

**TOWNSHIP OF EGELSTON  
MUSKEGON COUNTY, MICHIGAN  
ORDINANCE NO. \_\_\_\_**

THE BOARD OF TRUSTEES OF THE TOWNSHIP OF EGELSTON HEREBY ORDAINS:

1. Article III, Section 29 of the Zoning Ordinance of the Township of Egelston, Michigan is amended to read as follows:

**Sec. 29 Private Roads.**

A. *Purpose.* This ordinance has been adopted to assure that:

1. Private roads are designed, constructed and maintained to assure the safe passage and maneuverability of private passenger and emergency services.
2. Private roads are constructed of suitable materials to ensure minimal maintenance and safe passage.
3. Private roads will be constructed so as to protect against or to minimize soil erosion and to prevent damage to lakes, streams, wetlands, and natural environment of the township.
4. Private roads are constructed and maintained to safely accommodate public and private infrastructure, such as, without limitation, electric, gas, communication, water and sewer lines.
5. Support the master plan build-out (be compatible with the master plan).
6. The township encourages joint use and development of existing and new private roads by adjacent property owners to become one road.

B. *Definitions.* The following definitions shall apply to the interpretation of these regulations:

1. "Private road" means any privately owned, improved and maintained right-of-way and roadway which provides primary means of ingress and egress from public road right-of-way to more than one parcel. The term "private road" shall include extensions, relocations, additions and any private road, which joins or intersects to no more than one lot-parcel or condominium unit.
2. "Driveway" means an improved or unimproved path or trail that serves as or is intended to provide the only means of ingress and egress from an improved public road

or from a private road improved to the standards of this ordinance to no more than one lot-parcel or condominium unit.

3. "Drain commission" means Muskegon County Drain Commission.
4. "Road commission" means the Muskegon County Road Commission.
5. "MDOT" means the Michigan Department of Transportation.
6. "Parcel" means a property, lot, condominium unit, or land upon which an improvement exists, is erected or may be erected as evidenced by a plat, condominium proposal, proposed site plan, application for approval under the Land Division Act, request for a separate tax parcel or any oral statement or written indication by the owners or occupant of the land. A separate parcel shall also be created for purposes of the private regulations when a second principal improvement is placed on a parcel or where an improvement housing an additional family or separate living unit is established.

C. *Application and effect.*

1. *Improvement on land; new private road.* No building permit shall be issued for any improvement, nor shall any improvement be constructed where a private road is utilized or is to be utilized for access unless the said private road has been constructed and completed under permit and at the time a building permit is sought the private road is in accordance with the standards of this ordinance and, in particular, meets then current fire codes, and security has been furnished as required for the construction of the road. A road which serves no improved property shall not be considered an existing private road, but must be treated as a new private road.
2. *Existing private road.* A private road existing on January 22, 2018, may continue in existence and be maintained and used, though it may not comply with the provisions of this ordinance. Such private road shall be continuously maintained so as to provide a safe and unimpeded route of travel as determined by the authority having jurisdiction.

For a private road existing on January 22, 2018, which is used to access one or more additional lots or parcels, the entire length of such road shall be upgraded to comply with the applicable requirements of this ordinance.

Upon application, the planning commission may grant an exception from any of the requirements of this ordinance for private roads existing on November 14, 2017, after finding that all the following conditions exist:

- a. There are such special circumstances or conditions that strict application of the provisions of this ordinance would clearly be impractical or unreasonable. These special circumstances may include topographic, vegetative or drainage conditions, and/or other significant natural features which physically preclude or prevent

compliance. These circumstances and conditions shall be clearly identified and described in the application for any exemption.

- b. The granting of the exemption will not be detrimental to the public health, safety and welfare or injurious to other property in the area in which such exemption is requested.
  - c. Such exemption will not have the effect of nullifying the intent and purpose of this ordinance, the adopted master plan or the township zoning regulations.
  - d. The justification for any exemption is not due solely to financial consideration, which upon approval of the requested exemption would provide a financial benefit.
  - e. No other reasonable private road design alternatives are available that would comply with the requirements of this ordinance.
  - f. That the appropriate officials or consultants designated by the planning commission have reviewed and commented on the request for the exemption.
3. *Legal entitlement.* Any private road, new, existing or extended, must be located on land affording the absolute and permanent right to install, improve, use and maintain the road for all required ingress and egress.

D. *General regulations.*

- 1. *Special use.* Where permitted, private roads constitute and are permitted only as special uses in all zoning districts.
- 2. *Frontage requirements.* All parcels served by a private road shall maintain frontage along the private road right-of-way as would be required to provide the minimum lot width on the road or frontage dimension required for the zoning district in which the parcel is located.
- 3. *Extensions and additions.* All extensions, additions and branches of or to a private road and shall be considered part of the private road which provides access to and from an improved public road shall be constructed in compliance with these regulations, except as set forth above.

