

PUBLIC & PRIVATE ROAD ORDINANCE

Township of Imlay
County Of Lapeer, State Of Michigan

An ordinance regulating the design, construction, inspection, and maintenance of private roads and the approval of public and private roads within Imlay Township, Lapeer County, Michigan.

The Township of Imlay Ordains:

SECTION 1. INTENT

In accordance with the provisions of Section 125.330 of the Township Planning Act, Act 168 of 1959, planning commission review and authorization is required prior to the construction of any road within the Township. This Ordinance is intended to provide minimum review standards and specifications for public and private roads constructed in Imlay Township. It is recognized that such standards are necessary because of the need for road services adequate to provide year around access by fire, police, and like emergency services. It is further recognized that if roads are not constructed in accordance with certain minimum standards, such roads frequently become impassable, and vehicles are likely to become stuck, find it impossible to gain access to the persons or structures located on the roadway, block the roadway, and/or otherwise pose a threat to the health, safety and welfare of the residents located along the roadway, as well as those other residents who would find use of the roadway essential.

Based upon the specific type of development being proposed, the following shall be the minimum type of road that will be approved for access to the development under review:

| | Private Road, Paved Surface | Paved Public Road Only |
|------------------------|-----------------------------|------------------------|
| Single Family | x ¹ | |
| Multiple Family | x | |
| Mobile Home | x | |
| Office | x | |
| Commercial | | x |
| Industrial or Research | x | |

1 Gravel surface roads may be permitted only in areas where the road will be connected to an existing Lapeer County gravel road, subject to Section 8 number 6 of this ordinance.

SECTION 2. DEFINITIONS

Private Driveway, shall mean any piece of privately owned and maintained property which is used for access by vehicular traffic to a single parcel of private property but is not open or normally used by the public.

Private Road, shall mean a privately owned and maintained road, allowing access to more than one residence or place of business, which is normally open to the public and upon which persons other than the owners located thereon may also travel. The erection of such signs as "Residents Only", or the like shall not be

deemed to remove any roadway from the requirements of this Ordinance where said roadway is deemed to come within this Ordinance by the Imlay Township Zoning Administrator or his designee.

Public Road, shall mean a thoroughfare which affords vehicular traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, street and other thoroughfare, except an alley, private road, or private driveway. The construction of Public Roads is under the jurisdiction of Lapeer County and shall require final approval and acceptance by the County Road Commission.

SECTION 3. PROHIBITIONS

1. Construction of roads. No persons shall construct a public or private road within the Township of Imlay except in accordance with the standards as herein set forth.
2. Sale of Parcel of Land. No person shall sell any parcel of land within the Township of Imlay unless said parcel of land fronts upon a public street which is dedicated to the public or unless said parcel of land fronts upon a private road which road meets the standards as herein set forth, or unless said contract, deed or other conveyance of sale contains the following language:

"This parcel is not a buildable site for the reason that said parcel does not front on an acceptable ingress and egress in accordance with standards as set forth by the Zoning Ordinance of the Township of Imlay."

3. Building Permits. No building permit shall be issued by the Imlay Township Building Department or any official therein, or any other official of the Township of Imlay for any structure unless said structure fronts on a public street or highway which is dedicated to the public, or unless said structure fronts on a private road which road meets the standards as herein set forth. Nothing in this section shall be deemed to waive any of the lot frontage, width, width to depth ratio, or like requirements as set forth in the Imlay Township Zoning Ordinance.
4. Grading Regulations. No public or private road shall be approved within the Township without an approved grading plan. The approval of land divisions along a private or public road shall require the submission of a grading plan prepared by a registered land surveyor or civil engineer which shall be submitted along with the application for private or public road approval.

SECTION 4. CONVEYANCE OF INTEREST IN LAND ABUTTING PRIVATE ROAD

At the time of the conveyance of any interest in any parcel, and which parcel abuts a private road as herein set forth, which conveyance shall be deemed to include the acceptance of an offer to purchase, the grantor of such interest shall advise the grantee that said parcel abuts a private road, and that the maintenance, care, and other responsibilities concerning said private road rest with the abutting land owners and are not the responsibility of the Township of Imlay, the County of Lapeer, or the State of Michigan.

SECTION 5. PERMIT AND CLUSTER DEVELOPMENT REQUIRED

1. No construction shall begin on any road until it is approved by Imlay Township and a permit has been issued by Imlay Township or the Lapeer County Road Commission following compliance with such requirements as set forth in this Ordinance.

