

Bainbridge Township Berrien County, Michigan



7315 Territorial Road, Watervliet, MI 49098
Phone: 269-468-8040/Fax: 269-468-3498

Bill Hodge, Supervisor
Patty Hiler-Molter, Clerk
Nancy Weber, Treasurer

PRIVATE ROAD PERMIT ARTICLE XVIII

An application for a Private Road shall be submitted through the Zoning Administrator to the Planning Commission, accompanied by a \$75.00 filing fee. Checks should be payable to “Bainbridge Township”.

Include the following:

1. Application.
2. Site plan in conformance with Article XI (11).
3. A drawing of all cul-de-sacs to be located along said private roadway, which shall meet standards established by the Berrien County Road Commission.
4. Copy of current paid tax bill, deed, or other proof of ownership, which includes a legal description of the property, property tax number and proof of taxes paid of said property.
5. A soil erosion permit from the Berrien County Drain Commissioner.
6. An overall development plan for all contiguous land in which the person has an interest of any nature.
7. Statement of Compliance.
8. Request for the Public Hearing.
9. A maintenance agreement, easement agreement, and deed restrictions which provide for the perpetual private maintenance of the Private Road and easement to a necessary and reasonable standard to serve the several interests involved. These documents shall contain the following provisions:
 - a. A method of initiating and financing and apportioning costs of maintenance and improvements of such road and/or easements in order to keep the road in reasonably good and usable condition.

- b. A notice that no public funds of the Township are to be used to build, repair, or maintain the Private Road.
- c. Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.
- d. A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting, or in any manner interfering with normal ingress and egress and use shall include use by family, guests, invitees, tradesmen, emergency vehicles and others bound to or returning from any of the properties having a right to use the road.

APPLICANTS SEEKING TO EXTEND AN EXISTING PRIVATE ROAD

In those cases where the applicant seeks to extend an exiting private road, such extension shall be permitted only if the existing private road is brought up to the standards as set forth in Bainbridge Township Zoning Ordinance.

In addition to the application requirements, the applicant shall provide the following:

1. That the owner(s) consent to the extension of the roadway pursuant to the application.
2. In writing consent from all persons who, to the knowledge of the applicant, own any interest in the existing Private Road or have a right of access to their property.
3. In writing consent that all parties agree to the upgrading of the existing roadway right-away.

Applicant should attend the Planning Commission Meeting and Board and Public Hearing to answer any questions that may arise. If a special meeting of the Planning Commission is requested, a charge of \$500.00 is required to defray township expenses.

APPLICATION FOR PRIVATE ROAD PERMIT

Applicant Name: _____

(Address) (City) (State) (Zip)

Home Phone #: _____ Work/Mobile Phone #: _____

Parcels Affected:

Tax Code: 11-01- _____ - _____ - ____ - ____ /Zoned District: _____ /Acres: _____

Tax Code: 11-01- _____ - _____ - ____ - ____ /Zoned District: _____ /Acres: _____

Tax Code: 11-01- _____ - _____ - ____ - ____ /Zoned District: _____ /Acres: _____

Tax Code: 11-01- _____ - _____ - ____ - ____ /Zoned District: _____ /Acres: _____

(List additional information of the back or attach another sheet)

