

**ELMWOOD CHARTER TOWNSHIP
Private Road Ordinance**

Ordinance No. 2007- 04

AN ORDINANCE PURSUANT TO ACT 246 OF THE PUBLIC ACTS OF 1945,
AS AMENDED, TO PROVIDE FOR PRIVATE ROAD REGULATIONS AND TO
PROVIDE PENALTIES FOR VIOLATIONS THEREOF

ELMWOOD CHARTER TOWNSHIP HEREBY ORDAINS:

Section 1. Title.

This Ordinance shall be known and cited as the Elmwood Charter Township Private Road Ordinance.

Section 2. Purpose.

The purposes of this Ordinance are to regulate the design, construction, and maintenance of private roads and provide means to insure compliance with the provisions of this Ordinance. These regulations are specifically enacted to insure that:

- (a) Private roads will not be detrimental to the public health, safety, or general welfare.
- (b) Proposed private roads will not adversely affect the long-term development plans or policies of Elmwood Charter Township.
- (c) Private roads will be designed and constructed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other emergency vehicles.
- (d) Private roads will be constructed to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the Township.
- (e) Owners of lots that are served by private roads understand their responsibilities to participate in the maintenance of such roads.

Section 3. Definitions. As used in this Ordinance,

- (a) "Emergency vehicle" shall mean an ambulance, police vehicle, first responder or rescue vehicle or any fire department vehicle of the township or a fire department that provides mutual fire, rescue or first response aid to the Elmwood Township.

- (b) "Lot" means a measured portion of a parcel or tract of land, which is described and fixed in a recorded plat or condominium documents.
- (c) "Owner" means a person holding any legal, equitable, option or contract interest in a lot or parcel of land.
- (d) "Parcel" means a continuous area or acreage of land of any size, shape or nature, which is described by metes and bounds.
- (e) "Person" means an individual, firm, corporation, association, partnership, estate, trust, limited liability company, or other legal entity.
- (f) "Private Road" means a road that has not be accepted or certified by the Leelanau County Road Commission or the Michigan Department of Transportation as a public road.
- (g) "Public Road" means a road under the jurisdiction of the Leelanau County Road Commission or the Michigan Department of Transportation.
- (h) "Right-of-way" means the interest in property granting to persons the legal right to travel across and use the property of another person or persons for purposes including but not limited to vehicular travel, sanitary and storm sewers, electric and telephone lines, natural gas lines, and other public utility facilities.
- (i) "Road" means the entire width between the boundary lines of every right-of-way or easement that allows vehicular access to more than two (2) residential lots or parcels of land or to more than one (1) place of business.
- (j) "Road surface" means that portion of the right-of-way between the shoulders that is designed specifically for vehicular travel.
- (k) "Shoulder" means that portion of the road contiguous to the road surface generally extending the contour of the road surface and not designed for vehicular travel, but constructed or maintained for the temporary accommodation of disabled or stopped vehicles permitted on the road surface.
- (l) "Township Engineer" means the person previously designated or regularly used by the Township as its civil engineer or a civil engineer authorized to practice in the State of Michigan who has been selected by the Township Board to act as the Township Engineer for the purposes of this Ordinance.
- (m) "Minimum unobstructed road width" means the sum of the road surface width plus the width of both shoulders.

Section 4. Authority/Application Requirements/Review Procedures.

- (a) **Authority.** Private roads shall be permitted provided they conform to the requirements of this Ordinance. No private road shall be constructed, extended or relocated after the effective date of this Ordinance unless an application for a private road permit has been completed and filed with the zoning administrator and subsequently approved in accordance with the procedures of this Ordinance.

- (b) **Application Requirements.**
 - (1) **Application.** An application for a private road permit shall be submitted on forms provided by the zoning administrator.

 - (2) **Plans and Agreements Required.** Seven (7) sets of the following materials shall be submitted to the zoning administrator at least forty-five (45) days prior to the date the application will be reviewed by the Township Engineer. All plans shall be sealed by a registered professional engineer licensed in the State of Michigan.
 - (A) **Construction Plans.** Detailed construction plans shall be provided at a scale of 1" = 100' (one inch equals one hundred feet) or larger and shall include the following:
 - (i) Detailed survey drawings showing the right-of-way, the proposed road location, road names, and all parcels being serviced by the private road.
 - (ii) Existing conditions, including topography at two (2) foot contour intervals, existing and proposed drainage courses and facilities and any structures that may be affected by the proposed road.
 - (iii) The proposed gradients of all roads, a grading plan illustrating cuts and fills, the location of drainage facilities and structures, and other pertinent information as may be requested by the Township.
 - (iv) Utility easements shall be shown on the plan and such utility easements shall include the legal authority to place sanitary and storm sewer, water, gas, telephone, electric, cable TV, and other public utilities within the utility easements.
 - (v) Design specifications for roadbeds, shoulders, ditch profiles and slope requirements meeting the standards of Figure 3, typical road cross sections.

