

ARTICLE 16. PRIVATE ROADS, DRIVEWAYS, AND ACCESS MANAGEMENT

Section 16.01 Intent, Applicability and Definition

- A. **Intent.** The intent of this Article is to establish procedures, design standards and ensure proper maintenance for roads and driveways which are not intended to be dedicated to the public. These procedures and standards are intended to protect public health and safety and to insure that adequate roadway access to all parcels and lots is maintained.
- B. **Applicability.** The procedures and standards of this Article shall apply to all private roads and driveways, including those regulated by the Condominium Act, 1978 PA 59, MCL 559.101 et seq. For purposes of interpretation, private roads in a condominium development or multiple family development shall not include parking lot aisles or drives connecting parking lots to internal roads. The standards of this chapter shall also apply to access points and drives along public roadways.
- C. **Construction.** All private roads or roadways and driveways shall be constructed according to the standards of this Article and any requirements of the Livingston County Road Commission or State of Michigan.

Section 16.02 Required Dimensions for Private Roadway

- A. **Right-of-Way.**
 - 1. Minimum right-of-way width shall be sixty-six (66) feet in accordance with Livingston County Road Commission public road right-of-way dimensions in the event that a private road shall become public in the future.
 - 2. Road intersections shall have a minimum radius of twenty (20) feet at the right-of-way line.
 - 3. To provide adequate emergency vehicle access, fifteen (15) feet of overhead tree clearance shall be provided within the width of the gravel.
 - 4. Easement for utilities must be included.
- B. **Centerline.** The centerline of the road shall be constructed on the centerline of the right-of-way.

C. Sight Distance.

1. To protect motorists and pedestrians, minimum sight distance required at all internal private roadway intersections shall be three hundred (300) feet.
2. Minimum sight distance at all intersections of existing public streets and private roadways shall be six hundred (600) feet.
3. Sight distance shall otherwise be measured consistent with the current Livingston County Road Commission standards.

D. Grade.

1. Minimum grade on any private roadway shall be 0.5 percent.
2. Maximum grade on any private roadway shall be 5.0 percent.
3. The vertical curve shall be used at all changes in grade. No vertical curve of less than one hundred (100) feet or less than forty (40) times the algebraic difference in percent of grades will be used.
4. All proposed roads shall have a horizontal curve at the centerline, not less than two hundred (200) feet radius.

E. Surface Width.

1. A private road with curb and gutter shall have a paved surface with the minimum width based on the following:

<u>Vehicle Trips/Day</u>	<u>Surface Width</u>
Under 250	20-24 feet
Between 250 – 1500	26 feet
Above 1500	36 feet

Minimum surface widths shall be based upon a measurement from back of curb to back of curb. The Planning Commission will consider private road surface width on a case by case basis based upon estimated vehicle trips per day and based upon consideration of the following conditions:

- a. The road will provide access to only one (1) parcel of land without public street frontage.
- b. The road is unlikely to become a public street in the future.

- c. It is unlikely that the road has the potential to serve additional lots in the future.
 - d. It is determined that a reduced width will preserve significant natural features and there is no alternative design that will preserve the natural features and meet the regular width standard.
 - 2. Paved roads with ditches shall meet the surface width requirements of this Section, measured from edge of pavement to edge of pavement, and shall require three (3) foot wide shoulders.
 - 3. A gravel road with or without ditches shall have a minimum twenty-two (22) foot width. A gravel road with ditches shall also require four (4) foot shoulders on each side.
- F. Dwelling Units Served.** For adequate emergency vehicle access, a maximum fifty-four (54) lots or dwelling units shall be served by a single means of access.
- G. Cross Section.**
 - 1. The roadway cross section shall have a minimum of seven (7) inches of 22A gravel or equivalent of compacted surface.
 - 2. The roadway cross section shall have a minimum of six (6) inches of compacted porous sub-base.
- H. Slopes and Ditches.**
 - 1. Back slopes shall be three to one (3:1) or flatter.
 - 2. Roadside slopes shall be four to one (4:1).
 - 3. Ditches shall have a minimum depth of twenty-four (24) inches below shoulder grade and minimum bottom width of twenty-four (24) inches.
- I. Cul-De-Sac.**
 - 1. All dead end roads must have some type of cul-de-sac at its terminus.
 - 2. A private road shall provide a turn-around for vehicles by either a cul-de-sac or a continuous loop street layout. Turn-arounds shall have a fifty (50) foot radius or larger if a center

landscaped island is included. A larger turn-around may also be required for commercial private roads. These standards may be modified by the Planning Commission in particular cases, with input from the fire department and Township staff or consultants.

