

## **ARTICLE XVIII**

### **PRIVATE STREETS SERVING TWO (2) TO THIRTY (30) LOTS**

#### **SECTION 18.01 SCOPE**

The township has determined that as large tracts of land are divided, sold, transferred and developed, private access streets are being created to provide access to the newly divided properties. The Township determines that it is in the best interest of the public health, safety and welfare to regulate the construction, improvement, extension, relocation and use of private streets to assure that:

- A. Private streets are designed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance and other safety vehicles.
- B. Private streets shall be constructed and maintained such that in all weather conditions the private street shall be passable and shall readily afford emergency access to the dwellings, buildings or other structures serviced by the private street.
- C. Said streets are constructed of suitable materials to ensure minimal maintenance and safe passage.
- D. Private streets will be constructed to protect against or minimize soil erosion and prevent damage to lakes, streams, wetlands, and other significant natural features of the Township.
- E. A private street, or any combination of interconnected private streets, shall not provide access to more than 30 lots. Streets providing access to more than 30 lots must be dedicated for public use.
- F. Previously approved private streets, that are not adding additional lots and/or are not being extended, are not required to meet the current private street standards. Existence of an easement alone does not constitute a previously approved private street.

#### **SECTION 18.02 APPLICATION**

- A. An applicant wishing to construct a private street must make application to the Township for a private street construction permit. This application shall include three (3) complete sets of construction plans.
- B. No individual, association, corporation or entity, either public or private, shall construct a private street without first having obtained a private street construction permit from the Township.

- C. An application for a private street construction permit shall contain the following:
1. Completed private street construction permit application form, provided by the Township, and an application fee established by the Township Board.
  2. A detailed written description of the development to be served by the private street, including a description of the association or other party to be responsible for the operation and maintenance of the private street.
  3. Three (3) copies of construction plans prepared in accordance with the Fruitland Township Design and Construction Standards.
  4. A survey of the right-of-way by a registered land surveyor, together with surveys for each parcel to be served by the private street.
  5. The location of all public utilities, including, but not limited to, water, sewer, telephone, gas, electricity, and television cable to be located within the private street right-of-way; copies of the instruments describing and granting such easements shall be submitted with the application.
  6. The location of any lakes, streams, wetlands and drains within the proposed right-of-way or within one hundred (100) feet thereof.
  7. The location of any other buildings and structures located within one hundred (100) feet of the private street right-of-way.
  8. The applicant of the proposed private street shall provide a copy of a private street maintenance agreement that is satisfactory to the township executed by all parties having a right to use the private street and recorded with the Muskegon County Register of Deeds which shall provide for and assure that the private street shall be regularly maintained, repaired and snow plowed so as to assure that the private street is safe for travel at all times and the cost thereof paid. The township will provide a sample Private Street Maintenance Agreement. Substitutions for the sample agreement must be reviewed and accepted by the township attorney.
  9. Private streets shall meet the requirement of this ordinance and be designed and constructed according to the requirements and specifications of the Fruitland Township Design and Construction Standards.
  10. Review comments from the Muskegon County Drain Commissioner, Muskegon County Road Commission, White Lake Fire Authority, Muskegon Conservation District and Muskegon County Department of Public Works.

11. Soil Erosion and Sedimentation Permit.
  12. A narrative (shown on the site plan or submitted separately) describing in general terms the overall description of the proposal and the proposed method of providing sanitary sewer, water service, storm sewers and surface water drainage facilities, as well as other public and private utilities, including details of structures, light fixtures, etc.
- D. The Township shall require, as a condition of the private street construction permit, that the applicant provides a financial guarantee of performance in accordance with this ordinance.
  - E. The financial guarantee will not be released until the restoration is complete to the extent that vegetation no longer requires temporary soil control measures and the project is deemed acceptable and approved for use by the township, and will be contingent upon the final release of the Soil Erosion and Sedimentation Control Permit issued by the County.
  - F. Construction of the private street is to be completed within one (1) year of issuance of the permit. If construction is not completed within such period, the permit shall expire and if the applicant later decides to proceed, the applicant shall reapply as provided in this Section. If construction has commenced but not been completed within one (1) year, the township may exercise the financial guarantee to complete the street. The period within which construction must be completed is subject to extension by the Township Zoning Administrator for good cause shown and, as a condition of extension, the Township may increase the amount of performance guarantee required.

**SECTION 18.03 PUBLIC HEARING REQUIRED**

Following the submittal of a completed application for a private street construction permit, the planning commission shall advertise and hold a public hearing. If the private street is included in a site plan the public hearing will be held in conjunction with the public hearing for the site plan. Notice of the hearing shall be provided to all taxpayers of record within 300 feet of the private street and one notice shall be published in the newspaper of local circulation in accordance with the Zoning Act.

