

**ANN ARBOR CHARTER TOWNSHIP
BOARD OF TRUSTEES
AMENDMENT TO CODE: PRIVATE ROADS
ORDINANCE NO. 3-2023**

The Ann Arbor Charter Township Board of Trustees ordains and adopts the following amendment to Chapter 50, Article II, Sections 26-38 [new language underlined, deleted language ~~stricken~~]:

CHAPTER 50, ARTICLE II, Sections 26-38 are amended to read as follows:

Sec. 50-26. Intent of article.

The Township Board hereby finds that unobstructed, safe and continuous access to lots is necessary to promote and protect the health, safety, and the welfare for the public through police and fire protection, and ambulance service. The Township Board further finds that such access is necessary to ensure that such services can safely and quickly enter and exit private property at all times. The Township Board further finds that when public dedication is desirable or required, access to the interior of certain sections within the Township should meet minimum standards and specifications to permit the subsequent upgrading and dedication of such access rights of way to the county board of road commissioners or other municipal corporations. The procedures, standards and specifications set forth in this article are determined to be the minimum procedures, standards and specifications necessary to meet the intention of this article.

Sec. 50-27. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building means an enclosed structure used or intended for use for the housing, enclosure, or shelter of people, animals or chattels.

Lot means a parcel of land; real estate.

Permit means a right-of-way permit issued pursuant to this article.

Private road means a privately owned and maintained route, which provides vehicular access to a lot or lots and which has not been dedicated to public use.

Township engineer means an engineer appointed by the Township Board to the position of Township engineer, or any other person authorized by the Township Board to perform the duties of Township engineer as set forth in this article.

Sec. 50-28. Parcels of land exempted from this article; permit requirements.

(a) The provisions of this article shall not apply ~~where~~ as follows:

(1) One or Two Lots:

- a. Where only one or two lots are used, or intended to be used, for no more than two single-family dwelling units and do not adjoin a public road, provided:
 - i. Such lots share a right-of-way for ingress and egress to a public road;
 - ii. The right-of-way provides a safe means of access for ingress and egress for emergency, fire, and police vehicles from the public road to the single-family dwelling units;
 - iii. The lots are located no greater distance than 1,500 feet from the centerline of such public street; and
 - iv. The right-of-way is recorded in the office of the register of deeds of the county.
- b. The owners of such lots shall apply to the Township ~~Clerk~~ for a permit under this section. The applicant shall furnish the ~~Clerk-Township~~ a survey or sketch of the property showing its boundaries, the location of all existing improvements and the location of future buildings, the relationship of the lot to any public or private rights-of-way or roads, and a copy of the recorded right-of-way. The dimensions and location of the right-of-way shall be specifically shown on the sketch or survey. The applicant shall also pay to the ~~Clerk-Township~~ a fee for such permit as established by resolution of the Township Board. The ~~Clerk Township~~ shall transmit the application, including all drawings to the Township Fire Chief and Township Zoning Officer for review and recommendation. The ~~Clerk-Township~~ shall review the reports of the Fire Chief and Zoning Officer and shall issue the permit if the applicant has provided the information required in this section, paid the required fee, and if the Fire Chief and Zoning Officer have reported that the application meets the criteria of this section. Upon completion of construction in compliance with the approved permit the zoning official shall issue a certificate of compliance.

- (2) Planned Unit Developments. If a private road is being proposed in conjunction with a Planned Unit Development (PUD) under the provisions of section 74-542 of the Zoning Ordinance, a private road shall be reviewed by the Planning Commission, and reviewed and approved by the Township Board as part of the PUD process. A separate private road permit and permit review process is not required. However, the design of the proposed right-of-way and private road system in the PUD must conform to all other requirements, standards, and specifications of this article.

Sec. 50-29. General requirements.

Unless expressly exempt from the other provisions of this article pursuant to section 50-28:

- (1) Every lot in the Township that is improved with a building shall either abut a road dedicated to the public or a private road that meets the requirements of this article.