(B) **Drainage Plan.** A drainage plan satisfying the requirements of applicable Leelanau County ordinances and approved by the Leelanau County Soil Erosion and Sedimentation Control Officer shall be prepared by a registered professional engineer licensed in the State of Michigan. The drainage plan, as it pertains to roads, shall indicate the manner in which surface drainage is to be discharged. This will require making use of existing ditches, natural watercourses, or constructing tributaries thereto. A drainage easement twenty (20) feet or more in width shall be provided within or adjacent to the proposed private road when the drain crosses private property.

(C) **Deed Restrictions & Road Maintenance Agreement.**

- (i) When a private road will provide vehicular access to lots or parcels that have not yet been divided or created, proposed deed restrictions shall be provided to the zoning administrator. When the private road will provide vehicular access only to existing lots or parcels, a proposed road maintenance agreement shall be provided to the zoning administrator. The deed restrictions or road maintenance agreement shall be in recordable form and shall be covenants that run with the land and bind all future owners of lots or parcels. A final private road permit shall not become effective until the zoning administrator has received completed deed restrictions or a road maintenance agreement that has been recorded with the Register of Deeds. The deed restrictions or road maintenance agreement shall include requirements:
- (a) That all decisions regarding road improvements and maintenance be approved by a majority vote of those having ownership in lands that are served by the private road.
 - (b) That the owner of each parcel be responsible for payment of the costs apportioned to his or her parcel.
 - (c) That the owners have the right to commence legal or equitable action against a delinquent parcel owner or parcel owners to foreclose a lien or otherwise collect the sums owed.
 - (d) That the agreement be recorded in the Leelanau County Register of Deeds Office and run with the land and bind and benefit the parcels, and the owners thereof, in perpetuity.

- (e) That the owner or owners of the land served by the road be responsible to maintain the private road and drainage easement in accordance with the requirements of this Ordinance.
- (f) That a statement indicating that the owners have not requested the Leelanau County Road Commission to accept the road as a public road. As such, the road shall be private and the county road commission shall have no obligation to maintain the road in any manner. This provision, however, shall not prevent the future upgrading of the road to county road commission standards nor preclude a request in the future that the road be taken over by the county road commission.

(ii) **Township Attorney Review.** The deed restrictions or road maintenance agreement shall be reviewed and approved by the township attorney for compliance with this Ordinance. Following approval by the township attorney, the deed restrictions or road maintenance agreement shall be recorded with the Leelanau County Register of Deeds.

(c) **Application Review Procedures.**

- (1) **Township Zoning Administrator & Planner.** The zoning administrator shall review the application and plans for a private road to determine whether they are complete. The zoning administrator shall review the application and plans for completeness. In the event the application is incomplete, the zoning administrator shall inform the applicant of any deficiencies in writing. The township planner shall review the application and plans and may provide recommendations regarding route location and continuity with the existing road network in the area, traffic patterns and traffic circulation.
- (2) **Agency Review.** When it is determined that the application and plans are complete, the zoning administrator shall transmit one (1) copy of the application and plans to each of the following agencies impacted or affected by the proposed private road for their review and comment:
 - (A). Leelanau County Road Commission.
 - (B). Leelanau County Health Department.
 - (C). Leelanau County Drain Commissioner.

- (D). Leelanau County Soil Erosion Control Office.
- (E). Superintendent of Schools for the School District(s) in which lands to be served by the proposed private road are located.
- (F). Elmwood Charter Township Fire Chief.
- (G). Leelanau County Sheriff Department.

The zoning administrator shall forward a copy of the application and plans to the Michigan Department of Transportation (MDOT) if the private road connects to a state highway. Comments and recommendations from the above agencies shall be provided to the Township Engineer prior to the date of the meeting at which the application is to be reviewed. If no comments or recommendations are received from the above agencies within thirty (30) days of the date the application and plans were transmitted, then it shall be deemed that the agency which does not respond has no objections to the proposed private road.

- (3) **Approval by Township Engineer.** After reviewing all of the materials and recommendations submitted, the Township Engineer shall approve, or approve with conditions, the application for a private road if it finds that all of the standards of Section 5 have been satisfied. If approval is granted, a preliminary private road permit shall be issued by the zoning administrator. If the application is denied or if conditions are issued by the Township Engineer, the reasons for the denial or any conditions shall be given in writing to the applicant. The Township Engineer shall be deemed a public official when acting pursuant to this section. The approval by the Township Engineer merely constitutes permission to build the private road pursuant to the approved plans and conditions, if any.
- (4) **“As Built” Plans.** Upon completion of the private road or any extension of a private road, the applicant shall submit “as built” plans to the zoning administrator which have been certified by a civil engineer, who is registered in the State of Michigan, as accurately depicting the private road or any extension and which shall show that all construction has been consistent with approved plans and all conditions, if any.
- (5) **Inspections.** The zoning administrator may arrange for inspections by the zoning administrator and/or with a consulting engineer during construction and upon completion of the private road. If the township incurs costs for professional services as a result of any inspection or consultation by the zoning administrator with a professional engineer, the applicant shall reimburse the township for those costs of these inspections as required by this Ordinance.

