

Policy for Consideration of Requests to Dedicate Private Streets for Public Use and Maintenance

Purpose

It is the purpose of this policy to establish a general set of criteria that the Council of the County of Summit will use when considering a request to dedicate a private street for public use and maintenance as a public street. The criteria set forth in this policy are to be used by Council as general guidelines when considering such a request. The criteria herein are not intended to be dispositive, and Council shall continue to retain its discretion granted under Section 5553.31 of the Ohio Revised Code when considering a particular request. Council is not bound to approve a dedication of a private street for public use and maintenance as a result of compliance with this policy, and shall continue to retain its discretion to approve or reject a petition for the same by considering all relevant factors regardless of whether those factors are included in this policy.

Definitions

“Public Street” means a private road, avenue, street or drive (or similar structure) that has been established and accepted for public use and maintenance through the provisions of the Ohio Revised Code for the creation of a public street or through the provisions of the County Subdivision Regulations. All other streets are private streets

“Private Street” means a privately owned road, avenue, street or drive (or similar structure) providing private access and used for travel of vehicles by the owner(s) or those having expressed or implied permission from the owner(s), but not by other persons wherein there is or is not an agreement in place for determining how maintenance responsibilities are to be funded.

Procedure for Submitting and Processing Petition

Petitioner shall submit a written petition to the Clerk of Council, on a form prescribed by the Clerk of Council. The petition shall be signed by any land owner or land owners who are adjacent to and wish to dedicate their private street for public use and maintenance. The petition must be accompanied by a description of the land to be dedicated as a public street, a record plat or map of all streets to be dedicated, copies of any easements encumbering the land to be dedicated, copies of any and all records of construction and repair and copies of any liens encumbering the land to be dedicated. The Petitioner shall also provide the status of ownership of the private street and the status, if any, of the current maintenance responsibility for the private street. Additional information may be requested by the Council during its determination on whether to dedicate the private street.

Following receipt of said petition, Council may confer with and forward the request to the Engineer, Prosecutor or Executive to assist with determining whether the below criteria have been met. Any information provided shall be advisory in nature.

Petitioner shall be responsible for all costs incurred by Council in reviewing and acting upon the petition, including all costs incurred by the Engineer, Prosecutor or Executive in reviewing the same, and any costs of consultants or contractors in performing said review. Upon the filing of a petition, the Clerk of Council will confer with each office and receive an estimate of the costs that each will incur. The Clerk of Council shall advise Petitioners of the amount of a deposit, which shall be calculated to cover all estimated costs, within thirty (30) days of receipt of a petition. The deposit must be paid by the Petitioner prior to Council taking further action. Following all proceedings on the petition, the Clerk of Council shall calculate a final amount due and shall either remit any unused balance of the deposit or shall invoice Petitioners for the balance due.

Council shall, by resolution, either approve or deny the petition of the Petitioners and may rely upon the advice of the Engineer, Prosecutor and Executive in making the determination of whether to approve or deny said petition.

Criteria for Acceptable Private Street Dedication

In determining whether to approve or deny a petition for the dedication of a private street for public use and maintenance, Council shall consider the following criteria, and may, in its discretion vary from the following criteria, including, but not limited to, considering other factors or requiring a different standard than what is stated depending upon the volume of automobile and/or truck traffic or other considerations:

1. In general, favorable consideration should be given to the public dedication of the following types of private streets:
 - a. The private street is regularly used by more than those persons with abutting properties and the private street provides interconnectivity between two dedicated public streets. or begins on a public road and services a public park, a state supported educational institution, public school, public aviation area, or a public recreation area.
 - b. The private street serves multiple properties and is the sole means of vehicular access to the properties and has no provisions established to provide for its maintenance. Occasionally, in the County, a private street may have developed without any authority for maintenance of the street having been defined. As such, there is no legal mechanism to resolve maintenance issues and no organizational method to define responsibility for who maintains the street. Favorable consideration should be given to this type of street dedication, because the lack of maintenance could lead to a safety hazard for access by emergency vehicles and others using the street.

Conversely, in general, consideration for public dedication should NOT be given to the following type of private street:

A dedicated private street that has been established as a dedicated private street, road or drive through applicable Condominium statutes, as a part of a planned unit development or as a component of a land subdivision wherein there is recorded documentation for the street and the establishment of a legal process for determining how maintenance responsibilities are to be funded. Maintenance responsibilities may be shared by the owners or may be a component of the responsibilities of an association of owners or similar body.

2. If a private street is to be a township road following dedication, strong consideration should be given to whether the township has or is willing to accept responsibility for the maintenance of the road. If a private street is to be a county road following dedication, strong consideration should be given to any recommendation from the County Engineer as to that office's ability to maintain the street following dedication. Any willingness on behalf of the township to accept responsibility for the maintenance of the road, or a recommendation from the County Engineer's office that it is able to maintain the road shall not be the determinative factor in Council's decision whether to dedicate a private street for public use and maintenance, and Council may decide against such dedication regardless.
3. The land to be dedicated as a public street should be free of all liens or encumbrances other than those necessary for utility access, as otherwise set forth herein.
4. Streets should be paved with an asphalt, seal coat or concrete surface, and be in an acceptable condition as determined by the Engineer. "Acceptable condition" means that it should appear to the Engineer that reasonable effort has been made since original construction to maintain the street properly, including sealing as appropriate. For example: pavements which have settled or shifted, which show evidence of cracks and/or voids in the underlying sub grade support, which have potholes or are extensively cracked or spalled on the surface, which have unsealed joints or cracks, which show evidence of settling caused by utility trenches within the paved areas or which are otherwise in need of repairs or maintenance would not qualify as being in "acceptable condition" and should be repaired or reconstructed prior to acceptance by the County.
5. Streets should have adequate and safe vertical and horizontal alignment and be constructed to acceptable crown and grades as determined by the Engineer to permit safe vehicle and pedestrian travel.
6. Trees, boulders and other large obstacles located within ten (10) feet of the pavement should be removed if determined by the Engineer to be unsafe or a traffic hazard.
7. Adequate drainage of existing streets should be in place prior to acceptance. The street drainage system and off roadway drains satisfy current design standards for