2. All developments which include new or extended private roads that provide access to any single-family residential lots or parcels shall be designed, reviewed and constructed in conformance with the provisions of the Imlay Township Zoning Ordinance Section 1401 – Subdivision Open Space Plan, or Section 1402 – Open Space Preservation Option. Where an existing private road is proposed to be extended, the cluster or open space option standards apply only to the road extension and new parcels which are accessed by the new road extension.

SECTION 6. APPLICATION REQUIREMENTS

1. A complete Road Application form.
2. A true and accurate survey, including both a drawing to scale and full legal description, of the parent parcel, all parcels which would result from the proposed division of the parent parcel, and the private road easement for ingress, egress, road and public utility purposes. The survey shall include the following:
 - a. All adjoining property within 100' of the parent parcel or parent tract;
 - b. All dimensions of existing and proposed property lines and easements;
 - c. Location of all existing buildings, wetlands, lakes, streams, ponds, drives, public and private roads, easements, (including drainage easements), wells and septic fields, including setbacks from all property lines;
 - d. The size (in square feet and acres) of each resulting parcel;
 - e. The proposed location and type of access to each resulting parcel;
 - f. Topography of the area proposed for division;
 - g. Existing and proposed surface water drainage pattern;
 - h. Setbacks from property lines to all proposed buildings, drives, easements, wells and septic systems.
3. Engineering plans of the proposed roadway construction.
4. A copy of the roadway maintenance agreement that will be recorded with the deed or land contract for each lot or parcel to be served by a private road.
5. Application fee and consultant review fee, as established by resolution of the Township Board.

SECTION 7. PRIVATE ROADWAY DESCRIPTION AND MAINTENANCE AGREEMENT

1. All private roads shall have a minimum right-of-way easement of sixty-six (66) feet in width and shall include an easement granted to Imlay Township for the purposes of constructing, operating, inspecting, maintaining, repairing, altering, replacing, and/or removing pipelines, mains, conduits and other installations of a similar character (hereinafter collectively called "Public Structures") for the purpose of providing public utilities, including conveyance of sewage, water and storm water runoff across, through and under the property subject to said easement, and excavating and refilling ditches and trenches necessary for the location of said structures.

2. The legal description of the roadway easement shall be recorded as a part of the deed or land contract for every parcel of property to which it provides access.
3. A Private Road Maintenance Agreement, in a form approved by the Imlay Township Board, shall be recorded as a part of the deed or land contract for every parcel of property to which the road provides access. The Maintenance Agreement shall be binding on all parties and shall guarantee a financial mechanism for and actual, regular maintenance of the private road by all benefited property owners. Neither Imlay Township nor the Lapeer County Road Commission have any responsibility or legal authority to maintain private roads. In addition, the Maintenance Agreement shall include each owner's written approval for the establishment of a Special Assessment District, for maintenance of the Private Road by the Township, upon failure of the owners to maintain the Private Road.

SECTION 8. PUBLIC AND PRIVATE ROAD STANDARDS FOR CONSTRUCTION

The design and construction of all private roads shall be in conformance with the current "Street Standards and Specifications" of the Lapeer County Road Commission, as amended, unless specifically regulated in this Section 8 below. Engineering plans, drawn to a minimum scale of 1"=100' and prepared by a Registered Civil Engineer shall be submitted to the Township which demonstrate conformance with the Lapeer County Road Commission Standards and Specifications and this ordinance, and shall include the following:

1. A legal description of the entire parcel(s), all proposed property splits, and the proposed road easement.
2. A minimum easement width of sixty-six (66) feet.
3. All dead-end roads shall terminate in a cul-de-sac turn-around with a minimum diameter of one hundred twenty (120) feet. Plans for a dead-end road in excess of 1,500 feet long must be reviewed and approved by the Township Board.
4. Soil borings shall be taken by an independent testing laboratory or qualified professional at intervals not to exceed 500 feet. Additional borings may be required where the USDA Soil Survey of Lapeer County or on-site inspection indicates unstable soil may be present.
5. The applicant shall remove all unsuitable soil including muck, peat and marl, as well as brush, trees, tree stumps, and similar materials from the full width of the roadway, including the shoulders. These areas shall then be backfilled with MDOT Class II Granular Material to provide a stable subgrade for the roadway construction.
6. A cross-section of the roadway showing the proposed bituminous surfacing, granular subbase, and the shoulder and ditch profile in conformance with the attached Imlay Township Minimum Private Road Cross-Section Standards. The road surfacing material shall be bituminous. The Township Board may waive this requirement for a private road where such road will be connected to an existing Lapeer County gravel road.
7. The plans shall show existing and proposed grades and the location of all existing and proposed drainage facilities and structures. Elevations shall be based on USGS data.