- (6) **Conditions.** When granting approval for a private road, the Township Engineer may attach conditions to the approval. The conditions may include requirements necessary to insure that public services and facilities affected by a proposed private road will be capable of accommodating increased service and facility loads caused by it, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land consistent with the Township's master plan and zoning ordinance. Conditions imposed shall meet all of the following requirements:
- (A) Be designed to protect the safety of those who will use the private road, the users of adjoining land and users of public roads to which the private road connects.
 - (B) Be necessary to insure compliance with the purposes of this Ordinance and compliance with the standards established in this Ordinance.
- (7) **Final Private Road Permit.** The zoning administrator shall issue a final private road permit upon inspection by the zoning administrator and/or the Township's Engineer and a finding that the road was constructed according to the approved plans and upon a finding by the zoning administrator that all conditions of approval that were imposed by the Township Engineer or by this Ordinance have been met. A final private road permit must be issued before land divisions may be granted or a land use permit/zoning permit may be issued.
- (8) **Failure to Perform.** Failure by the applicant to begin construction of the private road according to approved plans on file with the Township within one (1) year from the date of approval shall void the approval, and a new approval shall be required before any construction begins. The new application shall be reviewed subject to any changes made in this Ordinance regarding the standards and specifications for road construction and development. A performance bond shall be required for any new approval of a substantially similar private road.
- (9) **Notice of Easements.** All purchasers of property where a private road provides access to the premises shall, prior to closing of the sale, receive from the seller a notice of easement, in recordable form, conforming to the following:

"This parcel of land has private road access across a permanent easement which is of record and a part of the deed. This notice is to make the Purchaser aware that this parcel of land has ingress and egress over this easement only. Neither the County nor the Township has any responsibility for the maintenance or upkeep of this easement or for any improvements within this easement . This

is the responsibility of the owners of record. The United States Postal Service and the local school district are not required to traverse this private road and may provide service only to the nearest public access (Michigan Public Act 134 of 1972, as amended)."

- (10) **Permit Revocation.** The zoning administrator may seek revocation of a final private road permit by the Township Board if the zoning administrator has good cause to believe that the grounds for revocation, as described below, exist. The consideration of whether a final private road permit should be revoked shall take place at an open meeting of the Township Board and pursuant to written notice to the permit holder by the mailing of a notice of revocation via first class mail to the permit holder at the mailing address of the permit holder as provided in the application. The notice of revocation shall contain the reasons for the revocation and notice of when the proposed revocation will be considered. The notice of revocation shall be mailed at least 20 days before the date of the meeting at which revocation will be considered. The Township Board may revoke a private road permit upon a finding of any of the following: the final private road permit was erroneously issued, any conditions imposed by this Ordinance or by the Township Engineer were not met, the private road was not constructed according to the plans that were approved by the Township Engineer, all required fees or reimbursements for charges have not been paid to the township or that the private road application contained false or inaccurate information that was material to initial approval. The Township Board may revoke the permit, continue the permit or continue the permit with conditions. Conditions may be imposed as are necessary to insure compliance with this Ordinance or any previous conditions that were imposed on the permit.
- (11) **Appeal to Township Board.** The applicant or an interested party may appeal the Township Engineer's initial decision to grant, deny, grant with conditions an application for a private road or to grant variations for the private road. An appeal application must be filed with the township clerk within 14 days from the date of the initial decision regarding the private road application. The appeal shall be considered at a regulator or special meeting. Notice of the meeting shall be sent by at least first class mail to the applicant and appellant, if different from the applicant. If the applicant is not the appellant, then the applicant shall also be sent a copy of the appeal application. The appeal shall be based on information compiled by the Township Engineer and the conclusions of the Township Engineer (called the "record") and shall not be a new hearing. The Township Board shall affirm the decision of the Township Engineer unless the Township Board finds that the Township Engineer's decision was not supported by competent, material and substantial facts based on the record compiled by the Township Engineer. If the Township Board finds that the Township Engineer's decision is not supported by competent, material and

substantial facts in the record compiled by the Township Engineer, then, the Township Board may reverse or modify the decision of the Township Engineer or the Township Board may remand the matter to the Township Engineer for reconsideration. Any remand of the matter to the Township Engineer shall specify the issues that shall be reconsidered. The Township Board's decision shall be in writing and shall include findings of fact.

