

**RESOLUTION NO. 14-05**

**A RESOLUTION ADOPTING 2014 LYNDON TOWNSHIP PRIVATE ROADS ORDINANCE**

At a regular meeting of the Lyndon Township Board, Washtenaw County, Michigan, held at the Lyndon Township Hall, 17751 N. Territorial Road, Chelsea, MI 48118, on the 10th day of June, 2014, at 7:00 p.m.

PRESENT: Marc Keezer, Linda Reilly, Mary Jane Maze, John Francis, Robert Mester

ABSENT: None

The following preamble and resolution were offered by Francis and seconded by Keezer.

WHEREAS, the Township Ordinance Act, MCL 41.181 *et seq.*, as amended, authorizes the Township Board to adopt and amend ordinances that regulate the public health, safety, and general welfare; and

WHEREAS, the Township Board has previously determined that it is in the best interest of the public health, safety, and general welfare of persons and property to adopt regulations related to the construction, improvement, extension, relocation, and use of private roads; and

WHEREAS, the Township Board in 2011 adopted an ordinance regulating private roads (2011 Private Road Ordinance) that it believed was in the best interest of the public health, safety, and welfare of the Township's residents; and

WHEREAS, upon further reflection and evaluation, the Township Board believes that 2011 Private Road Ordinance should be amended in certain ways to further the public health, safety, and welfare of Township residents;

WHEREAS, the Township Board believes that the amended private roads ordinance that is attached to this Resolution as **Exhibit A** should be adopted because it is in the best interest of the public health, safety, and welfare of the Township's residents.

**THEREFORE**, the Township Board resolves as follows:

1. The Township adopts Ordinance No. 2014-02, the 2014 Lyndon Township Private Roads Ordinance (the "Ordinance") that is attached as **Exhibit A**.
2. The Ordinance must be filed with the Township Clerk.
3. The Township Clerk, per MCL 41.184, must publish either a true copy or summary of the Ordinance in a newspaper of general circulation in the Township within 30 days after the Township approves the Ordinance.
4. Any resolution that conflicts with this Resolution is repealed upon the effective date of the Ordinance.

A vote on the above Resolution was taken and was as follows:

ADOPTED:

YEAS: Mester, Francis, Keezer, Maze, and Reilly

NAYS: None

STATE OF MICHIGAN                     )  
  )  
COUNTY OF WASHTENAW            )

I, the undersigned, the duly qualified and acting Township Clerk of the Township of Lyndon, Washtenaw County, Michigan, CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Township Board of said Township at a regular meeting held on the 10th day of June, 2014.

  
Linda Reilly, Township Clerk

**EXHIBIT A**  
**LYNDON TOWNSHIP**  
**ORDINANCE NO. 2014-02**  
**2014 PRIVATE ROADS**  
**ORDINANCE**

**An Ordinance to protect the public health, safety, and welfare by establishing regulations relating to the location and design of private roads; to establish minimum standards and specifications to construct private roads; and to establish review and approval procedures for private roads; enacted under 246 PA 1944, as amended (now MCL 41.181 *et seq.*).**

**THE TOWNSHIP OF LYNDON ORDAINS:**

**Section I. Title.**

**This Ordinance is known and cited as the "2014 Lyndon Township Private Roads Ordinance."**

**Section II. Purpose and Preamble.**

The Township is authorized by Public Act 246 of 1945, as amended (now MCL 41.181 *et seq.*) to adopt ordinances regulating the public health, safety, and general welfare of persons and property, and to provide for penalties for violating ordinances such as this Ordinance. This Ordinance is adopted in the interest of public safety and is designed to promote the general peace, health, safety, and welfare of the residents of Lyndon Township.

The purpose of this Ordinance is to regulate the construction, maintenance and use of new and existing private roads within the Township; the use thereof by traffic; the administration and enforcement thereof; to set fees to defray the administrative and enforcement costs incident thereto; to provide procedures for review and appeal, and to promote and protect the public health, safety and welfare. It is further the purpose of this Ordinance to encourage property owners to make use of private roads to prevent additional curb cuts on public roads, and to ensure that private roads are maintained by the private property owners who own and use the road.

The Lyndon Township Board hereby finds that unobstructed, safe, and continuous access to lots and parcels of real estate is necessary to promote and protect the health, safety, and welfare of the public through emergency, police and fire services. The Lyndon Township Board further finds that such access is necessary to insure that such services can safely and quickly enter and exit private property at all times. The Lyndon Township Board further finds that access to the interior of various

sections within Lyndon Township should be promoted through the orderly development of the Township. Such access should meet minimum standards and specifications to permit the subsequent upgrading and dedication of such access rights of way by the Washtenaw County Board of Road Commissioners or other municipal corporations when public dedication is desirable or required. The procedures, standards and specifications hereinafter set forth are determined to be the minimum procedures, standards and specifications necessary to meet the intent of this Ordinance.

