

# **TOWNSHIP OF ARCADIA**

## **PRIVATE ROAD CONSTRUCTION PERMIT APPLICATION AND INFORMATION PACKET**

**TOWNSHIP OF ARCADIA  
INSTRUCTIONS AND PROCEDURES FOR  
PRIVATE ROAD CONSTRUCTION APPROVAL  
(pursuant to Section 4.14 of Zoning Ordinance)**

The Township of Arcadia Zoning Ordinance includes provisions authorizing the construction of new private roads, and the extension of an existing private road, to provide access to a lot, dwelling or other building. Such private roads are permitted in all zoning districts, except the Lake Street Historic Business District and the Marina Districts. This subject is addressed in detail by Section 4.14 of the Zoning Ordinance. All private road matters covered by Section 4.14 of the Zoning Ordinance are subject to the following steps:

- Step 1. Application for Construction Permit. Applicant files Application for Private Road Construction Permit with all required supporting documentation with the Zoning Administrator at: Manistee County Planning Department, 395 Third Street, Manistee MI 49660. Application filing with Zoning Administrator must include the required application fee: \$50.00 up to 5 lots; \$150.00 for 6 or more lots; \$300.00 for professional consultation. The required Construction Permit application form is included in this packet after these Instructions and Procedures.
- Step 2. Zoning Administrator review of Application for Construction Permit. Zoning Administrator reviews the application submission, in conjunction with the Township Fire Chief, to determine compliance with the standards and requirements for private roads (and may consult with the Township Attorney, Engineer or Planner with respect to same). Zoning Administrator either denies or approves the application based on the specified standards and requirements. Section 4.14.5 specifies the Minimum Standards for Private Roads. Those minimum standards are included in this packet after the application form. Section 4.14.6 pertains to the Maintenance Agreement, etc., also required as part of the private road permitting process. The content of Section 4.14.6 is included in this packet after the Minimum Standards for Private Roads, and is followed by a pre-approved Private Road Maintenance Agreement and Waiver of Liability and Indemnification Agreement form.
- Step 3. Issuance of Private Road Construction Permit. If the application is approved, the Zoning Administrator issues a Construction Permit for construction of the approved private road. The Construction Permit is valid for one year from the date of approval. Note: an issued Construction Permit only authorizes the construction of the approved private road; it does not authorize the construction of any buildings on the private road.
- Step 4. Final Compliance Requirements. Upon completion of construction of the private road the Applicant provides the following to the Zoning Administrator:
  - a letter from a registered professional engineer or surveyor certifying that the private road has been constructed in compliance with the approved private road plans.

- documentation that the road maintenance agreement, access easement and deed restrictions, have been recorded with the Manistee County Register of Deeds Office.
- a driveway permit from the Manistee County Road Commission or Michigan Department of Transportation, as applicable.

Step 5. Zoning Administrator Inspection. The Zoning Administrator conducts an inspection of the constructed private road to ensure all applicable requirements have been met.

Step 6. Issuance of Private Road Final Permit. Upon approval of the Final Compliance Requirements, the Zoning Administrator issues a Private Road Final Permit.

TOWNSHIP OF ARCADIA

APPLICATION FOR PRIVATE ROAD CONSTRUCTION PERMIT

(pursuant to Section 4.14 of Zoning Ordinance)

Name of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Mailing Address of Applicant: \_\_\_\_\_

Permit is requested to  construct new private road or  extend existing private road (check one)

Permanent Parcel Number(s) of the property over which private road is to be constructed or extended:

\_\_\_\_\_

Legal Description:  (attach deed or tax bill)  Present Zoning: \_\_\_\_\_

Interest of Applicant in the Property: \_\_\_\_\_

(Deedholder, Land Contract Purchaser, Lessee, Other)

If Applicant's interest is other than deedholder, does Applicant have consent of deedholder to submit this application? Yes \_\_\_ No \_\_\_

Name(s) of party's other than Applicant having any legal interest in subject property: \_\_\_\_\_

All of the following is required to be filed with this application form:

- a scaled drawing/site plan which illustrates (1) all of the lots to be served by the private road, and (2) the location of all public utilities (existing or proposed including but not limited to water, sewer, telephone, gas, electricity and television cable) within the private road right-of-way or within 20 feet of either side thereof.
- a scaled drawing sealed by a registered engineer or surveyor showing the precise location, route, elevations, dimensions, specifications and design of the private road and any proposed extensions of the road, existing or proposed curb cuts, and the location and distance to any public street to which the private road is to intersect; and a profile of the proposed private road.
- a proposed road maintenance agreement, access easement agreement, and/or deed restrictions as required by Zoning Ordinance Section 4.14.6. Note: a sample Private Road Maintenance Agreement and Waiver of Liability and Indemnification Agreement is included in this application and information packet.
- all other information and supporting documentation on which the Applicant is relying to show compliance with the standards and requirements for private roads pursuant to Section 4.14 of the Zoning Ordinance.