- (12) **Maintenance and Repair.** The owner or owners of the land served by a private road that has been approved pursuant to this Ordinance shall maintain and repair the private road and drainage easement in accordance with the requirements of this Ordinance. In addition, the owner or owners of the land served by a private road that has been approved pursuant to this Ordinance shall maintain the private road such that lots or parcels served by the private road are always accessible by emergency vehicles which shall include, but is not limited to maintaining a minimum unobstructed width of not less than 20 feet for gravel private roads and 22 feet for paved private roads. In addition to other measures, this also may involve maintaining a 16 ft vertical clearance to assure the passage of large emergency vehicles. For pre-existing private roads that have been "grandfathered" pursuant to Section 6, such pre-existing private roads and any extensions of those pre-existing private roads shall always be accessible by emergency vehicles.

Section 5. Private Road Standards.

(a) Road Continuation/Turnarounds/Intersections.

- (1) **Road Continuation Required.** Whenever an existing road terminates at the boundary of the proposed development, this road shall be connected with the road system of the proposed development.
- (2) **Turnarounds.** The layout of roads shall provide, as much as possible, for continuous travel. In special cases, where lands to be divided are limited in size or are subject to a natural barrier, the Township Engineer may approve a dead-end private road with a cul-de-sac at the road's end provided it has a forty (40) feet minimum road surface radius with a sixty (60) feet right-of-way radius. For short dead-end roads serving six (6) or fewer houses, the Township Engineer may approve a hammerhead turnaround consistent with Figure 1, attached hereto. Neither a cul-de-sac nor a hammerhead shall be allowed where generally accepted road design practices provide that there should be a connection to other roads or adjacent properties. Refer to Figures 2 and 3 for typical cul-de-sac, hammerhead, and intersection layouts.
- (3) **Intersections.** The following standards shall apply to intersections:

- (A) **Angle of Intersection.** Roads shall be designed to intersect at ninety degrees (90°) or as close thereto as possible. In no case shall the angle of intersection be less than seventy-five degrees (75°).
 - (B) **Sight Distance.** The minimum clear sight distance at all private road intersections shall permit vehicles to be visible to the driver of another vehicle when each is one hundred twenty-five (125) feet from the center point of the intersection.
 - (B) **Number of Roads.** No more than two (2) roads shall cross at any one (1) intersection.
 - (C) **"T" Intersections.** "T" type intersections shall be used, wherever practical.
 - (D) **Centerline Offsets.** Slight jogs at intersections shall be avoided. Where such jogs are unavoidable, road centerlines on opposite sides of the road shall be offset by a distance of not less than one-hundred fifty (150) feet.
 - (E) **Vertical Alignment of Intersections.** A one percent (1%) grade or less shall be required at intersections. This nearly flat section shall extend no less than seventy-five (75) feet from the center of the crossroad.
- (b) **Minimum Right-of-Way Width.** The minimum width of the right-of-way shall be determined by drainage and utility needs. In no case shall the right-of-way be less than 33 feet where the drainage and utility easements are outside the right-of-way or less than 44 feet where drainage and utility easements are inside the right-of-way. The road surface, shoulders, and ditches shall be located within the right-of-way. Back slopes may be permitted beyond the right-of-way provided a temporary grading easement is provided until the road construction is completed, if legally required.
- (c) **Minimum Road Surface and Shoulder Design Standards.** The following design standards shall apply to private road surfaces and shoulders:
- (1) **Road Surface Required.**
 - (A) **Gravel Road:** For private roads servicing ten (10) or fewer residential lots or parcels, the road surface may be gravel meeting the requirements of this Ordinance as long as the centerline road grade is 7.0% or less.

(B) **Paved Road:** For private roads (i) servicing more than ten (10) residential lots and parcels, (ii) all businesses or (iii) which have centerline road grades exceeding 7.0%, the road surface shall be paved meeting the requirements of this Ordinance.

(2) **Minimum Road Surface Width.** Private roads with the following surfaces and centerline grades shall meet the following minimum road surface widths:

Minimum Road Surface Width

(A) **Gravel Surface** 16 feet¹

(B) **Paved Surface** 18 feet¹

(3) **Minimum Shoulder Width.** The minimum shoulder widths for all private roads shall be 2 feet.

(d) **Road Specifications.**

(1) **Aggregate Base Course.** A minimum total depth of six (6) inches of compacted dense aggregate shall be placed on private roads. The aggregate base course shall be placed on the prepared sub-grade for the entire width of the road surface and shoulders in accordance with the Standard Plans for Private Roads (Figure 3). All material specifications shall meet the current MDOT specifications for 22A aggregate for paved roads and 23A for gravel roads.

(2) **Bituminous Pavement.** Where bituminous aggregate pavement is required, bituminous aggregate pavement course, MDOT Specification 1100T (or an alternate mix recommended by the township's consulting engineer), shall be applied in one (1) or more courses at the minimum rate of 220#/SYD.