- E. *Permits required; special use grant.* No private road shall be constructed, extended or relocated unless a private road construction permit ("permit") has been applied for and obtained, a special use has been granted, and the regulations of the ordinance are complied with. An application for a private road construction permit shall consist of the following materials and documents and once completed and has met planning commission approval, shall become the private road permit.

1. A completed application form, containing the name(s) of the owner(s) and any other parties having any legal interest in the proposed private road and the property on which it is to be constructed along with the time frame and completion date of the project.
2. A scale drawing, prepared by a Michigan professional engineer and professional surveyor that shows the following:
  - a. The exterior boundaries of the lot or parcel on which the private road will be constructed.
  - b. The proposed layout, grade, elevation, dimensions, and design of the private road right-of-way and roadway, including the location of proposed ingress from the adjoining public street(s).
  - c. The location of all public utilities, including water, sewer, telephone, gas, electricity and all types of communication cable to be located in the private road right-of-way.
  - d. The location of any lakes, streams, wetlands and drains in or within 500 feet of the proposed right-of-way.
  - e. The proposed layout and location of parcels which can be served by the proposed private road.
  - f. The location, description and dimensions of all intersections with other roads.
  - g. The location and distance of any private or public roads which the private road will intersect.
  - h. A survey of the proposed private road right-of-way prepared by professional surveyor in the state of Michigan.
  - i. The location of any buildings or structures located or to be located or to be located within 100 feet of the private road right-of-way.
3. A proposed maintenance agreement as described in this ordinance.

F. *Review and approval procedure.* Applications for private road construction permits shall be subject to the procedures applicable to special uses set forth in this ordinance. In addition to the procedures for approval of the special uses, applications shall also be subject to the criteria for site plan review and approval set forth in the ordinance.

G. *Maintenance and repair.*

1. Private roads shall be maintained in a manner that complies with the provisions of the ordinance.
2. All private roads shall be continuously maintained in such a way that they will not constitute a danger to the health, safety and welfare of the inhabitants of the township. All private roads shall be continuously maintained so that they are readily accessible to be used by emergency vehicles in all types of weather.
3. All costs for the maintenance and repair of the private road shall be the responsibility of all property owners and any condominium association or adjacent land, which will be served by the private road. A maintenance agreement and covenant, running with the land, in recordable form, shall be required.
4. The Township may, in its discretion, give written notice to the owner or the person listed on the tax rolls that a private road contiguous to a certain property is defective or in need of repair. The letter shall set a time before which the repair must be completed by the owner(s), and shall inform the addressee that the specifications for repair and a permit must be obtained from the Township. The notice shall further inform the owner(s) on the tax roll that the Township, after the deadline date has passed, may perform the work and recover the associated costs thereof, including assessment costs, as permitted by MCL Section 41.721, et. seq. If the owner(s) named on the tax roll fails, refuses or neglects to repair the private road within the time specified in the notice, the Township may then cause the work to be done and recover the costs of such by creating a special assessment and levy such assessment against the property, collecting the cost from the person listed on the tax rolls as the owner, and/or placing a lien on the property pursuant to MCL Section 41.721, et. seq.

H. *Design and construction standards.* The following table of standards shall apply for each improved portion of a private road:

1. A private road or interconnected private road and public road system, or any combination of public and/or private roads shall not serve more than 29 residential lots, site condominium units, or dwelling units, unless a secondary means of egress is provided for the entire property served. This secondary access shall meet the minimum standards of this chapter.
2. The current International Fire Code edition adopted by the Township requires dead-end access roads in excess of 150 feet to be provided with width and turnaround provisions as follows:

| Length       | Width (min)  | Turnarounds Required   |
|--------------|--|--|
| 0.150 feet   | 20 feet  | None required  |
| 151-500 feet | 20 feet  | 120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac. |
| 501-750 feet | 26 feet  | 120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac. |
| 750 feet +   | Required special provisions as approved by the fire code official. |  |

3. A private road shall not exceed a grade of five percent. Grades of six percent but not to exceed ten percent may require drainage structures. Any private road intersecting another private or public road shall not exceed a four percent grade within 50 feet from the shoulder of the intersecting road.
4. All private roads shall meet the following:  
Serving 2 — 14 parcels: Appendix A, Item 1 (Gravel Roads)  
Serving 15 + parcels: Appendix A, Item 2 (Paved Roads)