Applicant(s) Telephone Number(s):  
\_\_\_\_\_

Signature of Applicant(s):  
\_\_\_\_\_

Applicant's email address:  
\_\_\_\_\_

\_\_\_\_\_

\*\*\*\*\*FOR TOWNSHIP OFFICE USE ONLY\*\*\*\*\*

Application #: \_\_\_\_\_ Date application received including fee: \_\_\_\_\_ Amount/form of appl. fee: \_\_\_\_\_

Zoning Administrator decision on construction permit application:  Approved  Denied

Minimum Standards for Private Roads (extracted from Section 4.14.5 of Zoning Ordinance).

- A. A private road shall be located within a private road easement. Such easement shall not be less than 66 feet in width at any point. At any dead-end of such easement, the easement shall widen such that there is a minimum radius of 60 feet.
- B. A lot shall have frontage on the private road easement which is at least equal to the minimum lot frontage or width required for the district in which the lot is located. For lots on a cul-de-sac the frontage requirement shall be regulated by Section 4.4.2.A of this Ordinance.
- C. A private road shall intersect and connect to a public road.
- D. The private road shall be given a street name that is not the same or similar to any other street name in the county. A street sign bearing the street name of the private road meeting Manistee County Road Commission standards as to design, location, and maintenance shall be erected and maintained where such private road adjoins any public road.
- E. The area in which the private road is to be located shall be cleared and kept clear of vegetation for a minimum width of 28 feet. The private road may be located anywhere within the private road easement, allowing for the required shoulder, provided that the balance of the right-of-way shall remain unencumbered to allow for future expansion.
- F. All private roads shall be constructed on a base of at least six inches of compacted gravel with a suitable sand sub-base.
- G. A private road shall have a minimum roadway width (driving surface) of 22 feet with a minimum shoulder width of three feet on each side.
- H. All private roads shall widen at any dead end so there is at least a 40 feet radius driving surface turnaround. In the event of severe topography, mature trees or other similar natural feature which prevents the reasonable installation of the turnaround a different turnaround design may be approved.
- I. A private road shall not exceed a grade of 14 percent; provided that a minimum of 50 feet of flat gradient (maximum 0.5% sloped away the through street having the right of way) measured from the shoulder line, shall be provided at the approach of a private street to another private street or public street. Intersections shall not be allowed on grades steeper than six percent.
- J. A private road shall be constructed in a manner to provide effective storm water drainage and to prevent run-off onto adjacent property. If a private road crosses a natural drainage course, stream or other natural body of water, the method of crossing (by bridge, culvert or other structure) must be certified by a registered professional engineer that it complies with applicable Manistee County Road Commission and State of Michigan requirements.

- K. A dwelling unit which derives its primary access from a private road shall display a house number in a manner so that the number is at all times readily visible from the private road. The house numbers shall be a minimum of three inches in height.
- L. The edge of the private road easement shall be no closer than the minimum required front yard setback for the district in which it is located from any dwelling unit located on a parcel adjacent to the private road.
- M. A private road that intersects a public street shall be at least 150 feet from a public or private road which intersects the same street as measured between the centerlines of the roadways.

Private Road Maintenance Agreement (extracted from Section 4.14.6 of Zoning Ordinance).

- A. The applicant(s) and/or owner(s) of the proposed private road shall provide to the Township a recordable or recorded road maintenance agreement, access easement agreement, and/or deed restrictions which shall provide for the perpetual private (non-public) maintenance of such roads and/or easements to a necessary and reasonable standard to serve the parties having an interest in the private road. These documents shall include provisions for the following:
- (1) A method of financing such road and/or easements in order to keep the road in a reasonably good and usable condition.
  - (2) A method of apportioning the costs of maintenance and improvements and an enforcement mechanism to ensure that such maintenance and improvements are carried out.
  - (3) A notification that no public funds of the Township of Arcadia will be used to build, repair, or maintain the private road.
  - (4) Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.
  - (5) Each of the owners of property utilizing 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 and ensuring that the property owners shall have a mechanism provided to enforce these rights. Normal ingress and egress and use shall include use by family, guests, invites, tradesmen, and others bound to or returning from any of the properties having a right to use the road.
  - (6) If the private road entrance is secured by a locked gate or other similar mechanism the applicant shall arrange for emergency vehicle access with the Township Fire Chief.
  - (7) The agreement shall provide that it is enforceable by the Township at its option. The agreement shall also provide that, if the private road is not maintained to the requirements of this Ordinance, all of the owners of lots utilizing or benefited by the private road shall be deemed to have consented to the creation of a special assessment district by the Township in order to maintain or upgrade the private road.

