



Cascade Charter Township

**PRIVATE STREET ORDINANCE
(Ordinance #9 of 2002)**

ADOPTED DATE MAY 22, 2002

Amended by Ord. No. 9 of 2003; 6/11/03

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PRIVATE STREET ORDINANCE
CHARTER TOWNSHIP OF CASCADE
KENT COUNTY, MICHIGAN
ORDINANCE NO. 9 of 2002

A. Definitions

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

1. Private driveway means an improved or unimproved path, road or ground surface extending from a public street or private road, which provides vehicular ingress and egress to no more than one improved lot, parcel or principal building.
2. Private street means a privately owned (or controlled) and maintained drive, street, road, lane, or any improved or unimproved surface, not dedicated to the county road commission as a public road, which provides the primary means of vehicular ingress and egress from a public road to two or more dwelling units, lots, parcels or principal buildings, whether created by a private right-of way, easement, or other device. A private street shall also include the following:
 - a. An access other than a private driveway or public road.
 - b. Where two or more lots or dwellings share or utilize a common access drive or device, even if each lot has the required frontage on a public road.
 - c. Any and all extensions, additions, or branches of or to a private street shall be considered part of the private street that abuts the public road.
3. Lot means any subdivision lot, meets and bounds lot or site condominium unit, which has been recorded.

B. Private Street Requirements

The standards and requirements of this Ordinance shall apply to all private streets created or constructed after the date of adoption of this Ordinance. Furthermore, the standards and requirements of this Ordinance shall also apply to existing private streets when any of the following occurs:

1. An extension or addition is added to an existing private street;
2. One or more lots are added to an existing private street or one or more lots along an existing private road are to be divided;
3. The Township Board determines that an existing private street is unsafe or will not permit reasonable access to firefighting and emergency vehicles year around to all portions of the private street.

C. General Standards

The following standards are required for all private streets:

1. All private streets shall have a recorded permanent right-of-way with a minimum width of sixty-six (66) feet, including sixty-six feet of frontage on a public road. The right-of-way shall also expressly permit utilities to be installed within the right-of-way. The minimum right-of-way radius for a turn-around shall be of such size that is able to encompass the turn-around and utilities.
2. All private streets shall be at least eighteen (18) feet wide, providing two nine (9) foot travel lanes. The private street shall be constructed and maintained with a minimum subbase of twelve (12) inches of sand and six (6) inches of finished compacted gravel (MDOT 22A) on the top thereof.

3. In the event a private street provides access to three (3) or more parcels, the private street shall be paved to at least eighteen (18) feet wide, providing two nine (9) foot travel lanes. The paved area shall have a minimum of one and three-fourths (1-3/4) inches of bituminous aggregate meeting Michigan MDOT Specification 1100T, as amended. A six (6) inch thick gravel shoulder shall be provided on each side of the private street surface with a minimum width of two (2) feet, containing a slope of twenty-two hundredths of one foot (0.22) from the outside edge of the road surface to the toe of the slope.
4. The area in which the private street is to be located shall have a minimum cleared width of twenty-eight (28) feet, which clearing shall always be maintained.
5. The private street shall be constructed with such stormwater drainage easements, stormwater runoff, culverts, and drainage contours as is reasonably required by the Township Engineer to ensure adequate drainage and runoff.
6. If a private street crosses a natural drainage course, stream or other natural body of water, the method of crossing (bridge, culvert or other structure) must meet the standards set forth by the Kent County Road Commission and such specifications as may be reasonably required by the Township Engineer.
7. Each private street shall be given a street name that is not the same as any other street name in the County, as determined by the Kent County Road Commission. A visible street sign, which can be seen easily in an emergency at all times, and a stop sign shall be erected and maintained at all times at the intersection of the private street with the public road. The signs shall be paid for, posted and thereafter maintained by the property owner's association, property owners or developer.
8. The street address for all lots accessed from a private street shall conform to Cascade Charter Township Ordinance No.9/1980.

D. Turnarounds

Any single means of access serving more than two (2) lots or dwelling units shall include one of the following at the end of a private street:

1. A turn-around with a thirty (30) foot turning radius*
2. A hammerhead "T" turn*
3. A continuous loop layout*

*See Appendix A for design standards

E. Private Street Grade

Private streets shall not exceed a maximum grade of six (6) percent. In no case shall a six (6) percent grade extend more than 1,000 feet in length. Notwithstanding the preceding, the Planning Commission, upon recommendation of the Township Engineer, may allow a maximum grade of up to eight (8) percent for a private street if it is reasonably determined that such increased grade meets all of the following standards:

1. The private street will be safe;
2. The increased grade will not hinder the ability of firefighting equipment, ambulances and other emergency vehicles and personnel to reach all portions of the development; and
3. The developer demonstrates that automobile traffic will be able to easily and safely go up and down the grade at all times of the year, including when ice and snow are present.

