

Lynn Township  
Private Road Ordinance  
Ordinance Number 33

Purpose:

An Ordinance regulating the design, construction, inspection, approval, and maintenance of Private Roads within the Township of Lynn, St. Clair, Michigan.

The Township of Lynn ordains:

Section 1. Intent

- A. This ordinance regulates the review, approval, design, construction, inspection and maintenance of private roads within Lynn Township.
- B. Within Lynn Township, no lot or parcel or property may be sold as a build able lot that does not front upon a public road, an approved private road, or will be combined with a parcel that has such frontage. Building permits shall not be issued for structures located on private roads until there is full compliance with the provisions of the ordinance, the actual construction has been inspected and approved by the Township, and a maintenance agreement for the private road has been recorded with the deed or land contract for the parcel in question.
- C. Based upon the specific type of development being proposed, the following shall be the minimum type of road that will be approved for access to the development under review.

	Private Road, Gravel Surface	Private Road, Paved Surface	Public Road Only
Single Family Dwelling	X		
Multiple Family Dwelling		X	
Mobile Home		X	
Office			X
Commercial			X
Industrial or Research			X

Section 2. Definitions

Private Driveway shall mean any piece of privately owned and maintained property which is used for access by vehicular traffic to a single parcel of private property but is not open or normally used by the public.

Private Road shall mean a privately owned and maintained road, allowing access to more than one residence, which is normally open to the public and upon which persons other than the owners located thereon may also travel. The erection of such signs as “Residents Only” or the like shall not be deemed to remove any roadway from the requirements of this Ordinance where said roadway is deemed to come within this Ordinance by the Lynn Township Zoning Administrator and his designee.

Road shall mean a thoroughfare which affords vehicular traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, street and other thoroughfare, except an alley or private driveway.

Section 3. Prohibitions

- A. Construction of Private Roads. No persons shall construct a private road within the Township of Lynn except in accordance with the requirements and standard of this ordinance.

- B. Sale of Parcels of Land. No person shall divide or sell any parcel of land as a buildable lot within the Township of Lynn unless said parcel of land fronts upon a public street which is dedicated to the public or unless said parcel of land fronts upon a private road which meets the standards herein set forth, or unless said contract, deed or other conveyance of sale contains the following language:  
    "This parcel is not a build able site for the reason that said parcel does not front on an acceptable ingress and egress in accordance with the standard as set for by the Zoning Ordinance and Private Road Ordinance of the Township of Lynn.
- C. Building Permits. NO building permit shall be issued by the Lynn Township Building Department or any official therein, or any official of the Township of Lynn for any structure unless said structure fronts on a public street or highway which is dedicated to the public, or unless said structure fronts on a private road which meets the standard as herein set forth. Nothing in this section shall be deemed to waive any of the frontage, depth, or like requirements as set forth in the Lynn Township Zoning Ordinance.

#### Section 4. Conveyance of Interest In Land Abutting Private Road.

At the Time of the conveyance of any interest in any parcel which abuts a private road which conveyance shall be deemed to include the acceptance of any offer to purchase, the grantor of such interest shall advise the grantee that said parcel abuts a private road, and that the maintenance, care, and other responsibilities concerning said private road rest with abutting land owners and are not the responsibility of the Township of Lynn, the County of St. Clair, or the State of Michigan.

#### Section 5. Permit Required

No construction shall begin on any private road until a permit has been issued by Lynn Township following compliance with such requirements as set forth in this Ordinance.

#### Section 6. Application Requirements

Application for the construction of new, extended or upgraded private roads shall include the following:

- A. A completed Private Road Application form.
- B. A true and accurate survey, including both a drawing to scale and flail legal description of the parent parcel, all parcels which would result from the proposed division of the parent parcel, and the private road easement for ingress, egress, road and public utility purposes. The survey shall include the following
  1. All adjoining property within 100' of the parent parcel or parent tract;
  2. All dimensions of existing and proposed property lines and easement
  3. Location of all existing buildings, wetlands, lakes, streams, ponds, private driveways, public and private roads, easements, wells and septic fields, including setbacks from all property lines;
  4. The size (in square feet and acres) of each resulting parcel
  5. The proposed location and type of access to each resulting parcel.
  6. Setbacks from property lines to all proposed buildings, drives, easements, wells and septic systems.
- C. Engineering plans of the proposed roadway construction.
- D. A copy of the roadway maintenance agreement that will be recorded with the deed Lynn Township Private Road Ordinance or land contract for each lot or parcel to be sewed by the private road.
- E. Application fee and consultant review fee, as established by resolution of the Township Board.

