

CHAPTER 10
PRIVATE ROAD AND STREET

AN ORDINANCE FOR PROTECTION OF HEALTH, SAFETY AND WELFARE; TO PROVIDE REGULATIONS FOR PRIVATE ROADS AND STREETS AND FOR THE CONSTRUCTION AND MAINTENANCE THEREOF; TO ASSURE PROPER ACCESS FOR EMERGENCY VEHICLES; TO PROVIDE FOR THE ADMINISTRATION, ENFORCEMENT, AND FOR FEES TO DEFRAY THE COST OF ENFORCEMENT; TO REPEAL AND REPLACE INCONSISTENT ORDINANCES; AND TO PROVIDE A PENALTY FOR VIOLATION HEREOF.

Ord. no. 18A, Adopted January 2, 2007

SECTION 10.00 - TITLE

This Chapter shall be known and cited as the Rives Township Private Road and Street Ordinance. (Ord. No. 18A, Adopted 1-2-07)

SECTION 10.01 - PURPOSE

The purpose of this Ordinance is to protect health, safety and welfare by requiring that all private roads in Rives Township are constructed and maintained in accordance with the requirements of this Chapter and the Jackson County Road Commission standards as provided for herein, and to provide that all roads constructed and maintained in the Township provide adequate access and turnarounds for emergency vehicles.

SECTION 10.02 - DEFINITIONS OF PRIVATE ROAD OR STREET

For the purpose of this Chapter a private road or street is a privately owned and maintained road or right-of-way providing access to land or parcels from the public road system. A private road or street is one that is not dedicated to the public nor owned and maintained by the Jackson County Road Commission.

SECTION 10.03 - REGULATIONS

All private roads or streets shall be constructed and maintained in accordance with the requirements of this Chapter and any conditions imposed on a permit issued under this Chapter. Whenever a lot or parcel of land in Rives Township is to be improved with one or more dwelling units, or one or more commercial or industrial activities, the lot or parcel of land shall either abut upon a street or road dedicated to the public or abut upon a private road which meets the requirements of this Chapter.

Except as otherwise provided herein, the width of frontage on the public or private road shall be measured at the right of way line and shall not be less than the width required for the zoning district as stated in the Rives Township Zoning Ordinance. The width of lots or parcels fronting on a cul-

de-sac shall not be less than fifty (50) feet measured at the right of way line, and the number of parcels/lots with access points fronting on the radius of a cul-de-sac shall not exceed five (5). A private road that otherwise complies with the requirements of this Chapter may terminate at the boundary line of a single parcel or lot, and such lot or parcel shall be deemed to have sufficient road frontage. The public or private road access required by this Chapter must be physically completed before a lot or parcel may be improved, used or created from a larger tract.

The Rives Township Planning Commission shall have the authority to deny applications for private roads that do not meet the requirements of this Chapter. The following general requirements and standards apply to any request to construct or alter a private road:

A. A permit must be obtained from the Jackson County Road Commission to enter a private road onto a County road.

B. All private roads and streets must have at least a sixty-six (66') foot right-of-way and, except as provided in subsection "H" below, must be built to Jackson County Road Commission standards and specifications. If a private road or street services two (2) parcels paving shall not be required and the road need only be graveled, graded and named in accordance with Jackson County Road Commission standards and specifications. If the private road or street serves three (3) or more parcels, then the private road or street must be graded, graveled, paved and named in accordance with Jackson County Road Commission standards and specifications.

C. Utilities and new trees must be set back behind all road maintenance. (33 ft. setback from center of road.)

D. Proper placement of mailboxes is required, front of box not to extend into road.

E. Culverts will be installed in all driveways using 24 ft. min. culvert tubes.

F. Overhead road clearance a minimum of 14 ft. 0 in.

G. A private road that ends at two or more parcels of land with no other road access that conforms with this Chapter must include a turnaround (cul-de-sac) sufficient to permit emergency vehicle ingress and egress in accordance with State or County road requirements.