### **Section III. Scope of Ordinance.**

The provisions of this Private Road Ordinance apply to the creation, construction, extension, improvement and maintenance of private roads.

### **Section IV. Definitions.**

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- 1). "Applicant:" A person who holds a legal interest in land and who submits an application seeking approval for a private road on the land.
- 2) "As-built drawings:" Approved private road drawings that are revised to show actual constructed locations and elevations of road and any utility structures and inverts.
- 3). "Class A Private Road:" A private road designed to serve twenty (20) or more single- family residential lots, or has the potential to be extended to serve a total of twenty (20) or more single- family residential lots, or any combination of two-family residential lots with single family lots that total more than twenty (20) units. The road may also serve any combination of residential and non- residential uses.
- 4). "Class B Private Road:" A private road designed to serve seven (7) to nineteen (19) single- family residential lots or designed to serve any combination of two-family residential lots and single- family residential lots that total between seven (7) and nineteen (19) family units.
- 5). "Class C Private Road:" A private road designed to serve three (3) to six (6) single-family residential lots or any combination of two-family residential lots and single-family residential lots that total between three (3) and six (6) family units.
- 6). "Easement:" a grant of one or more property rights by a property owner to another for the other's use.

- 7). "Exclusive Access Easement:" An access easement used exclusively by one single family residence.
- 8). "Private Road:" any road or thoroughfare for vehicular traffic that the Washtenaw County Road Commission or State of Michigan has not accepted for maintenance, and which is contained within a private road easement that is privately owned and maintained and which provides access to three (3) or more dwelling units or parcels.
- 9). "Private Road Easement:" an easement granted exclusively for private access to 2 or more dwelling units and which contains or is intended to contain a private road, including a private road created by a site condo master deed.
- 10). "Recordable Form:" For purposes of this Ordinance, this term shall apply to an Easement Statement and Easement Maintenance Agreement(s) which are legally binding and which are written in a form so as to be recordable with the Washtenaw County Register of Deeds.
- 11). "Improved:" the process of improving the road surface with gravel aggregate or a hard surface such as concrete or asphalt.
- 12). "Shared Access Drive." A driveway approved by the Township Engineer that is privately owned and maintained and provides access to two (2) dwelling units or parcels.
- 13). "Shared Access Drive Easement." An easement granted exclusively for private access to two (2) dwelling units which shall include a maintenance agreement and be recorded on both deeds.

## **Section V. General Requirements**

- 1). All lots must abut on a public road or private road for an uninterrupted distance equal to the minimum lot width specified for the district in which it is located.
- 2). Land located within a new private road easement shall not be counted in determining compliance with lot area and lot width requirements.
- 3). **Conveyance of Interest in Land Abutting a Private Road.** Whenever an owner of land in the Township sells or otherwise grants an interest in land that fronts on or is served by a private road, or accepts any offer to purchase an interest in the land, the owner shall provide notice, in recordable form, to the purchaser that the land abuts a private road. This notice shall:

- a) Explain the maintenance, care, and other responsibilities concerning the private road.
- b) Explain that the maintenance, care, and other responsibilities concerning the private road shall not be the responsibility of the Township, Washtenaw County Road Commission, State of Michigan, or any other governmental entity.
- c) Explain that the purchaser shall assume all responsibilities immediately upon purchase of the land that fronts on or is served by a private road.
- 4). Parcels with access to both a private road and a public road shall be accessed from the private road only, unless the Township Board finds that, because of topography, site distance, interference with utilities or natural features, or other reason not the fault of the property owner, that the public road affords more efficient or safer access.

## **Section VI. Application Requirements**

- 1). No construction shall begin on any private road until a permit has been issued, on forms provided for that purpose by Lyndon Township, and following compliance with the requirements as set forth in this Ordinance. This requirement applies to all new construction, or extensions of a private road.
- 2). Private Road. A private road may be approved by the Township Board. Twelve (12) copies of an application for a permit shall be delivered to the Zoning Administrator and filed with the Township Clerk at least thirty (30) days before the Township Board meeting at which the proposal is proposed to be reviewed. No application shall be accepted until all of the following information is supplied, unless waived by the Zoning Administrator:
  - a) A completed application, on a form supplied by the Township.
  - b) All fees required by the Township, as determined by the Township Board in the Township's then-effective fee schedule.
  - c) A set of completed plans, prepared and sealed by a civil engineer registered in the State of Michigan, which includes all required information. The Zoning Administrator may waive the requirement of a separate set of road plans only where the required road construction information is incorporated into the overall site plan of a development.
  - d) The names and addresses of the current lot or parcel owners to be served by the private road.