#### Section 7. Roadway Description and Maintenance Agreement

- A. All private roads shall have a minimum right-of-way of 80 feet in width and shall include an easement granted to Lynn Township for the purposes of constructing operating, inspecting, maintaining, repairing, altering, replacing. and/or removing pipelines, mains, conduits and other

installations of a similar character (herein collectively called “structures”) for the purpose of providing public utilities, including conveyance of sewage, water and storm water runoff across, through and under the property subject to said easement, and excavating and refilling ditches and trenches necessary for the location of said structures.

- B. The legal description of the roadway easement shall be recorded as a part of the deed or land contract for every parcel of property to which it provides access.
- C. A Private Road Maintenance Agreement, in a form approved by the Lynn Township Board, shall be recorded as a part of the deed or land contract for every parcel of property to which the road provides access. The maintenance Agreement shall be binding on all parties and shall guarantee a financial mechanism for and actual, regular maintenance of the private road by all benefiting property owners. Neither Lynn Township nor the St Clair County Road Commission have any responsibility or legal authority to maintain private roads.

#### Section 8. Standard for Construction

The design and construction of all private roads shall be in conformance with the following design standards. Engineering plans, drawn to a minimum scale of 1”=100’ and prepared by a registered civil engineer shall be submitted to the township which demonstrate conformance with the specifications of this ordinance, and shall include the following:

- A. A legal description of the entire parcel(s), all proposed divisions (splits), and the proposed road easement
- B. A minimum easement width of eighty(80) feet
- C. All dead-end roads shall terminate in a cul-de-sac turn around with a minimum diameter of one hundred fifty (150) feet
- D. Soil borings shall be taken by an independent testing laboratory or qualified professional at intervals not to exceed 500 feet (minimum of 3 borings). Boring information and locations shall be shown on the plans. Additional-borings may be required where the USDA Soil Survey of St. Clair County or on-site inspection indicates unsuitable soil may be present.
- E. The applicant shall remove all unsuitable soil including muck, peat and marl, as well as brush, trees, tree stumps, and similar materials from the full width of the roadway, including the shoulders. These areas shall be backfilled with MDOT Class 1.1 Granular Material to provide a stable subgrade for the roadway construction.
- F. Cross section of the road showing the proposed aggregate surfacing, granular sub base, and the shoulder and swale profile in conformance with the attached Lynn Township Private Road Cross-Section Minimum Standards, 2002.
- G. The plans shall show existing and proposed grades and the Location of all existing and proposed drainage facilities and structures. Road Drainage, outlet ditches and cross-road culverts shall be in accordance with the St. Clair County Road Commission Standards for Street Construction. Elevations shall be based on USGS data.
- G-1. Storm water management (detention) shall be required for the road, road right-of- way and all developed areas (homesites, etc.). Drainage calculations shall be in accordance with the St. Clair County Drain Commissioner’s Standards for Subdivisions.
- H. The intersection of roads shall be as close to 90 degrees as possible with a variation of no more than 10 degrees.
- I. Road grades shall not exceed six percent (6%) unless a waiver is approved by the Township Board upon following the review and recommendation of the Township’s consulting engineers. At the intersection of two road ways, however, the maximum grade shall be three percent (3%) for a distance of one hundred (100) feet from the point of intersection.
- J. The horizontal and vertical alignment for all private roads shall be in accordance Lynn Township Private Road Ordinance with the St. Clair County Road Commission Standards for Street

Construction. The design speed shall be indicated on the plans and shall not be less than 30 mph (posted speed 25 mph).