1. Describe the use of the proposed Private Road: _____

2. Describe additional public services needed for proposed use. _____

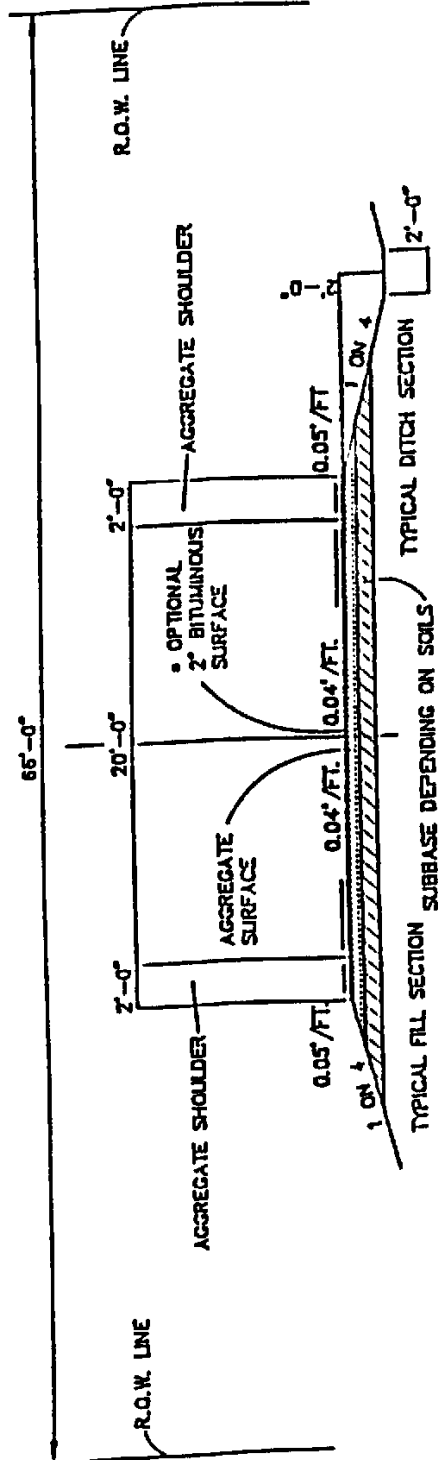
3. Describe the construction plan: _____

4. Proposed Private Road name: _____

Until a permit has been granted pursuant to Bainbridge Township Zoning Ordinance, there shall be no construction or excavation of said land. Nor shall use of the land be made toward the intended purposes of such Special Land Use Permit.

Signed: _____ Date: _____

PRIVATE ROAD SPECIFICATIONS



TYPICAL CROSS-SECTION

TYPE OF NATIVE SOILS	AGGREGATE SURFACING
SAND	8"
CLAY	8" WITH 6" SUBBASE
SILT	8" WITH 9" SUBBASE

SUBBASE MATERIAL - MDSH GRANULAR MATERIAL CLASS B

STATEMENT OF COMPLIANCE

1. I represent that the enclosed application will comply with the following General Standards:
 - a. The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
 - b. The special land use shall not inappropriately change the essential character of the surrounding area.
 - c. The special land use shall not interfere with the general enjoyment of adjacent property.
 - d. The special land use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.
 - e. The special land use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes or glare.
 - f. The special land use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed special land use shall be able to continually provide adequately for the services and facilities deemed essential to the special use under consideration.
 - g. The special land use shall not place demands on public services and facilities in excess of available capacity.
 - h. The special land use shall be consistent with the intent and purpose of this Ordinance, and the objectives of any currently adopted Bainbridge Township Development Plan.

Signature of Applicant: _____ / Date: _____

**PUBLIC HEARING REQUEST
FOR PRIVATE ROAD PERMIT**

11-01- _____ - _____ - _____ - _____
Property Tax Code Number

I hereby request a public hearing for the purpose of securing a Private Road Special Land Use Permit for property described by the property tax code number shown above.

The address of this property is:

(Address) (City) (State) (Zip)

The requested Private Road Special Land Use Permit is for the following purpose:

I enclose application, site plan, proof of ownership and legal description of the property, proof of paid taxes, a list of names and addresses of the owners of property within 300 feet of the property covered by this application, and a statement of compliance.

(Name of applicant)

(Street and Number)

(City) (State) (Zip)

_____/_____
(Signature) (Date)

ARTICLE XI

Site Plan and Scaled Drawing Requirements

Section 11.01 - Intent

- A. The intent of requiring site plan or scaled drawing submittal and review in certain instances specified herein is to facilitate determination of whether certain development proposals meet all applicable requirements and are in harmony with the purpose, intent and spirit of this Ordinance.
- B. It is further the intent to assist township officials in encouraging and assisting proposers of land development to design and implement land use proposals which foster orderly, efficient, compatible and aesthetic uses of land in Bainbridge Township.

