

ARTICLE 18

PRIVATE ROADS

18.1 PURPOSE OF THIS ORDINANCE: The Township recognizes that, as large tracts of land are divided, sold, transferred, and developed, private roads are being created to provide access to the newly divided properties. The Township determines that it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of private roads. Private roads shall meet the requirements of this Ordinance.

18.2 DEFINITIONS: For the purposes of this Article, the following shall apply:

- As used in this Article, the term "road" also includes "street," "avenue," "drive," "place," "way," "lane," "boulevard," "court," "highway," or other thoroughfare, except an alley.
- "Public road": A public thoroughfare located within a public road right-of-way and dedicated to public use, which affords traffic circulation and provides access to abutting property.
- "Private road": A privately owned and maintained thoroughfare, located within a private road right-of-way easement, which is not a public road, which affords traffic circulation and provides access to abutting property. [amended 7/20/2015, effective 8/11/15]

- "Lot": A tract of land that can be legally described with certainty and is capable of being located by survey. This definition also includes "parcel" or "site condominium unit".
- "Safe and unimpeded route of travel": A road surface of adequate width to accommodate the safe, two-way passage of vehicles, and of sufficient construction to accommodate any fire, police, rescue, or other emergency vehicle.

18.3 SCOPE: These regulations shall be enforced to ensure that:

1. Private roads shall be designed and located to be consistent with the Master Plan and long-term development policies of Schoolcraft Township.
2. Private roads shall be designed with sufficient width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles.
3. Private roads shall be constructed and maintained to be passable in all weather conditions and shall readily afford emergency access to the dwellings, buildings or other structures serviced by the private road.
4. Private roads shall be constructed of suitable materials to ensure minimal maintenance and safe passage.
5. Private roads shall be constructed to protect against or minimize soil erosion and prevent damage to lakes, streams, wetlands, and other significant natural features of the Township.

18.4 PERMIT REQUIRED: No Individual, association, corporation or entity, either public or private, shall construct or extend a private road, without first having obtained a permit from the Township.

18.5 LOTS WITH MULTIPLE FRONTAGE: A lot that has frontage on both a public road and a private road shall take its access from the private road if the lot has rights to the easement. However, the Township may approve access from the public road if the property does not have rights to

the easement or it can be shown that access to the public road provides a safer or more efficient means of access, and the access has been approved by the appropriate road jurisdiction.

- 18.6 JURISDICTION: Any proposed private road that intersects a public road or State trunk highway, permits from the appropriate agency shall be submitted. If the private road intersects an existing private road, written permission from the owners, private road association or other entity that owns the private road shall be submitted. However, in no case shall a private road serve more than twenty (20) lots.
- 18.7 LOT AREA, WIDTH AND SETBACK REQUIREMENTS: All setbacks required by this Ordinance shall be measured from the easement right-of-way line. Minimum lot area and lot width requirements shall exclude any private road easements. For corner lots which are bound on two sides by intersections of a public road, private road corner lotsetback requirements shall apply.
- 18.8 LAND DIVISIONS, SUBDIVISIONS AND SITE CONDOMINIUMS No land division, subdivision or site condominium that creates lots accessed by a private road, shall be approved or recorded unless and until the private means of access has been approved according to this Article.
- 18.9 LEGAL DOCUMENTATION REQUIREMENTS: Any application for a private road shall be accompanied by a private easement and maintenance agreement, in recordable form, that meets the following minimum standards:
1. The private easement and maintenance agreement shall require the property owner(s) served by the private road, to be responsible for the ownership and maintenance of the private road.
 2. The agreement shall contain the method for apportioning costs of construction, maintenance and repair of the private road among all of the benefitting property owners. The agreement shall also include provisions for a performance guarantee, if required.
 3. The agreement shall contain a detailed legal description of the private road.
 4. The agreement shall bind all of the benefitting lots and owners to the required maintenance of the private road, including all succeeding owners.