- K. Sight distances on horizontal and vertical curves and at intersections shall be in accordance with the St. Clair County Road Commission Standards for Street Construction. The design speed shall be indicated on the plans and shall not be less than 30 mph (posted speed 25 mph).
- L. The applicant shall obtain a soil erosion control permit from the St. Clair County Drain Commissioner, Enforcing Agent for Soil Erosion and Sedimentation Control (SE SC), and shall install and maintain all erosion control devices throughout the construction period.
- L-1. The plans shall show all wetlands and floodplains contained on the site. If none exist, a note indication such as well as the method of determination shall be added to the plans. If existing wetlands and/or flood areas are disturbed, the plans shall indicate the limits of disturbance.  
The Developer shall submit a copy of the MDEQ permit to work in or modify any wetland or floodplain. A copy of permit(s), or a letter from MDEQ stating that no permit is required, shall be submitted to the Township prior to obtaining approval of engineering plans.  
If the confirmation is not in the form of a letter or official correspondence from the MDEQ (i.e. a consultant or other wetland professional has prepared a statement), then the Township reserves the opportunity to review the information and comment on it reliability, If there are any disagreements regarding the boundary and/or jurisdictional status of any wetland area, the Township reserves the right to require the Developer to obtain confirmation from the MDEQ.  
In any event, approval of plans or project by the Township does not relieve the Developer of the responsibility to obtain appropriate permits from the MDEQ or other regulatory agencies.
- L-2. Any standard for construction indicated within this section shall govern over any conflicting standard referred to (Road Commission, Drain Commission, etc.).
- M. The Township shall retain a consulting Civil Engineer and Planner as necessary to review the plans and the consulting Civil Engineer shall inspect construction of all private roads. The cost of the plan review and construction inspections shall be paid for by the applicant.
- N. Construction permits from the St. Clair County Road Commission are required for connections to county roads and from the Michigan Department of Transportation for connection to State Highways.
- O. All private roads created hereunder shall be named, with said name to be approved by the Township of Lynn Board and the St. Clair County Road Commission. All required name signs and signpost shall be erected in accordance with standards and specifications of the St. Clair County Road Commission at the expense of the applicant
- P. The private road engineering plans shall include a schedule showing the method used to determine driveway culvert sizes for each proposed lot and for each crossroad culvert in conformance with applicable standards of the St. Clair County Road Commission. In no instance shall any driveway culvert be smaller than twelve (12) inches in diameter. All driveway culverts shall have a minimum cover of 12 inches All cross-road culverts shall be set below the road section layers. All culverts over 12 inches in diameter shall have an end section and grate installed on each end. All driveway culverts shall be MDOT Class A. Installation of all driveway culverts shall require the issuance of a building permit.

## Section 9. Review and Approval Procedures

- A. Ten (10) copies of the complete application, plans, proposed maintenance agreement and the layout of all proposed lots or parcels to be served by the private road, shall be submitted to the Township Clerk. The complete application, including all necessary submittals and attachments, must be submitted at least two (2) weeks prior a regular meeting of the Planning Commission in order to be placed on the agenda. The Township Clerk shall forward the complete application packet to the Planning Commission, Township Planner and Township Engineer. The Planning Commission shall review the application at there next regularly scheduled meeting following submittal of a complete application. The Planning Commission shall make a recommendation for approval, conditional

approval or denial of the proposed private road following review of the plans and the written review of the Township Planner, and Civil Engineer.

- B. Upon receipt of the recommendation of the Planning Commission, the design review of the Township Planner, and the technical review of the Township Engineer, the matter will be placed on the agenda of a regular meeting of the Township Board for consideration. The Township Board shall approve the plans only upon finding that they comply of the requirements of this Ordinance, the Lynn Township Zoning Ordinance and the Lynn Township Land Division Ordinance.

#### Section 10. Inspections and Approval

- A. All construction shall conform to the plans approved by the Township. All inspections will be based upon the approved plan. Construction not according to the approved plan and/or not inspected according to the Township's requirements may not be approved.
- B. At Least one week prior to the start of construction, the applicant shall schedule a pre-job meeting between the applicant and the Township Engineer to discuss the scheduling, inspections and conduct of the work.
- C. Inspections to be made:
  - 1. Upon completion of stripping operations;
  - 2. Upon completion of clay grade and ditch excavation;
  - 3. Upon completion of the sand sub-base;
  - 4. Upon completion of the aggregate base;
  - 5. During and following completion of each course of paving;
  - 6. After completion of fine grading, top soil, seeding and mulching.The contractor shall notify the Township Engineer 48 hours before conclusion of each step in the road-construction so that the required inspections can be completed without delay to the subcontractor. The applicant is responsible for insuring that all required inspections are requested and scheduled
- D. The applicant shall provide weigh slips which certify the weight and class of material used for subbase and aggregate used for the road and shoulder surfaces
- E. Inspections will be certified by the Township Engineer so that a complete record of the private road construction can be made available to the St. Clair County Road Commission in the event that the private road owners choose to upgrade and/or dedicate the road to the County as a public road, if possible.

#### Section 11. Performance Bond

The applicant shall file with the Township Clerk a cash deposit, certified check irrevocable bank letter of credit acceptable to the Township sufficient to cover the total cost of the required improvements. When the work is completed, inspected, and approved by the Township, the entire bond will be released to the applicant.