Section 11.02 - When Required

- A. Variance or Special Land Use – Except for Single-Family, Two-Family: A site plan shall be prepared and submitted in accordance with Sections 11.03 A. and 11.04 with any application for:
 - 1. Variance or Special Land Use Permit, other than for a Special Land Use Permit for a Home Occupation;
 - 2. With any application for Rezoning, other than Rezoning for the sole purpose of constructing a single-family, two-family or agricultural permitted principal use;
 - 3. With any application for a Zoning Compliance Permit or Building Permit, other than for the sole purpose of constructing a single-family, two-family or agricultural permitted principal use or accessory use thereto; and
 - 4. With any application for a Planned Unit Development or Condominium.
- B. Rezoning – Single-Family, Two-Family: A scaled drawing shall be prepared for the sole purpose of constructing a single-family, two-family or agricultural permitted principal use or accessory use thereto and submitted in accordance with Sections 11.03 B. and 11.04 with any application for:
 - 1. Rezoning;
 - 2. Zoning Compliance Permit;
 - 3. Building Permit; or
 - 4. Variance.

Section 11.03 - Contents

- A.** A required site plan shall be drawn at a scale of one (1) inch equals one hundred (100) feet and shall contain the following information:
1. The boundary lines of the area included in the site plan, including angles, dimensions and reference to a section corner, quarter corner or point on a recorded plat, an arrow pointing north, and the individual lot areas and dimensions of the land included in the site plan.
 2. Existing and proposed topography, drainage systems, and structures, with topographic contour intervals of not more than two (2) feet.
 3. The shape, size and location of all structures on the lot including yard dimensions, height, floor area and ground coverage ratios and the finished ground and basement floor grades.
 4. Natural features such as wood lots, trees of more than one (1) foot in diameter, streams and lakes or ponds, and man-made features such as existing roads and structures, with indication as to which features are to be retained and which removed or altered. Adjacent properties and their uses shall be identified.
 5. Proposed streets, driveways, parking spaces, curb cuts, loading spaces and sidewalks, with indication of direction of travel for one-way streets and drives and the inside radius of all curves. The width of streets, driveways and sidewalks, and the total number and layout of parking spaces shall be shown.
 6. The size and location of all existing and proposed public and private utilities and required landscaping.
 7. A vicinity sketch showing location of the site in relation to the surrounding street system.
 8. A legal description of the land and lots included in the site plan.
 9. Any other information necessary to establish compliance with this and any other ordinances.
 10. The availability of adequate utility capacity.
 11. The name, signature, title and mailing address of the person who prepared the site plan. A site plan for any development shall be prepared by a registered architect, engineer, professional community planner or land surveyor.
- B.** A required scaled drawing shall be drawn at a scale appropriate to the dimensions of development and shall contain the following information:
1. A legal description of the land involved.
 2. A vicinity sketch showing location of the site in relation to the surrounding street system.
 3. The size and location of all structures proposed for and presently located on the site.

4. The boundary lines of the parcel of land involved including dimensions and an arrow pointing north.
5. Proposed streets and driveways. The width of streets and driveways shall be shown.
6. Any other information necessary to establish compliance with this and any other ordinances.
7. The name, signature and mailing address of the person who prepared the scaled drawing.

Section 11.04 - Review Process and Approval

- A. Any required site plan or scaled drawing shall be submitted, of original quality, to the Zoning Administrator along with a cover letter signed by the owner of the land and/or prospective developer providing a general explanation and background information on the proposed development.
- B. The Zoning Administrator shall examine the site plan or scaled drawing as to proper form and content and particularly as to compliance with all applicable requirements of this Ordinance.
- C. If the proposed development does not require the issuance of a Special Land Use Permit by the Planning Commission, Variance by the Board of Appeals or a Rezoning of land by the Township Board, within thirty (30) days after receipt the Zoning Administrator shall notify in writing the proposer of the development of the approval or disapproval of the site plan or scaled drawing. If the site plan or scaled drawing is disapproved, the reasons therefore shall be given. Such disapproval shall be limited to inadequacy or defect in form or content and/or noncompliance with identified applicable provisions of this Ordinance. The Zoning Administrator may, at his discretion, request consultation with the Planning Commission prior to his approval or disapproval of the site plan.
- D. If the proposed development requires issuance of a Special Land Use Permit, the Zoning Administrator shall transmit his findings as described in paragraph C. above, to the Planning Commission along with a copy of the site plan and covering letter. The proposer of the development shall be notified of the status of his requested site plan approval.
- E. If the proposed development requires a rezoning of land, the Zoning Administrator shall transmit his findings as described in paragraph C., above, to the Township Board which shall follow the amendment procedure as provided in Article XV (15). The site plan or scaled drawing and cover letter shall accompany the Zoning Administrator's findings. The proposer of the development shall be notified of the status of his requested site plan or scaled drawing for approval.
- F. If the proposed development requires a Variance, the Zoning Administrator shall transmit his findings as described in paragraph C., above, to the Board of Appeals which shall follow the Variance procedure as provided in Article XIII (13). The site plan or scaled drawing and cover letter shall accompany the Zoning Administrator's findings. The proposer of the development shall be notified of the status of his requested site plan or scaled drawing for approval.
- G. The decision rejecting, approving, or conditionally approving a site plan shall be based upon the requirements contained in Section 11.03, A. The decision rejecting, approving or conditionally approving a scaled drawing shall be based upon the requirements contained in Section 11.03, B.

