

**CHARTER TOWNSHIP OF MUSKEGON
COUNTY OF MUSKEGON
STATE OF MICHIGAN**

Ordinance No.16-08

AN ORDINANCE TO AMEND CHAPTER 58, "ZONING"
OF THE CODE OF ORDINANCES OF THE CHARTER TOWNSHIP OF MUSKEGON
PERTAINING TO PRIVATE ROADS

THE CHARTER TOWNSHIP OF MUSKEGON ORDAINS:

Section 1. Purpose.

This ordinance is intended to provide regulations for private roads and private driveways.

Section 2. That Section 79, of Article II, of Chapter 58 of the Code of Ordinances of Muskegon Charter Township is hereby amended to state as follows:

Sec. 58-79. - Private roads and Private Driveways.

(a) *Purpose.* These regulations have been adopted to assure that:

- (1) Private roads and private driveways are designed, constructed and maintained to assure the safe passage and maneuverability of private passenger service vehicles and emergency services vehicles in all seasons of the year.
- (2) Private roads and private driveways are constructed of suitable materials to ensure safe passage.
- (3) Private roads and private driveways will be constructed so as to protect against or to minimize soil erosion and to prevent damage to the lakes, streams, wetlands, and natural environment of the township.

(b) *Effect.*

- (1) This section shall apply to all private roads and private driveways constructed from and after the effective date of this section.
- (2) When an existing driveway or access easement is extended, expanded or improved, said roadway shall comply with these regulations.

(c) *Definitions.* The following definitions shall apply to the interpretation of these regulations:

Access easement means an improved or unimproved path or trail located within a privately owned easement that serves as the primary means of vehicular ingress and egress from a public road right-of-way.

Driveway means an improved or unimproved path or trail that serves as or is intended to provide the primary means of ingress and egress from a public road right-of-way.

Drain commission means the Muskegon County Drain Commission.

Existing private road means a private road which is used to provide access to existing lots and has been constructed prior to adoption of this ordinance.

Private Driveway means any privately owned, improved and maintained roadway, path or trail created by an access easement, which provides means of ingress and egress from a public right-of-way to more than one but less than five lots.

Private road means any privately owned, improved and maintained roadway, path or trail created by an access easement, which provides primary means of ingress and egress from a public right-of-way to more than four lots and has not been accepted as a public road by the Muskegon County Road Commission.

PUD means Planned Unit Development.

Road Commission means the Muskegon County Road Commission

(d) *General regulations.*

- (1) Unless otherwise permitted within a PUD, private roads and private driveways may only be permitted as a special use to serve as access in all zoning districts
- (2) Frontage requirements - All parcels served by a private road or private driveway shall maintain frontage along the road right-of-way as may be required to provide the minimum lot width required for the zoning district in which the parcel is located.
- (3) Extensions, additions and improvements - "All extensions" to a private road constructed under the provisions of this section shall be considered part of the primary private road which abuts the public road and shall be constructed in a manner that complies with these regulations.
- (4) All private roads and private driveways shall meet the minimum standards contained within the International Fire Code and applicable appendices, the most recently adopted by the township board.
- (5) If developments of more than 29 single family residential lots have access by a single private road, then the private road must have not less than two separate accesses from a public right of way. The accesses shall be at least 300 feet from each other, measured from the nearest right of way.

(e) *Permits required; special use granted.* No private road or private driveways shall be constructed, extended or relocated, and no driveway or access easement shall be extended or relocated unless a construction permit ("permit") has been applied for and obtained from the Road Commission, a special use has been granted, and the regulations of this ordinance are complied with. An application for a private road or private driveway construction permit shall consist of the following materials and documents, and once completed and approved by the Township Board, shall become the private road or private driveway permit:

- (1) A completed application as described in section 58-52.
- (2) A survey of the proposed private road or private driveway right-of-way prepared by a Michigan Registered Land Surveyor.
- (3) A set of 6 scaled drawings at least 24 inches by 36 inches, prepared by a Michigan Registered Engineer that shows the following:
 - a. The exterior boundaries of the lot or parcel on which the private road or private driveway will be constructed;
 - b. The proposed layout, grade, elevation, dimensions, and design of the private road or private driveway right-of-way and roadway, including the location of proposed ingress and egress from the adjoining public street(s), existing or proposed curb cuts;
 - c. The location of all hydrants and public utilities, including water, sewer, telephone, gas, electricity and television cable to be located in or within 20 feet of the private road or private driveway right-of-way;
 - d. The location of any lakes, streams, wetlands and drains in or within 100 feet of the proposed right-of-way or private sewer/septic systems;
 - e. The proposed layout and location of lots to be served by the proposed private road or private driveway.
- (4) A proposed maintenance agreement as described in subsection (j).
- (5) When computing any required setbacks under the provisions of this Chapter, any land which is devoted to a private road or private driveway shall not be considered in the computation of whether the structure is setback the required number of feet. Setbacks shall be computed from the nearest edge of the private road or private driveway right-of-way, not from the center of the road or driveway.

(f) *Review and approval procedure.*

- (1) Applications for private road and private driveway construction permits shall be subject to the procedures applicable to special uses outlined in article II, section 58-52, except if approved as part of

a PUD. In addition, applications shall also be subject to site plan review and approval as outlined in Article VIII of chapter 58.

(2) Application fee shall be paid with submittal of application.

(g) *Maintenance and repairs.*

1) All private roads and private driveways shall be continuously maintained in such a way that they will not constitute a danger to the health, safety and welfare of the inhabitants of the township. All private roads and private driveways shall be continuously maintained in such a way that they are readily accessible to and usable by emergency vehicles in all types of weather.

(2) All costs for the maintenance and repair of the private roads and private driveways shall be the responsibility of the property owners served by the private roads or private driveway.

(h) *Design and construction standards.* Private roads and private driveways shall be designed and constructed in accordance with the requirements of the Muskegon County Road Commission as provided in section 58-72(c)(5) and the International Fire Code and applicable appendices, the most recently adopted by the Township Board.

(1) Any private road or private driveway which terminates at a dead-end shall meet the minimum standards contained within the International Fire Code and applicable appendices, the most recently adopted by the Township Board.

(2) The design and layout of a private road or private driveway system and intersections with public roads shall provide adequate clear vision, safe turning and safe travel at the posted speed limit as determined by the township.

(3) The minimum distance between intersections measured from the centerlines of a private road system shall be 200 feet unless otherwise authorized by the Township Board.

(4) The minimum distance between the point where a private road right-of-way intersects a public road right-of-way and any public road right-of-way intersection measured from the centerlines shall at least be 200 feet unless otherwise authorized by the Township Board.

(5) Private roads and private driveways shall be constructed with a stormwater run-off management system as deemed necessary by the township to maintain predevelopment rates of runoff from parcels served by the proposed private road or private driveway.

(6) The crossing of any watercourse or wetlands shall be accomplished in a manner that satisfies the requirements of the township and any county or state agency having jurisdiction.

(7) Private roads and private driveways shall be given a name approved by Muskegon Central Dispatch, and street signs shall be installed in accordance with the standards of the Road Commission. The addresses of lots serviced by the private road or private driveway shall be permanently displayed in a conspicuous place in front of each lot along the private road or private driveway right-of-way.

(8) Any debris resulting from the construction of a private road or private driveway shall be removed for disposal by the owner within 30 days after completion of paving.

(i) *Indemnity.* As a condition of applying for and obtaining a private road or private driveway construction permit, all applicants and owners of a private road or private driveway shall agree to indemnify and hold the township, and anyone else authorized by the township to assist in the private road review process, harmless from any claims for personal injury or property damage arising out of the proper or improper construction, use, maintenance, inspection, review or repair of a private road or private driveway.

