

I. Private Roads

A. Applicability

1. Private Roads are permitted by Special Use in all zoning districts except for the Agricultural (AG) and Rural Open (RO) zones.
2. The provisions of this section shall not apply to internal roads serving only one lot or parcel of land which has direct public or private street frontage and is under the control of one person, corporation or association. Such internal roads shall not provide the principal means of access to any abutting or adjacent lot or parcel of land. Examples of access roads that **may** be exempted from the provisions of this section include those serving multi-family dwellings, nursing homes, hospitals, factories, schools, mobile home parks, and shopping centers.
3. Private Roads will be permitted only if they will connect to a paved public road.

B. Existing Private Road After the effective date of this Amendment, no existing private roads shall be reconstructed, extended, improved or relocated, nor shall an existing private road be used or extended to provide access to a lot or parcel of land, dwelling or building which was not provided access by the private road as of the date of this Amendment, unless the existing private road is reconstructed according to the construction standards and other requirements of this section. Existing private roads, however, may be used to access lots or parcels of land which were recorded as of the effective date of this Amendment and which have the required lot width on the private road. For purposes of this subsection, repairs and maintenance to a private road, including significant repairs required by erosion, flooding or similar occurrences shall not be construed as improvements to or the reconstruction of a private road.

C. Procedure for permitting of private roads.

1. Application and fee. An Application to establish, construct, extend, improve or relocate a private road shall require approval by the Planning Commission as a Special Land Use in accordance with the procedures contained in this Ordinance. An application for a private road shall contain the following information:
 - i. The name(s) of the owners and any other parties having a legal interest in the private road.
 - ii. Permanent parcel number or legal description of the property over which the private road is to be constructed.
 - iii. A site location map not to scale which shows the location of the parcel containing the road to surrounding properties and roadways within one-half mile of the site.

- iv. A drawing(s), with a scale of not less than one inch equaling 200 feet, containing the following information unless specifically waived by the Zoning Administrator. The drawing must be prepared and sealed by an engineer or land survey, licensed by the State of Michigan, if the proposed private road is to be paved.
 - 1. Location, route, elevations, dimensions of the private road in accordance with the standards of this Chapter.
 - 2. Proposed extensions of the private road
 - 3. A layout including dimensions for the parcels to be served by the private road, including parcels to be accessed by future extensions.
 - 4. The locations where the private road is to intersect with any public street.
 - 5. The locations 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 or within 20 feet either side thereof.
 - 6. The location of any lakes, streams and drains within the proposed right-of-way or within 100 feet thereof.
 - 7. The location of any buildings and structures to be located within the private road right-of-way.
 - 8. A detail of the road cross-section.
- v. A copy of the instruments describing and granting the private road easements.
- vi. A copy of recordable private road maintenance or restrictive covenant agreement as described in Section IV(k) herein.
- vii. Evidence that the intersection of the private road with the public road is acceptable to the Allegan County Road Commission.
- viii. Applicants must submit (7) seven copies of all the above information to Zoning Administrator for review by the Planning Commission.

II. **Review by the Planning Commission**

- a. The Planning Commission shall review this information in conjunction with the Township Fire Chief to determine compliance with the standards and requirements for private roads as contained herein and may consult with the Township Attorney, Engineer, or Planner at the applicant's expense.
- b. If the Planning Commission finds that the application meets the requirements of this section, the application shall be approved and a Construction Permit issued for the construction of the private road. This Construction Permit shall consist of either a written permit or a stamp noting approval and containing the signature of the Zoning Administrator and the date of approval. Two copies of the private road plans shall be stamped for approval or signed. One copy shall be kept by the applicant and one by the Township. This Construction Permit is not a private road

permit and does not authorize construction of any buildings on the private road. The Construction Permit is valid for a period of one year from the date of approval. If construction of the private road has not commenced before this date, the permit shall expire. A new Construction Permit shall be required before the construction can begin.