8. The intersection of roads shall be as close to 90 degrees as possible with a variation of no more than 10 degrees.
9. Road grades in excess of six percent (6%) shall be approved by the Township Board upon the recommendation of the Township's consulting Engineers. At the intersection of two roadways, however, the maximum grade shall be three percent (3%) for a distance of one hundred (100) feet from the point of intersection.
10. The applicant shall obtain a soil erosion control permit from the Lapeer County Soil Erosion and shall install and maintain all erosion control devices throughout the construction period.
11. The Township's consulting Civil Engineer and planner shall review the plans and the consulting Civil Engineer shall inspect construction of all private roads. The cost of the plan review and construction inspection(s) shall be paid by the applicant/developer. Inspection of new Lapeer County public roads shall be preformed by the Lapeer County Road Commission.
12. Construction permits from the Lapeer County Road Commission are required for connections to county roads and from the Michigan Department of Transportation for connection to State Highways.
13. All public or private roads created hereunder shall be named, with said name to be approved by the Township of Imlay Board and the Lapeer County Road Commission. All required name signs and sign posts shall be erected by the Lapeer County Road Commission at the expense of the applicant.
14. There shall be a minimum of sixty-five (65) feet of road frontage for all parcels of property to be located on a public or private road cul-de-sac.
15. The public or private road engineering plans shall include a schedule showing the method used to determine driveway culvert sizes for each proposed lot, in conformance with the Lapeer County Road Commission Specifications for driveway culverts. Installation of all driveway culverts shall require the issuance of a building permit. All drive culverts shall be at least 12" diameter and shall conform to the size indicated on the approved plans.
16. All lines for power and communication facilities transmitted by wire or cable, including all individual service connections, shall be placed underground throughout the entire public or private road development.

SECTION 9. PUBLIC AND PRIVATE ROAD APPROVAL PROCEDURE

1. The complete plans, including the proposed maintenance agreement and the layout of all proposed lots or parcels to be served by the private road, shall be submitted to the Planning Commission at least four (4) weeks prior to a regular meeting. The Planning Commission shall make a recommendation for approval or disapproval after studying the plans and the written review of the Township Planner and civil Engineer.
2. Upon receipt of the recommendation of the Planning Commission, the design review of the Township Planner, and the technical review of the Township Engineer, the matter will be placed on the agenda of a regular meeting of the Township Board for consideration. The Township Board shall approve the

plans only upon a finding that they comply with all requirements of this Ordinance, the Imlay Township Zoning Ordinance and the Imlay Township Land Division Ordinance.

3. Approval Procedure For New Condominium Streets

Approval of all new private condominium streets shall occur as part of the review process for condominiums provided for in Section 1324 CONDOMINIUM SUBDIVISION APPROVAL of the Imlay Township Zoning Ordinance. All plans submitted shall satisfy the requirements of this ordinance and Sections 1400 and 1324 of the Zoning Ordinance.

SECTION 10. INSPECTIONS AND APPROVAL

1. All construction shall conform to the plans approved by the Township. All inspections will be based upon the approved plan. Construction not according to the approved plan and/or not inspected according to the Township's requirements may not be approved.
2. At least one week prior to the start of construction, the applicant shall schedule a pre-job meeting between the applicant and the Township Engineer to discuss the scheduling, inspection(s) and conduct of the work.
3. Inspections shall be made:
 - a. Upon completion of stripping operations;
 - b. Upon completion of clay grade and ditch excavation;
 - c. Upon completion of the sand sub-base;
 - d. Upon completion of the aggregate base;
 - e. During and following completion of each course of paving;
 - f. After completion of fine grading, top soil, seeding and mulching.

The contractor shall notify the Township Engineer 48 hours before the conclusion of each step in the roadway construction so that the required inspections can be completed without delay to the subcontractor.

4. The applicant shall provide weigh slips which certify the weight and class of material used for subbase, aggregate, and bituminous material used.
5. Inspections will be certified by the Township Engineer so that a complete record of the private road construction can be made available to the Lapeer County Road Commission in the event that the private road owners choose to upgrade the road to County specifications and dedicate it to the County for acceptance as a public road, if possible.