e) A vicinity map of a minimum scale of one inch equals two thousand feet (1"= 2,000'), showing the location of the private road in the Township, including any access roads and cross streets, road names, a scale and a north arrow.

f) Existing topography at one (1) foot contour intervals for the portions of the site sufficient to determine drainage from the private road easement to a suitable storm water outlet. Elevations shall be based on the most current United States Geological Survey (USGS) data.

g) Proposed improvements (including but not limited to roads, sewers and ditches) shown in the plan and profile indicating all materials, grades, dimensions and bearings in compliance with the standards set forth in this Ordinance.

h) All existing and proposed grades, the location of all existing and proposed drainage facilities, the location of existing and/or proposed utilities and structures, other structures, physical and natural features adjacent to such improvements, and any connections to existing public and private roads.

i) Soil borings within the proposed route of the road. Existing tree coverage and wetland areas within fifty (50) feet of either side of the centerline of the proposed roadway (for a total of one hundred (100) feet shall be included.

j) The location of existing buildings on the lots or parcels being served or intended to be served by the private road as well as any existing building or structures in or adjacent to any proposed road easement.

k) The existing or proposed location of public and/or private utilities and easements, such as gas, electric, water, sewer, telephone, cable television, etc.

l) A complete statement of all terms and conditions of the proposed road easement, including copies of all Easement Document and Easement Maintenance Agreement(s), submitted in accordance with the requirements of this Private Road Ordinance. The easement and maintenance agreement(s) shall be in recordable form, but subject to review and revision per this Ordinance.

m) A letter from a Michigan licensed attorney stating that the Easement Document and the Easement Maintenance Agreement(s) meets all county, state, and federal laws.

## **Section VII. Private Road Application Review Procedures.**

1). **Staff Review.** The private road application and related plans and materials shall be reviewed by the Township planner and engineer. A private road that intersects a public road shall require review and approval of the intersection by the Washtenaw County Road Commission. A private road that intersects a state trunk line shall require review and approval of the intersection by the Michigan Department of Transportation. The applicant shall be responsible for application and coordination of approvals from other agencies. All permits, reviews and recommendations shall be forwarded in writing to the Township Board.

2). The Lyndon Township Board shall have the authority to approve or deny applications for access easement permits, private road applications, related plans and materials. No other permit issued by any Township Official or body, including the Zoning Administrator, Planning Commission, Zoning Board of Appeals, Chelsea Area Construction Authority or Washtenaw County Official or Board, including the Washtenaw County Building Inspector, shall be a substitute for such access easement permits, private road applications or related plans and materials. If a private road application, related plans or materials are necessary under the requirements of the Lyndon Township Zoning Ordinance or any other Ordinance, the Township Board shall refer a "Class A" road and may refer a "Class B" or "Class C" road application to the Planning Commission and/or other appropriate body for review or comment. If the facts do not establish that the easement and/or roadway conforms to the standards and specifications of this Ordinance, the Township Board shall not grant an access easement permit or private road permit. In the approval of any access easement permit or private road application, the Township Board shall impose such conditions as it deems necessary to meet the intention and to achieve the objectives of this Ordinance. The breach of any such condition shall automatically invalidate any permits issued.

3). The applicant shall make such deposits to the Township as required by the *Lyndon Township Schedule of Fees*.

4). **Expiration of Approval.** If the construction, including the removal of vegetation and/or soil disturbance, of the private road does not commence within eighteen (18) months of final approval, or if construction has not been completed within twelve (12) months after it has commenced, the private road approval shall become null and void and a new application shall be required. Before the end of the seventeenth (17th) month of the private road approval, an applicant may request in writing to the Township Board for a twelve (12) month extension of a private road approval. The Township Board may grant the extension if it finds that the approved site plan adequately represents current conditions and the plan conforms to current Ordinance standards.



## **Section VIII. Private Roads -- Design and Construction Requirements.**

- 1). Compliance Required. It shall be unlawful for any person, association, organization or corporation to create, establish or build a private road within the Township, unless it is constructed in accordance with this Ordinance and current Washtenaw County Road Commission Standards for public roads unless otherwise provided for in this ordinance. Township standards apply when they are in conflict with Washtenaw County Road Commission Standards.
- 2). The Applicant is responsible for obtaining any necessary permits from other governmental agencies prior to issuance of a permit under this Ordinance.
- 3). The private road easement shall have a width of sixty-six (66) feet.
- 4.) A turning area shall be provided at the end of a dead-end access easement which shall be sufficient to permit the quick and unobstructed change in direction of police, fire and other emergency vehicles. The turning circle, when used, shall have a minimum radius of seventy five (75) feet for the easement and a minimum radius of fifty (50) feet for the roadway surface. A "T" type turn- around may be substituted for a turning circle for Class "C" private roads, if the applicant can show that it will meet the above standards for a turning circle.
- 5). Private roads shall be named and, upon construction of the road, appropriate signs shall be erected to identify the road name. Names of private roads shall be approved by the Washtenaw County Road Commission.
- 6). All private roads shall be properly drained. Ditches shall be of sufficient width, depth, and grades to provide adequate and positive drainage.
- 7). Class "A" Private Road.
  - a) A Class "A" private road shall be improved with a hard surface meeting Washtenaw County Road Commission current pavement cross section requirements.
  - b) The road shall be designed to connect with a public road or another Class "A" private road.

