

ARTICLE 22

ROADS AND STREETS

Whitehall Township determines that it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation and use of roads, streets, and driveways; both public and private.

2201 DEFINITIONS

A. Alley: a public or legally established private thoroughfare, other than a street, which affords a secondary means of access to abutting property, and not more than twenty (20) feet wide.

B. Right-of-Way: Street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

C. Street: A dedicated right-of-way, road, or other thoroughfare, but not an alley, permanently established for the passage of persons and vehicles. The term "street" includes the term "road" and vice versa, and includes both the traveled and non-traveled portions of the street right-of-way.

1. "Public Street" is a street which is maintained by a governmental entity, such as the Muskegon County Road Commission.

2. "Private Street" is a street which is not maintained by a governmental entity. The term "private street" shall include any private easement for vehicular travel. A driveway serving a single facility, and which is not over an easement, but which is instead located entirely on the same lot as the principal use, is not a private street.

2202 LOT ACCESS TO A STREET

No structure shall be erected, altered, moved, occupied, or used on any lot which does not have a frontage on a public street unless access to a public street is provided by a private street.

2203 DRIVEWAYS

A. Driveways shall not be required to obtain a permit from the Township under this Ordinance.

B. An approved driveway permit shall be obtained from the Michigan Department of Transportation or Muskegon County Road Commission and submitted to the Zoning Administrator prior to issuance of a zoning permit.

C. All driveways shall be of such width and configuration so as to permit access to emergency vehicles, as determined by the zoning administrator.

2204 PRIVATE STREETS

All private streets shall comply with the following requirements.

A. No private street shall be constructed, upgraded, relocated or extended to serve additional lots unless an application for a private street permit has been recommended by the Township Planning Commission and the White Lake Area Fire Authority, and then approved by the Township Board.

B. A private street permit shall be considered a Special Use Permit as regulated in Article 17, and in addition approved by the Township Board.

C. An application for a private street permit shall contain the following:

1. The name(s) of the owner(s) and any other parties having any legal interest in the private street and the property across which the private street is to be constructed.

2. Eleven (11) copies of a site plan drawn to scale, prepared by a registered engineer, showing all proposed lots along the private street, and also showing the precise location, grade, route, dimensions, and the design of the private street and any proposed extension thereto, existing and proposed curb cuts, and the location and distance to any public streets which the private street is to intersect.

3. The location of all public utilities including but not limited to water, sewer, telephone, natural gas, electricity, and cable television to be located or reserved to be located within the private street right-of-way or within twenty (20) feet on either side of the private street.

4. Copies of the deed, easement, or other instrument describing, creating, and granting the private street, including any easement for public utilities.

5. The location of any lakes, streams, wetlands, and/or drains within the

proposed private street right-of-way or within one hundred (100) feet on either side of the private street.

6. The location of any other structures located within one hundred (100) feet on either side of the private street.

7. A proposed maintenance agreement as set forth in this Article.

8. A completed private street permit application, obtained from the Zoning Administrator and payment of the required fees.

D. The Township Building Inspector, Township Zoning Administrator, members of the White Lake Area Fire Authority, Township Planning Commission, and Township Board, or their respective agents and/or designees, shall have the right to enter upon the property where the private street is (or will be) located to conduct such inspections as may be necessary to review and enforce this Article, including both before and after the construction of the private street.

E. A private street shall have a permanent recorded right-of-way and easement with a minimum width of at least sixty six (66) feet. It shall be cleared to a minimum width of twenty eight (28) feet and have a minimum paved road bed width of twenty two (22) feet, which paved road is approved by a Professional Engineer.

F. Private streets shall be permanently dedicated, by an enforceable instrument recorded with the Muskegon County Register of Deeds, for the benefit of any lot or lots served by the private street. Such instrument shall, in addition to providing for ingress and egress by foot and vehicular traffic, allow for ingress and egress for all available utilities.

G. Any private street which terminates at a dead-end shall have a means for vehicular turn around, either by use of a cul-de-sac, with a minimum radius of forty eight (48) feet or by a continuous loop private road system, both of which must be constructed in accordance with the applicable standard set forth in this Article.

H. No private street shall extend for a distance of more than three thousand (3,000) feet in length from the nearest public street, as measured along the centerline of the private street, without a second direct access thereto being available from another or the same public street. Nor shall any private street contain any turn, curve or corner of width insufficient to allow passage of emergency fire trucks and other emergency vehicles.

I. The private street surface shall have a minimum crown of two tenths (.2) of one (1) foot from the centerline of the private street to the outside edge thereof.

J. The maximum longitudinal road grade shall not exceed six percent (6%), provided that the Township may allow up to a ten percent (10%) grade if the application produces written justification, satisfactory to the Township, that such increase in road grade will not adversely affect public safety and the design of the private street.

K. The private street shall be constructed with storm water run-off, culvert, and drainage containment as is reasonably required by the Township to insure adequate surface water drainage and run-off.