5. The agreement shall contain a clause stating that the applicant(s)/owner(s) of the private road, agree that by applying for or securing a permit to construct the private means of access that they shall indemnify and will hold the Township harmless from any and all claims for personal injury and, or property damage arising out of the use of the private road or of the failure to properly construct, maintain, use, repair, and replace the private road.
6. A Private easement and maintenance agreement for a private road shall contain provision to permit the Township Board to authorize the repair of any private road that is not being maintained adequately to permit safe and unimpeded route of travel by users and emergency vehicles, and to assess the cost of such repair, including the costs of engineering and administration, to the benefitting owners of the Agreement on an equitable 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.
7. The Township shall review the private easement and maintenance agreement for the private road, as submitted by the applicant, as part of the review and approval process to determine if Township requirements are met.
8. After final approval of the private road, the applicant shall record the private easement and maintenance agreement with the Kalamazoo County Register of Deeds. After recording the private easement and maintenance agreement, a copy of the recorded documents shall be submitted to the Township Clerk.

18.10 APPLICATION: All applications for a private road permit shall be on a form established by the Township and shall include any required fees, the required plans, the private easement and maintenance agreement and any other submittals as outlined below.

1. The Zoning Administrator shall determine the number of plan sets required to accompany the applications.
2. Application fees for the permits required hereunder shall be set by the Township Board from time to time by resolution. Additionally, the Township Board may require that the applicant(s) put sufficient funds in escrow to cover the costs of having the Township attorney, engineer, planner or other professional review the private road plans, specifications, and maintenance

agreements, and to do the necessary inspections. Any funds remaining in escrow after the project has been inspected and approved shall be returned to the applicant.

18.11 APPROVAL AUTHORITY:

1. Private road shall be reviewed by the Planning Commission, who shall make a recommendation to the Township Board, according to Section 18.20, below.
2. In making a recommendation and/or a decision, the Planning Commission and Township Board, as applicable, may impose such conditions necessary to ensure compliance with this Section and ensure protection of the public health, safety and welfare.

18.12 DESIGN REQUIREMENTS:

1. A private road, or any combination of interconnected private roads, shall not provide access to more than twenty (20) lots. Roads proposed to provide access to more than twenty (20) lots must be dedicated as a public road, meet the requirements for a public road and be accepted by the applicable road jurisdiction.
2. A private road with only one (1) access to a public road shall not exceed two thousand five hundred (2,500) feet in length, as measured along the centerline of the private road. Any private road exceeding this length shall provide for at least one (1) additional access to a public road.

3. The specifications for surface, surface width and base materials, longitudinal grade, drainage, method of construction, and signs shall conform to the Road Commission of Kalamazoo County standards for local paved or gravel roads, as applicable.
4. Right-of-way/easement width: All private roads constructed after the effective date of this Ordinance shall have a recorded permanent right-of-way and easement with a minimum width of sixty-six (66) feet. The right-of-way shall expressly permit public or private utilities to be installed within the right-of-way.
5. The private road shall terminate at a dead-end that is extendable into adjacent, undeveloped lots, designed to allow emergency or maintenance vehicles to turn around safely, or a cul-de-sac with a right-of-way radius that meets the road development standards of the Road Commission (124 feet in diameter). The Road Commission (if applicable) and the Fire Department shall review and comment on the design of an extendable dead-end.
6. Private roads shall have a clear height of fourteen (14) feet to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.

18.13 APPLICATION: An application for a private road shall include the following:

1. Completed application form, provided by the Township, along with any fees and escrow established for review.
2. The required private easement and maintenance agreement.
3. A detailed written description of the development to be served by the private road, including a description of the private road association or other party to be responsible for the ownership, operation and maintenance of the private road.
4. Road construction plans drawn by an engineer registered in the State of Michigan.
5. A Survey of the right-of-way by a registered land surveyor, together with surveys for each parcel to be served by the private road.
6. The location of all public utilities, including, but not limited to, water, sewer, telephone, gas, electricity, and television cable to be located within the

private road right-of-way. Copies of the instruments describing and granting such easements shall be submitted with the application.