**SECTION 18.04 PLANNING COMMISSION APPROVAL**

- A. Prior to approving a private street application, the Township shall determine that the proposed private street:
  1. Will not be detrimental to the public health, safety or general welfare.
  2. Will not adversely affect the use of land.
  3. Will be constructed to assure a safe and unimpeded route of travel for motor vehicles, pedestrians and emergency vehicles in all weather conditions.

4. Will be constructed so as to protect against or minimize soil erosion and prevent damage to lakes, streams, wetlands and the natural environment of the Township.
- B. The Planning Commission shall act on the private street construction application within 30 days of the hearing.

**SECTION 18.05 EXTENSION OF EXISTING PRIVATE STREETS**

Prior to the extension of a private street, the Zoning Administrator shall review an application submitted in accordance with the requirements of this Article. Extension of private streets shall be subject to the following requirements:

- A. If the extension of the existing street increases the number of dwelling units served, such that an increase in the design standard is required, the entire street shall be brought up to those design and construction standards.
- B. A private street maintenance agreement that is satisfactory to the township must be executed by all parties having a right to use the private street and shall be recorded with the Muskegon County Register of Deeds. Existing private street maintenance agreements or restrictive covenants must be modified to include all new parties proportionately for the entire length of the private street.

**SECTION 18.06 PERMITTING, INSPECTION AND FINAL ACCEPTANCE PROVISIONS**

**A. Periodic Inspection**

1. Private streets shall be inspected for compliance by the township or its designated representative. The applicant, before final approval of the private street, shall pay all inspection costs.
2. From time to time, the township or its designated representative may inspect the construction of the private street to ensure compliance with the approved development site plan and the design and construction standards of the township.
3. If during any inspection, the township or its designated representative determines that the work is not acceptable according to the approved site plan and the design and construction standards of the township, the applicant will be advised in writing of specific defects to be remedied before final acceptance. The applicant shall have 30 days to file an appeal to the township's notification.

**B. Request for Inspections**

1. It shall be the applicant's responsibility to notify the township at certain critical points to give the township adequate time to inspect the quality of work and compliance with approved plans and township design

standards. The following work items require that the applicant notify the township during placement and construction of:

- a. Storm sewer systems and structures, including under-drains if required
  - b. Sand sub-base
  - c. Aggregate base
  - d. Bituminous surface
  - e. Restoration of vegetation
2. Upon request for a final inspection, the applicant shall provide the township with copies of the contractor's construction documentation records, including the following, as applicable:
- a. Aggregate/Bituminous Material Specification documentation from supplier, including point of origin
  - b. Delivery tickets for all bulk materials, including amount and tonnage for individual loads and the net for the project
  - c. Moisture Density Records
  - d. Bituminous Density Records and mix type
  - e. Concrete Field Tests or Cylinder Strength Records and mix type
  - f. Finished Grade Checking documentation
  - g. Contractor Corrective Action Reports
  - h. Inspection Reports with depth checks, etc.

**C. Field Inspection**

1. After review of all data, documentation and licensed professional engineer's certification, the township or its designated representative will make a final inspection.
2. If during any inspection, the township or its designated representative determines that the work is not acceptable according to the approved site plan and the design and construction standards of the township, the applicant will be advised in writing of specific defects to be remedied before final acceptance. The applicant shall have 30 days to file an appeal to the township's notification.

**D. Final Approval**

1. The construction of the private street must conform to the requirements of this Article. It will be necessary for the applicant to provide a certification from a licensed professional engineer that the private street complies with the Fruitland Township Design and Construction Standards. Verification of such conformance will be provided by the applicant's licensed professional engineer by submission of a set of as-built drawings and a statement certifying that the private street has been constructed in accordance with the requirements of the permit. As-built drawings will include computer diskette if the project was so designed.

2. The Zoning Administrator shall not issue zoning permits for any building on lots served by a private street until construction of the private street has been inspected and approved and following submittal of a Completion Certificate signed by the township engineer indicating that the street has been completed in accordance with the requirements of this Article.
3. Upon final acceptance, the township shall notify the applicant in writing of such approval.

**SECTION 18.07 MISCELLANEOUS**

- A. The Township Board shall set fees for the permits and all escrows required herein from time to time, by resolution.
- B. By making application for, or securing a permit to construct a private street, the applicant agrees to indemnify and hold the Township harmless from any and all claims for personal injury and/or property damage arising out of the use of the private street or for failure to properly construct, maintain, use, repair and replace the private street.
- C. Zoning and Building permits, for up to 10 percent of the development or at least one permit in all cases, may be issued prior to the completion of the private street, at the discretion of the planning commission for good cause shown, (such as weather, or other unforeseen circumstances), after approval of the private street construction permit, provided a financial guarantee of performance assuring the completion of the private street has been submitted in accordance with the requirements of this Ordinance.