L. The method and construction technique to be used in the crossing of any natural stream, wetland, or drainage course shall satisfy the reasonable requirements of the Township.

M. Private streets shall be given a name, approved by 911, and streets signs shall be installed, by the applicant. The private street addresses shall be posted in a conspicuous place at the entrance to the private street (at the intersection with a public street) of letters at least three (3) inches high. Private streets shall have a standard stop sign where the private street abuts the public street.

N. A private street shall be subject to a recordable private road maintenance agreement between the owner(s) of the private street and any other lots served the private street, which private road maintenance agreement shall contain the following provisions:

1. "The owners and their successors of the private street and any lot served by the private street shall and hereby do indemnify the Township against and hold the Township harmless from, any and all claims 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 replace the private street."

2. "This instrument shall run with the land and be permanently applicable to all parcels of land served by the street created by this instrument."

3. "The Township Building Inspector, or Zoning Administrator, members of the Township Planning Commission and members of the Township Board, or their respective agents and/or designees, shall have the right to enter

upon the property where the private street is (or will be) located to conduct such inspections as may be necessary to review and enforce this agreement, including both before and after the construction of the private street.”

4. “The right-of-way created by this instrument is not a public street, and is not required to be maintained by any governmental unit, including the Township or the Muskegon County Road Commission.”

5. “The terms and conditions of this agreement may be enforced by the Township of Whitehall, and the cost of such enforcement – including attorney fees and including any maintenance undertaken by the Township with respect to such private street – chargeable as a lien against all lots served by the private street, and be collectible in the same manner as real property taxes. Such enforcement by the Township may also include any other remedy available at law or equity, and such remedy may be applied to the owner(s) and their successor(s) of any lot served by the street for which this instrument applies.”

6. “All costs for maintenance and repair of the private street created by this easement shall be the ultimate responsibility of the property owners or any property owners association or their successor, served by the street created by this easement.”

O. In addition to the verbatim quotes set forth in the previous subsection, all road maintenance agreements shall contain language satisfying the following conditions:

1. That the private street shall be regularly maintained, repaired, and snowplowed so as to assure that it is reasonably safe for travel at all times.
2. How the cost of such maintenance will be allocated and collected.
3. A provision indicating how the cost allocation will be made and how collection of such cost allocation will be enforced.
4. The identity of the properties whose owner(s) and successors are responsible for maintenance of the private street.

P. The provisions applicable to private streets as set forth in this Article shall apply to all private streets hereafter constructed and to all existing private streets which are hereafter altered or extended to serve additional lots, relocated, or upon

which an existing lot is divided for the purpose of creating additional lots upon which any principal use structure, including but not limited to single family dwellings, is to be or may thereafter be constructed.

Q. If the completed private street does not satisfy the requirements of the permit or this Ordinance, the applicant(s) shall be notified on the noncompliance in writing and shall be given a reasonable period of time in which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall subject the applicant(s) to the penalties provide for in this Ordinance. No structure permit shall be issued for lot along a private street until and unless the private street fully complies with this Ordinance.

R. Upon completion of construction of the private street the applicant(s) and owner(s) thereof shall remove and properly dispose of any and all downed trees, shrubs, stumps, construction debris, and rubbish occasioned by the construction of the private street.

2205 PAVED ROADS IN HEAVY TRAFFIC AREAS

A. No platted subdivision or site condominium shall be allowed if any of the lot(s) thereon front on an unpaved street.

B. No commercial, recreational, or industrial use shall be allowed if any of the lot(s) thereon front on an unpaved street.

C. Any person or entity who petitions for approval for any development listed in sub-sections A or B above, shall bear the sole expense for paving and constructing any road required herein.

2206 VISIBILITY AT INTERSECTIONS

No fence, wall, hedge, screen, sign, structure, vegetation or planting shall be higher than three (3) feet above street grade on any corner lot or parcel within the triangular area formed by the intersecting street right-of-way line at points which are thirty (30) feet distance from the point of intersection, measured along the street right-of-way lines. This provision shall apply in all zones.

2207 STREET CLOSURE

Whenever any street, alley, or other public way is vacated by official action, the zone adjoining each side of such public way shall automatically be extended to the

center of such vacation, and all area included therein shall henceforth be subject to all appropriate regulations of that district.

2208 CONSTRUCTION SITE ACCESS

A. A roadway and/or driveway shall be provided for emergency and fire department vehicles from the nearest available street to a construction site prior to any structural framing being done involving combustible materials.

B. The roadway and/or driveway shall be reasonably level with a total cleared area of fourteen (14) feet in width and suitable for traverse by emergency and fire department equipment. Access of roadways and/or driveways must be maintained year-around to accommodate use of emergency and fire vehicles.

2209 MINIMUM VERTICAL CLEARANCE

Every driveway, alley or private street shall have a vertical clearance of at least thirteen (13) feet, six (6) inches in height.