H. A private road that ends at a single parcel of land with no other road access that conforms with this Chapter must include either a cul-de-sac or a horseshoe drive sufficient to permit emergency vehicle ingress and egress in accordance with State or County road requirements. The Jackson County Road Commission standards and specifications for construction and maintenance of private roads are required under this Chapter need not be applied to that portion of a private road that ends at and services a single use so long as the actual driveway access to and from the parcel or lot is otherwise sufficient for emergency vehicle ingress and egress as determined by the Planning Commission. Any private road access permitted by this subsection must at all times be maintained so as to permit safe and efficient emergency vehicle access.

I. Private roads where cars enter a county road must have stop signs installed and maintained in accordance with the Michigan Uniform System of Traffic Control Devices.

J. Consistent with the Jackson County Street Naming and Addressing Ordinance, whenever a private road serves two or more lots or structures, the private street or road shall be named, signs must be installed and maintained in accordance with the Michigan Uniform System of Traffic Control Devices, and each lot or parcel served by the road must be properly addressed to the private road. All such road names, signs and addresses must be in accordance with the Jackson County Street Naming and Addressing Ordinance.

K. Except when a parcels use of a private road is by easement, all parcels adjoining a private road shall be surveyed from the center of the road and recorded as such in the parcels description. Where the private road is owned by a person or entity other than the adjacent parcel owners, adjoining parcels shall be surveyed from the edge of the right of way. All private roads must be owned and maintained by either the adjoining owners or an entity or other person who is assigned the rights and delegated the obligations for control and maintenance of the road.

L. All deeds must state that, “the right-of-way is a private road and subject to the terms and conditions of a private road maintenance agreement and is not maintained by the Jackson County Road Commission.”

M. All roads to be dedicated must be blacktopped before county takeover.

N. A road maintenance agreement must be established and recorded which at a minimum identifies the person or persons responsible for general road maintenance, repair and snow removal to the satisfaction of the Planning Commission.

SECTION 10.04 - PERMIT APPROVAL PROCEDURE

A. An original and two copies of a site plan, an application for naming the proposed road, and an application for addresses to any lots or parcels to be served by the proposed road shall be filed with the Rives Township Planning Commission for approval. The site plan shall be drawn to scale and include the following information at a minimum.

1. A legal description of each lot to be served by the right-of-way, a legal description of the right-of-way, and the names and addresses of all persons or parties owning an interest in the title to the lots and right-of-way area.

2. A survey drawing showing the outline of the proposed right-of-way and the dimensions and bearings thereof which includes the following: existing topographic contours at two foot intervals of the right-of-way area and all adjacent land within ten feet (10') thereof, or within such greater area as may be necessary, to determine whether drainage methods will be adequate; soil characteristics and wet areas; trees, streams, and all bodies of water within ten (10') feet from the right-of-way area, or within such greater area as may be necessary, to determine whether drainage methods will be adequate; existing buildings within fifty feet (50') of the proposed right-of-way; the proposed right-

of-way in relation to the nearest property lines; and the location of all proposed improvements in the right-of-way area. The survey drawing shall be prepared by a registered land surveyor or civil engineer, registered in the State of Michigan and shall bear the seal of the same.

3. Plan and profile drawings and cross sections of the proposed improvements showing clearly all materials, grades and dimensions, prepared by a civil engineer registered in the State of Michigan and bearing a seal of the same.

4. 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.

B. Upon receipt of a site plan which conforms with this Chapter and upon a written request or application to construct a private road, the application will be placed on the agenda of the Planning Commission's next regular meeting.