- H. A site plan or scaled drawing shall be approved if it contains the information required by this Ordinance and is in compliance with this Ordinance and the conditions imposed thereunder, other applicable Township, County, State or Federal laws, rules or regulations.
- I. The site plan or scale drawing as approved shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan or scaled drawing, unless a change conforming to this Ordinance receives the mutual agreement of the landowner and approving body.
- J. Upon approval of a site plan, the secretary of the approving body shall, within five (5) days, file with the Zoning Administrator a copy of the approved site plan or scaled drawing.

ARTICLE XVIII

Private Roads

Section 18.01 – Intent

- A. The intent of this Article is to provide minimum standards and specifications for Private Roads constructed in the Township. It is recognized that such standards are necessary because of the need for road services adequate to provide year around access by fire, police, and like emergency vehicles. It is further recognized that if roads are not constructed in accordance with certain minimum standards, such roads frequently become impassable, and vehicles which do try to use them during such periods of impassability are likely to become stuck; find it impossible to gain access to the persons or structures located on the roadway; block the roadway and otherwise pose a threat to the health, safety and welfare of the residents located along the roadway, as well as to those other residents who would find use of the roadway essential.
- B. No person shall sell or convey an interest in any lot, including by purchase agreement, in a recorded plat or any parcel of unplatted land in an unincorporated area if it abuts a street or road which has not been accepted as public, or said street or road abuts a private road as defined in this Article, unless the seller first informs the purchaser in writing on a separate instrument to be attached to the instrument conveying any interest in such lot or parcel of land of the fact that the street or road is private and is not required to be maintained by the Board of County Road Commissioners.
- C. Any contract or agreement of sale entered into in violation of this Article shall be voidable at the option of the purchaser, Land Division Act 288 of 1967, as amended.
- D. It is the intent to allow Private Roads in any district subject to Special Land Use Permit as set forth in this Article and Article X (10).

Section 18.02 – Definition

- A. **Private Road:** A privately owned and maintained road which has not been accepted by the public for ownership and maintenance; which persons, in addition to the owners of the property underlying said road, have a lawful right to use for ingress and egress, whether as invitees, by common custom, or otherwise. This definition does not include a private driveway which serves one (1) one-family, or one (1) two-family residence.
- B. **Road:** A thoroughfare which affords vehicular traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, land, boulevard, highway, street, and other thoroughfare, except an alley or private driveway.

Section 18.03 – Application Procedure

- A. **Applicant:** Any person owning or having an interest in the subject property may file an application for a Private Road provided for in this Article. No Private Road shall be constructed within the Township without first having acquired all permits as described in this Article.
- B. **Application:** An application and site plan or scaled drawing shall be submitted through the Zoning Administrator, to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. No part of any fee shall be refundable.
- C. **Required Information:** The Zoning Administrator shall then submit to the Planning Commission after review for completeness pursuant to Article X (10) and the following:
1. A drawing of all cul-de-sacs to be located along said private roadway, which shall meet standards established by the Berrien County Road Commission and this Ordinance,
 2. Legal description, showing location and acreage of property;
 3. A soil erosion permit from the Berrien County Drain Commissioner;
 4. An overall development plan for all contiguous land in which the persons has an interest of any nature;
 5. A site plan in conformance with Article XI (11);
 6. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in Section 10.04 C and other standards imposed by this Ordinance affecting the special land use under consideration; and
 7. A maintenance agreement, easement agreement, and deed restrictions which provide for the perpetual private (non-public) maintenance of the Private Road and easement to a necessary and reasonable standard to serve the several interests involved shall be provided. These documents shall contain the following provisions:
 - a. A method of initiating and financing and apportioning costs of maintenance and improvements of such road and/or easements in order to keep the road in a reasonably good and usable condition. (See Act 139 of 1972, MSA 195 (41) (46), MCL 247.391-346.)