SECTION 11. PERFORMANCE BOND

The applicant shall file with the Township Clerk a cash deposit, certified check or irrevocable bank letter of credit acceptable to the Township sufficient to cover the total cost of the required improvements. When the work is completed, inspected, and approved by the Township, the entire bond will be released to the applicant.

SECTION 12. EXTENDING EXISTING PRIVATE ROADS

In those cases where the applicant wishes to extend an existing private road, such extension shall be granted only if the existing private road is brought up to the standards as set forth in this Ordinance. All of such standards as set forth herein shall be deemed to apply to both the proposed extension and the existing roadway. Further, such applicant shall obtain consents from all of those persons who own any interest in the existing right-of-way, or have the right of access to their property therefrom, which consent shall be in writing and shall be filed with the Township along with the filing of the application for permit hereunder. Such consent shall provide:

1. That the consenting party consents to the extension of the roadway pursuant to the application, and
2. That the consenting party consents to the upgrading of their existing roadway to the standards as set forth herein, and where applicable, will agree to deed such easements or right-of-way as are necessary to create the width and the like requirements as set forth herein. The Township Board shall not vary this requirement as it concerns consents.

SECTION 13. EXISTING PRIVATE ROADS NOT MEETING STANDARDS OF ORDINANCE

1. In those instances where a building permit is being sought for the construction of a structure on a lot or parcel which has access to an existing private road which does not meet the standards of this ordinance, the Township Board shall, wherever possible and practical, require that said private road shall be improved to comply with the standards of this ordinance prior to issuance of any building permits.
2. The applicant may request a waiver of this requirement from the Township Board who may, after review and recommendation by the Township engineering and planning consultants, and findings of unique circumstances and practical difficulties, grant a partial or complete waiver of this requirement.

SECTION 14. DEDICATION

1. All rights-of-way for private roads, subject to the required easements to the Township as specified under Section 7.1 of this ordinance shall be dedicated to the adjoining property owner who gains access of said right-of-way. If a parcel adjoining said right-of-way is not to be served by said right-of-way, then the deed dedicating such right-of-way shall specifically provide for that exclusion, and said adjoining property owner shall not share in the ownership of the right-of-way.
2. All rights-of-way for public roads, subject to the required easements to the Township as specified under Section 7.1 of this ordinance shall be dedicated to the Lapeer County Road Commission.

SECTION 15. ENFORCEMENT AND PENALTIES

1. An person, firm, corporation or other organization, which violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any provision of this Ordinance, shall be fined upon conviction not more than five hundred dollars (\$500) together with the costs of prosecution, or shall be punished by imprisonment in the County Jail for not more than thirty (30) days for each offense, or

may be both fined and imprisoned as provided herein in the discretion of the court. Each and every day during which such violation continues shall be deemed a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the provisions of this Ordinance.

2. If a violation occurs, the Township shall notify the party or parties in writing that the violation must be corrected within ten (10) days of receipt of the notice.
3. The Township Board or the Prosecuting Attorney of the County of Lapeer may institute injunctive proceedings to prevent or enjoin any violation of the provisions of this Ordinance. The rights and remedies provided herein are cumulative and in addition to other remedies provided by law.

SECTION 16. VALIDITY

This Ordinance and the various parts, sections, subsection, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause thereof irrespective of the fact that any one or more parts, section, subsection, phrases, sentences or clauses be declared invalid.

SECTION 17. RELATIONSHIP TO OTHER LAWS AND ORDINANCES

Whenever regulations or restrictions imposed by the Ordinance are either more or less restrictive than regulations or restrictions imposed by governmental authority through legislation, rule or regulation, the more restrictive regulations or those which impose higher standards shall govern.

SECTION 18. EFFECTIVE DATE

This Ordinance shall take effect 30 days following publication of a Notice of Adoption, as provided by law.

The foregoing Private Road Ordinance was adopted by the Imlay Township Board at a meeting held on January 19, 2005 in the Imlay Township Hall.

Publication Date: _____, 2005

Effective Date: _____, 2005

CERTIFICATION BY CLERK

I hereby certify that the foregoing Imlay Township Private Road Ordinance was duly adopted by the Imlay Township Board at a regular meeting thereof held on January 19, 2005, and a Notice of Adoption was ordered published by the Imlay Township Board.

Dawn Childers, Clerk
Township of Imlay