

ARTICLE II. PRIVATE ROADS

Sec. 20-10. Short title.

This article shall be known and shall be cited as the "Private Road Ordinance."

Sec. 20-11. Intent and purpose.

- (a) It is the intent of this ordinance to ensure unobstructed, safe and continuous access to lots in order to protect the public health, safety and welfare and ensure that police, fire and emergency services can safely enter and exit private property at all times, in any weather conditions. Private road design should also be sensitive to the natural environment. It is also the intent of this ordinance to ensure that private roads are maintained and repaired by the private property owners who own and use the road.
- (b) The purpose of this ordinance is to establish standards and specifications for the construction and maintenance of private roads, and to establish review and approval procedures for private roads.

Sec. 20-12. Private roads regulated.

It shall be unlawful to establish a new private road or to extend an existing private road except in conformance with this ordinance. The provisions of this Ordinance shall not apply to access roads or drives internal to any individual lot or parcel of land which has direct public street frontage access and is under the control of one person, firm, corporation, or association, provided that the access road does not provide access to any abutting lot or parcel of land.

Sec. 20-13. Private road permit.

- (a) A permit shall be required for the construction of a private road. An applicant for a private road permit shall submit a completed application and the required fees and escrow deposits to the Zoning Administrator. The applicant must supply three sets of any plans and supplemental materials that support the application.
- (b) If the private road is intended to serve parcels created with a land division under Article 10 of this Code, the applicant is encouraged to submit a development sketch plan and seek preliminary approval of land divisions prior to developing fully engineered private road plans. Similarly, the applicant is encouraged to seek any land use approvals as required by the Zoning Ordinance prior to developing such plans.
- (c) The application for a private road permit shall include the following information:
 - (1) Private road plans drawn at a scale of at least one (1) inch equals fifty (50) feet and include plan preparation and revision dates, a graphical scale, north arrow, and a location map. The location map shall depict the proposed development site, section lines and numbers, and major roadways within two thousand (2,000) feet of the site.
 - (2) The applicant's name, address and telephone number and the property owner's name, address and telephone number, if different than that of the applicant.
 - (3) A survey of the property showing property line dimensions and bearings, and easements of record, and a written legal description.
 - (4) The seal of the responsible licensed professional engineer or land surveyor that prepared the private road plans.

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- (5) Location of natural features such as, but not limited to, areas with tree cover, streams, floodplains, county drains, lakes, ponds, and existing topography at two (2) foot contour intervals and the location of existing structures within one hundred (100) feet of the proposed private road easement.
 - (6) Soil boring or test pit logs within the proposed route of the private road.
 - (7) Location and dimensions of existing public right-of-way (including paving material), private roads, or access easements of record.
 - (8) Location and dimensions of proposed rights-of-way, acceleration/deceleration lanes, driveways, traffic control measures, street lights and proposed street names.
 - (9) Location of existing and proposed utilities, water mains, well, fire hydrants, sewers, septic fields, storm drains, as well as any easements that exist or are proposed to be established for the installation, repair, or maintenance of utilities.
 - (10) Location and dimension of drains, dry wells, catch basins, retention and/or detention areas, sumps, and other facilities designed to collect, store or transport stormwater as well as point of discharge.
 - (11) Roadway cross-sections and slope including sub-base and paving materials.
 - (12) A graphic depiction and legal description of all parcels of land which shall have legal access to the proposed private road.
 - (13) The proposed road name and two potential alternate names.
 - (14) A complete statement of all the terms and conditions of the proposed road easement, including copies of all agreements or intended agreements regarding the maintenance and improvement of the right-of-way and roadway.
- (d) The Zoning Administrator shall have the authority to approve or deny private roads. If the proposed land use of the parcels to be served by the road is subject to the review and approval of the Planning Commission and/or Township Board, pursuant to the Zoning Ordinance, such approvals must be granted prior to approval of the private road. The Zoning Administrator shall review the application and advise the applicant within 30 days of submittal of its completeness, and whether the Planning Commission or Township Board must review the land use which the road is intended to serve.
- (e) Township staff and consultants designated by the township supervisor shall review an application for a private road permit for compliance with the terms of this ordinance, the Township Zoning Ordinance, and all applicable standards and regulations, including the Charter Township of Highland Engineering Design Standards (Engineering Design Standards) and the Township Master Plan.
- (f) The Zoning Administrator may approve, approve with conditions or deny the application, based on the terms of this ordinance.

