

PRIVATE ROAD REGULATIONS

Private roads are often seen as a controversial land use tool. Communities that choose to use private roads primarily do so as a way to manage growth. This tool allows communities the opportunity to reduce the number of splits on a piece of property because a private road supports less dwelling units than a typical road. Communities also choose to use this tool because they believe private roads allow for flexible design standards and provide aesthetic benefits, such as limiting land clearing and protecting natural features.

Opponents to private roads have concerns about both the design standards and long-term maintenance of the road. They feel that private roads may not last as long as a public road and that the residents are often not knowledgeable about their role in paying for road reconstruction. Therefore, if a community decides to use private-road regulations, it is important that the community is committed to strong design standards, inspection during construction, and education of residents as to their role in maintaining the road. This section provides specific information to those communities interested in pursuing a private road ordinance.

KEEPING IT CONNECTED

Private road regulations should be addressed during the site plan review process and should consider the impacts of storm water management.

Incorporate dry swales and vegetated channels into the road design to collect and treat storm water runoff.

Planning and Regulatory Considerations

The responsibility for planning, designing, constructing, maintaining, and monitoring private roads is vested in the organizations owning them, typically private property owners. Communities should, however, have language in their plans or ordinances that addresses private roads in conjunction with land division regulations. If not carefully designed and built, roads can become a significant source of storm water pollution. One way to reduce the amount of clearing, grading, and impervious surface in roadways is to allow for flexibility in constructing them in residential developments. A private road ordinance can allow small developments to construct roadways in narrower road easements than public road regulations allow. This minimizes the amount of clearing required, thus potentially preserving existing trees, reduces grading by allowing



Private road in Washington Township.

steeper grades and the ability to follow existing topography more closely. It also allows for less impervious surface through narrower pavement widths.

Tools for Private Road Regulations

Private roads are best regulated in conjunction with land division regulations. Consideration should be given to matching private road standards with the scale of the development being served. Standards should be imposed for road design, surface material, road width, and right-of-way width. On one hand, private roads should be built to minimum engineering standards (such as those required by the Michigan Department of Transportation or the county road commission), so that if and when private roads are converted to public status they are built to county or city standards prior to conversion. On the other hand, such standards may be excessive for private roads that are intended to serve smaller developments in rural areas.

Standards for private roads should also be tied to the desired or anticipated future development of a community. If a community is likely to become fully developed at urban densities, consider constructing private roads to standards that could allow for future public dedication. In older urban communities, private roads can be an integral part of infill development. If a community's vision or goal is to retain its rural or open space character, then private roads could be constructed at lesser standards with the likelihood that they would remain private. If a community decides to allow private roads, it should adopt standards that guide the design and construction that will provide access for residents as well as emergency, delivery, and maintenance vehicles.

Typical private road ordinance provisions include:

Introduction

- Definitions of private road, easements, lots, permits, public street, and right-of-way.

Zoning provisions

- Prohibit private roads for commercial, industrial, or business uses (i.e., requiring public road frontage for such uses).
- Require a certain amount of frontage on the private road for each parcel benefitted.
- Specify which zoning districts' private roads are currently allowed in or allowed in upon approval of the planning commission as a special or conditional use.
- Require upgrades of the road if additional parcels or residences are added.
- Require an alternate or backup access or private road if the number of residences served is large.
- Require a storm water management plan to ensure that drainage has no adverse impact on neighborhood properties.

The following minimum standards can be adopted in a private road ordinance, the zoning ordinance, or as part of the land division ordinance:

- Require easement and right-of-way width (common standard is 66 feet, or smaller, or allow for sliding scale based on the number of lots to be served).
- Specify the maximum number of parcels served on a private road with a single connection to a public road (usually 25 units).
- Provide easement and right-of-way language for both access and utilities.
- Ensure that if the private road is connected to a state, county, or city road, the approach must conform to certain standards.
- Require stop or curve signage.
- Require that private roads be formally named and have street signs to assist location of the site by emergency and utility vehicles.
- Specify conditions under which paving is required.
- Specify the maximum length of private roads ending in a cul-de-sac (usually 600-800 feet in urbanizing areas).
- Specify the maximum width of private roads.
- Determine specifications for the turning radii in the cul-de-sac.
- Determine whether or not to regulate driveways involving only a single residence.

- Ensure a clear vision area at intersections and driveways (usually at least 20 feet).
- Provide drainage requirements.
- Specify grade requirements and pavement slope standards.
- Specify pavement type.
- Specify shoulder width and surface requirements.
- Specify requirements related to physical connections with public or other private roads.
- Specify driveway width requirement for driveways created along the private road.
- Outline engineering review requirements.
- Detail inspection requirements.

Review

- Require blueprints and plans for site plan approval.
- Obtain the review of appropriate county agencies.

Fee requirements and permit issuance

- Prohibit any building or commencement of construction on a private road until all appropriate permits and approvals have been obtained.
- Require preliminary private road permit (before construction begins).
- Require final private road permit (after construction and inspection).
- Require all other county and state permits be obtained.
- Require permit and inspection fees for certification by a municipal or other registered engineer confirming that the road, as built, meets the specifications and plans (optional).

Maintenance agreement

- Require a special assessment to generate necessary public funds for maintaining or improving private roads.
- Secure a joint maintenance agreement in recordable form that remains with the land and binds benefitted parcels.
- Provide a recorded statement remaining with the land informing subsequent purchasers that it is a private road which is not maintained by any governmental unit and may never be taken over by a governmental unit.
- Stipulate that, if the private road is not properly maintained, the municipality has the option of making the repairs and charging the costs back to the benefitted properties by placing the cost on the tax roll as a special assessment.

CASE EXAMPLE

Private Road Ordinance

Community: Scio Township

Contact: Doug Lewan, (734) 665-2123

Scio Township created a detailed private road ordinance to regulate the construction, maintenance, and use of private roads. The ordinance ensures that unobstructed, safe, and continuous access to lots is guaranteed to promote and protect the public health, safety, and welfare, and that police, fire, and emergency services can safely and quickly enter and exit private property at all times. The ordinance also stipulates that private roads are maintained and repaired by the private property owners who own and use the roads.

Scio Township separates private roads into three distinct classifications, Class A, Class B, and Class C private roads. Class A roads are defined as those that service 10 or more single-family homes, have reasonable potential to be extended in the future, and also serve nonresidential uses. Class C private roads are those that serve no more than four lots. Class B roads do not meet the Class A requirements, but exceed those of Class C.

Additional Resources

Bloom, Clifford H. "Regulating Private Roads." *Planning and Zoning News*. January 1990.

Hamburg Township, Michigan. Private Road Ordinance Number 28-C. March 24, 1992.

Planning and Zoning Center, Inc. *Community Planning Handbook: Tools and Techniques for Guiding Community Change*. Michigan Society of Planning. 1992.

Planning and Zoning Center, Inc. *Grand Traverse Bay Region Sample Regulations: Private Road Regulations*. 1992.

West Bloomfield Township, Michigan. Condominium Road Ordinance-C-527. 1997.

Williams, Kristine M. Planning and Zoning Center, Inc. "Private Road Ordinance-Frontage/Service Drive Regulations." Land Division and Access Controls. Michigan Society of Planning. 1990.