c) The private road shall be designed so that it has a reasonable probability of dedication as a public road at a future time.

d) The maximum length shall be three thousand, five hundred (3,500) feet, measured on the roadway centerline from the right-of-way of the public or private road it intersects with, to either the right-of-way of another intersecting roadway with access to a public street or road, or to the center of a cul-de-sac. Any Class "A" Private Road that exceeds this length shall have at least one (1) additional access to a public street or road, or shall be upgraded to public street standards and dedicated to Washtenaw County.

e) The road may also serve two (2) or more nonresidential uses, or any combination of residential and non-residential uses, not including agricultural uses and farm buildings.

8). Class "B" Private Road.

a) A Class "B" private road shall be improved with processed gravel, limestone, or paved and shall have a minimum width for vehicular traffic of twenty-two (22) feet. The above aggregates shall meet the Road Commission's roadway standards, with the exception that the aggregate base may be M.D.O.T. Class 23A as opposed to the 22A required as a base on paved roadways.

Class "B" cross-section	
Surface Material	Base Material
If paved – 3" of MDOT 13A Hot Mix Asphalt, 22 feet wide	10 inches of MDOT 21AA, 21A or 23A, 24 feet wide
If gravel – 6" of MDOT 21AA or 23A, 22 feet wide	8" inches of MDOT 21AA, 21A or 23A, 24 feet wide

Required sub-base depth will vary depending upon native soil types.

b) The roadway of the private road shall not exceed a length of three thousand five hundred (3,500) feet, measured on the roadway centerline from the right-of-way of the public or private road it intersects with, to either the right-of-way of another intersecting roadway, or the center of a cul-de-sac. Any Class "B" Private Road that exceeds this length shall have at least one (1) additional access to a public street, upgraded to a Class "A" Private Road, or shall be upgraded to public street standards and dedicated to Washtenaw County.

9). Class "C" Private Road.

a) A Class "C" private road shall be improved with processed gravel, limestone, or paved and shall have a minimum width for vehicular traffic of twenty (20) feet. The above aggregates shall meet the Road Commission's roadway standards, with the exception that the aggregate base may be M.D.O.T. specification 23A as opposed to the 22A required as a base on paved roadways.

Class C cross-section	
Surface Material	Base Material
If paved – 3" of MDOT 13A Hot Mix Asphalt, 20 feet wide	8 inches of MDOT 21AA, 21A or 23A, 22 feet wide
If gravel – 6" of MDOT 21AA or 23A, 20 feet wide	6" inches of MDOT 21AA or 23A, 22 feet wide

Required sub-base depth will vary depending upon native soil types.

b) The roadway of the private road shall not exceed a length of three thousand five hundred (3,500) feet, measured on the roadway centerline from the right-of-way of the public or private road it intersects with, to either the right-of-way of another intersecting roadway, or the center of a cul-de-sac. Any Class "C" Private Road that exceeds this length shall have at least one (1) additional access to a public street, upgraded to a Class "B" Private Road, or shall be upgraded to public street standards and dedicated to Washtenaw County.

#### 10). Construction administration and Inspections

a) A pre-construction meeting shall be held a minimum of two weeks prior to the start of construction. The developer's contractor shall be present. Copies of all permits will be submitted to the Township.

b) The applicant shall notify the Township forty-eight (48) hours prior to commencement of construction to facilitate inspection at various stages of construction by the Township engineer. Inspections conducted by the Township engineer are intended to determine if the road is being constructed in compliance with the standards in this or any other Ordinance and the approved site plans. Applicant is responsible for providing density testing reports to the Township to ensure proper compaction of materials.

c) The Township may conduct spot inspections during construction, intended to determine the status of proper completion of the following work items where applicable:

- i) grade and alignment;
- ii) preliminary drainage and utility structures;

- iii) finish subgrade;
- iv) base and paving materials;
- v) bituminous or concrete parking;
- vi) curb and gutter;
- vii) compaction of subsoils; and
- viii) soil erosion and sediment control.

d) Approval of any construction phase by the Township engineer does not guarantee approval of subsequent phases or final approval of the constructed road.

e) Upon completion of the private road, the applicant or their engineer shall submit two (2) sets of "as-built" drawings to the Township Zoning Administrator and two (2) sets to the Township engineer. The Township engineer shall review the "as-built" drawings and conduct a final inspection to insure that all visible construction, including clean-up, has been satisfactory completed.

f) Final Inspection: An inspection shall be conducted by the Township engineer upon completion of the private road to ensure that the road is constructed in compliance with the requirements in this or any other Section of this Ordinance and the approved private road plans.