Sec. 20-14. Site construction and observation.

- (a) The applicant must submit copies of any permits required from County or state agencies, proof of insurance and deposit sufficient moneys to cover engineering and administrative expenses with the Township prior to commencing work at the site.
- (b) On-site construction observation by the Township Engineer provided as described in the Engineering Design Standards at the expense of the applicant. Such observation shall not relieve the applicant of his obligations under the permit or for warranty of the construction and workmanship of the road. Final inspection and approval will not be provided by the Township Engineer until such time as the applicant has submitted a certificate by an engineer licensed to practice in Michigan stating that the road construction meets the

requirements of this ordinance and the Engineering Design Standards. The applicant shall also provide as-built plans sealed by said engineer prior to final approval.

Sec. 20-15. No land use or building permits issued prior to final approval of road.

No land use or building permit shall be issued for any land use proposed to be located on a private road until the private road has been constructed and final approval is granted. If the only issue(s) barring final approval of the private road is the establishment of vegetation and release of the soil erosion control permit, the Zoning Administrator may allow issuance of permits provided adequate surety is posted to ensure completion. The private road easement and maintenance agreement, in a form acceptable to the Township, shall be recorded with the Oakland County Register of Deeds prior to issuance of any land use or building permit for property to be served by the private road.

Sec. 20-16. Expiration of approval of permits.

A permit shall be valid for a period of one (1) year from the date of issuance. If the required improvements have not been completed upon the expiration of the one (1) year period, then the permit shall be void and of no force and effect, and any deposits shall be forfeited to Highland Township. The zoning administrator may approve an extension of the permit for up to one (1) year if, prior to expiration, the permittee applies for an extension in writing, including a schedule for completion. The zoning administrator may extend the permit for an additional one (1) year period if satisfied that the road will be completed within that time frame.

(Ord. No. 457, § 1, 7-12-2017)

Sec. 20-17. Design and construction standards.

Except as provided in section 20-22 below, private roads shall be constructed in accord with the Engineering Design Standards. The construction of private roads shall be certified by an engineer licensed to practice in Michigan as meeting said Standards and Specifications as set forth therein. The following are minimum acceptable standards and the Township may require a private road to meet higher standards (such as the inclusion of geotextile fabrics, added bituminous mixture depth, placement of concrete curb and gutter or similar measures) if necessary to protect the interests of the citizens of the Township:

- (1) *Easement.* The private road shall be located within a minimum sixty (60) foot wide easement, properly recorded with the Oakland County Register of Deeds. Additional easement width may be required to accommodate the construction and maintenance of the road, drainage facilities or appurtenant structures such as bridges, culverts and guardrail, based upon recommendation of the Planning Director or Township Engineer. A minimum radius of 60 foot is required for the easement to accommodate a residential cul-de-sac. For alternative turn-around arrangements, adequate easement width must be provided based upon the recommendation of the Planning Director or Township Engineer.

The road shall be physically centered within the private road easement. The Zoning Administrator shall have the authority to allow exceptions to the placement (such as minor deflections) to protect natural features such as significant trees or wetland edges upon recommendation of the Planning Director or Township Engineer.

Private road easements shall be established and located such that no nonconforming conditions or dimensions are created upon any parcel. Private road easements must be placed along parcel lines such that no part of a parcel is isolated from the rest of that parcel by the road easement.