Road bed placement — In center of right-of way

Boulevards — May be permitted through the Planning Commission

|                        |  |
|------------------------|--|
| Road crown             | (Minimum) Two-tenths of one foot (0.25) from the centerline of the road to outside edge of the road.   |
| Shoulders              | 6 feet (3 feet each side)  |
| Layout/clear vision    | A private road intersecting a public road shall meet the requirements of the road authority. A private road intersecting another private road shall meet the same requirements as a public road. |
| Intersection distance  | Meet specifications of the road authority.   |
| Driveway spacing       | Meet specifications of the road authority.   |
| Drainage system-design | Must be adequate to handle surface water. Surface water shall be discharged to, and detained on, land served by the private road.  |

|                         |   |
|-------------------------|---|
|                         |   |
| Stream crossing         | Shall meet local, state, and federal requirements.  |
|                         |   |
| Road name               | Must be approved by central dispatch, road authority, and township fire department. The private road shall be given a name and street signs shall be installed in accordance with the standards and approval of the road authority. The address of lots or condominium units serviced by the private road shall be permanently located in a conspicuous place in front of each lot or condominium unit along the private road right-of-way. |
| Traffic control         | Stop signs, meeting MUTCD (Manual of Uniform Traffic Control Devices) requirements and the policies and guidelines of the road authority for public roads, shall be placed at the intersection of private roads. (Planning commission may require traffic control device study.)  |
|                         |   |
| Road materials          | All <del>existing</del> materials shall meet the requirements of this ordinance. <i>See appendix A</i>  |
|                         |   |
| Debris and construction | Any debris, construction material, excess fill material, or other waste resulting from the construction of a private road shall be removed from the right-of-way and from any adjoining property and legally disposed of.   |

- I. *Indemnity.* As a condition of applying for and obtaining a private road construction permit, all applicant(s) and owner(s) of a private road shall agree to indemnify and hold the township, and anyone else authorized by the township to assist in the private road review process, harmless from any claims for personal injury or property damage out of the construction, use, maintenance or repair of a private road.
- J. *Maintenance agreement.* The applicant(s) and owners shall provide the township with a recordable private road maintenance agreement between the owner(s) of the private road right-of-way and any parcel which can be served by it or is adjacent to it, said ownership to be current on the date of recording. The maintenance agreement shall be in a form satisfactory to the township and shall provide that the private road shall be privately maintained and repaired to assure safe travel at all times and during all seasons of the year. The maintenance agreement shall be a recordable covenant running with the land, binding on all the said parcels.
- K. *Certificate of compliance.* Upon completion of construction of the private road, the permit holder shall provide the zoning administrator with a set of as-built drawings bearing a certificate and statement from a professional engineer certifying that the private road has been completed in accordance with the requirements of the permit issued. Authorized township personnel shall inspect the private road to determine whether it complies with the approved plans and permit as issued. A certificate of compliance shall be issued by authorized township personnel if it is determined that the private road has been constructed in compliance with the approved plans and the permit as issued. If the completed private road does not satisfy the requirements of the permit or this ordinance, the applicant(s) shall be notified of the noncompliance in writing and shall be given a reasonable period of time within [which] to correct the deficiencies. Failure to correct the deficiencies within the time provided shall subject the applicant(s) to the penalties provided for



in this ordinance. Authorized township personnel shall have the right to enter upon property where the private road is or will be located to conduct such inspections as may be necessary to administer these regulations.

L. *Fees.*

1. Application fees for permits required by these regulations shall be set by the township board from time to time by resolution.
2. All other fees including, but not limited to, road construction inspection fees.

M. *Building permits for parcels on private roads.* No building permits shall be issued for any parcel on a private road unless the applicant demonstrates that the property in question has been conveyed by deed or other instrument complying with the law of the State of Michigan, the Land Division Act, and the township ordinance concerning land divisions, and that the required notice regarding the existence of a private road serving the property has been delivered and recorded.

N. *Access approval by road authority.* No permit shall be issued for a private road until the applicant(s) has presented the township with a current permit issued by the Muskegon County road commission, the state (MDOT) or other appropriate road authority allowing access for the private road to an improved public road, or letter from the road authority indicating that no such permit is required.

O. *Performance guarantee.*

1. The township will require the applicant(s) to post a performance guarantee in the form of a cash bond, bank letter of credit or other surety in order to insure compliance with the requirements of these regulations.
2. The amount of the performance guarantee shall be equal to the total estimated cost of construction of the private road as approved by the township.
3. The performance guarantee, or unspent portion thereof, will be returned to the applicant(s) by the township upon completion of the private road to the standards required by this ordinance.
4. The permit fee, by issuance of the permit, consents to the use of the proceeds from the security or guarantee by the township to complete the private road to the standards of this ordinance. Every guarantor or bonding company must agree in writing to this use of the proceeds before the township will accept the performance guaranty.