- b. A notice that no public funds of the Township are to be used to build, repairs, or maintain the Private Road.
 - c. Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.
 - d. A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting, or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen, emergency vehicles and others bound to or returning from any of the properties having a right to use the road.
- D. **Incomplete Application:** An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.

Section 18.04 – Processing

- A. **Copy of Application to Planning Commission:** The Zoning Administrator shall forward a copy of the application for a Private Road to the Planning Commission within thirty (30) days of receiving the request.
- B. **Hearing:** After a preliminary review of the site plan and an application for a Private Road the Planning Commission shall hold a hearing on the site plan and special land use request in accordance with Article X (10).

Section 18.05 – Review and Approval

- A. The Planning Commission shall review the application and site plan for a Private Road and prepare a report on whether or not the proposed development best serves the intent of this Ordinance and the public health, safety and welfare with respect to the requested Special Land Use and exception. The report shall include findings on the following:
 - 1. Does the proposal constitute a bonafide Private Road?
 - 2. Is the public health, safety and welfare better served by the proposal?
 - 3. Have the following considerations been evaluated: location, traffic volumes and circulation compatibility with existing development?
 - 4. Is the proposal compatible with objectives of the General Development Plan or specific elements thereof which have been officially adopted by the Planning Commission?

5. Are the minimum design standards in conformance with the Berrien County Road Commission roadway standards for gravel roads?
 6. Is a fourteen (14) foot minimum clearance over and above and for the entire width of the roadway maintained?
 7. Does the dead-end or cul-de-sacs have a sixty-seven (67) foot radius right of way and a forty (40) foot diameter road surface?
 8. Is the proposed private road located within a corridor of land designed as a road right-of-way no less than sixty-six (66) feet in width?
 9. Does the proposed Private Road meet the standards established in Section 10.04, C. 1 and 2?
- B. The Planning Commission may, upon an affirmative finding on items 1 through 9 above approve such special land uses and exceptions for a Private Road subject to the those standards established in Section 10.04 and the following:
1. A legal description designated road right-of-ways shall be recorded with the Berrien County Register of Deed, upon approval by the Planning Commission and prior to the issuance of the Special Land Use Permit by the Zoning Administrator.
 2. Submission of construction plans and specifications for the construction of the road, if any.
 3. All Private Roads shall be named with said name to be approved by the Township Board so as not to be the same as, or similar to, another road in the Township.
 4. Road signs shall be erected at the expense of the applicant and maintained by those adjacent property owners whose properties are served by the private road.
 5. Said signs shall meet Berrien County Road Commission standards.
 6. All Private Road names shall end in "Lane".

Section 18.06 – Extending Existing Private Roads

- A. In those cases where the applicant seeks to extend an existing Private Road, such extension shall be permitted only if the existing Private Road is brought up to the standards as set forth in this Article. All of such standards shall be deemed to apply to the existing roadway and the proposed extension.

- B. The Planning Commission shall consider the extension of the Private Road as an amendment to the original application and shall process the amendment pursuant to the procedures in this Article.
- C. In addition to the application requirements of Section 18.02, C, the applicant shall provide the following:
 - 1. That the owner consents to the extension of the roadway pursuant to the application;
 - 2. Applicant shall obtain consent from all persons who, to the knowledge of the applicant, own any interest in the existing Private Road or have a right of access to their property thereby, which consent shall be in writing and shall be filed with the Township contemporaneously with the filing of the application for permit hereunder; and
 - 3. That the consenting parties agree to the upgrading of the existing roadway right-away if required, to the Private Road construction standards as set forth in this Article.

Section 18.07 – Appeals

- A. Any person, firm, corporation or department, board or bureau of the Township aggrieved by the decision of the Planning Commission on Special Land Uses for the purpose of establishing a Private Road may seek review by the Board of Appeals in the manner prescribed in Article XIII (13).

Section 18.08 – Effect of Approval of Planning Commission

- A. The approval of the application by the Planning Commission shall allow the Zoning Administrator to issue a Zoning Compliance Permit in conformity with the application as approved and Article X (10).