

CHAPTER 28

ARTICLE V. PRIVATE ROADS

Sec. 28-251. Purpose.

The township has determined that as large tracts of land are divided, sold, transferred, and developed, private access roads are being created to provide access to the newly divided properties which are not subject to regulation under the land division act, Public Act No. 288 of 1987 (MCL 560.101 et seq.) and other state regulations. The township determines 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 to assure:

- (1) Private roads are designed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other vehicles.
- (2) Private roads are constructed of suitable materials to ensure minimal maintenance and safe passage.
- (3) Private roads will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the township.

(Comp. Ords. 1988, § 132.001; Ord. No. 698, § 1.01, 10-23-2000)

Sec. 28-252. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Access means motorized vehicle access.

New private road means a private road, or extension thereof, constructed after November 19, 1990.

Parcel means any land that, under the provisions of the township zoning ordinance, may be occupied by only one principal building or use, but not necessarily conforming to lot lines. The term "parcel" shall include subdivided lots and site condominium units.

Private road means any drive or roadway which is not a public highway, and which provides or has the potential for providing motorized vehicle Access to more than one parcel.

(Comp. Ords. 1988, § 132.002; Ord. No. 698, § 1.02, 10-23-2000)

Sec. 28-253. Design standards.

(a) The private road right-of-way shall have a minimum width of at least 66 feet. No part of a private road right-of-way shall be closer than ten feet to any property line without written consent of the adjoining property owner of a parcel not served by the subject private road. Public water and sanitary sewer (if available), storm sewer, if needed as determined by the township engineer, and utility lines shall be installed at the time the private road is constructed and easements shall be reserved for such utilities. For purposes of this subsection (a), public water and sanitary sewer shall be considered "available" if public water or sanitary sewer currently exists within 500 feet of the new private road or extension of an existing private road, measured along the right-of-way, easement, highway, street, or public way, and the township engineer determines that said public sewer and/or public water may be feasibly extended wholly within the public

right-of-way or road and utility easement to service said new road or existing private road extension.

(b) The private road surface shall consist of at least two lanes with a minimum lane width of ten feet each. If the road surface is to include a storm sewer system, the minimum width of the private road, including road surface, including valley gutters, shall be 26 feet.

(c) The road surface shall have a minimum crown of two-tenths of one foot from the centerline of the private road surface to the outside edge of the road surface, be constructed with a minimum of six inches of compacted gravel base extending four feet either side of the road surface and have a minimum of three inches of compacted bituminous aggregate in accordance with county road commission standards, provided that if the private road is intended as the primary means of access to four or less parcels, and is less than 800 feet in length, bituminous aggregate is only required from the edge of the public road to a point 50 feet beyond the public road right-of-way. Where the road surface is being constructed in impervious soils, a 12-inch sand subbase with a subbase drainage system shall be located beneath the gravel base.

(d) A road shoulder shall be provided on each side of the private road surface with a minimum width of four feet containing a slope of twenty-two hundredths of a foot from the outside edge of the road surface to the toe of the slope. A road shoulder shall not be required where a curb and gutter or asphalt valley gutter system has been installed in accordance with county road commission standards.

(e) If a private road ends in a cul-de-sac, the right-of-way shall have a minimum radius of 60 feet. The cul-de-sac surface shall have a minimum radius of 40 feet measured from the back of curb on one side to the back of curb on the other side and shall be constructed in accordance with the standards set forth in subsection (c) of this section.

(f) The layout of private roads in respect to their location, intersections, street name and traffic control signs, horizontal curves, and curb openings at intersecting streets shall conform to county road commission standards.

(g) All utilities within a private road right-of-way shall be constructed underground. Any easements necessary for the provision of township water or sewer service shall be recorded in the records of the county register of deeds and a recorded copy shall be filed with the township clerk prior to issuance of the final private road permit.

(h) All private roads shall be named and be identified by the use of appropriately located street name signs. Street names shall not duplicate any existing street name in the county except where it is a continuation of an existing street. All lots fronting on a private road shall have an address on the private road.

(i) Private road grades shall not exceed ten percent.

(j) All private roads, including those existing prior to adoption of the ordinance from which this article is derived, shall be maintained such that emergency vehicles can safely access all parcels served by the private road. All private roads, including those existing prior to adoption of the ordinance from which this article is derived, shall be maintained in a safe manner. A maintenance agreement as described in section 28-254 is required before a private road permit is issued for an existing private road or a road extending an existing private road.

(k) If any portion of a private road is located within 35 feet of a property line of a parcel not served by the subject private road, a greenbelt not less than ten feet in width shall be installed along the property line. The greenbelt shall be maintained in as good condition as when installed and shall be composed of deciduous trees interspersed with evergreen trees spaced not more than 20 feet apart. The greenbelt shall also include at least one row of dense shrubs placed not less than five feet apart having a minimum height of three feet when planted.