(j) *Maintenance agreement.* The applicant(s) and owners shall provide the township with a recordable private road or private driveway maintenance agreement between the owner(s) of the private road or private driveway right-of-way and any other parties having any interest in it. The maintenance agreement shall be in a form satisfactory to the township and shall provide that the private road or private driveway shall be privately maintained and repaired to assure safe travel for all emergency vehicles at all times and during all seasons of the year. This maintenance agreement shall be recorded on each deed and shall be a recordable covenant running with the land, binding on all lots served by the private road or private driveway.

- (k) *Certificate of compliance.* Upon completion of construction of the private road or private driveway, the permit holder shall provide the building inspector with a set of "as built" drawings bearing a certificate and statement from a Michigan Registered Engineer certifying that the private road or private driveway has been completed in accordance with the requirements of the permit as issued. Authorized township designee shall inspect the private road or private driveway to determine whether it complies with the approved plans and permit as issued. A certificate of compliance shall be issued by authorized township personnel if it is determined that the private road or private driveway has been constructed in compliance with approved plans and the permit as issued.

If the completed private road or private driveway does not satisfy the requirements of the permit or this section, the applicant(s) shall be notified of the noncompliance in writing and shall be given a period of time declared by the Township Board, within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall subject the applicant(s) to the penalties provided for in this section.

Authorized township personnel shall have the right to jointly enter upon the property where the private road or private driveway is or will be located to conduct such inspections as may be necessary to administer these regulations and guarantee continued compliance.

- (l) *Fees.* Application fees for permits required by these regulations shall be set by the township board from time to time by resolution.
- (m) *Building permits for parcels on private roads or private driveways.* No building permit shall be issued for any principal building, dwelling or structure provided access and having frontage on a private road or private driveway unless a private road or private driveway construction permit has been issued by the township, unless a certificate of compliance has been issued, or the private road or private driveway construction permit holder has provided the township with a performance guarantee or bond in an amount determined by the township to be sufficient to insure construction of the private road or private driveway in compliance with the approved plans and permit as issued.
- (n) *Approval by the Muskegon County Road Commission.* No permit shall be issued for a private road or private driveway until the applicant(s) has presented the township with either an approved driveway or curb-cut permit issued by the Muskegon County Road Commission, or a letter from the Muskegon County Road Commission indicating that no such permit is required.
- (o) *Performance guarantee.*
- (1) The township may require the applicant(s) to post a performance guarantee or bond in the form of a cash bond, bank letter of credit or other surety in order to insure compliance with the requirements of these regulations.
 - (2) If required, the amount of the performance guarantee or bond shall be equal to the total estimated cost of construction of the private road or private driveway as approved by the township.
 - (3) The performance guarantee, or unspent portions thereof, will be returned to the applicant(s) by the township upon completion of the private road to the standards required by this section.
- (p) *Conflict with other ordinances.* To the extent that any other ordinance regulates the subject matter regulated by this section, the ordinances shall be construed together, if possible, and the remedies of the ordinances shall be cumulative. Where the provisions of any other ordinance conflict with the provisions of this section, this section shall prevail and its terms shall control. If any part of this section conflicts with any other part, it shall be administratively appealed to the township zoning board of appeals for a final determination of intent. The remainder of the section shall remain in full force and effect.
- (q) *Repeal.*
- (1) These regulations replace in their entirety other regulations applicable to the construction of private roads and private driveways in Muskegon Township.
 - (2) If the owner does not comply, or does not complete, the township may, at its discretion, enter upon the site for clean-up and levy the cost against the property.

Section 3: Severability. The provisions of this Ordinance are declared to be severable, and the holding of any court of competent jurisdiction that any section hereof is invalid shall not impair or invalidate any other section.

Section 4: Repeal of Conflicting Ordinances: All Ordinances in conflict with this Ordinance to the extent of such conflict are hereby repealed.

Section 5: Effective Date. This ordinance shall be effective immediately following publication.

Ann D. Oakes, CMC
Township Clerk

Introduced: September 6, 2016

Adopted: September 19, 2016

Published: September 25, 2016

Effective: October 5, 2016