#### **Section IX. Exclusive Access Easement for One Single Family Residence.**

1). An individual parcel or lot which is to be improved, or which is improved, with a single family residential dwelling may be served by an exclusive permanent access easement rather than a public or private road, subject however, to the following standards and specifications:

2). An access easement permit over an exclusive easement for the use of one single family residence only shall be issued to the owner of a lot or parcel upon application to the Lyndon Township Zoning Administrator, providing that the following standards, conditions, in fact exist.

a) The access easement for one single family residence to be constructed upon any parcel shall be exclusive, that is, the easement area shall be for the use of no other parcel and no other single family residence than one single family residence on the parcel.

b) Since the Exclusive Access Easement shall serve only one single family residence, no specific width or thickness standards of the road are required. However, those providing this type of access must conform to the intent of the Ordinance with their proposed construction and must provide assured safe and continuous access for the residents, police, fire, and other emergency vehicles.

- c) Minimum width of easement to be 66 feet.
- d) A reasonable degree of turnaround must be provided, either in the easement or property served.
- e) The connection between the Exclusive Access Easement and a public street shall conform to the standards and specifications of the Washtenaw County Road Commission and the applicant shall obtain a driveway permit issued by said Road Commission prior to the approval of any Exclusive Access Easement by the Lyndon Township Zoning Administrator. Any connection between an Exclusive Access Easement and an approved Private Road shall conform to the specifications contained in Section 8.0 above, and the applicant shall secure the approval of the Lyndon Township Zoning Administrator prior to the connection.

#### **Section X. Shared Residential Driveways**

1). Two (2) parcels or lots which are to be improved, or which are improved, with a single family residential dwellings may be serviced by a shared residential access easement rather than a public or private road, subject however, to the following standards and specifications:

2). An access easement permit over an exclusive easement for the use of the shared residential drive only shall be issued to the owners of the lots or parcels upon application to the Lyndon Township Zoning Administrator, and review by the Township Engineer providing that the following standards, conditions, in fact exist:

a) Since the Shared Residential Driveway shall only serve two (2) single-family residences, no specific width or thickness standards of the drive are required. However, those providing this type of access must conform to the intent of the Ordinance with their proposed construction and must provide assured safe and continuous access for the residents, police, fire and other emergency vehicles.

b) A minimum width of the easement must be 66 feet.

c) A reasonable degree of turnaround must be provided, either in the easement or the properties served.

d) A copy of all easement documents and maintenance agreement shall be provided in accordance with Section XI. Private Road Easement Agreement and Section XII. Easement Maintenance Agreements. All documents should be provided in recordable form so as to be recorded on both properties deeds.

e) The connection between the Shared Residential Driveway and a public street shall conform to the standards and specifications of the Washtenaw County Road Commission and the applicant shall obtain a driveway permit issued by said Road Commission prior to the approval of any Shared Residential Driveway Easement by the Lyndon Township Zoning Administrator. Any connection between a

Shared Residential Driveway and an approved Private Road shall conform to the specifications contained in Section 8.0 above, and the application shall secure the approval of the Lyndon Township Zoning Administrator prior to the connection.

#### **Section XI. Private Road Easement Agreement.**

1). Easement Document. The applicant shall submit a private road easement, in recordable form, meeting the following minimum requirements:

- a) A detailed legal description of the easement with a minimum width of 66 feet.
- b) A provision providing for unrestricted access for emergency and public vehicles used in performance of necessary public services.
- c) A description of the method by which the initial costs of construction will be paid. If more than one (1) property owner will share in the cost of initial construction, then the Easement Document shall specify the formula that will be used to apportion the costs.
- d) A description of the method for apportioning costs to subsequent users for any subsequent extensions or improvements to the road.
- e) Language prohibiting any property owner served by the private road from restricting or interfering with the normal ingress or egress of other property owners (and their families, guests, invitees, trades people, and others traveling to or leaving from any of the properties served by the road); and emergency and public vehicles.
- f) A statement that the Township Board may encourage that future abutting private roads or public roads connect to the existing private road.