(e) **Shoulder Specifications.** Shoulders for paved roads shall consist of six (6) inches of compacted 23A gravel. Where ditches are applicable, slopes shall be sodded or seeded and mulched to insure an adequate covering of grass to provide soil stability and prevent erosion.

(f) **Centerline Grade.** The minimum road centerline grade shall be four-tenths percent (0.4%). The maximum road centerline grade shall be eight percent (8%).

¹ Shoulder is required in addition to road surface width.

- (g) **Public Road Connection Required.** A private road or a system of private roads shall have at least one access to a public road.
- (h) **Compliance with AASHTO Requirements.** Where no specific standard is provided in this Section, private road design plans shall meet the design criteria outlined in the most recent edition of the American Association of State Highway and Transportation Officials (AASHTO) Manual "A Policy on Geometric Design for Highways and Streets"; provided the minimum horizontal curve shall be two-hundred thirty (230) feet in radius. The Township Engineer may reduce this radius to not less than one hundred fifty (150) feet in cases where rolling terrain or a significant number of mature trees would be preserved, if the design will accommodate expected vehicle speeds as determined by the township's consulting engineer.
- (i) **Utility Easements.** Utility easements shall be required in conjunction with the private road project unless they are otherwise provided along the rear property lines of the lots or parcels being serviced by the road project. Utility easements shall have a minimum width of ten (10) feet regardless of whether they are located inside or outside and abutting the right-of-way.
- (j) **Road Names and Signs.** All Private roads shall have a road name. Proposed names shall be submitted with the application and final road names shall be provided to the Township by the applicant once a final road name has been specified by Leelanau County. Road names shall be assigned by the Leelanau County Planning Department pursuant to the Leelanau County Address Ordinance of 1989 as amended. The applicant shall furnish and erect road name signs at all intersections within the project and entrances thereto, to assist in the location of the property by emergency vehicles. The design and color of the road name signs shall be consistent with the specifications of the Leelanau County Road Commission.
- (k) **Traffic Control Signs.** Traffic control signs shall be placed in accordance with the Michigan Manual of Uniform Traffic Control Devices. Signs marked "Private Road" shall be erected and maintained by the applicant at the entrance to all private roads.

Section 6. Existing Private Roads.

Private roads that have been approved by formal action of the Township Board pursuant to a prior private road ordinance which do not conform to the design standards of this Ordinance and private roads that have been in existence prior to the adoption of this Ordinance, which do not conform to the design standards of this Ordinance, may continue to be used as long as all current or future lots or parcels served by the pre-existing private road or any extensions of such a private road always are accessible by emergency vehicles. Private roads that meet the requirements of this section shall be deemed to be "approved roads" for purposes of the Elmwood Township Zoning Ordinance. Any extension of a "grandfathered" pre-existing private road shall be of a

width and composition which equals or exceeds the width and composition of the "grandfathered" private road to which it is an extension.

Section 7. Performance Guarantees.

Any site improvements affecting drainage structures, soil erosion control measures, or other special construction features as may be required by the Township Engineer or as proposed by the applicant, shall be guaranteed by a deposit with the Township Clerk, of cash, a certified check, a certificate of deposit or irrevocable bank letter of credit, whichever the applicant selects, or a surety bond acceptable to the Township, to insure the faithful completion of the improvements specified. The Township shall release funds on a pro rata basis as work is completed, subject to the township consulting engineer's inspection and approval of the work. The amount of the deposit shall be set by the Township based on reliable estimates of the cost of completing the work.

Section 8. Fees and Escrow Account.

The application fee for a private road shall be as established by resolution of the Township Board. If the Township Clerk determines that the basic fee is not adequate to cover the cost of inspections and application review by the township's engineer, consulting planner and/or attorney, the applicant shall deposit with the Township Clerk such additional fees in an amount determined by the Township Clerk. The Township Clerk's determination shall be based on estimates of the anticipated charges of the township's engineer, consulting planner and/or attorney who shall base their estimated fees on generally accepted charges and standards of performance of their professions for the work to be done. The additional fees shall be held in escrow in the applicant's name and shall be used to pay these additional costs. Failure of the applicant to make any escrow deposit required under this ordinance shall be deemed to make the application incomplete. Any unexpended funds held in escrow shall be returned to the applicant following approval of the final private road permit. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid within thirty (30) days of the date the written bill was sent to the applicant. A final private road permit shall not be issued until the written bill has been paid. Even if a final private road permit is erroneously issued, it shall not become effective until all fees and reimbursements required by this Ordinance have been paid to the township.

Section 9. Violations and Penalties.

Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation. Any action

taken under this Section shall not prevent civil proceedings for abatement or termination of the prohibited activity.

Section 10. Enforcement Officer.

The zoning administrator is hereby authorized to administer and enforce this Ordinance. The zoning administrator is also hereby designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 11. Nuisance Per Se.