3. All setback, side and back lot lines must be met. These parcels are not required to meet the four to one (4:1) ratio.
4. Developments which result in parcels fronting on a cul-de-sac shall limit the splits so that all parcels are contiguous to the road right-of-way and are the minimum width at the front building line. All parcels fronting on a cul-de-sac shall have a minimum frontage of sixty-six (66) feet at the front lot line.
5. For adequate emergency vehicle access, the right-of-way radius shall be a minimum of seventy-five (75) feet.

Section 16.03 Drainage and Culverts

- A. Easements.** Drainage easements shall be provided to accommodate all storm water from road right-of-way.
- B. Storm Water Run-Off.** Drainage facilities shall be constructed such that no additional storm water drains directly onto adjacent property or any public road or an MDNR regulated wetland without an MDNR permit. Use of runoff containment or control shall be required.
- C. Drainage Culverts.** All culvert pipes shall meet Livingston County Drain Commission standards.
- D. Post Construction Surface Conditions.** Drainage facilities shall be top soiled, fertilized, seeded and mulched or sodded and shall meet Livingston County Drain Commission specifications.

Section 16.04 Shared Private Driveways.

- A.** A shared private driveway shall be provided within a sixty-six (66) foot wide access easement that is recorded in the chain of title of the maximum four (4) parcels that access the driveway. A proposed shared private driveway exceeding one thousand (1,000) feet in length or accessing more than one (1) lot must be built with a minimum of twenty (20) foot width, topsoil removed to a solid base and County specifications, gravel top coat of at least six (6) inches put down, because of its increased potential for access management problems, and must be inspected by the Township. A fee for this service is set by the Township.

1. In accordance with Livingston County Road Commission standards, the minimum finish surface width of the shared private residential driveway shall be twenty (20) feet and the maximum width shall be thirty (30) feet. A cul-de-sac turnaround may not be required if the length of the shared private driveway is three hundred (300) feet or less. In addition to any Livingston County Road Commission Standard, any cul-de-sac turnaround shall meet the specifications of 16.02(I). For longer shared private driveways, a circular turnaround shall be required depending on the length of the private driveway and the recommendation of the fire department.
 2. A shared private commercial driveway shall be constructed to the Livingston County Road Commission standards of a two-way commercial driveway.
- B.** An interior lot with street access by a shared private driveway that does not abut a private or public road, but which can be accessed by a sixty six (66) foot wide (minimum width) ingress and egress easement shall be permitted as set forth below:
1. Each interior lot shall contain the minimum area established in the applicable zoning district and have a width to depth ratio no greater than four to one (4:1).
 2. Each interior lot shall maintain the required road frontage for the district. The required road frontage shall be determined by the interior lot line most parallel to and nearest the street from which access is obtained.
 3. The ingress and egress easement providing access to interior lots intersecting a public road or private road, shall be separated by a minimum distance of two hundred (200) feet as measured from center line of stem to centerline of stem along the centerline of the public or private road.
 4. The minimum width of the ingress and egress easement serving the interior lot(s) shall be sixty six (66) feet.
 5. The address of the dwelling occupying an interior lot shall be clearly marked at (a) the intersection of the dwelling driveway with the shared private driveway; and (b) the intersection of the shared private driveway with the private or public road.