P. *Conflict with other ordinances.* To the extent that other ordinances regulate the subject matter regulated by this ordinance, the ordinances shall be construed together, if possible, and the remedies of the ordinances shall be cumulative. Where the provisions of any other ordinance conflict with the provisions of this ordinance, this ordinance shall prevail and its terms shall control. If any part of this ordinance conflicts with any other part, it shall be administratively appealed to the township



zoning board of appeals for final determination of intent. The remainder of the ordinance shall remain in full force.

2. This Ordinance is to become effective ten (10) days after adoption.

Ayes: 6

Nays: 0

#### CERTIFICATE

The undersigned, being the duly qualified Clerk of the Township of Egelston, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Township Commission of the Township of Egelston, at a regular meeting of the Board of Trustees on the 22<sup>nd</sup> day of January, 2018, at which meeting a quorum was present and remained throughout, and that the meeting was conducted and public notice was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

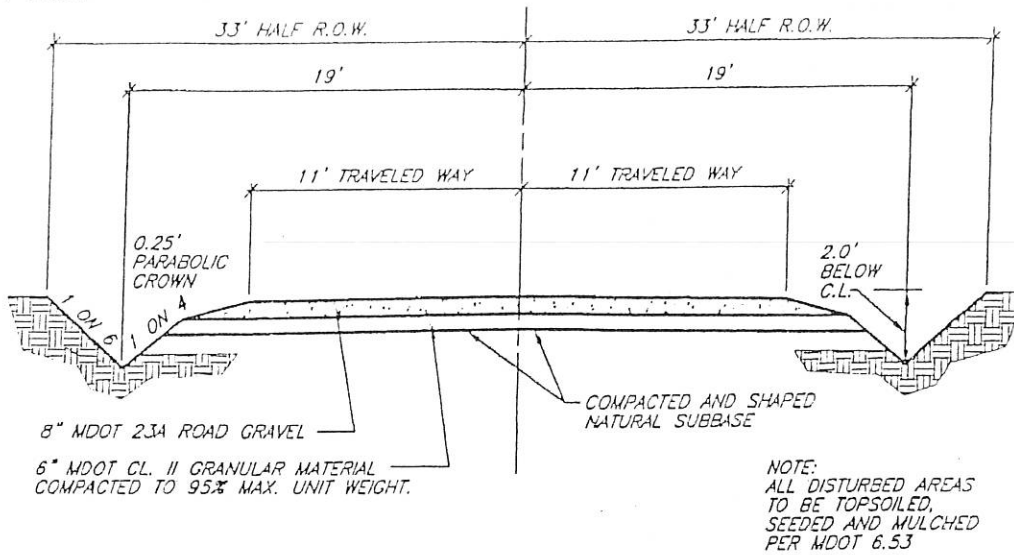
Date: January 22, 2018

  
Joan J. Raap  
Township Clerk

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

# Appendix A

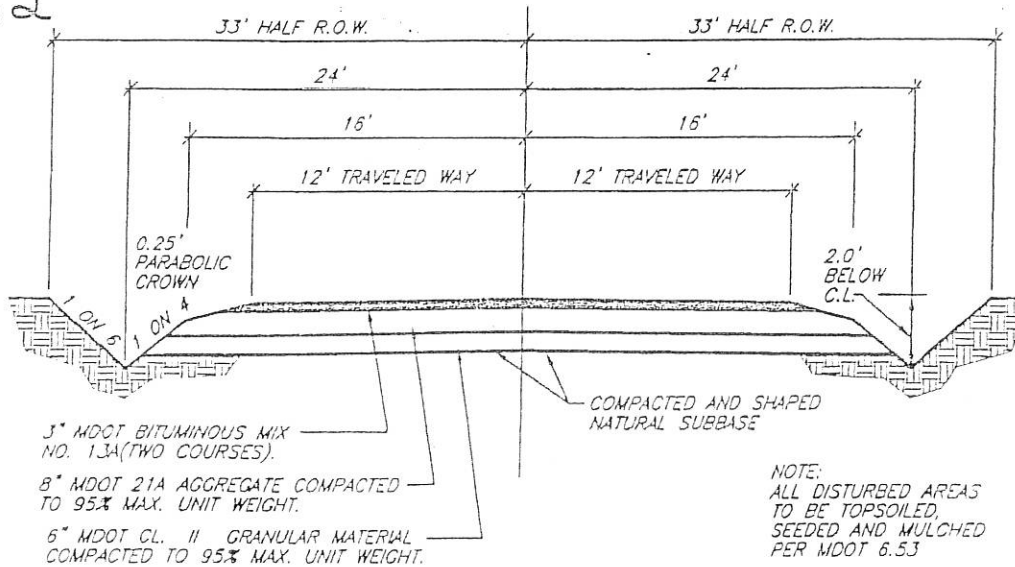
## Item 1



### TYPICAL GRAVEL ROAD SECTION

NO SCALE

## Item 2



### TYPICAL PAVED ROAD SECTION

NO SCALE