A violation of this Ordinance is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

Section 12. Separate Court Action.

In addition or as an alternative to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 13. Variations.

(a) **Variations.** The Township Engineer shall have the authority to approve variations from the design standards of this Ordinance where it can be demonstrated by the applicant that the strict application of those standards would either preclude or unnecessarily restrict the use of the property, would be detrimental to the natural environment or would preclude coordination with adjacent properties. Before the Township Engineer decides to approve a variation in the design standards of this Ordinance, it shall make at least one of the following findings:

- (1) The property has an unusual shape or dimension (such as narrowness) that makes the strict application of the design standards impractical.
- (2) The variation is necessary to coordinate planning with adjacent properties.
- (3) The variation is necessary to protect and maintain the natural landscape including existing topography and slopes, mature woodlands, wetlands, ponds, streams and lakeshores.

(b) **Limitations.** The Township Engineer shall limit the approval of variations to the areas necessary to satisfy the finding(s).

Section 14. Approved Private Road and Zoning.

A private road for which a final private road permit has been issued as well as an existing private road that complies with the requirements of Section 6 of this Ordinance shall be deemed a private road that has been "approved " by the township for purposes of the township zoning ordinance.

Section 15. Severability.

If any article, section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 16. Effective Date and Repeal.

This Ordinance shall become effective April 4, 2007. Any prior ordinances or resolutions relating to private roads are repealed.

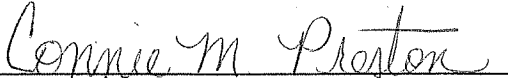
ELMWOOD CHARTER TOWNSHIP

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 2007-04 that was adopted by the Township Board at a special meeting on March 27, 2007 at which all members were present

I further certify that the meeting was conducted, and public notice there was given, pursuant to and in full complienace with the Open Meetings Act (Act No. 257, Public Acts of Michigan, 1976, as amended), minutes of such meetings were kept and will be made available as required by law and that said ordinance has been recorded in the Ordinance Book of the Township and that such recording has been authenticated by the signature of the Township Clerk