2). A Private Road Easement shall be submitted to the Township Zoning Administrator and reviewed by the Township Attorney. After making any necessary revisions, the Private Road Easement shall be recorded by the Applicant with the County Register of Deeds. Proof of this recording shall be submitted to the Township Zoning Administrator prior to any land use permit being issued or construction of the private road, including the removal of vegetation and/or soil disturbance.

## **Section XII. Easement Maintenance Agreements.**

1). Continued maintenance of private roads and road drainage facilities shall be the responsibility of the property owner(s) served by the private road. Prior to issuance of land use permits or construction permits, all property owner(s) shall enter into a legally binding Easement Maintenance Agreement, which shall be submitted in recordable form.

2). At a minimum, the Easement Maintenance Agreement shall contain the following:

a) Provisions for the establishment of a Private Road Association, which shall be responsible for the maintenance of the private road. The Association shall consist of all owners of property that are served by the private road.

b) Language to specifically address the liability and responsibility of the Association and the parties to the agreement to maintain the private road according to the specifications of this Ordinance, including, but not limited to, the responsibility of removing snow, repairing and/or grading the private road(s) and maintaining proper drainage.

c) A statement that the Agreement runs with the land, and shall include the requirements of this Ordinance pertaining to notification of future owners of their maintenance responsibilities.

d) The Agreement shall acknowledge that the road surface and easement area are privately-owned and therefore all construction and improvements within the easement will be contracted and paid for by the Private Road Association.

e) Methods of Apportioning Maintenance Costs

i) Original Users: The Easement Maintenance Agreement shall describe the method by which maintenance costs and costs of improvements will be apportioned by the original users.

ii) Apportioning Costs to Subsequent Users: The Easement Maintenance Agreement shall describe the method for apportioning to subsequent users a proportionate share of the maintenance costs and costs of improvements.

iii) The Easement Maintenance Agreement shall indicate that the method of apportioning costs applies whether the subsequent users are a result of: (1) extension of the private road beyond its initial length, or (2) connection to another private road, or (3) division of property that is to be served by the private road.

f) Continuing Obligation. The Easement Maintenance Agreement shall specify that the obligation to maintain the easement shall be an obligation running with the land to be served by the private road, and shall be binding upon the owner(s) of such land and their heirs, successors, and assigns.

3). Township Responsibility. The provisions in the Easement Maintenance Agreement shall in no way be construed to obligate the Township to perform regular inspections of the easement area or to provide necessary repairs or maintenance.

4). The Township may, but has no obligation to intercede in the maintenance of a private road if a potential health or safety hazard could be created or if the road is not being maintained in accordance with Township approvals or Township standards. Enforcement of the maintenance agreement shall be the responsibility of each private road association.

5). Special Assessment Provision. The Easement Maintenance Agreement shall contain a provision to permit the Township Board to authorize the repair and maintenance of any private road which is not being maintained adequately per any Township approval or applicable Maintenance Agreement (among other ways, by not allowing for safe access by users and emergency vehicles), and to assess the cost of such repair, including the cost of engineering and administration, to the owners of property served by the private road on an equal basis. The decision to authorize repair of a private road shall be at the Township Board's sole discretion in accordance with its legislative powers.

6). Maintenance Needs. The Easement Maintenance Agreement shall acknowledge the responsibilities of the Private Road Association to maintain the following: surface grading and resurfacing at regular intervals, snow and ice removal, repair of pot holes, maintenance of road drainage systems; maintenance of unobstructed vision at any intersection with another private or public road; annual dust control; and regular cutting of weeds and grass within the easement.



7). The Easement Maintenance Agreement shall be submitted to the Zoning Administrator and reviewed by the Township Attorney. After making any necessary revisions, the Easement Maintenance Agreement shall be recorded with the Washtenaw County Register of Deeds. Proof of this recording shall be submitted to the Zoning Administrator prior to any construction of the private road, including the removal of vegetation and/or soil disturbance.

8). Any lot added to a private road existing at the time of the adoption of this Ordinance shall be responsible for its fair share of the road maintenance as required by the Easement Maintenance Agreement. If the addition of new lots is not addressed by the existing agreement, or if there is no agreement, the new lot shall not be created until an Easement Maintenance Agreement is changed to acknowledge the addition of new lots or a new Agreement is created. The Easement Maintenance Agreement shall meet the requirements of this Section.

### **Section XIII. Extension and/or Improvements of an Existing Private Road.**

An existing private road that is not in compliance with current standards or the requirements of this Section may be extended, provided:

1). The private road shall be upgraded to appropriate class standards, at the direction of the Township Engineer, to safely carry the expected traffic load and provide year-round access to adjoining properties, including access by emergency vehicles. Upon approval, the aforementioned road must also meet all applicable Township, County and State road construction specifications.