- c. If the Planning Commission (Zoning Administrator?) denies the application, the written reasons for denial shall be provided to the applicant within five working days of the date of denial.
- d. Final Compliance Requirements- Upon completion of construction of the private road, the applicant shall provide to the Zoning Administrator:
 - i. A letter from a registered professional engineer that the road has been constructed in compliance with the approved private road plans.
 - ii. Documentation that the road maintenance agreement, access easement and deed restrictions have been recorded with the Allegan County Register of Deeds office
 - iii. The Zoning Administrator shall also conduct an inspection of the private road to ensure that all other requirements of this section have been met.
- e. Private Road Permit Issuance- Upon approval of items required for final compliance, the Zoning Administrator shall issue a Private Road Permit.
- f. Permits for buildings on private roads: A building permit shall not be issued for any building, dwelling or structure which derives its primary access from a private road unless:
 - i. The private road has been completed in accordance with an approved Private Road Construction Permit,

Or

 - ii. The applicant for the building permit or the owner(s) of the private road right-of-way have provided the Township with an irrevocable letter of credit in an amount determined by the Township to ensure construction of the private road in accordance with the approved private road construction permit. The letter of credit shall be valid for a period of one year from the date of issuance of the building permit. The Township shall have the right to draw on the funds for the purpose of completing the private road project if the private road is not completed to the satisfaction of the Township prior to the expiration of the letter of credit.

III. Minimum Standards for Private Roads

- a. A private road shall be located within a private road easement. Such easement shall not be less than 66 feet in width at any point.
- b. A lot shall have frontage on the private road easement which is at least equal to the minimum lot width required for the zoning district in which the lot is located.

- c. The area in which the private road is to be located shall have a minimum cleared width of 28 feet. All overhead branches extending over the traveled surface of the road shall be trimmed to a height of 14 feet above the ground.
- d. A three-foot wide shoulder shall be provided on each side of the traveled road surface. Side ditches, if provided, shall be one on three feet front slope and one on two back slope.
- e. The traveled road surface shall have a minimum slope of two percent from the centerline of the road to the outside edge of the road shoulder.
- f. Private roads shall be designed with a longitudinal road grate not exceeding five percent to the extent practical. A longitudinal road grade up to ten percent may be provided if it is determined by the Planning Commission and the Township Fire Department, on a case by case basis that an increase in the road grade will not adversely affect public safety.
- g. Any private road which terminates at a dead end shall have a means for vehicle turn around acceptable to the Township Fire Department. The turnaround must be in the form of a cul-de-sac with a minimum radius of fifty feet and configured in accordance with the Allegan County Road Commission's Detail of a Residential Cul-De-Sac. Other turnaround designs may be approved by the Township Fire Chief. Temporary turnarounds may be considered when private roads are extended to property boundaries for future access to adjacent properties under the following conditions:
 - i. Approval of the Fire Chief stating roads are appropriate for emergency vehicle access and turnaround.
 - ii. An appropriate time limit of no more than 180 days is agreed upon in writing.
 - iii. Escrow funds are set aside for completion of such "temporary" turnaround to ensure permanent compliance by agreed upon date.
- h. A private road or interconnected private road system shall not serve more than 50 residential lots or dwelling units unless a secondary means of egress is provided for the entire property served. This secondary access shall meet the minimum standards of this section.
- i. The intersections of private roads with other public or private roads shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is assured, as determined by the Allegan County Road Commission and the Zoning Administrator or the Hopkins Township Board. The minimum distance between intersections of public and/or private street rights-of-way shall be not less than 250 feet as measured along the right-of-way line thereof to the centerline of the intersecting streets.
- j. A private road shall be constructed in a manner to provide effective storm water drainage and to prevent run-off onto adjacent property. If a private road crosses a natural drainage course, stream or other natural body of water, the method of crossing (by bridge, culvert or other structure) must be certified by a registered professional engineer that it complies with applicable Allegan County Drain and Road Commission and all State of Michigan requirements. Such bridge, culvert or other structure must be able to safely support a weight

of 40,000 pounds or more at the discretion of the Hopkins Fire Department to ensure fire truck access. The applicant shall also obtain any necessary approvals from the Michigan Department of Environmental Quality prior to issuance of a Private Road Construction Permit.