The Planning Commission may, in its discretion, refer the application and site plan to the Township Engineer or other appropriate body or person for review and comment. The Township Engineer or other appropriate person or body shall report in writing to the Planning Commission as to whether or not the proposed right-of-way and road conform to the standards and specifications of this Chapter. The Township Planning Commission shall consider the application, site plan, any written reports submitted by the Township Engineer or other reviewing body, and all other relevant information in determining whether to grant a private road permit. If the information submitted by the applicant does not establish that the proposed right-of-way and road will conform to the standards and specifications of this Chapter, the Planning Commission shall not grant the permit. However, the Planning Commission has discretion to grant minor variances from the strict standards and requirements of this Chapter so long as the intent and purpose of this Chapter is observed, public safety secured, and substantial justice is done. The Planning Commission shall impose such conditions on the approval of a permit or variance under this Chapter as it deems necessary and appropriate to achieve the intent and objectives of this Chapter. The breach of any such condition imposed shall automatically void any permit or variance hereunder.

C. As a condition of granting any permit under this Chapter, the Township Planning Commission may require the applicant to deposit with the Township Clerk a sum of money, bank letter of credit, certified check, performance bond or other security acceptable the Planning Commission in an amount sufficient to guarantee that the applicant shall perform the terms and conditions of the permit and construct the road in accordance with the approved site plan, and to secure payment of any fees assessed by the Township. Upon completion and final approval of the right-of-way and road improvements, any unused portion of the deposit shall be refunded to the applicant.

D. Upon completion of the right-of-way and road improvements, the applicant and/or developer shall file certified "as built" plans for the completed right-of-way and road improvement certifying that the construction and improvements are in conformance with the approved plans,

the Jackson County Road Commission standards and this Chapter. The certified plans and statement under this Section shall be prepared and submitted by an engineer registered in the State of Michigan and shall bear the seal of the same.

E. No building permits or certificates of occupancy shall be issued for any construction on a lot or parcel subject to the provisions of this Chapter unless the “as built” plans and certified statement required in Sub-section “C” above has been received and approved by the Planning Commission and/or the Planning Commission otherwise determines that the road and right-of-way improvements were completed in accordance with the approved plans.

SECTION 10.05 - FEES

The developer and applicant for a permit under this Chapter shall be responsible for paying all Township costs and expenses related to reviews and approvals under this Chapter, including the Township’s engineering and attorney fees, if any. The Township Board shall establish a schedule of fees, charges and expenses for applications, permits, inspections and other matters pertaining to administration of this Chapter.

The Board may require that an amount sufficient to pay the Township’s estimated costs and expenses for administration of this Chapter be deposited with the Clerk in escrow. Upon completion and final approval of a private road in accordance with this Chapter, any unused amount shall be returned to the developer and applicant. No permits or certificates of completion or occupancy shall be issued unless or until such costs, charges, fees and expenses have been paid in full.

SECTION 10.06 VIOLATION PENALTY

Any person, firm, corporation, partnership or company who shall violate any provision of this Chapter shall not be issued any building permits.

Any person who violates any provision of this Chapter or any condition attached to a permit issued under this Chapter is responsible for a municipal civil infraction and subject to payment of a civil fine of not less than five hundred (\$500.00) dollars and not more than one thousand-five hundred (\$1,500.00) dollars plus costs, attorney fees and other sanctions as permitted under Chapter 87 of the Revised Judicature Act, P.A. 236 of 1961, being MCL §600.8701 et. Seq., as amended. The building administrator, zoning administrator, a deputy sheriff, or other authorized local official is hereby authorized to issue and process municipal civil infraction citations in accordance with the Rives Township Municipal Civil Infractions Chapter and otherwise as permitted by law.

Nothing in this Section shall be interpreted as abrogating the Township’s right to proceed with an appropriate equitable action in the Jackson County Circuit Court to enjoin and/or abate any violation of the terms of this Chapter. Each day that a violation is permitted to continue shall constitute a separate offense for which a separate fine and penalty may be assessed. The imposition of an fine or penalty shall not exempt the offender from compliance with the requirements of this Chapter.

SECTION 10.07 - SEVERABILITY

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

SECTION 10.08 – ADOPTION HISTORY

The provisions of this Chapter were first made effective by adoption of Ordinance No. 18A on January 2, 2007. All ordinances and code provisions in conflict with the provisions stated herein were repealed by Ordinance 18A of 2007.