

**120.400 Private Streets and/or Roads.**

**A. Purpose.**

The purpose of this section is to govern the installation, construction or establishment of private streets or roads within the Township, which are not located within a platted subdivision but which are located within a condominium project. This section sets procedural requirements, documentary requirements and requirements regarding design and construction. This section is intended to serve the health, safety and welfare of the public by standardizing private streets or roads, and requiring design and construction (and maintenance) of same so as to facilitate access by emergency vehicles and by multiple public and private users.

**B. Scope.**

The requirements hereinafter set forth shall apply to all private streets or roads within the Township which are not located or to be located within a platted subdivision but are located or to be located within a condominium project. Private streets or roads located within or to be located within a platted subdivision are governed by the Subdivision Control Ordinance of the Township.

**C. Procedural Requirements:**

1. Preliminary Private Street/Road Permit.

Prior to the commencement of the installation, construction or establishment of a private street or road within the scope of this section, a preliminary private road permit must be obtained from the Township.

In order to obtain a private road permit, the following must be provided to the Township:

- a. Application for preliminary private road permit;
- b. Initial plans and specifications regarding the design and proposed construction of the private street or road;
- c. Any and all easements required herein;

- d. Maintenance agreement required herein; the maintenance agreement shall clearly provide unequivocal notice that the private street/road will not be maintained by the Township.
- e. A fee based upon the fee schedule adopted by the Township Board, which schedule may be amended from time to time by the Township Board.

2. Issuance of Preliminary Private Street/Road Permit.

A preliminary private street/road permit shall be issued if the Planning Commission determines, after public hearing on the application, that private streets or roads within the project will not adversely affect the public health, safety or welfare. In determining same the Planning Commission shall consider:

- a. The number of units and/or building sites to be served by said streets or roads;
- b. Layout of proposed project;
- c. Ability to access with emergency vehicles;
- d. Whether the street or road will serve as a link between different public roads; and
- e. All other relevant factors.

3. Final Private Road Permit.

Prior to issuance of building permits, a final private road permit must be obtained from the Township. The final private road permit shall be issued after the construction of a private street or road for which a preliminary permit was granted, after review and approval of said private street or road by the Township's engineer, and after payment of final permit fee.

4. Other Permits.

Nothing in this section shall relieve any person, firm, corporation or other entity from compliance with other permit requirements of the county or state.

**D. Design and Construction Requirements.**

All private streets or roads within the scope of this section shall comply with the following standards and requirements of design and construction:

1. All streets or roads shall be located upon a right-of-way of not less than 66 feet.
2. All streets or roads shall be constructed in accordance with Kalamazoo County Road Commission standards and specifications.
3. The private street/road shall furnish a minimum of two access streets connecting same to a public street or streets unless the Zoning Board of Appeals grants a variance from such requirement where, in the opinion of the Board, the additional access(es) would not improve traffic safety because of particular characteristics of the proposed development.

**E. Documentary Requirements:**

1. Utility Easements.

No private street or road within the scope of this section shall be established unless an easement is provided to the Township within or adjoining said private street or road for all public utilities.

2. Access Easements.

No private street or road within the scope of this section shall be established unless all necessary access easements are provided to the benefited properties and/or to the Township.

3. A Maintenance and Repair Agreement.

No private street or road within the scope of this section shall be established unless a maintenance and repair agreement, recordable with the County Register of Deeds, is supplied providing:

- a. Legal description(s) of all property enjoining a right to utilize the private street or road, i.e., "benefitted properties";
- b. Legal description(s) of all right-of-way and public utility easements;

- c. Legal description(s) of all property having a responsibility for repair, maintenance and/or snow removal for the private street or road, i.e., "responsible properties";
- d. A description of the respective responsibilities, monetary and otherwise, of such responsible property(ies) for repair, maintenance and/or snow removal.
- e. The method by which decisions regarding repair, maintenance or snow removal are to be made by the owner(s) of the responsible property(ies);
- f. A provision indicating that the agreement runs with the land and is binding on all grantees, heirs or successors in interest as to the benefitted and responsible property(ies);
- g. A provision stating that the Township may, at its option, maintain, repair and/or remove snow from the private street or road and charge the cost of same to the responsible property(ies) if the property owners fail to repair, maintain or remove snow from same;
- h. Signatures of all persons having any interest in the property or properties on which the street or road is located, benefitted properties and responsible properties.

**F. Variance.**

The Zoning Board of Appeals may grant a variance from the foregoing where there are practical difficulties or unnecessary hardships in the way of carrying out strict compliance with the section or where, in the opinion of the Board, the spirit and intent of the foregoing provisions are preserved and where the health, safety and welfare of the public is secured and substantial justice thereby accomplished.

**G. Existing Private Streets or Roads.**

This section shall not apply to any private street or road established prior to the effective date of this Ordinance.