PRIVATE ROAD MAINTENANCE AGREEMENT  
AND WAIVER OF LIABILITY AND INDEMNIFICATION AGREEMENT  
BETWEEN THE TOWNSHIP OF ARCADIA AND \_\_\_\_\_

1. The Parties. The parties to this Agreement are the Township of Arcadia (herein referred to as the “Township”), with its local office at 3422 Lake Street, Arcadia, MI 49613, and \_\_\_\_\_ (herein referred to as “Owner”).
2. Basis for Agreement. This Agreement is entered into pursuant to Township approval of an application to construct a private road within the below specified subject property in accordance with Section 4.14 of the Township Zoning Ordinance.
3. Definitions. The term “private road” as used in this Agreement is intended to mean the entirety of such private road(s) authorized to be constructed pursuant to the approved private road construction permit for the subject property. The term “owner” as used in this Agreement is intended to mean the holder(s) of the fee title to the subject property at the time this Agreement is executed, and any subsequent successor(s) of any ownership interest in the subject property, in whole or in part.
4. Property Description. The property to which this Agreement relates (herein referred to as the “subject property”) is described as follows (see attached legal description).
5. Private Road Maintenance and Responsibility. The Owner shall have complete responsibility for the construction, maintenance, repair and replacement of the private road on the subject property authorized by the construction permit issued by the Township on \_\_\_\_\_ pursuant to at least the minimum standards for private roads specified in Section 4.14.5 of the Township Zoning Ordinance, as may be amended or replaced in the future, and in accordance with all other relevant provisions of the Township Zoning Ordinance, and so as to cause the private road to be in a reasonably good, usable, and safe condition for its designed and intended purposes.
6. Construction and Maintenance Costs. All costs associated with the initial construction of the private road and all costs of maintaining, repairing, and replacing the private road shall be paid by the Owner. No public funds of the Township shall be used to construct, repair, maintain or replace the private road (except as provided herein with respect to costs advanced by the Township and



reimbursed to the Township through special assessments on the subject property). The Owner shall at all times retain cash reserves or other cash-equivalent financial resources sufficient to finance the construction, maintenance, repair, and replacement of the private road as required herein. The Owner shall not assign this continuing obligation to any other party, including a developmental association, without prior written Township Board approval of the specific assignment and related arrangements, which shall be adequate to assure the obligations herein are carried-out.

7. Township Remedy for Inadequate Maintenance. In the event the private road is not adequately constructed, maintained, repaired, or replaced by the Owner as required herein, the Owner shall be deemed to have consented to the creation of a special assessment district by the Township in order to construct, maintain, repair and replace the private road pursuant to the required standards, in accordance with all applicable statutory procedures and requirements pertaining to such a special assessment district. In such event the Owner shall also be deemed to have consented to special assessments on the subject property sufficient to reimburse the Township for all resulting costs advanced by the Township, including administrative and legal fees associated with the special assessment process.
8. Non-Interference with Lawful Use of Private Road. The Owner shall assure each of the owners of property utilizing the road refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners, and shall ensure that the property owners shall have a mechanism provided to enforce these rights. Such normal ingress and egress and use shall include use by family, guests, invitees, tradesman, and others bound to or returning from any of the properties having a right to use the road.
9. Access to Private Road by Emergency and Public Utility Vehicles. The Owner hereby grants an easement/right-to-use the private road within the subject property for fire department and other emergency and public service vehicles for official emergency and other public service purposes. If any entrance to the private road is secured by a locked gate or other similar mechanism the Owner shall arrange for appropriate emergency vehicle access reasonably suitable to the Chief of the Township Fire Department and the Manistee County Sheriff's Department.
10. Waiver of Liability and Indemnification. Neither the Township nor any other public entity, including the Manistee County Road Commission, shall have any obligation with respect to any aspect of the private road within the subject property. The Owner agrees to hold harmless the Township and its boards, commissions, officers, employees, agents, contractors, successors and assigns, and to indemnify them from all liability from all claims of whatever nature by any person or entity of any kind resulting from or in any way related to the construction, maintenance, repair, replacement or use of the private road, or to any legal challenge to this Agreement.
11. Agreement Runs with the Land and is Binding on Successors and Assigns. This Agreement and all obligations set forth herein are intended to be construed as

encompassing covenants running with the subject property, and binding upon the Owner and all successors in title and/or co-owners and/or assignees of the subject property, in whole or in part, in perpetuity. The benefits of this Agreement to the Township are also intended to be construed as enforceable by the Township and any successors and assigns of the Township.