- (2) No lot shall be improved with a building unless a permit in accordance with this article has been issued or a private road, as applicable, has been approved to provide access to the lot through the PUD process in section 74-542.
- (3) No person shall construct, alter, or extend a private road without compliance with this article and obtaining a permit as provided in this article, or obtaining approval of the private road through the PUD process in section 74-542.
- (4) All lots which have been improved with a building prior to the date of adoption of this article shall comply with the provisions of this article, if the Township Board, by resolution, determines that such compliance is necessary to protect and promote the public health, safety, and welfare in accordance with the purposes set forth in section 50-26.

Sec. 50-30. Application requirements.

The owner of a lot described in section 50-29 shall apply to the Township Clerk for a permit that shall require the following information. If the proposed private road is part of a PUD, the information below shall be provided in the PUD area plan.

- (1) A legal description of each lot to be served by the right-of-way.
- (2) A legal description of the right-of-way.
- (3) The names and addresses of all persons or parties owning an interest in the title to the lots and right-of-way area.
- (4) A survey drawing showing the outline of the proposed right-of-way and the dimensions and bearings thereof.
- (5) Existing topographic contours, at one-foot intervals, of the right-of-way area and all adjacent land within 100 feet thereof, or within such greater area as may be necessary to determine whether drainage methods will be adequate.
- (6) Soil characteristics and wet areas.
- (7) Trees.
- (8) Streams and all bodies of water within 100 feet from the right-of-way area, or within such greater area as may be necessary to determine whether drainage methods will be adequate.
- (9) Existing buildings within 20 feet of the proposed right-of-way.
- (10) The proposed right-of-way in relation to the nearest property lines.
- (11) The location of all proposed improvements in the right-of-way area.
- (12) Plan and profile drawings and cross sections of the proposed improvements showing clearly all materials, grades, and dimensions.
- (13) A complete statement of all the terms and conditions of the proposed right-of-way including copies of all agreements or intended agreements regarding the maintenance and improvements of the right-of-way and roadway.

- (14) A fee as established by resolution of the Township Board to defray the costs of plan review, administration, inspection and enforcement of this article.
- (15) The application shall be signed by the applicant or agent thereof, in which case it shall be accompanied by a duly executed and notarized power of attorney, and shall represent that the applicant is making the application on behalf of all persons having an interest in the right-of-way or the abutting lots and shall be made under penalties of perjury.
- (16) All drawings shall be prepared by a registered land surveyor or civil engineer, registered in the state, and shall bear the seal of the same.
- (17) In addition, the applicant shall provide evidence that the proposed right-of-way will be built in conformance with the following:
 - a. The Township wetland and watercourse protection and restoration provisions, chapter 26, article IV.
 - b. The Township natural features setback use provisions, chapter 74, article VII.
 - c. The county drain commissioner's standards for stormwater retention and drainage facilities.

Sec. 50-31. Permit approval procedure; private roads part of a PUD.

(a) Permit approval procedure:

- (1) Referral to Township Board, etc. Upon receipt of an application, the Township Clerk shall bring the application before the Township Board at its next regular meeting. The Township Board shall refer the application materials to the Township engineer for review and comment and the Township Board may, in its discretion, refer the application to the Planning Commission or other appropriate body for review and comment.
- (2) ~~(b)~~ Township engineer's report. The Township engineer shall report in writing to the Township Board as to whether or not the proposed right-of-way and roadway conform to the standards and specifications of this article. Such report may include any suggested conditions to be attached to the permit that, in the Township engineer's judgment, are necessary to achieve the intent of this article.
- (3) ~~(c)~~ Consideration by Township Board; conditions. The Township Board shall consider the application, the Township engineer's report and all other relevant information in determining whether to grant the permit application. If the information submitted by the applicant does not establish that the proposed right-of-way and roadway will conform to the standards and specifications of this *article*, the Township Board shall not grant the permit. The Township Board shall impose such conditions on the approval of the permit as it deems necessary to achieve the intent and objectives of this article, which may include, but need not be limited to, conditions suggested by the Township engineer. The breach of any such condition proposed by the Township Board shall automatically invalidate the permit.
- (4) ~~(d)~~ Deposit to guarantee performance. As a condition to the granting of any permit under this article, the Township Board shall require that the *applicant* deposit with the

Township Treasurer a sum of money, bank letter of credit or certified check, in an amount sufficient to guarantee that the applicant shall perform the terms and conditions of the permit, including the payment of required fees. Upon issuance of the certificate of completion under section 50-33, any unused portion of the deposit shall be refunded to the applicant.