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- (2) *Maximum road length.* The overall length of a single access private road serving eight (8) or more dwelling units shall not exceed thirteen hundred (1,300) feet as measured along the centerline thereof. Where the planning director determines that a practical alternative exists to allow for a future road connection to adjacent properties to provide a second access point, a right-of-way easement for that connection shall be established, although physical development of the road may be deferred to the future, with approval of the board. All single access private roads shall be provided with a cul-de-sac or other approved turnaround constructed in accordance with the engineering design standards, and requirements for fire apparatus access roads under the fire code adopted in article III of chapter 9 of the Highland Charter Township Code as determined by the fire chief.
 - (3) *Pavement and road cross-section.* A private road which is to serve sixteen (16) or more residential lots, or condominium units shall be provided with a paved surface in accordance with the engineering design standards. A private road which will serve fewer than sixteen (16) residential lots may be constructed with an aggregate base and wearing surface. All design elements and construction specifications, such as width, pavement, base and subbase materials and thicknesses, cross slopes and drainage requirements shall be based on the engineering design standards. Specifications related to cross-section may be modified with the approval of the planning director upon review and recommendation of the township engineer based on an analysis of proposed use and existing field conditions, provided that the proposed cross-section equals or exceeds the calculated strength of the standard pavement cross-section. The township board may grant a temporary waiver of the pavement requirement set forth in this subparagraph for a proposed private road that would intersect with an unpaved road.

In the event a private road approved under the terms of this section is to be extended such that sixteen (16) or more parcels are served, the entire length of the existing and extended private road shall be provided with a paved surface.

(Ord. No. 457, § 1, 7-12-2017)

Sec. 20-18. Maintenance agreements.

A Maintenance Agreement shall bind the owners of all lots, parcels and condominium units with access to the private road, including their successors and assigns. The Maintenance Agreement must include the following minimum information:

- (1) *Restrictive Covenant.* A restrictive covenant shall be included in the Maintenance Agreement establishing the responsibility for maintaining the private road on all lots and parcels to be serviced by the private road. Such restrictive covenant shall further provide that all owners of property with access to a private road shall refrain from prohibiting or restricting in any manner normal ingress and egress and use by any of the other owners, their family, guests, delivery and emergency vehicles or other invitees. It shall further grant to Highland Township an easement for the purpose of providing for the installation, operation, inspection, maintenance or removal of any public or private utility systems. The agreement shall grant to Highland Township the right, but not the obligation, to inspect and repair said private road at the expense of the owners of property served by the private road. The Township shall have the sole discretion whether to create a special assessment district under the agreement. If the Township elects to repair a private road, the agreement shall provide for the establishment of a special assessment district to defray all costs incurred in repairing the private road. The agreement shall provide that all current and future owners agree that they are waiving all rights to challenge all aspects of the special assessment district. In addition, the owners and all future owners agree that the private road agreement shall be deemed a petition or an adjunct to a petition by the property owners for a special assessment district, if such a petition is legally required.

In the event the Township has granted a temporary waiver of the paving requirement pursuant to section 20-22, the Maintenance Agreement shall provide that the temporary waiver shall terminate at such time as the adjoining public road is paved.

- (2) *Co-Owner Association.* A provision for an incorporated association of co-owners along the proposed private road, which shall be responsible to collect fees and to maintain the private road or roads.
- (3) *Financing.* A feasible and practical method for financing the repair, improvement, and maintenance of the private road in compliance with this ordinance. The maintenance agreement shall include an explicit clause advising all current and future parties to said agreement that neither Highland Township nor any other public agency is obligated to perform regular inspections of the easement area or provide repairs, improvements or maintenance to the private road.

Sec. 20-19. No public repair or maintenance.

It is the obligation of the land owners to construct, repair and maintain a private road. Neither Highland Township nor any other public agency shall be obligated to perform regular inspections of the easement area or provide necessary repairs or maintenance, including snow removal, for the private road.

Sec. 20-20. Road name.