F. Second Access/Emergency Access

Any private street which will serve or permit access to twenty (20) or more lots or dwelling units shall have two (2) means of direct access to public roads. The second means of access may be used for emergency access purposes only with approval from the Planning Commission and such access shall be maintained at the developer/property owner's expense. Each access shall be built and maintained to the standards required for private streets.

G. Existing Nonconforming Private Streets

The Township recognizes that there exist private streets which were lawful prior to the adoption of this Ordinance which do not fully conform with the standards herein. Such streets are declared by this Ordinance to be legal nonconforming streets. The Township also recognizes the importance of having these streets upgraded if and when one or more of the following occur:

Any developer or property owner who desires to engage in one or more of the situations listed in Subsection G (1), (2) or (3) below, shall be required to upgrade the entire private street to conform with the standards for new private streets.

1. One or more lots are added to an existing nonconforming private street.
2. The division or splitting of a lot occurs on an existing nonconforming private street.
3. The addition of an extension, addition or branch to or from an existing nonconforming private street.

H. Disclosure Statement: Maintenance Agreement

1. The applicant and/or owners of the proposed private street and lots thereon shall provide the Township with a recordable private road maintenance or restrictive covenant agreement between the owners of the private street and any other parties having any interest therein or lots thereon or other documentation satisfactory to the Township which shall provide for and assure that the private street shall be regularly maintained, repaired, and snow plowed so as to comply with this Ordinance and to assure that the private street is safe for travel at all times and that the costs thereof will be paid for by the owners of the lots benefited by the private street. The applicant/owners agree that, by filing an application for and receiving a permit for a private street and by utilizing the private street, they will assure that any buildings or lots thereafter created or constructed on the private street shall also be subject to the road maintenance or restrictive covenant agreement and that said agreement shall be recorded, shall run with the land, and shall bind all lots and properties benefited by the private street. The agreement shall also indicate that the owners of all lots and properties benefited by the private street can improve any portion of the private street and shall be jointly and severally liable and responsible for maintaining the entire length of the private street so that it is, at all times, in compliance with this Ordinance and all applicable Township standards and requirements. The agreement shall provide that it is enforceable by the Township at its option. Additionally, the agreement shall provide that, if the private street is not maintained to the requirements of this Ordinance, all of the owners of lots or properties utilizing or benefiting by the private street shall be deemed to have consented to a special assessment district being created by the Township to maintain or upgrade the private street. The agreement shall also provide that, alternately, the Township Board, at its option, can improve and maintain the private street so that it meets the requirements of this Ordinance and the Township can charge the owners of all lots that utilize and or will be benefited by the private street

- for the reasonable costs thereof, and such costs shall be secured by either placing a lien on the benefited lots and properties or by placing the costs thereof on the tax roll.
2. The applicant for a private street approval, all owners of the private street and lots thereon, all those who utilize the private street, and all persons securing a building permit to construct a building served by the private street all agree that, by applying for and securing a permit for a building that utilizes the private street and by utilizing the private street, they shall indemnify and will save and hold the Township (as well as its officers, agents, and employees) harmless for, from, and against any and all claims, causes of action, costs, and damages for personal injury and/or property damage arising out of the use of the private street or the failure to properly construct, maintain, repair, and/or install the private street or any appurtenances thereto. The owner/applicant shall inset the above language into the maintenance agreement (or other approved document) and it shall run with the land and shall bind all purchasers of properties benefited by the private street.
 3. All maintenance agreements for private streets shall be submitted to the Township for review and approval prior to the maintenance agreement being recorded and prior to any construction on the private street. Each maintenance agreement shall also contain the following statement, as provided by MCL 500.261:
"The street is private and it is not required to be maintained by the Kent County Road Commission or any governmental unit."

I. Exceptions or Design Modifications (amended by Ord. No. 9 of 2003; 6/11/03)

1. Pursuant to a PUD approval, the Township Board may modify the standards for new private streets for a given project for good cause shown.
2. The Township Board reserves the right to place higher design requirements and standards on a development which provides access by means of a private street should it be in the best interests of the Township and for the protection of the health, safety and general welfare of its residences. Such additional requirements and standards shall be recognized and accepted by professional associations and engineering societies including, but not limited to: the American Association of State Highway and Transportation Officials, the American Society of Civil Engineers, the Institute of Transportation Engineers, the Building Officials and Code Administrators International (BOCA) and the National Fire Protection Association.
3. For situations involving existing non-conforming private roads the Township Board may grant Design Modifications, should they determine that the design requirements and standards deny the property owner reasonable use of his property. Should the Township Board grant design modifications, they may impose reasonable conditions onto the affected property and private street which protect the public health, safety and general welfare of all township residents.

Procedure

- a. An application shall be submitted to the Planning Department on a form for that purpose together with a fee, as determined by the Township Board.
- b. Upon receipt of an application for a Design Modification, notice will be given to all property owners within 300 feet of the property requesting such exception, that the Planning Commission will hold a public hearing on the application.
- c. In addition, any property owner who lives on or uses the private street as access to their property will be notified of the hearing.