(l) A streetlight shall be located at the intersection of a public road and a private road serving more than four parcels.

(m) A drainage system serving the private road and surrounding areas shall be designed to accommodate a ten-year developed storm event. Cross-culverts and/or the portion of the private road system which conveys cross-drainage shall be designed to accommodate a 100-year storm event which shall surcharge no higher than one foot below the minimum building openings for adjoining structures, and/or one foot below proposed minimum basement openings, and/or one foot below the low-point in the road. A retention or detention system shall be designed in accordance with the county drain commissioner's requirements to serve the development accessed by the private road. Materials for culverts shall conform to county road commission standards.

(Comp. Ords. 1988, § 132.003; Ord. No. 698, § 1.03, 10-23-2000)

Sec. 28-254. Preliminary private road permit for new private road.

(a) No construction of any kind shall begin on a new private road or extension of a new private road or on any parcel which depends on the private road for access until a preliminary private road permit has been issued.

(b) The applicant for a private road permit shall submit an application to the township clerk together with the review fee as determined from time to time by the township board. The application shall include:

(1) Six copies of a site plan and construction plan for the proposed private road, showing all property within 150 feet of the private road right-of-way, the proposed location of the road surface, the proposed division of land, street grades, stormwater drainage, and other improvements, prepared by a registered engineer or land surveyor.

(2) An approved roadway permit from the county road commission for access to a public street.

(3) A private road maintenance agreement shall encumber and run with the parcels for which the private road provides access. The private road maintenance agreement shall provide a detailed description of how the road will be maintained and how the costs of maintenance will be apportioned among benefiting property owners. The purpose of the private road maintenance agreement shall be to ensure the provision of safe access by emergency vehicles. The private road maintenance agreement shall be recorded in the records of the county register of deeds and a recorded copy shall be filed with the township clerk prior to issuance of the final private road permit.

(c) Following receipt of the application, the township clerk shall refer the application to the fire chief, planning director, engineer and other individuals or agencies deemed appropriate by the township clerk. Review of the application shall be for the purpose of determining its conformance with applicable state and township regulations, the impact of the proposed development on adjacent lands, and whether the health, safety, and general welfare of persons using or affected by the private road will be adequately protected. Each agency or individual responsible for review shall, within 20 days following receipt of the application, submit a report to the township clerk. The township board shall review and approve or disapprove the application within 40 days following receipt of the application, unless extended by agreement of the applicant or upon determination by the planning director that the application is not complete. If approval is granted, the township clerk shall issue a preliminary private road permit. If the application is not approved, the township clerk shall set forth in writing the reasons for rejection and shall promptly provide the applicant with a copy thereof.

(Comp. Ords. 1988, § 132.004; Ord. No. 698, § 1.04, 10-23-2000)

Sec. 28-255. Final private road permit for new private road.

Upon completion of construction of a new private road or the extension of a new private road, the applicant shall submit to the township clerk a completion certificate signed by a registered engineer or land surveyor that the road has been completed in accordance with the approved site plan and construction plan. The township engineer shall review the completion certificate, inspect the completed road improvements and make a recommendation to the township and applicant. The township engineer may require core samples of the asphalt, gravel subgrade and sand subbase to verify that the thicknesses are in accordance with the approved site plan and construction plan. The applicant shall correct any deficiencies identified. Upon final review and approval of the completed road improvements by the township engineer, the township clerk shall issue a final private road permit. Building permits for construction on parcels served by a private road shall not be issued until the final private road permit has been issued or the applicant for the building permit for private road has provided the township with a cash deposit, certified check, surety bond or irrevocable bank letter of credit in an amount estimated by the township to be sufficient to ensure completion of construction of the private road in accordance with the approved site plan and construction plan within one year after the date of issuance of the building permit.

(Comp. Ords. 1988, § 132.005; Ord. No. 698, § 1.05, 10-23-2000)

Sec. 28-256. Private road permit for existing private road.

(a) Private roads existing prior to November 19, 1990, or extension of such an existing private road, shall not be subject to the design standards of section 28-253, except as herein provided. Except for new parcels created by a land division pursuant to the land division act, new parcels on an existing private road or extension of an existing private road shall not be permitted until a private road permit for an existing road has been issued. When a new parcel is created as a result of a land division pursuant to the land division act, no building permit or occupancy permit shall be issued for any of the resulting parcels on an existing private road or extension of an existing private road until a private road permit for an existing road has been issued. The township may record a notice with the county register of deeds to notify prospective purchasers. The appropriate individuals or agencies shall submit their reports as provided in section 28-254(c) and the township board shall determine that the existing private road or the extension of an existing road meets the following design standards:

(1) The road surface shall have a minimum crown of two-tenths of one foot from the centerline of the private road to the outside edge of the pavement, be constructed with a minimum of six inches of gravel base and a minimum of three inches of compacted bituminous aggregate, provided that if the private road is intended as the primary means of access to four or less parcels and is less than 800 feet in length, bituminous aggregate is only required from the edge of the public road to a point 50 feet beyond the public road right-of-way. Where the road is being constructed in impervious soils, a 12-inch sand subbase with a subbase drainage system shall be required. The minimum roadway width of an extension of an existing private road shall be not less than the width of the existing private road, but in no event less than 14 feet with a minimum overhead clearance of 13 feet and six inches for the full width of the roadway. The fire chief may prescribe additional conditions determined necessary to accomplish these standards.

(2) Construction of the extension of an existing private road shall protect against or minimize soil erosion and prevent damage to lakes, streams, wetlands and natural environment of the township.

(b) The applicant shall submit a private road maintenance agreement, which shall encumber and run with participating parcels for which the private road provides access. The private road maintenance agreement shall provide a detailed description of how the road will be maintained and how the costs of maintenance will be apportioned among benefiting property owners. The purpose of the private road maintenance agreement shall be to ensure the provision of safe access by emergency vehicles. The private road maintenance agreement shall be recorded in the records of the county register of deeds and a recorded copy shall be filed with the township clerk prior to issuance of the final private road permit.

(c) The applicant/owner shall provide and record public sewer and public water easements to the township in the private road easement as determined by the township engineer, if said easements do not already exist. The township board may waive this requirement if it determines that said easements would serve no purpose or benefit public health, safety and welfare.

(d) If the township board determines that the requirements of subsection (a), (b) and (c) of this section have been satisfied, the township clerk shall issue a private road permit for the existing private road or the extension of an existing private road. Building permits for construction on properties served by an existing private road or an extension of an existing private road shall not be issued until a private road permit has been issued as herein provided or the applicant for the building permit has provided the township with a cash deposit, certified check, surety bond or irrevocable bank letter of credit in an amount determined by the township to ensure construction of the private road in accordance with the approved private road site plan and construction plan within one year after the date of issuance of the building permit.

(e) The township board may require property owners served by an existing private road to change their addresses from the public road name to the private road name where said properties are currently addressed with public road addresses.

(Comp. Ords. 1988, § 132.006; Ord. No. 698, § 1.06, 10-23-2000; Ord. No. 754, 3-29-2004)

Sec. 28-257. Township liability.

The applicant for a private road permit agrees, by applying for and securing a private road permit, to indemnify and save and hold the township harmless from all claims for personal injury and/or property damage arising out of the failure to properly construct, maintain, repair or replace a private road. Such wording shall appear on the application for the private road permit and be signed by the applicant. Maintenance, repair, and liability for private roads shall be the responsibility of property owners having legal access to the private road and not the responsibility or liability of the township.

(Comp. Ords. 1988, § 132.007; Ord. No. 698, § 1.07, 10-23-2000)

Sec. 28-258. Appeals and variances.

Any person affected by a decision regarding this article shall have the right to appeal the decision to the township board within ten days. Such appeal shall be filed with the township clerk in writing and shall state the reasons for appeal and any documents in support thereof. The township board shall establish a time for hearing the appeal, which shall be no later than 30 days after filing. Written notice of such hearing by first class mail shall be provided to all properties which depend or may depend in the future on the private road for access and all properties within 300 feet of such private road. Such notice shall be given not less than five days prior to such hearing. The decision of the township board shall be set forth in writing and be delivered to the

applicant within three calendar days following the hearing. The decision of the township board shall be final. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this article, the township board may vary or modify any of its rules or provisions so that the spirit of this article is observed, public safety secured, and substantial justice done. The township board may grant a variance from the requirements of this article upon a finding, from reasonable evidence, that the following conditions exist:

(1) That authorizing a variance will not be of substantial detriment to neighboring property and will not materially impair the intent and purposes of this article. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

(2) That the condition or situation for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formation of a general regulation for such condition or situation.

(3) That by reason of exceptional narrowness in width or length, or exceptional shape of a parcel on the effective date of the ordinance from which this article is derived, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of the land or of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this article would involve practical difficulties or would cause undue hardship.

(Comp. Ords. 1988, § 132.008; Ord. No. 698, § 1.08, 10-23-2000)

Sec. 28-259. Violation of article a municipal civil infraction.

Any person who violates or refuses to comply with any provision of this article shall be responsible for a municipal civil infraction.

(Comp. Ords. 1988, § 132.009; Ord. No. 684, 6-5-2000; Ord. No. 698, § 1.09, 10-23-2000)

Secs. 28-260--28-300. Reserved.