2). The applicant(s) requesting such extension(s) shall assume the financial responsibility for covering the entire costs associated with the design and construction of a road extension or improvement, unless an alternate method of shared costs is developed and unanimously agreed upon as an amendment to the maintenance agreement by all existing property owners served by the private road and the applicant. The amendment shall be recorded and submitted to the Zoning Administrator before final approval of the road extension.

3). All legal and financial details regarding alternative methods of apportioning costs for the extension(s) of a private road shall be negotiated between the applicant and the existing property owners served by the road. Lyndon Township shall not be responsible for any costs for extensions or improvements made to private roads.

4). Notwithstanding the above, if the owners of a conforming private road that complies in all respects with the requirements of this Ordinance opt to upgrade or improve the road, the plans, which shall in all respects conform to the requirements of this section, shall be reviewed, and upon a

recommendation of approval from the Township engineer and planner, approved administratively by the Zoning Administrator. It shall be the responsibility of the owners of the private road to show that the existing road is in complete conformance with the requirements of this Ordinance.

#### **Section XIV. Additional Parcels to an Existing Non-Conforming Private Road or Conforming Private Road.**

Lands directly abutting an existing non-conforming private road or conforming private road, if divided in accordance with Chapter 34 and the Michigan Land Division Act (1997 P.A. 87, as amended), may obtain access to the private road subject to the following provisions:

- 1). If the parcel is located on a conforming Class "A" private road, the parcel may be added, subject to any additional conditions and requirements as per the Michigan Land Division Act, 1997 P.A. 87, as amended.
- 2). If the parcel is on a non-conforming Class "A" private road, and it is a split from an existing parcel served by the road, it may be split upon review and approval of access by the Fire Department and Zoning Administrator.
- 3). If the parcel is on a non-conforming or conforming Class "B" private road and the result of the land division is such that the number of parcels served by said road is increased to a total of twenty (20) parcels or more, the parcel may be added if the entire road is extended and/or improved to a conforming Class "A" road, in accordance with this Ordinance.
- 4). If the parcel is on a non-conforming Class "B" private road and the result of the land division is such that the number of parcels served by the road remains at or below a total of nineteen (19) parcels, the parcel may be added if it is a split from an existing parcel served by the road, and it has received review and approval of access by the Fire Department and Zoning Administrator.
- 5). If the parcel is on a conforming Class "B" private road and the result of the land division is such that the number of parcels served by said road remains at or below a total of nineteen (19) parcels and no extension or improvement to the existing road is required, the parcel may be added.
- 6). If the parcel is on a non-conforming or conforming Class "C" private road and the result of the land division is such that the number of parcels served by said road is increased to a total of twenty (20) parcels or more, the parcel may be added if the entire road is extended and/or improved to a conforming Class "A" road, in accordance with this Ordinance. If the result of the land division is such that the number of parcels served by said road is increased to a total of more than six (6), but less than twenty (20) parcels,

the parcel may be added if the entire road is extended and/or improved to a conforming Class "B" road, in accordance with this Ordinance.

7). If the parcel is on a non-conforming Class "C" private road and the result of the land division is such that the number of parcels served by the road remains at or below a total of six (6) parcels, the parcel may be added if it is a split from an existing parcel served by the road, and it has received review and approval of access by the Fire Department and Zoning Administrator.

8). If the parcel is on a conforming Class "C" private road and the result of the land division is such that the number of parcels served by said road remains at or below a total of six (6) parcels and no extension or improvement to the existing road is required, the parcel may be added.

9). The deed to any parcels added to an existing, improved or extended private road shall be recorded as subject to the Easement Agreement and Maintenance Agreement.

#### **Section XV. Existing Streets without Easement and/or Maintenance Agreements.**

Prior to extension, or adding parcels to any existing private road approved prior to adoption of this Ordinance, which does not have a legally-enforceable easement and/or maintenance agreement conforming to this Ordinance, the owners shall submit an easement and maintenance agreement for review by the Township Attorney. The easement and maintenance agreement shall be approved and recorded prior to approval or construction of any extension or addition of parcels to the private road.

#### **Section XVI. Existing Private Roads - Appropriate Remedies.**

1). If, after appropriate investigation, the Township Engineer, the Zoning Administrator, or the Fire Chief determine that any private road has deteriorated to such disrepair that the township may not be able to supply adequate police, fire and emergency vehicle access to residences located on the private road, the Zoning Administrator shall give written notice of the violation to those property owners and any relevant Private Road Association served by the private road, if one exists.