Dated April 4, 2007



Connie Preston, Clerk

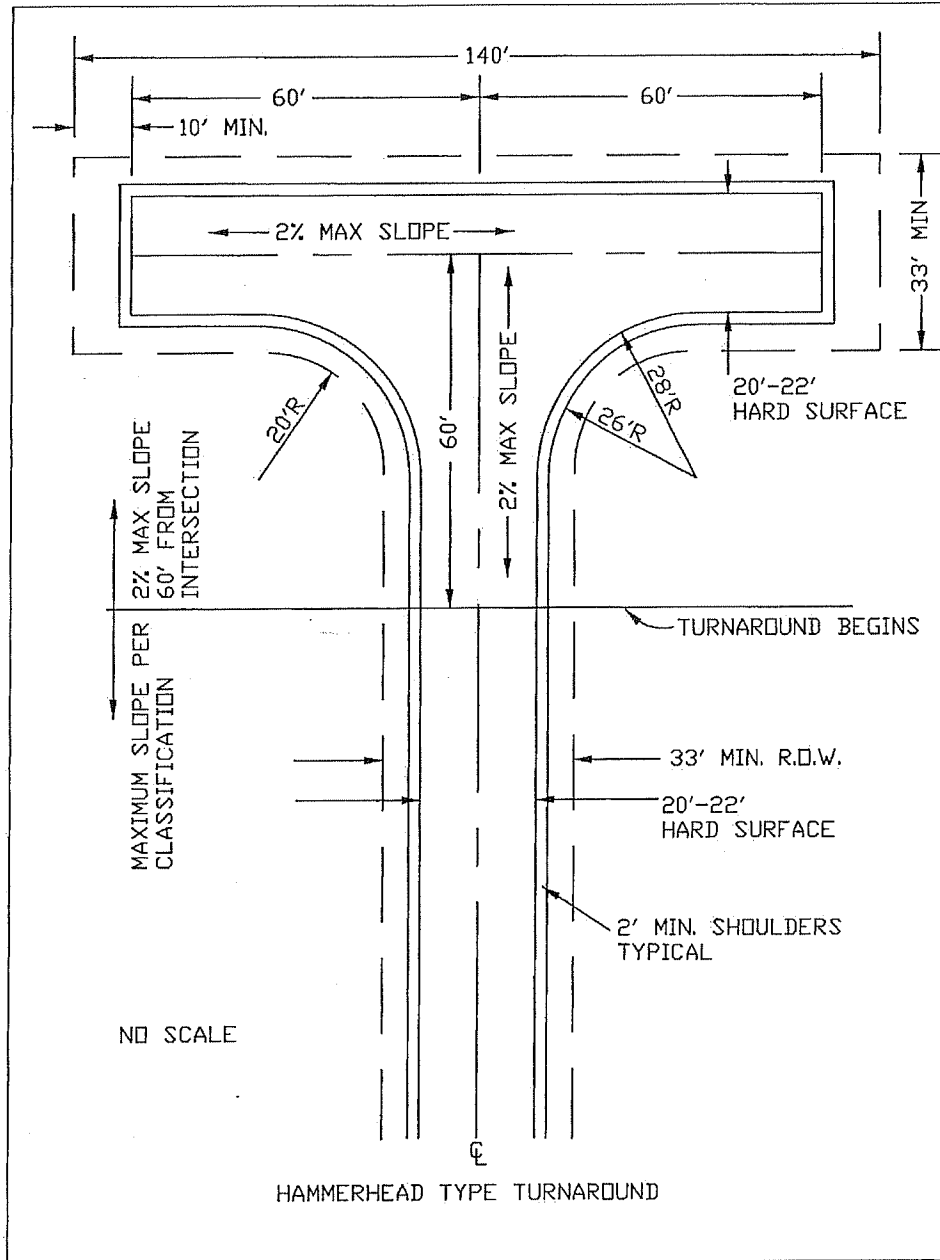


FIGURE 1

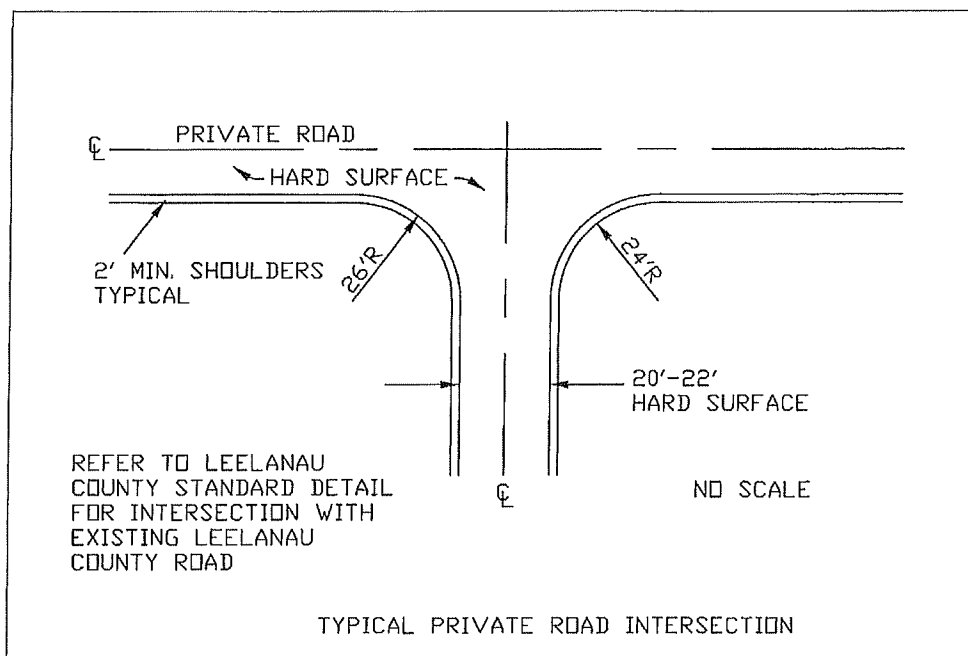
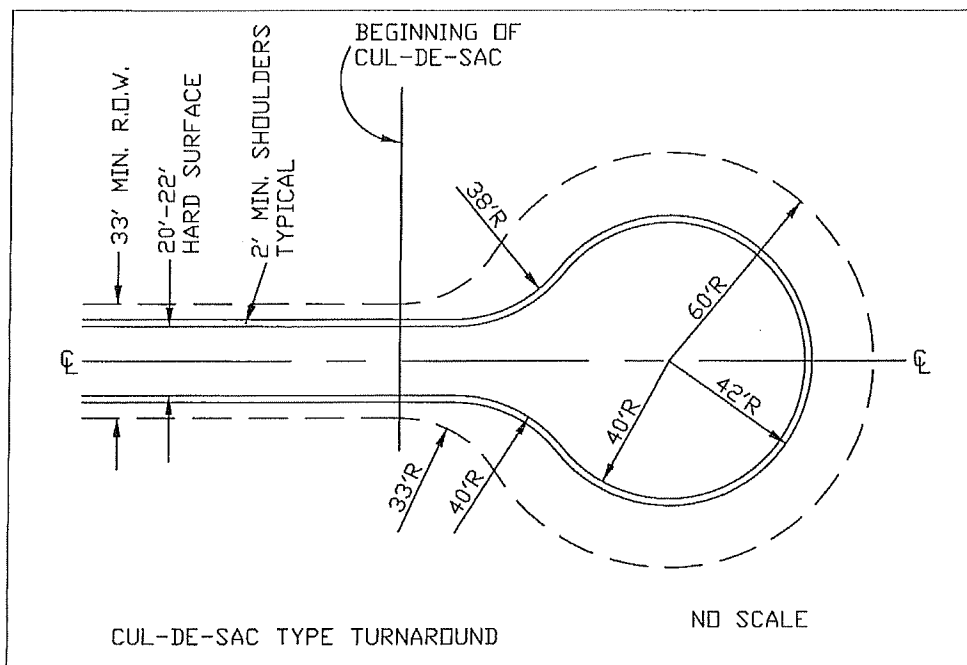


