, disobeys, omits, neglects, or refuses to comply with, any of the provisions of this Ordinance or amendments hereof, commits a municipal civil infraction punishable as follows:

1st offense – minimum of \$100.00 maximum of \$500.00 fine

2nd offense (within two years of first offense) minimum of \$200.00 maximum of \$500.00 fine

3rd offense (within two years of 2nd offense) minimum of \$300.00 maximum of \$500.00 fine

Each day that a violation occurs shall constitute a separate offense.

Any access which is used in violation of the terms of this Ordinance be and the same is hereby declared to be a nuisance per se, and such use may be abated, restrained, enjoined and prohibited by the presiding District Court Magistrate of Judge.

The court may order other relief relative to the infraction(s). This may include, but is not limited to, reimbursement of actual costs incurred by the Township to attain compliance of this ordinance.

SECTION 14 SEVERABILITY

Should the Courts declare any provision or Section of this Ordinance unconstitutional or invalid, then such decision shall affect only the Section or provision so passed upon, and shall not affect any other Section or part of this Ordinance.

SECTION 15 EFFECTIVE DATE

This Ordinance shall be published in the manner provided by law and shall take effect and be in full force from and after thirty (30) days of publication.

Members Present: Supervisor James Shaughnessy, Clerk Sally Keene, Treasurer Sandra Dodge, Trustees L. Byerly & A. Faist

Ayes: Five (5) Nays: Zero (0)

Permit Fees:

1. Private Drive - \$25.00 (Permit Only – to be obtained from the Jackson County Road Commission) \$275.00 additional for culvert, grading, and gravel.
2. Public Road - \$400.00, including an on site inspection during and after construction. (To be obtained from Henrietta Township)