(5) ~~(e)~~ *Issuance.* Upon receipt of the required deposit and predetermined fees and approval of the application by the *Township* Board, the Township Clerk shall issue the permit pursuant to the terms established by the Township Board resolution approving the application.

(6) ~~(f)~~ *Authority of Township Board to approve or deny.* Only the Township Board shall have the authority to approve or deny applications for permits. No other *permit* issued by any Township official or other governmental body or official shall be a substitute for the permit.

(b) Approval procedure for private roads that are part of a PUD: Private roads that are part of a PUD shall be reviewed and approved through the PUD process, as described in section 74-542 of the Zoning Ordinance.

Sec. 50-32. Specifications for rights-of-way and roadways.

Each right-of-way and its roadway shall conform to the following specifications:

(1) *Classes of private roads.* Private roads shall be divided into three classes, as follows:

a. *Class A.* Class A private roads shall be any private road that meets one or more of the following criteria:

1. Serves 24 or more single-family residential lots, or has a reasonably foreseeable potential to be extended in the future to serve a total of 24 or more single-family residential lots.
2. Connects with, or has a reasonably foreseeable potential to be extended at a future time to connect with, a public or private road.
3. Has a length of more than 1,500 feet, measured on the roadway centerline, from the centerline of the public road to the centerline of the other intersecting road, or the center of the turnaround.
4. Serves one or more nonresidential uses, not including farm uses and associated buildings.

b. *Class B.* Class B private roads shall be any private road that meets the following criteria:

1. Serves less than 24 single-family residential lots.
2. Has a road length between 1,000 feet and 1,500 feet.

c. *Class C.* Class C private roads shall be any private road that meets the following criteria:

1. Serves less than 24 single-family residential lots.

2. Has a road length less than 1,000 feet.
- (2) *Minimum requirements for all classes.* All Class A, Class B and Class C private roads shall meet the following minimum requirements and specifications:
- a. *Roadway surface and turnaround area.* The roadway surface and turnaround area shall be centered in the right-of-way.
 - b. *Connection between the right-of-way and the public road.* The connection between the right-of-way and the public road shall conform to the standards and specifications of the county road commission. The applicant shall obtain a road permit issued by the road commission prior to approval of any right-of-way by the Township Board.
 - c. *Underground crossroad drainage.* Underground crossroad drainage shall be provided where the proposed right-of-way crosses a stream or other drainage course. Necessary culverts and erosion treatments shall be provided in accordance with the specifications of the county road commission.
 - d. *Right-of-way and roadway drainage.* The right-of-way and roadway shall be adequately drained so as to prevent flooding or erosion of the roadway. Open swale/ditch drainage systems will be preferred to enclosed storm sewers where applicable governmental standards and site conditions permit. Open swales/ditches shall be located within the right-of-way. Road drainage shall be constructed so that runoff water shall be conveyed to existing watercourses or water bodies. The discharged water shall not be discharged upon the land of another property owner unless the water is following an established watercourse. The discharged water onto adjoining properties shall also not exceed the normal agricultural rate. Connection to county drains shall be approved by the county drain commissioner prior to the issuance of a permit. Connection to roadside ditches within public road rights-of-way shall be approved by the county road commission prior to the issuance of a permit.
 - e. *Road signs.* Road signs shall be erected and maintained in accordance with the Michigan Manual of Uniform Traffic Control Devices.
 - f. *Ingress, egress, etc.* The right-of-way shall provide for ingress, egress, drainage, and installation and maintenance of public and private utilities.
 - g. *Sequence of construction.* The full thickness of the roadway shall be paved prior to vertical construction. At the end of vertical construction, the road shall be inspected by the Township Engineer. Areas of the road determined to be deficient shall be repaired. Upon approval of all necessary repairs by the Township Engineer, a one-inch mill and overlay shall be performed.
- (3) *Specific class requirements.* Class A, Class B and Class C private roads shall also meet their respective minimum requirements and specifications as set forth in Table 1, as follows:

MINIMUM REQUIREMENTS AND SPECIFICATIONS FOR PRIVATE ROADS

	Class A	Class B	Class C
Right-of-way Width	66 feet	30 feet	30 feet
Subbase	Six inches of compacted Michigan Department of Transportation (MDOT) Class II spread to a minimum width sufficient to extend to the front slope of the roadside ditch	Same as Class A	Same as Class A
Base	Eight inches of MDOT 22A in two equal courses, each compacted 26 feet wide	Six inches of MDOT 22A in two equal courses, each compacted 24 feet wide	Six inches of MDOT 22A in two equal courses, each compacted to 18 feet wide
Pavement	Three <u>Five</u> inches bituminous mixture Type 13A, in two <u>three</u> courses 24 feet wide. Curb and gutter are permitted; however, in rural areas, vegetated swales are preferred	If paved, three <u>five</u> inches bituminous mixture Type 13A, in two <u>three</u> courses 22 feet wide; curb and gutter are prohibited	Not applicable
<i>Turnaround area</i>			
Cul-de-sac	75-foot radius right-of-way, 50-foot radius roadway surface	50-foot radius right-of-way, 45 foot radius roadway surface	Same as Class B
T-Type	Not Permitted	24 foot × 70-foot turnaround with equal legs may substitute	Same as Class B
<i>Ditches</i>			
Minimum Grade	0.5%	Same as Class A	Same as Class A
0.5%-4.0% slope	Sod or an approved geotextile mat	Same as Class A	
4.1% and steeper slope	Rip-Rap	Same as Class A	Same as Class A
Front/back side slopes	1 on 4	Same as Class A	Same as Class A

Check dams	Channels greater than 50 feet in length shall be equipped with check dams in accordance with the MDNR's "Guidebook of Best Management Practices for Michigan Watersheds," (October 1998), published by the MDEQ	Same as Class A	Same as Class A
<i>Roadway Grades</i>			
Minimum	0.5%	Same as Class A	Same as Class A
Maximum	6.0%	Same as Class A	Same as Class A
<i>Roadway Curves</i>			
Horizontal-minimum	230-foot radius	Same as Class A	Same as Class A
Vertical-minimum	100-foot long for changes in gradient of 2% or more	Same as Class A	Same as Class A
Curb and Gutter	May be required by Township Board	Not Permitted	Not Permitted
Height clearance for vegetation	15 feet	Same as Class A	Same as Class A

Sec. 50-33. Inspection.

All required improvements shall be inspected by the Township engineer at various stages of construction. The Township engineer shall make a final inspection upon completion of construction and shall report the results of the final inspection to the Township Board in writing. The applicant's engineer shall certify in writing to the Township engineer using the form provided by the Township, before the final inspection and report thereon are made, that the required improvements were made in accordance with this article and all approved plans. A certificate of completion by the Township engineer shall be in a form as provided by the Township Board and a copy shall be delivered to the Township ~~Clerk~~ and the applicant. The costs of inspection, including compensation of the Township engineer, shall be paid by the applicant prior to the issuance of the certificate of completion. The Township Board shall establish and determine the costs of administration and inspection, which shall be paid from the deposit established by the Township Board and held by the Township ~~Clerk~~, and the balance, if any, shall be returned to the applicant.

Sec. 50-34. Expiration of approval of permits.