IV Required road widths: In addition to the requirements for private roads contained in the above sections, private roads shall also comply with the following requirements:

- a. A private road authorized under this section shall have a right-of-way of at least 66 feet in width, 20 feet in improved roadbed width with at least three feet of improved shoulder width on each side and adequate drainage ditches and necessary culverts on both sides to accumulate and contain surface waters from the road area. It shall further be improved with not less than (6) six inches of a processed and stabilized gravel base over (6) six inches of compacted sand, have a grade of not more than five percent, and if dead-ended, shall have a cul-de-sac with a radius of not less than fifty feet of improved roadbed for the accommodation of emergency, commercial or other vehicles. Easements will be required to extend completely through the property and end lots, and will be used for determining lot frontage requirements. Access to the public road system shall be approved by the Allegan County Road Commission.
- b. All Private Roads serving five (5) or less parcels shall have a two inch thick bituminous paved surface of at least 20 feet in width. Cul-de-sacs shall have a minimum radius of fifty feet and a constructed paved surface. Private paved roads shall have a bituminous paved approach in accordance with the standards of the Allegan County Road Commission.
- c. For private roads which provide access to more than six (6) lots, dwellings or buildings, the minimum width of the traveled portion of the road shall be 22 feet. This road shall be paved and built in accordance with the requirements of the Allegan County Road Commission for local road sections.
- d. For a private road which serves a commercial, office or industrial lot or building, the minimum width of the traveled portion of the road shall be 30 feet. The road shall be paved and built in accordance with the requirements of the Allegan County Road Commission for industrial and commercial streets.
- f. Building setbacks shall be measured from the outside edge or boundary of the private road right-of-way.

- g. The layout of the private road shall be compatible with the general pattern established by adjacent roads and streets. All intersections shall be at 90 degree angles.
- h. Michigan state highway regulation stop signs shall be positioned and installed in accordance with the Michigan State Manual of Uniform Traffic Control Devices on all private roads and where such roads intersect public roads.
- i. All Private Roads on record as of the date of the ordinance adoption are nonconforming uses of land. These roads may be used as is, but may not be extended nor may any original lots be divided until the road is brought into compliance with all applicable requirements of section .
- j. An easement shall be provided for gas, electric and telephone and all utilities to each parcel.
- k. If accessibility is by a private road or easement, a document acceptable to the Township shall be recorded with the Allegan County Register of Deeds and filed with the Township Assessor or his/her designee specifying the method of private financing of all maintenance, improvements, and snow removal, the apportionment of these costs among those benefitted, and the right of the Township to assess such costs against those benefitted plus an administrative fee up to 25% of that cost, and to perform such improvements in the event of a failure of those benefitted to privately perform these duties for the health, safety and general welfare of the are.
- l. All new Private Roads shall have standard Allegan County Road Commission name identification. The road name shall be approved by the Allegan County Road Commission.
- m. **Final Private Road Permit:** Upon completion of construction, the applicant will submit a certification sealed by a registered Civil Engineer that the road has been completed in accordance with the plans, specifications and standards of the Preliminary Private Road Permit and which refers to his/her design number and date. Upon review and approval of the completed private road, the Hopkins Township Planning Commission shall order the Zoning Administrator to issue a Final Private Road Permit to the applicant.

V. Private Road Maintenance Agreement: The applicant(s) and /or owner(s) of the proposed private road shall provide to the Township a recordable or recorded road

maintenance agreement, access easement agreement, and/or deed restrictions which shall provide for the perpetual private (non-public) maintenance of such roads and/or easements to a necessary and reasonable standard to serve the parties having an interest in the private road. These documents shall include provisions for the following:

- a. A method of financing such road and/or easements in order to keep the road in a reasonably good and usable condition.
- b. A statement that the private road shall be regularly maintained, repaired, and snowplowed so as to assure that the private road is safe for travel and will allow for unimpeded access to emergency vehicles at all times.
- c. A method of apportioning the costs of maintenance and improvements and an enforcement mechanism to ensure that such maintenance and improvements are carried out.
- d. A notification that no public funds of Hopkins Township will be used to build, repair, or maintain the private road.
- e. Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.
- f. Each of the owners of property utilizing the road shall refrain from prohibiting, restricting, and limiting or in any manner interfering with normal ingress and egress and use of the road; such rights shall be enforceable by seeking injunctive relief in a court of competent jurisdiction. Normal ingress and egress and use of a private road shall include use by lot owners and their families, guest, invitees, tradesmen, employees of public utilities, postal carriers, school bus drivers, operators of emergency vehicles, public safety officers, and others bound to or returning from any of the properties having the right to use the road.
- g. If the private road entrance is secure by a locked gate or other similar mechanism the applicant shall arrange from emergency vehicle access with the Township Fire Chief.