12. Cumulative Rights and Responsibilities. The rights and responsibilities given to/incurred by either party pursuant to this Agreement are intended to be cumulative with such other rights and responsibilities as either party may have, and shall not be construed to preclude such other rights or responsibilities as may exist pursuant to law.
13. Notices. Any notice or other written correspondence from either party to the other pertaining to this Agreement shall be given at the respective addresses referenced in this Agreement, or at such other address as a party may specify in writing to the other party.
14. Legal Challenge; Severability. The Owner shall not make any legal challenge to any provision of this Agreement, or provide aid or assistance of any kind to any party attempting to challenge the Agreement. In the event of a legal challenge to this Agreement by a third party the Owner shall support and defend the validity of this Agreement in its entirety. If any provision of this Agreement is declared by a court of law to be invalid or otherwise unenforceable, the remainder of the Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.
15. Applicable Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.
16. Headings of Paragraphs: The paragraph headings in this Agreement are for convenience and reference only, and shall not be construed to define or limit the scope or content of this Agreement or otherwise affect the provisions of this Agreement in any way.
17. Effective Date and Term. This Agreement shall become effective and binding on the date it has been executed by both parties, and shall thereafter continue in perpetuity; subject to termination only in the event the Manistee County Road Commission formally and permanently accepts jurisdiction of the private road as a public road within the public road system of Manistee County.
18. Authorized Signatures. Each party represents that the signature(s) to this Agreement on their behalf are duly authorized to act on behalf of the respective party.
19. Recording. The Township shall record this Agreement in the real property records of Manistee County. The Owner shall reimburse the Township for any recording fee and all related legal fees incurred by the Township.

**IMPORTANT NOTE: THIS AGREEMENT IS REQUIRED AS PART OF THE APPLICATION FOR A "CONSTRUCTION PERMIT" FOR A PRIVATE ROAD. THIS AGREEMENT AND ANY RELATED PRIVATE ROAD CONSTRUCTION PERMIT**

ISSUED BY THE TOWNSHIP DOES NOT AUTHORIZE THE CONSTRUCTION OF ANY BUILDING. A BUILDING PERMIT IS REQUIRED BEFORE CONSTRUCTION CAN BEGIN ON ANY DWELLING, OR OTHER BUILDING OR STRUCTURE WHICH DERIVES ITS PRIMARY ACCESS FROM THE PRIVATE ROAD. AN APPROVED "PRIVATE ROAD FINAL PERMIT" IS REQUIRED BEFORE ANY SUCH BUILDING PERMIT CAN BE ISSUED.

OWNER:

Dated: \_\_\_\_\_

\_\_\_\_\_

WITNESSES:

Dated: \_\_\_\_\_

\_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_.

\_\_\_\_\_, Notary Public

State of Michigan, County of Manistee  
My Commission Expires:  
Acting in Manistee County

TOWNSHIP OF ARCADIA:

Dated: \_\_\_\_\_

\_\_\_\_\_

Its Supervisor

WITNESSES:

Dated: \_\_\_\_\_

\_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_.

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, Notary Public  
State of Michigan, County of Manistee  
My Commission Expires:  
Acting in Manistee County

**This Agreement is exempt from transfer tax by reason of *MCL 207.526(a)*  
and/or *MCL 207.505(a)*.**

This Agreement drafted by:  
Craig A. Rolfe, Attorney  
Township of Arcadia  
328 W. Prairie Street  
Vicksburg MI 49097  
(269) 475-8080

When recorded return to Craig A. Rolfe at above address.

**TOWNSHIP OF ARCADIA**  
**MANISTEE COUNTY, STATE OF MICHIGAN**

**PRIVATE ROAD CONSTRUCTION PERMIT**

This permit authorizes construction of the private road(s) shown on and pursuant to the application of \_\_\_\_\_ dated \_\_\_\_\_.

This permit is issued pursuant to all standards and requirements for private roads in Section 4.14 of the Township of Arcadia Zoning Ordinance.

Dated: \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_ Zoning Administrator

**TOWNSHIP OF ARCADIA**  
**MANISTEE COUNTY, STATE OF MICHIGAN**

**PRIVATE ROAD FINAL PERMIT**

This permit pertains to the private road(s) for which the Zoning Administrator issued a Private Road Construction Permit on \_\_\_\_\_, pursuant to the application of \_\_\_\_\_ dated \_\_\_\_\_.

This permit is issued pursuant to Section 4.14.4(5) of the Township of Arcadia Zoning Ordinance.

This Final Permit authorizes building permits to be applied for under the Construction Codes for a new building, dwelling or other structure which derives its primary access from the private road as addressed in Section 4.14.4(6) of the Township of Arcadia Zoning Ordinance, for proposed new construction complying with all applicable requirements of the Zoning Ordinance, Construction Codes, and such other laws and ordinances as may be applicable.

Dated: \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_ Zoning Administrator