#### Section 12. Extending Existing Private Roads

In those cases where the applicant wishes to extend an existing private road, such extension shall be panted only if the existing private road is brought in compliance with the standard in this Ordinance. All standards in this ordinance shall apply to both the proposed extension and the existing private road. Further, such applicant shall obtain consents from all those persons who own any interest in the existing right of way, or have the right of access to their property therefrom, which consent shall be in writing and shall be filed with the Township Clerk along with the filing of the application for permit hereunder. Such consent shall provide:

- A. That the consenting party consents to the extension of the roadway pursuant to the application, and

- B. That the consenting party consents to the upgrading of their existing roadway to the standards as set forth herein, and where applicable, will agree to deed such easements or rights-of-ways as are necessary to comply with the requirements as its concerns consents

### Section 13. Existing Private Roads Not Meeting Standards of Ordinance

- A. In those instances where a property division or building permit is being sought for a lot or parcel which has access to an existing private road which does not meet the standard of this ordinance, said private road shall be improved in conformance with the standards of this ordinance prior to approval of property divisions or issuance of any building permits.
- B. The applicant may request a waiver of this requirement from the Township Board, who may, after review and recommendation by the Township engineering and planning consultants, and findings of unique circumstances and practical difficulties, grant a partial or complete waiver of this requirement. The Township Board shall not grant any waivers from this provision where the applicant is creating new lots or parcels by division of one or more of the existing lots or parcels of record.

### Section 14. Dedication

All rights-of-way, subject to the easements required to be dedicated to the Township as specified in this ordinance, shall be dedicated to the adjoining property owner who gains access of said right-of-way. If a parcel adjoining said right-of-way is not to be served by said right-of-way, then the land dedicating such right-of-way shall specifically provide for that exclusion, and said adjoining property owner shall not share in the ownership of the right-of-way.

### Section 15. Enforcement and Penalties

- A. Any person, firm, corporation or other organization, which violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any provision of this Ordinance, shall be fined upon conviction not more than five hundred dollars (\$500) together with the costs of prosecution, or shall be punished by imprisonment in the County Jail for not more than thirty (30) days for each offense, or may be both fined and imprisoned as provided herein in the discretion of the court. Each and every day during which such violation continues shall be deemed a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the provisions of this Ordinance.
- B. If a violation occurs, the Township shall notify the party or parties in writing that the violation must be corrected within ten (10) days of receipt of the notice.
- C. The Township Board, any member thereof, or the Prosecuting Attorney of the County of St. Clair may institute injunctive proceedings to prevent or enjoin any violation of the provisions of this Ordinance. The rights and remedies provided herein are cumulative and in addition to other remedies provided by law.

### Section 16. Validity

This Ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence, and clause thereof irrespective of that fact that any one or more parts, section, subsections, phrases, sentences or clauses be declared invalid.

#### Section 17. Relationship to Other Laws and Ordinances

Whenever regulations or restrictions imposed by this Ordinance are either More or less restrictive than regulations or restrictions imposed by governmental authority through legislation, rule or regulation, the more restrictive regulations or those which impose higher standards shall govern.

#### Section 18. Repeal Of Conflicting Ordinances.

Any previous Lynn Township Private Road Ordinance is hereby repealed in its entirety.

#### Section 19. Adoption. Effective Date

- A. Adoption. This ordinance was adopted by the Lynn Township Board at a meeting thereof held on
- B. This Ordinance shall take effect on March 5, 2003, thirty (30) days following publication of a notice of adoption, as provided by law.

#### **Certification of Township Clerk**

I, Annette Ferrett, Lynn Township Clerk, hereby certify that the foregoing is a true copy of the Lynn Township Private Road Ordinance adopted by the Township Board on January 8, 2003, by the following vote:

Ayes: Kalbfleisch, Delia, Ferrett, Mandeville

Nays:

Absent: Jonkman

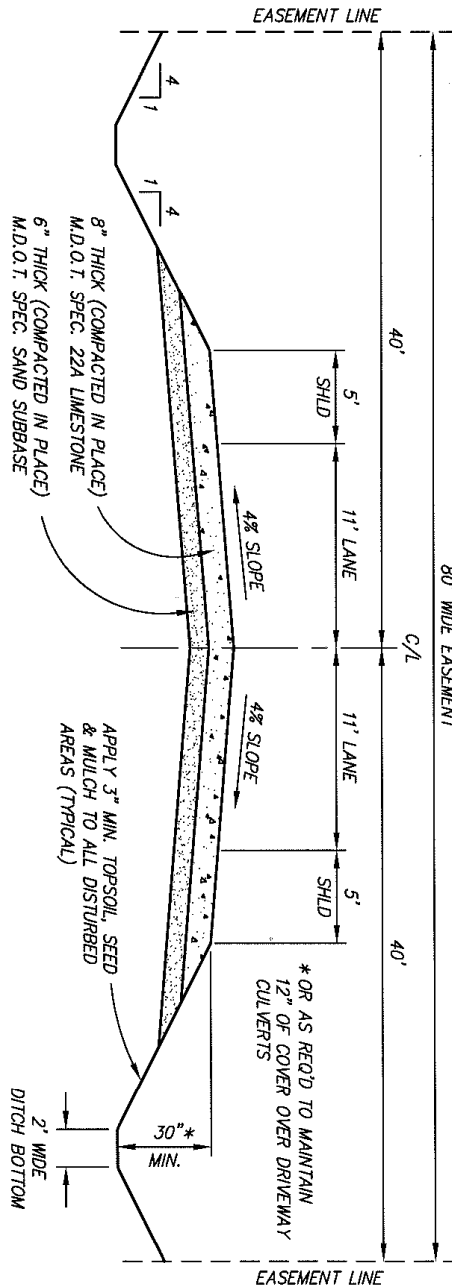
Motion: by Mandeville, 2<sup>nd</sup> by Kalbfleisch

Annette Ferrett  
Lynn Township Clerk

Lynn Township ordered notice of adoption and summary to be published in the newspaper on February 5, 2003. A true copy of the above ordinance may be inspected or purchased at the offices of the Township Clerk during regular business hours.

**LYNN TOWNSHIP  
SINGLE FAMILY  
PRIVATE ROAD TYPICAL CROSS SECTION**

NOT TO SCALE



FILE: LYNN-XSECT



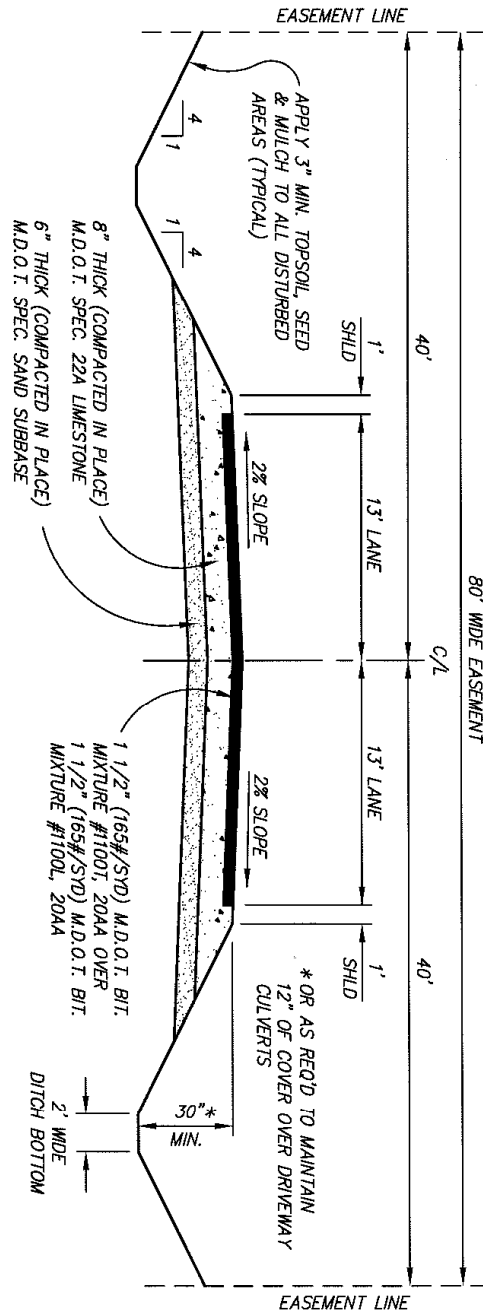
DRAWN BY  
**ROWE INCORPORATED**  
128 N. Saginaw St. Lapeer, MI. (810) 664-9411

DRAFTING: MCC

JOB# F001

PREPARED FOR  
LYNN TOWNSHIP  
SINGLE FAMILY  
PRIVATE ROAD TYPICAL CROSS SECTION





LYNN TOWNSHIP  
 MULTIPLE FAMILY & MOBILE HOME  
 PRIVATE ROAD TYPICAL CROSS SECTION  
 NOT TO SCALE

FILE: LYNN-XSECT



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