Section 16.05 Access Management Standards

A. Design Standards.

1. Private roads which intersect with existing or proposed private roads or public street right-of-ways should intersect at a ninety (90) degree angle. Where constrained by environmental features, a reduced angle may be allowed by the Planning Commission, but in no case shall the angle be less than seventy (70) degrees.
2. Proposed intersections shall align directly across from public streets, private roads or non-single family residential driveways or be off-set at least two hundred fifty (250) feet measured centerline to centerline. This will hold true regardless of their orientation to one another (i.e., same side or opposing). This standard may be reduced if approved by the Livingston County Road Commission.
3. All private roads shall conform to the Livingston County Road Commission specifications for private road approaches.
4. Street names shall be required by the Planning Commission for any private road. The applicant shall inform the Township of address numbers as assigned by the Livingston County Register of Deeds.
5. All signs within the private road or access easement shall be identified on the site plan and shall be in accordance with the Michigan Manual of Uniform Traffic Control Devices, unless the Planning Commission approves another type of design for consistency with the character of the development. Street signs shall be provided at all intersections. These signs shall contrast in terms of color with public street signs and shall indicate the road is private. The Township may require the posting of "No Parking" signs.
6. Sidewalks or bike paths may be reasonably required by the Planning Commission if they provide for the health, safety or welfare of the Township.
7. While not required to be dedicated to the public, no structure or land use activity shall be established within approved rights-of-way or easements.

B. Driveway.

1. In accordance with Livingston County Road Commission standards, one (1) residential driveway is allowed for residential property with frontage that is one hundred fifty (150) feet. One additional residential driveway may be permitted where frontage exceeds one hundred fifty (150) feet. Two (2) residential driveways may be permitted, in lieu of the above requirement, to serve a circle driveway if the frontage of the property is one hundred fifty (150) feet or more.
2. The design, location, driveway's surface, geometrics and clear vision requirements for all driveways shall follow the Livingston County Road Commission specifications and administrative rules regulating driveways.

- C. Access Easement.** Any access easement from any road right-of-way shall be a minimum width of sixty-six (66) feet. An easement width cannot be included in the one hundred fifty (150) feet minimum road frontage.

Section 16.06 Approval Process

- A. Submission of Site Plan.** Submission of a site plan for a private roadway or shared private driveway shall be required. The site plan requirement may be waived by the Planning Commission for all shared driveways where access is provided to only two (2) residential lots or all lots have direct frontage on a public or private road. Ten (10) copies of the site plan and related information shall be presented to the secretary of the Planning Commission or to the Township Clerk by the property owner or petitioner at least fourteen (14) days prior to the meeting at which the site plan is to be reviewed.

B. Content of Site Plan.

1. Name, address and telephone number of the applicant, and name, address and profession of person who prepared the site plan.
2. Date of preparation, north arrow, and scale of plan, which shall not be less than one inch equals twenty feet (1" = 20') for property under three (3) acres, and not less than one inch equals one hundred feet (1" = 100') for sites three (3) acres or more.
3. Profile drawings and cross sections.

4. Identification of the roadway or driveway location including legal description, dimensions of all lot and property parcel lines including building lines, the relationship to abutting properties, right-of-way lines, deed restrictions, county drains, pipelines, easements, turn around and provisions and other important features.
5. The location and pavement width, right-of-way and grade of all abutting roads, streets and easements.
6. The location and description of all existing structures within five hundred feet (500') of the proposed roadway location.
7. Existing land conditions which influence roadway citing.
8. Existing and proposed topography shown at two foot (2') contour intervals with existing and proposed surface drainage features indicated. The data shall include the percent coverage of impervious surfaces and the means to control storm water flow.
9. The location of existing drainage courses and wetlands within five hundred feet (500') of the proposed roadway location.
10. Soil characteristics of the parcel to at least the detail provided by the U.S. Soil Conservation Service in "Soil Survey of Livingston County, Michigan".
11. Vehicular and pedestrian circulation features within and adjacent to the development site shall be shown.
12. The location of all existing and proposed landscaping, greenbelts, separation berms, fences and walls shall be shown. In cases where protective screening is required, the initial and long term effect of the screening shall be identified. If there are no adjoining residential structures, this requirement may be waived.

C. Public Hearing. A public hearing shall be required for any private road proposed where the access would be within forty (40) feet of the property line of an adjacent existing residential lot or residence. The public hearing shall be held prior to the Planning Commission's consideration of the site plan or site condominium plan. Notice by mail shall be provided to all adjacent lot or home owners generally describing the location of the proposed private road and providing the date and time of the public hearing. Notice by mail shall be deemed to have been given when deposited in the U.S. Post Office addressed to the respective property owner shown on the last

assessment roll of the Township. A notice shall appear in a newspaper of general circulation announcing the public hearing at least eight (8) days, but not more than fifteen (15) days prior to the public hearing.