A permit shall be valid for a period of one year from the date of issuance, or such longer period as determined by the Township Board. If the required improvements have not been

completed upon the expiration of the one year or the longer period of time then the permit shall be void and of no force and effect and all deposits shall be forfeited to the Township.

Approval of a private road that is part of a PUD shall be valid as long as the approval for the overall PUD is valid, as described in section 74-542.

Sec. 50-35. Recording of rights-of-way.

The right-of-way, including all agreements as identified in section 50-30(13) shall be recorded in the office of the register of deeds for the county, after approval of the language of the agreement by the Township Attorney, prior to the issuance of the certificate of completion required in section 50-33.

Sec. 50-36. Building permits.

No building permit shall be issued for any lot subject to the provisions of this article unless a permit has been issued by the Township Board. If the private road is part of a PUD, no construction, grading, tree removal, soil stripping, or other site improvements or changes shall commence, and no permit shall be issued therefor, on a lot with or under application for a PUD classification, until the requirements of section 74-542 of the Zoning Ordinance have been met.

Sec. 50-37. Certificates of occupancy.

Except as set forth in this section, no certificate of occupancy shall be issued for any building on a lot subject to the provisions of this article unless a certificate of completion has been received by the Township ~~Clerk~~, as provided in section 50-33. A certificate of occupancy may be issued prior to the issuance of a certificate of completion, upon recommendation by the Township engineer, and upon deposit with the Township ~~Clerk~~ of a sum of money, certified check, or bank letter of credit in an amount sufficient to guarantee completion of the remaining required improvements.

Sec. 50-38. Variances; deviations from ordinance as part of a PUD.

(a) Private road permit.


(1) Application. When there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this article, such as topographical and other physical characteristics of a lot, the Township Board shall have the power to vary or modify the application of the provisions of this article so that the intent and purpose of this article shall be observed, public safety secured and substantial justice done. Any applicant may apply for a variance from any provision of this article by filing an application for variance with the Township ~~Clerk~~.

(2) ~~(b)~~ Public hearing. The Township Board shall hold a public hearing upon such application within 45 days from its filing. The Township Clerk shall give notice of the hearing to the owners of all property abutting and/or having access for ingress and egress of traffic by means of the private road described in the variance application, as well as law enforcement officials, fire officials, and ambulance companies known by the Clerk to serve such property. The notice shall be mailed to each such party and published in a newspaper of general circulation in the Township not later than seven days prior to the hearing.

- (3) (e) *Approval or denial; approval with conditions.* Any party may appear and comment at the hearing in person or by agent or by attorney. The Township Board shall keep a record of such hearing and shall render a written decision not later than the next regular Township Board meeting held after the hearing date. The Township Board may attach reasonable conditions in granting any variance from any provision of this article, and the breach of any conditions or the failure of any applicant to comply with the conditions shall void the variance.
- (4) (d) *Purpose of section.* This section is intended, in part, to enable variances to facilitate the upgrading of prior nonconforming rights-of-way and private roads to the standards of this article, in a reasonably practical manner, including, but not limited to such rights-of-way and private roads as have been *established*, recorded, constructed, or maintained prior to the date of adoption of the ordinance from which this article is derived, which cannot be brought into conformity with the provisions of this article without unnecessary hardship or practical difficulty due to soil conditions, topographical considerations, or other factors.
- (b) Deviations from the ordinance when a private road is part of a PUD. Deviations from this article, or any part of the Zoning Ordinance, for a private road that is part of a PUD shall be considered by the Planning Commission and Township Board during review of the PUD area plan, per the standards included in section 74-542 of the Zoning Ordinance. Deviations from this article or any part of the Zoning Ordinance that are requested in relation to a PUD project are not eligible for variance consideration through the Zoning Board of Appeals, per section 74-259 of the Zoning Ordinance.

ORDINANCE AMENDMENT DECLARED ADOPTED.

ANN ARBOR CHARTER TOWNSHIP BOARD
OF TRUSTEES

By: 
Diane O'Connell, Supervisor

By: 
Rena Basch, Clerk

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