7. The location of any lakes, streams, wetlands and drains within one hundred (100) feet of the private road right-of-way.
8. The location of any other buildings and structures located within one hundred (100) feet of the private road right-of-way.
9. An approved soil Erosion and Sedimentation Permit.
10. A narrative (shown on the site plan or submitted separately) describing in general terms the overall description of the proposal and the proposed method of providing sanitary sewer, water services, storm sewers and surface water drainage facilities, as well as other public and private utilities, including details of structures, light fixtures, etc.
11. The Planning Commission may require that the plans be reviewed and commented upon the Kalamazoo County Drain Commissioner, Road Commission of Kalamazoo County, the fire Department or any other agency deemed affected by the proposed private road.
12. All private roads shall be named on the site plan and the name(s) shall be approved by the Kalamazoo Land Resource Centre. Road identification signs meeting the requirements of the Road Commission of Kalamazoo County shall be shown to be installed at intersections

18.14 APPROVAL PROCESS:

1. The Planning Commission shall review the application and plans and shall make a recommendation to the Township Board. In order to recommend approval, the Planning Commission must find that the proposed private road:
 - A. Meets the standards of the Zoning Ordinance.
 - B. Will be constructed to assure a safe and unimpeded route of travel for motor vehicles, pedestrians and emergency vehicles in all weather conditions.
 - C. Will be constructed so as to protect against or minimize soil erosion and prevent damage to lakes, streams, wetland and the natural environment of the Township.

2. On a case-by-case basis, the Planning Commission may waive certain review requirements, as site conditions warrant.
3. Upon receipt of the recommendation by the Planning Commission, the Township Board shall approve, approve with conditions, or deny the application. The record shall include the basis of the Township Board's decision.

- 18.15 AS-BUILT DRAWINGS: After approval, the applicant, at the applicant's expense, shall provide the Township with a set of "as built" drawings bearing a certificate and statement from a registered engineer certifying that the private road has been completed in accordance with the requirements of the permit and the Road Commission.
- 18.16 INSPECTION REQUIRED: Upon completion of construction of the private road, the Township shall inspect the completed construction to determine if it complies with the approved plans, specifications, permits, and this Ordinance. A Certificate of Compliance shall be issued if all requirements are met.
- 18.17 FAILURE OF INSPECTION: If the completed private road does not satisfy the requirements of the permit or this Ordinance, the applicant(s) shall be notified of the noncompliance in writing and shall be given a reasonable period of time within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall constitute a violation of this Ordinance.
- 18.18 MAINTENANCE REQUIRED: Private roads shall be maintained in a manner that complies with the provisions of this Section.
- 18.19 SAFE AND UNIMPEDED ROUTE ASSURED: All private roads shall be continuously maintained at the proper widths and be clear of brush or trees and branches to a height of fourteen (14) feet to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
- 18.20 RESPONSIBILITY: All costs for maintenance and repair of the private road, shall be the responsibility of the benefitting property owners or any property owners association.
- 18.21 NONCONFORMING USE MAY CONTINUE: A nonconforming private road, on the effective date of this Ordinance may continue and be maintained and used, even though it may not comply with the provisions of this Section. Any such private means of access shall be continuously maintained so as to provide a safe and

unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.

- 18.22 EXTENSION: As of the date of this Ordinance, an existing private road that is nonconforming may not be extended to include additional lands and/or additional lots, unless the entire private means of access is upgraded to meet the requirements of this Section.
- 18.23 EXISTING VACANT LOTS: A structure may be constructed upon an existing vacant lot of record that takes its primary access from an existing nonconforming private road, provided that the structure and all other development thereon meets the requirements of this Ordinance.
- 18.24 INADEQUATE EASEMENT WIDTH: existing private roads that are nonconforming due to inadequate easement width may be improved without requiring the existing easement to be made conforming to the width requirements, provided that the pavement and any other improvements meet the requirements of this Section, and that the width of the easement is not further reduced.
- 18.25 PLANS FOR IMPROVEMENT-PROCESS: Plans to improve an existing nonconforming private road shall be reviewed and approved in the same manner as a new private road, and comply with the provisions of this Ordinance.

The following are the designated private roads referenced above:

1. Pine View Lane
2. Mission Drive
3. Morley Drive
4. Fishing Pole Lane
5. Poplar Lane
6. East Kimble
7. West Kimble
8. Railton Lane
9. Rawson Lane
10. Reed's Lane
11. Baur (Bauer) Lane
12. Fisherman Lane
13. Hildebrand Drive
14. Gourdneck Lake Drive
15. Redd Oakes
16. Hager Road
17. Rustic Lane
18. North Barton Lake Drive (southerly of intersection with Barton Road)