D. Approval by Planning Commission.

1. The Planning Commission shall review and communicate its approval, disapproval or recommend site plan modifications to the applicant within sixty (60) days after receipt of the site plan. The time limit may be extended by mutual consent of the applicant and Planning Commission.
2. The Planning Commission shall not approve the private road site plan until design and construction plans for the approach of the private road are approved by the County Road Commission.

E. Expiration of Approval. A developer shall start and complete all land development and road construction, in accordance with the approved site plan or site condominium plan on file, within one year from the date of approval.

Development inactivity or incompleteness shall void the approval and plan and a new site plan shall be required subject to any new or subsequent changes in standards, regulations or specifications of this ordinance. A one year extension may be granted when requested by the developer in writing prior to the expiration date and when in the opinion of the Planning Commission, a finding that conditions or circumstances so warrant.

F. Land use Permit.

1. After approval of the site plan, the Planning Commission shall instruct the Zoning Administrator to issue a land use permit for private road or shared private driveway construction.
2. Land use permits for any dwelling or building on any parcel served by the private road shall not be issued until the developer's licensed engineer certifies to the Township Board that the private road was constructed according to the approved plan. Where a parcel has the required frontage on a public street, this provision may be waived.

G. Inspection. During and after private road construction, inspections may be made by a Township designated engineer or other appointed representative. During and after shared private driveway construction, inspections may be made by a Township driveway

inspector or other appointed representative. Any of these inspection fees may be charged to the developer.

- H. Driveway Permits.** Driveways accessing public roads require a driveway permit from the Livingston County Road Commission having jurisdiction of the public road. .

Section 16.07 Easement and Maintenance Agreements

A. Private Roads.

1. Easement Agreement. A Private Road Easement Agreement in recordable form shall be required in substantial compliance with the Model Private Road Easement Agreement maintained by the Township. Upon approval by the Township Board, the Easement Agreement shall be recorded by the applicant at the Office of the Livingston County Register of Deeds and a recorded copy shall be submitted to the Township prior to issuance of any land use permit. The Easement Agreement shall be signed by all owners of lots abutting the private road or all owners served by the private road. It shall meet the following minimum requirements:
 - (a) Legal description. A detailed legal description of the private road easement shall be submitted with its application.
 - (b) Emergency and public vehicle access. The easement shall provide for unrestricted access for emergency and public vehicles used in performance of necessary public services.
 - (c) Non-interference. The terms of the easement shall prohibit any property owner served by the road from the restricting or interfering with the normal ingress and egress of other property owners, their families, guests, invitees, licensees, or others traveling to or leaving any of the properties served by the private road.
 - (d) Future connections. The terms of the easement shall provide consent that the Township may permit future abutting private roads or public roads be connected to the easement or private road.
 - (e) Initial costs of construction. The easement shall describe the method by which initial construction will be funded. If more than one user will share in the cost of initial construction, then the easement shall specify the formula that will be used to apportion the costs.

(f) Setback from existing structures. New private road easements shall be located to provide a sufficient distance from all existing conforming structures and legally nonconforming structures so that such structures comply with the minimum setback requirements for the zoning district in which they are located.

2. Maintenance Agreement. Continued maintenance of private roads and road drainage facilities shall be the responsibility of the property owners served by the private roads. Prior to issuance of land use permits for construction of any structure, property owners served by the private road shall enter into a legally binding Easement Maintenance Agreement, which shall be in substantial compliance with the Model Private Road Easement Maintenance Agreement maintained by the Township and subject to review and approval by the Township Attorney. The Private Road Easement Maintenance Agreement shall be recorded by the applicant at the Office of the Livingston County Register of Deeds and a recorded copy shall be submitted to the Township prior to issuance of a land use permit. The Easement Maintenance Agreement shall bind all existing or future owners of property served by the private road to the Agreement. At a minimum, the Easement Maintenance Agreement shall contain the following:

(a) Maintenance costs. The Easement Maintenance Agreement shall acknowledge that the road surface and easement area are privately owned and therefore all construction and improvements within the easement will be contracted and paid for by the signatories to the Agreement or their successors and assigns.