2). If there is no reply from the property owners and/or the Private Road Association within twenty-one (21) days of notification, or repairs and corrective maintenance are not corrected or abated by the date specified, the Zoning Administrator shall request authorization from the Township Board to bring the road up to the minimum necessary to allow access by police, fire and other emergency vehicles upon inspection by the Fire Authority and Engineer, and assess owners of parcels served by the private road for the improvements according to Section 2 11.0(4) above (Special Assessment

provision), to reimburse costs incurred by the Township, as permitted by appropriate law. No public funds of the Township shall be used to build, repair or maintain the private road.

3). If the property owners respond to the Township within twenty-one (21) days of notification and request an extension of time, the Zoning Administrator shall review the information submitted with the reply. Upon finding that an extension is warranted because of unique circumstances and that an extension will not cause imminent peril to life, health or property, the Zoning Administrator may request the Township Board to extend the specified time limit to a date certain, if the Board concurs that the reply indicates that the violation shall be corrected or abated by the date certain and that all future maintenance will comply with the regulations as set forth herein.

## **Section XVII. Variances**

Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance, 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. The Township Board shall then hold a public hearing upon such application within thirty (30) days from its filing, due notice having been given to all interested parties as required by State Statute. A decision on the application shall be made within thirty (30) days after the hearing. At the hearing, any party may appear in person or by agent or attorney. The Township Board shall keep a record of the hearing and shall issue a written decision. 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 applicant to comply with the conditions shall void the grant of variance from the Ordinance. The grant of a variance from the Ordinance shall be issued only by a vote of the Lyndon Township Board of Trustees. It is the intent of this provision of the Ordinance that easements and rights-of-way which have been established, recorded, constructed, or maintained prior to the date of adoption of this Ordinance and which cannot be brought into conformity with the provisions of this Ordinance without unnecessary hardship or where such rights-of-way and easements by reason of soil conditions, topographical considerations or other factors cannot be brought into conformance with the Ordinance without practical difficulties, this variance shall be granted and conditions attached to the variance to facilitate the upgrading of such prior nonconforming easements and rights-of-way as is reasonable and practical to the standards of the Ordinance.

Where there is a reasonable concern for the public health, safety and general welfare, the Township Board may require an inspection and report by either, the Fire Chief, the Zoning Administrator, or a registered civil engineer on the condition of the roadway. Said inspection shall be completed before the variance hearing.

As part of the variance application, the applicant shall make such deposits to the Township as required by the *Lyndon Township Schedule of Fees*.

#### **Section XVIII. Sanctions**

Any person who violates any of the provisions of this ordinance shall be deemed responsible for a civil infraction. Any person who violates any of the provisions of this ordinance shall also be subject to a civil action seeking appropriate injunctive or other relief as allowable by law. For violation of any provision of this Ordinance, the violator shall pay costs, which shall include all direct or indirect expenses, including attorney fees reasonably and actually incurred, engineering fees and costs, Board members', and other administrative salaries and costs, to which the Township has been put in connection with the violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan law. Each day a violation of this Ordinance continues to exist constitutes a separate violation. Any person or other entity that violates any provision of this Ordinance is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine determined in accordance with the following schedule:

1st violation within 3-year period\* \$ 50.00

2nd violation within 3-year period\* \$100.00

3rd violation within 3-year period\* \$200.00

4th or subsequent violation within 3-year period\* \$500.00

\*determined on the basis of the date of violation(s).

#### **Section XIX. Fees.**

The Township Board may establish by resolution a fee schedule setting out the fees required or permitted to be charged under this Ordinance.

#### **Section XX. Severability**

If any part of this Ordinance is invalidated, that invalidation will not affect the remainder of this Ordinance.

#### **Section XXI. Repealer.**

All ordinances or parts of ordinances – including the Lyndon Township Road Ordinance, Ordinance No. 5, adopted January 17, 1978, the Lyndon Township Private Road Ordinance No. 5, D, ' adopted

February 10, 1998, as amended; the Lyndon Township Private Roads Ordinance that the Lyndon Township Board adopted in 2011; and any other ordinance regulating private roads that the Lyndon Township Board may have adopted which conflicts with this Ordinance are repealed to the extent necessary to give this Ordinance full effect.

**Section XXII. Effective Date.** This Ordinance is effective 30 days after it (or a summary of it) is published in a newspaper of general circulation within the Township.

**ADOPTED:**

**YEAS** Mester, Francis, Keezer, Maze, Reilly

**NAYS** None

**STATE OF MICHIGAN**                    )  
  ) ss  
**WASHTENAW COUNTY**                )

I, Linda Reilly, the duly elected clerk for Lyndon Township, Washtenaw County, Michigan, do hereby certify that the foregoing is a true and complete copy of an ordinance adopted at a regular meeting of the Lyndon Township Board on June 10, 2014, and that a summary of the ordinance was published in the Sun Times News on the 25th day of June, 2014.

  
Linda Reilly, Township Clerk