

ORDINANCE NO. 11-29-07 B

*The Road District Highway Commissioner
Has Established An Ordinance For Reimbursement Of
Professional Services in the McHenry Township Road District*

WHEREAS, McHenry Township Road District (the "District") exists as a unit of local government in the County of McHenry and the State of Illinois;

WHEREAS, the Illinois Highway Code establishes that the McHenry Township Highway Commissioner (the "Highway Commissioner") has general charge over the roads in the District pursuant under section 605 ILCS 5/6-201.8;

WHEREAS, the Highway Commissioner has the duty to maintain the road district roads including repairs and improvements;

WHEREAS, it is necessary to promote the general welfare of the residents and protect the public safety and to inspect roads being brought into the District through the development of subdivisions;

WHEREAS, the Highway Commissioner desires to hire its own professional services to conduct said services and this will cause the Road District an increased cost and expense;

WHEREAS, the developer of said subdivisions should be responsible for bearing the cost of the inspection of roads being brought into the Township or approved by the Highway Commissioner during the plat process;

NOW, THEREFORE, BE IT ORDAINED, by the McHenry Township Highway Commissioner, on behalf of and for the McHenry Township Road District, located in the County of McHenry and the State of Illinois, as follows:

- Section 1.** **Recitals.** The recitals set forth above in this Ordinance are re-stated here, as if fully set forth here.
- Section 2.** **Agreement.** At the time the developer and/or owner requests action from the District he/she will be required to enter into an agreement, which is attached to this Ordinance, with the District.
- Section 3.** **Application Fee.** The Highway Commissioner will require a one time \$1,000.00 application fee for the District to review and take action upon any subdivision or land development or any other requested improvement, modification or change to existing township roads. This application fee may be charged in addition to the required Deposit for professional services or may be reduced/waived at the discretion of the Highway Commissioner. Payment shall be made in the form of a cashier's check, money order or personal check made payable to the District.

Section 4. **Purpose.** The purpose of this Ordinance is to promote the public's safety and welfare and to preserve the roads under the jurisdiction of the Township for the use by the general public and ensure that they are properly constructed.

- A. In the event that it is necessary for the McHenry Township Road District (the "District") to obtain its own professional services, including, but not limited to, attorneys, engineers, planners, architects, surveyors, traffic or drainage experts, or other consultants, in connection with any developer and/or owner's request for the District to consider or otherwise take action upon any subdivision development or other improvement or development upon real property, then the developer and/or owner of the property shall be jointly and severally liable for the payment of such fees for the professional services rendered.

Section 5. **Reimbursement of Professional Services Deposit Required.**

- A. All developers constructing roads shall reimburse the Road District for the cost of retaining professional services to conduct inspections or such services as needed of any and all proposed roads. In addition, the developer shall enter into an agreement with the Road District for reimbursement of all costs and pay a minimum retainer of \$2,500.00, the Commissioner may at his sole discretion require a retainer up to \$10,000.00 for reimbursements in advance of work beginning. Payment shall be made in the form of a cashier's check, money order or personal check made payable to the District.
- B. In the event that any developer or contractor begins construction of a road within the McHenry Township Road District's jurisdiction without having first entered into a reimbursement agreement and paying the minimum \$2,500.00 retainer, the work shall be shut down immediately until a retainer is entered and retainer fee paid.
- C. In lieu of any interest payment on the retainer deposit, the Road District considers it part of the administration costs.
- D. The owner and/or developer shall be responsible for the cost of all expenses relating to the enforcement of the provisions of this ordinance, including but not limited to reasonable attorney fees.

Section 6. **Publication.** The Commissioner shall prepare a copy of this ordinance for purposes of making this ordinance available in the McHenry Township Offices for a continuous period of at least ten days after its passage. Copies of this ordinance shall also be available for public inspection upon request in the office of the McHenry Township Clerk as *ex-officio* clerk of the Road District.

Section 7. Savings Clause. If a court or competent jurisdiction determines that any section, paragraph, sentence, word, or other portion of this ordinance is invalid or unenforceable, such judgment shall not affect the remainder of this ordinance, with such remainder continuing in full force and effect.

Section 8. Conflicts with Prior Ordinances. All prior ordinances, resolutions, or parts thereof in conflict with the provisions set forth in this ordinance are hereby repealed to the extent of such conflict with this ordinance prevailing over said prior ordinances.

Section 9. Effective date. This Ordinance shall be in full force and effect from the date upon which the ordinance is adopted and passed by the McHenry Township Road District, in accordance with the law.

Dated: 11-29-07

MCHENRY TOWNSHIP ROAD DISTRICT

By: Sean H. Van Every
McHenry Township Highway Commissioner



Attest: Bruce Novak
McHenry Township Clerk