(b) Method of apportioning maintenance costs. The agreement shall describe the method by which maintenance costs and costs of improvements will be apportioned among the original users. The Agreement shall indicate that the method of apportioning costs applies whether the new users are a result of: (1) extension of the private road beyond its initial length, or (2) connection to another private road, or (3) division of property that is served by the private road. The apportionment formula shall be designed to apportion costs in relation to the benefit to be derived from the private road, and therefore shall include two variables: (1) the number of parcels to be served, and (2) the amount of frontage that each parcel has along

the private road (For example, the formula could apportion fifty (50) percent of the costs on the basis of the number of parcels being served, and apportion the remaining fifty (50%) percent of cost on the basis of frontage for each parcel). The apportionment formula may include provisions to reduce the cost for parcels that have existing access to another public or private road, and therefore would not derive full benefit from the private road.

- (c) Township not responsible. The provisions in the Easement Maintenance Agreement shall in no way be construed to obligate the Township to perform regular inspections of the easement area or to provide necessary repairs or maintenance. The Agreement shall provide a notice that no public funds are used to build, repair or maintain the private road.
- (d) Special assessment provision. The Easement Maintenance Agreement shall contain a provision to permit the Township Board to authorize the repair or maintenance of any private road which is not being maintained adequately to permit safe access by users or emergency vehicles, and to assess the cost of such repair, including the costs of engineering and administration, to the signatories to 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. The Easement Maintenance Agreement should provide notice that the Township may proceed with a special assessment district in order to accomplish such repairs and maintenance.
- (e) Maintenance needs. The Easement Maintenance Agreement shall acknowledge the responsibility of the signatories to the Agreement to maintain the following: surface grading and resurfacing at regular intervals; snow and ice removal; repair of potholes; maintenance of road drainage systems; maintenance of unobstructed vision at any intersection with another private road or with a public road; annual dust control; and regular cutting of weeds and grass within the easement.
- (f) Continuing obligation. The Easement Maintenance Agreement shall specify that the obligation to maintain the easement shall be an obligation running with the land to be served by the private road, and shall be binding upon the owners of such land and their heirs, successors, and assigns.
- (g) Liability. By applying for and securing a permit for a building that utilizes the private road and by utilizing

the private road, the applicant for private road approval, all owners of the private road and lots or units thereon, all those who utilize the shared private driveway or private road, and all persons securing a building permit to construct a building served by the private road shall indemnify and will save and hold the Township (as well as its officers, agents, and employees) harmless for, from, and against any and all claims, causes of action, costs, and damages for personal injury and/or property damage regarding the private road. This language shall be set forth in the Easement Maintenance Agreement and shall run with the land and shall bind all purchasers of property benefited by the private road.

B. Shared Private Driveways.

1. Easement Agreement. A Shared Driveway Easement Agreement in recordable form shall be required in substantial compliance with the Model Shared Driveway Easement Agreement maintained by the Township. Upon approval by the Planning Commission, the Easement Agreement shall be recorded by the applicant at the Office of the Livingston County Register of Deeds and a recorded copy shall be submitted to the Township prior to issuance of a land use permit. The Easement Agreement shall be signed by the owners of lots served by the shared driveway. It shall meet the following minimum requirements:
 - (a) Legal description. A detailed legal description of the shared driveway easement shall be submitted with its application.
 - (b) Emergency and public vehicle access. The shared driveway easement shall provide for unrestricted access for emergency and public vehicles used in performance of necessary public services.
 - (c) Non-interference. The terms of the easement shall prohibit any property owner served by the shared driveway from the restricting or interfering with the normal ingress and egress of other property owners, their families, guests, invitees, licensees, or others traveling to or leaving any of the properties served by the shared driveway.
 - (d) Initial costs of construction. The shared driveway easement shall describe the method by which initial construction will be funded. If more than one user will share in the cost of initial construction, then the

easement shall specify the formula that will be used to apportion the costs.

- (e) Setback from existing structures. Shared driveway easements shall be located to provide a sufficient distance from all existing conforming structures and legal nonconforming structures so that such structures comply with the minimum setback requirements for the zoning district in which they are located.