- d. In the case of a Design Modification, the Planning Commission shall, within a reasonable amount of time after the public hearing give a recommendation to the Township Board on whether to deny, approve or approve with conditions the request.
 - e. The Township Board shall then hold a meeting within a reasonable period of time to make a decision.
- J. Maintenance and Snow Removal
The developer (and once lots have been sold to third parties, the owners of the lots) shall be responsible for maintaining private streets at all times to the standards required by this Ordinance and all other applicable laws. Such reasonable maintenance shall include, but not be limited to, plowing snow and removing ice in the winter so that firefighting and emergency vehicles can access all portions of the private street at all times.
- K. Security Requirement
The construction of all improvements required by this Ordinance shall be paid for and completed by the property owner/developer. Prior to receiving lot split approval or a building permit for any lot on the private street, the Township may require that a bond, cash or letter of credit be submitted by the applicant for the completion of the private street or required upgrades. The security shall be in a form approved by the Township, payable to the Township and in the amount of the Township's estimate of the cost of all improvements.
- L. Land Division Approval
No land division approval by the Township shall occur for or involving a lot or lots to be accessed by a private street (or extension thereof) until the private road has been formally approved by the Township hereunder, the maintenance agreement has been approved by the Township, such maintenance agreement has been fully executed by all parties having an interest in the private street, and all lots to be served by the private street and the same has been recorded with the Kent County Register of Deeds records with proof thereof provided to the Township.
- M. Approval by the Road Commission
No private street shall be approved by the Township until the applicant has presented the Township with either an approved private street permit by the Kent County Road Commission, or alternately, a letter from the Kent County Road Commission indicating that no private street permit from the County is required at that location.
- N. Commencement of a Private Street
No construction shall be commenced on a private street (or extension or addition thereto) until and unless all approvals under this Ordinance (and any other applicable ordinance) have been obtained from the Township.
- O. Certificate of Compliance
Upon completion of construction of a private street (or addition or modification thereof), the Township Planner, Township Engineer or such other official as may be designated by the Township, shall inspect the completed construction to determine whether it complies with the approved plans and other Township approvals.

P. Penalties and Enforcement

Any person, firm, corporation, trust, governmental unit, partnership or other legal entity which violates or refuses to comply with any provision of this Ordinance shall be responsible for a municipal civil infraction and shall be punished by a civil fine of fifty dollars (\$50.00) for a first violation two hundred and fifty (\$250.00) for a second violation and five hundred dollars (\$500.00) for a third or subsequent violation, as well as other applicable civil infraction remedies. Any person who violates any of the provisions of this Ordinance shall also be subject to civil action seeking invalidation of the land division and appropriate injunctive or other relief.

Q. Severability

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this Ordinance other than said part or portion thereof.

R. Repeal

All other ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Township Zoning Ordinance, the Cascade Charter Township Subdivision Ordinance, or the Township's building code.

S. Effective Date

This Ordinance shall take effect 30 days following its publication (or summary thereof) after adoption. The foregoing Ordinance was offered by Board Member Carpenter, Supported by Board member Goodyke. The roll call vote was as follows:

Yeas: Timmons, Goodyke, Carpenter, Julien, Jones

Nays:

Absent: Kleinheksel, Parrish

Jean E Neve
Deputy Township Clerk

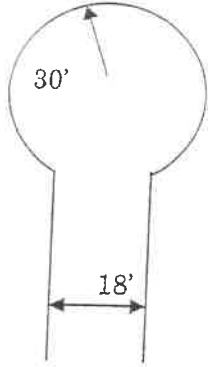
CERTIFICATION

I hereby certify the forgoing to be true copy of an Ordinance adopted at a Regular Meeting of the Cascade Charter Township Board on the 22nd Day of May, 2002.

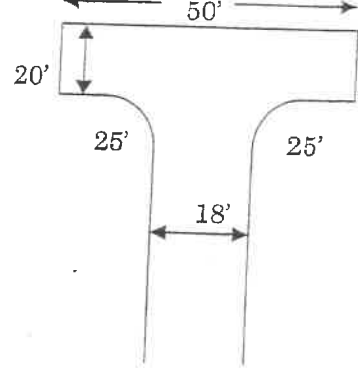
Jean E Neve
Deputy Township Clerk

Appendix A - Turnarounds

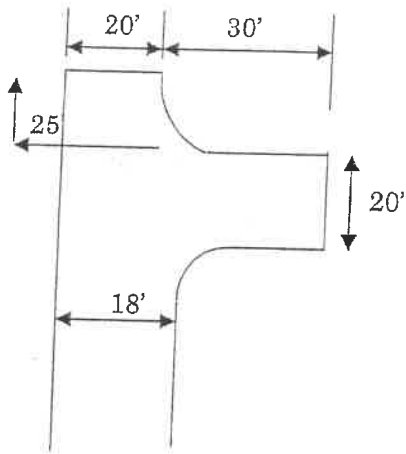
Cul-de-sac



Hammerhead "T"



Branch



Continuous Loop