capacity and water quality and are free of defects and encumbrances. The entire street drainage system should meet current County standards and should be dedicated for public maintenance to an adequate outlet as determined by the Engineer and where not within the street right-of-way should be located within unobstructed easements of adequate width (minimum width of 30 feet) for maintenance access. Funding for the maintenance of the drainage system should be provided by assessments upon the benefited properties by the establishment of County Ditch assessments in accordance with ORC 6131 and 6137. The drainage facility shall not be used to convey sanitary effluent in any fashion.

8. A Right-of-Way of at least fourteen (14) feet along each side of the street beyond the outside edge of shoulder or beyond the back of curb dedicated to the County. The preferred minimum total right-of-way should be 60 feet, but Council may permit a dedication of a private street with less right-of-way.
9. The paved surface is a minimum of twenty-two (22) feet wide with no curbs; twenty-three (23) feet between vertical curbs; or twenty-six (26) feet outside edge to outside edge for curb and gutter or rolled curbs.
10. The paved surface should have a minimum thickness for Portland Cement Concrete (PCC) of six (6) inches. Asphaltic pavements should have a wearing course of at least one and a half (1.5) inch thickness over an asphaltic concrete base of at least four (4) inch thickness. Either type of pavement should be over a well-drained aggregate stone base course of at least eight (8) inches in thickness. Other composite designs using a Portland cement base with asphaltic concrete overlays may be submitted for consideration.
11. The pavement condition index of the street should be at least a 70 on a scale of 100 as outlined in the most recent edition of the MicroPaver Pavement Surface Evaluation and Rating System.
12. The configuration of drives within the right-of-way should not encumber more than one third (1/3) of the frontage of any section of the roadway where two (2) or more drives exist or are planned along any one hundred (100) feet of the right-of-way and the minimum unobstructed length of the drives beyond the right-of-way should not be less than twenty-five (25) feet.
13. No curbing of any kind is required, however, if curbing does exist, handicap accessible pedestrian ramps through the curb where legally necessary should exist at the time of acceptance.
14. Entrance gates that prevent public access to streets, speed bumps and any other traffic obstructions or devices should not be allowed on public maintained streets. No street should be accepted for public use and maintenance unless all speed bumps, entrance gates and other traffic obstructions or devices are first removed.

15. Sanitary sewer, waterlines and other utilities are not required to exist in the right-of-way, but may be permitted provided that public utilities within the right-of-way should agree to be subject to County rules and regulations regarding utility use of roadway right-of-way. Private utilities within the right-of-way are heavily discouraged. Additionally untreated sanitary cannot be discharged into the proposed new street right-of-way.
16. The proposed location of street right-of-way lines, lot lines and buildings should conform to local zoning codes.

Suggested Conditions to Acceptance

Council should consider placing the following conditions on its acceptance of a dedication of a private street:

1. Any improvements to a private street necessary to bring the street into conformity with the criteria set forth above in this policy should be performed at the expense of the property owners either (i) prior to the dedication of the street by the Council, or (ii) as a condition of the dedication of the street, coupled with arrangements for the payment of the improvements directly by the property owners or through an assessment process pursuant to agreement of the property owners.
2. Petitioners should maintain all entrance monuments to subdivisions allowed to remain, including replacement of lighting, painting, repair and maintenance. In the alternative, they should be removed at Petitioner's costs, and the area restored.
3. All landscaping permitted to remain or to be installed will be performed and maintained at the expense of the Petitioners.
4. The County shall have the right to exercise traffic control on all streets accepted by the County.
5. Before the County will accept any streets for public maintenance from the property owners, the property owners must indemnify the County and township from any and all liability arising from, or relative to, the condition of the street prior to acceptance by the County. Such indemnification shall be in a form which is satisfactory to the County Prosecutor and County Executive's Director of Law, Insurance and Risk Management.
6. Any and all documents deemed necessary by the County for final dedication, including a final plat and engineering plans in general conformance with the plat and plan requirements of the current Subdivision Regulations, should be provided and executed by the property owners prior to filing of those documents.

7. Acceptance and acknowledgement by the Petitioners of the following (unless otherwise noted, the acceptance and acknowledgement should apply to the County for all County roads and the township for all township roads):
 - a. All accepted street pavements will be reasonably maintained by the County, including repairs, pavement markings, patching, sealing, snow removal and storm sewer cleaning in accordance with County Policy until such time as the streets are turned over to the township after which such will be maintained in accord with township policy. Storm sewer maintenance is limited to outlet structures and piping on the street right-of-way and to the downstream structure. Timing and necessity of maintenance is to be within the sole discretion of the County.
 - b. The County and/or Township will have no obligation to improve the condition or configuration of a street, only to maintain the street at its condition, composition and configuration at the time of acceptance.
 - c. The County and/or Township will have no obligation to install storm sewers, waterlines, sanitary sewers, curbing or other structure or component not necessary for the proper maintenance of the street.
 - d. The County and/or Township will have no obligation to maintain the landscaping within the street right-of-way, landscaped portions of cul-de-sacs, common ground, or mailboxes within the right-of-way.
 - e. Under no circumstances is the County agreeing to accept responsibility to maintain any storm water facilities that are not otherwise currently maintained by the County.
 - f. By accepting any street for public maintenance, the County is not limiting its police power, condemnation rights or any other legal rights that it otherwise possesses.