FIGURE 2

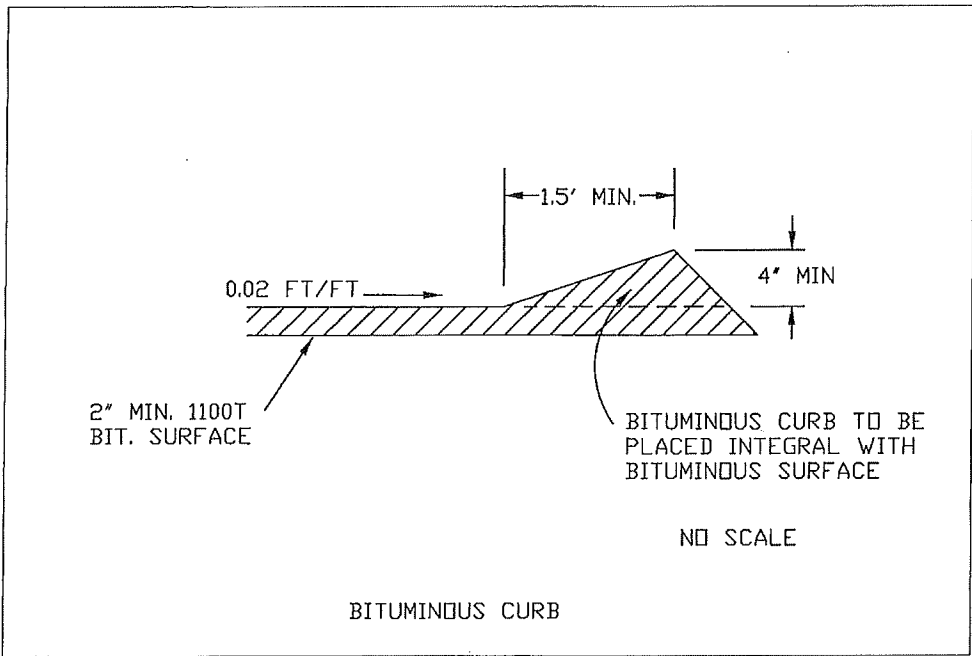
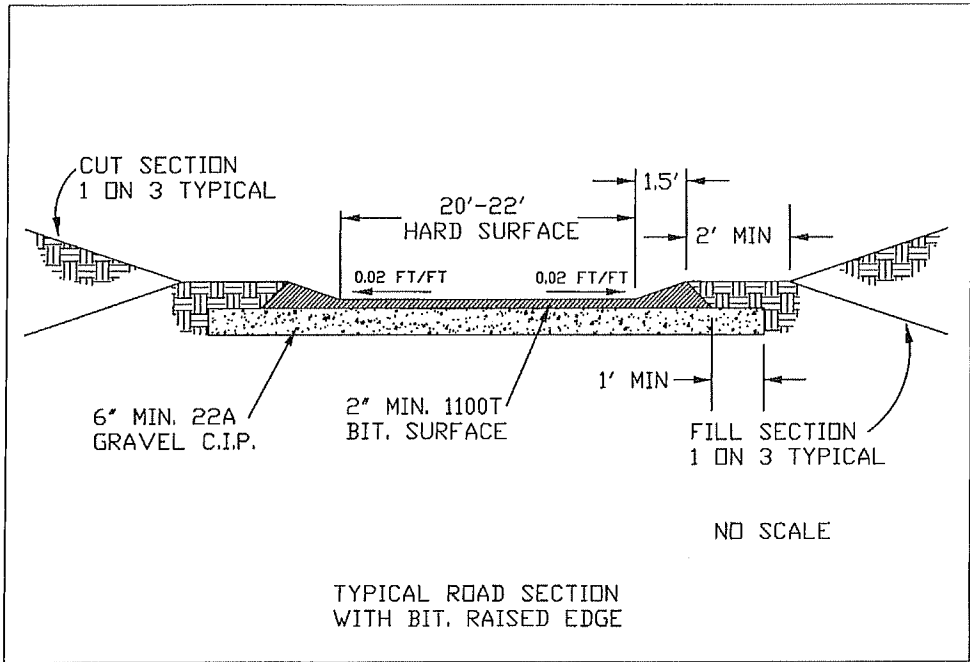


FIGURE 3