- 2. Maintenance Agreement. Continued maintenance of shared driveway easements shall be the responsibility of the property owners served by the shared driveway. Prior to issuance of land use permits for construction of any structure, said property owners shall enter into a legally binding Easement Maintenance Agreement, which shall be in substantial compliance with the Model Shared Driveway Easement Maintenance Agreement maintained by the Township and subject to review and approval by the Township Attorney. The Shared Driveway Easement Maintenance Agreement shall be recorded by the applicant at the Office of the Livingston County Register of Deeds and a recorded copy shall be submitted to the Township prior to issuance of a land use permit. The Shared Driveway Easement Maintenance Agreement shall bind all existing or future owners of property served by the shared driveway to the Agreement. At a minimum, the Shared Driveway Easement Maintenance Agreement shall contain the following:

- (a) Maintenance costs. The Shared Driveway Easement Maintenance Agreement shall acknowledge that the driveway surface and easement area are privately owned and therefore all construction and improvements within the easement will be contracted and paid for by the signatories to the Agreement or their successors or assigns.
- (b) Township not responsible. The provisions in the Easement Maintenance Agreement shall in no way be construed to obligate the Township to perform regular inspections of the easement area or to provide necessary repairs or maintenance. The Agreement shall provide a notice that no public funds are used to build, repair or maintain the shared driveway.
- (c) Maintenance needs. The Easement Maintenance Agreement shall acknowledge the responsibility of the signatories to the Agreement to maintain the following: surface grading and resurfacing at regular intervals;

snow and ice removal; repair of potholes; maintenance of road drainage systems; maintenance of unobstructed vision at any intersection with another road; annual dust control; and regular cutting of weeds and grass within the easement.

- (d) Continuing obligation. The Easement Maintenance Agreement shall specify that the obligation to maintain the easement shall be an obligation running with the land to be served by the shared easement, and shall be binding upon the owners of such land and their heirs, successors, and assigns.
- (e) Liability. By applying for and securing a permit for a building that utilizes the shared driveway and by utilizing the shared driveway, the applicant for shared driveway approval, all owners of the shared driveway and lots or units thereon, all those who utilize the shared driveway, and all persons securing a building permit to construct a building served by the shared driveway shall indemnify and will save and hold the Township (as well as its officers, agents, and employees) harmless for, from, and against any and all claims, causes of action, costs, and damages for personal injury and/or property damage regarding the shared private driveway. This language shall be set forth in the Easement Maintenance Agreement and shall run with the land and shall bind all purchasers of property benefited by the shared private driveway.

Section 16.08 Registration

All private road or shared private drive development and road maintenance agreements shall, upon approval by the Planning Commission, be recorded with the Livingston County Register of Deeds prior to the issuance of an occupancy permit, with a copy of such registration filed with the Township Clerk.

Section 16.09 Fees

The Township Board shall establish by resolution the fees for review and inspection of private roads and shared private drives.

Section 16.10 Existing Nonconforming Private Roads and Access Easements

- A. Intent. It is recognized that there exist private roads, service roads and access easements which were lawful prior to the adoption of this ordinance and are now inconsistent with the standards herein. Such roads are declared to be legal, non-conforming roads and easements. The intent of this Section is to allow legal, non-conforming roads and

easements to continue and undergo routine maintenance for safety purposes as determined by the Township. However, this Section of the ordinance is also intended to discourage the extension of non-conforming roads or increase the number of lots or building sites served by such a road, except in platted subdivisions, divisions of land or site condominium projects existing at the adoption date of this ordinance, unless provisions are made to upgrade such road to comply with the standards herein. Any reconstruction, widening or extension of a non-conforming private road or access easement shall be in conformity with this ordinance.

B. Existing Lots on Private Roads or Access Easements. For purposes of determining whether a lot along a private road or access easement qualifies as an existing lot as used in this ordinance, at least one of the following conditions must have existed at the time of ordinance adoption:

1. The lot consists of a “condominium unit” for which a master deed has been recorded with the Livingston County Register of Deeds in accordance with the requirements of the Michigan Condominium Act and other applicable laws and ordinances.
2. The lot consists of a parcel that was described by metes and bounds as recorded by a deed or as a land contract and registered with the Livingston County Register of Deeds.
3. The plot has been assigned a unique number by the Livingston County Register of Deeds and was individually assessed and taxed on that basis.