The road name shall be approved by the Zoning Administrator. The Township Building Official shall issue lot address numbers based on the private road, not the adjoining public road. Parcel addresses shall be required to be clearly posted in a visible location at each lot driveway. At the expense of the applicant, a road name sign, approved by the Road Commission for Oakland County, shall be placed at the intersections of the private road and public or private roads.

Sec. 20-21. Preexisting roads.

Private roads established prior to the adoption of this section shall not be required to conform to the current standards of this section under such adopted or amended ordinance, until such time as the road is extended or a land division is granted for additional parcels served by this road. The zoning administrator shall require improvements to bring the road into full compliance with this section, including hard surfaced pavement, if a land division results in sixteen (16) or more parcels being served by this road. The zoning administrator may always require improvements to satisfy the minimum requirements for fire apparatus access in accordance with the fire code adopted in article III of chapter 9 of the Highland Charter Township Code.

(Ord. No. 457, § 1, 7-12-2017)

Sec. 20-22. Variances and deferrals.

- (a) A variance may be granted by the township board from regulatory provisions of this private road ordinance when all of the following conditions are satisfied:
 - (1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;
 - (2) The alternative proposed by the applicant will be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards;

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- (3) The granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property, nor contrary to the overall purpose and goals of the private road ordinance.
- (b) The township board may grant a deferral of any requirement of the private road ordinance to a future date or until a specific event or condition occurs. Such deferrals shall specify the date or event or condition that triggers the requirement for full compliance. The township board may require a performance guarantee such as an irrevocable letter of credit or cash bond to ensure future compliance.

(Ord. No. 457, § 1, 7-12-2017)

Sec. 20-23. Violations.

Any person who violates any provision of this article, or who fails to comply with any of the regulatory measures or conditions of the zoning administrator or the township board issued pursuant thereto is responsible for a municipal civil infraction, and is subject to payment of a civil fine as specified in section 1-10 of this Code, plus costs and other sanctions for each infraction. Each day such violation continues shall be deemed a separate offense. Repeat offenses shall be subject to increased fines as provided by section 1-10 of this Code.

Secs. 20-24—20-74. Reserved.

AFFIDAVIT, ACKNOWLEDGEMENTS, PERMISSIONS:

By signing this application:

- The applicant and owner agree that the statements made in this application packet are true, and if found not to be true then this application and any approval shall be void.
- The applicant and owner grant the right of the Planning Commission members, inspectors, and administrators to conduct a site inspection of the subject property.
- The applicant and owner acknowledge that one or the other or both are responsible for all application and consultant fees that arise out of the review of this request.
- The owner authorizes the township to place a sign on the property, if necessary, to inform the public of the pending matter being requested.

APPLICANT

NAME: _____

MAILING ADDRESS: _____
 _____ ZIP: _____

PHONE: _____

EMAIL: _____

SIGNATURE: _____

On the ____ day of _____, ____ before me, a
 Notary Public, personally appeared the above-named person whose signature appears above, and who executed the foregoing instrument, and he/she acknowledged to me that he/she executed the same.

State of Michigan, County of Oakland
 Notary Public Signature

 Notary Seal and Stamp

PROPERTY OWNER

NAME: _____

MAILING ADDRESS: _____
 _____ ZIP: _____

PHONE: _____

EMAIL: _____

SIGNATURE: _____

On the ____ day of _____, ____ before me, a
 Notary Public, personally appeared the above-named person whose signature appears above, and who executed the foregoing instrument, and he/she acknowledged to me that he/she executed the same.

State of Michigan, County of Oakland
 Notary Public Signature

 Notary Seal and Stamp

- A notarized letter giving the Applicant authorization to represent the Owner is also permitted in lieu of a signature on this application. The applicant will be considered the official designee for the Owner, and all correspondence will be addressed to this person.
- If there are Co-Applicants and/or Co-Owners associated with this property(ies) to be acted upon, please submit a Notarized Co-Applicant's and/or Co-owner's "Interest in Property Certificate" with this application. The person signing this application will be considered the official designee for the group and all correspondence will be addressed to this person.