

PRIVATE ROAD MAINTENANCE AGREEMENT

Name of Private Road(s) that are part of this agreement: _____

If road(s) are part of a platted subdivision, enter name of subdivision _____

If road(s) are not part of a platted subdivision, attach a list of all parcels that have vehicular access through said roads. (List property tax ID number) List below or attach list.

1. TITLE

This agreement shall be known as the _____ Private Road Maintenance Agreement.

2. DEFINITIONS

a. "Property owner" or "owner". The terms shall refer to all recorded owners, collectively rather than individually, of a parcel or lot, whether such owner are persons, corporations, cooperatives, or any other legal entity, unless the context otherwise indicates.

b. "Method of assessment". Each parcel or lot shall be assessed an equal share of the maintenance expenses, regardless of the road frontage of the parcel or lot.

3. PURPOSE

This agreement provides for the perpetual maintenance and repair of the private road(s) identified in this agreement, and the financing of the cost thereof, by the property owners benefiting from the private road(s).

4. APPLICABILITY

a. The owner(s) of each parcel or lot that obtains its vehicular access from and any benefits from a private road(s) named herein shall be bound by the provisions of this agreement.

b. This agreement applies to all such property owners who purchase the parcel or lot from the proprietor and all subsequent owners, as the provisions of the agreement shall run with the land as long as the private road(s) named herein are private road(s).

c. Nothing in this agreement shall be construed to alter or reduce the authority of the township board under the provisions of P.A. 188, 1954 (MCL 41.721 et seq), or other applicable statutes or ordinances.

5. ASSOCIATION RESPONSIBILITIES, PROPERTY OWNERS RESPONSIBILITIES AND VOTING RIGHTS

- a. Each property owner, as an owner of the private road(s) in common with all other property owners identified herein, shall be responsible for the maintenance and repair of the road(s) and is also responsible for paying his proportionate share of all costs involved in such maintenance or repair. (See also paragraph 10.)
- b. Each parcel or lot shall be assessed an equal share of the expenses of road maintenance, without regard to road frontage.
- c. There shall be an Association (whether formal or informal) consisting of all property owners. The Association shall be responsible, by majority vote of the membership, for preparation of an annual maintenance and repair plan.
- d. Each property owner shall have a vote in the Association on matter relating to road maintenance or repair of the private road(s) based on his road frontage.
- e. Each parcel or lot shall be allowed one vote, regardless of the number of owners of record.
- f. The Association shall conduct an annual meeting to prepare a road maintenance and repair plan, and such other business as the members may determine necessary or appropriate.
- g. The maintenance and repair plan (the plan) shall be for a 12-month period. The 12-month period shall begin on the first day of the month that is not less than 60 days after the Association's annual meeting. Until changed by the Association membership, the annual meeting shall be held during the month of April and the 12-month plan shall be effective on July 1st.
- h. The plan shall be submitted to the township board prior to May 6th of each year for review. If the township board determines that the plan does not provide sufficient maintenance or repair to maintain the road(s) at minimum standards the board may take any action authorized in this agreement or by the private road ordinance to enforce maintenance of minimum standards.

6. ESTABLISHING THE INITIAL AGREEMENT

- a. The initial agreement shall be prepared by the original proprietor(s) prior to construction of the private road(s), and prior to the sale of any lots or parcels. The agreement must conform to the provision of the township private road ordinance.
- b. The agreement will be effective upon review and approval by the township board, as part of the application for permission to construct, improve, relocate, or extend a private road, **and** after the agreement has been recorded in the office of the Gladwin County Register of Deeds.

7. AMENDMENTS TO AGREEMENT

- a. This agreement may be amended, by a majority vote of the Association.
- b. Amendments will not become effective until reviewed and approved by the township board, and the recording of such amendments with the Gladwin County Register of Deeds.

8. REQUIREMENT TO INDEMNIFY TOWNSHIP

Each owner and occupier of any lot or parcel which obtains its vehicular access from or benefits from a private road identified herein shall indemnify and hold the township harmless from all claims, liability and expenses, including but not limited to reasonable attorney fees, arising out of any failure to properly construct, maintain or repair the private road(s) as required under the private road ordinance or under any private agreement that may exist under the requirements of said ordinance.

9. SPECIAL ASSESSMENT DISTRICT

The proprietor(s) hereby agrees, by executing this agreement, that the township board may create a special assessment district for road maintenance and repair whenever said board determines that the road(s) is not being maintained in accordance with this agreement and other attempts to obtain compliance have failed. This provision shall be binding on all subsequent purchasers of lots or parcels listed in this agreement.

10. MAINTENANCE AND REPAIR OF ROAD(S)

a. Each property owner, collectively as a member of the Association and individually as an owner in common of the private road(s) identified herein shall be responsible for maintaining, as a minimum, the private road(s) so that it is reasonably capable of providing safe ingress and egress to a public road, providing sufficient access for the uses permitted on the lot or parcel, and for access by emergency vehicles (i.e., fire trucks, police, ambulances, etc).

b. The following minimum maintenance and repair of said road(s) shall be provided for:

(1) Snow removal within 8 hours following any snow fall of 3 inches or more.

(2) Provide for periodic grading and addition of road gravel that complies with Michigan department of transportation specifications 22A, or any subsequent specifications, to maintain proper road drainage and a reasonably firm surface, if the road(s) are not paved.

(3) Maintain drainage ditches in good repair to maintain adequate drainage of the road(s) and to prevent flooding of adjoining properties.

(4) Any additional maintenance and/or repair that the township board determines is necessary for the public safety.

11. ENFORCEMENT OF AGREEMENT

a. When a majority vote of the Association has approved certain maintenance or repair work and allotted the proper share to each parcel or lot it may bring an action in court (i.e., small claims court) to enforce payment when a parcel or lot owner is delinquent in his payments.

b. The township board may bring an appropriate action in court against the Association and its members, collectively or individually, to enforce maintenance and repair standards specified in this agreement and/or the private road ordinance.

- c. The township board may create a special assessment district if necessary to ensure proper maintenance and repair, and add the assessment to the township tax roll.
- d. Any individual property owner or occupier may, in addition to any remedies at law, bring an action for an injunction or other process against the Association or any individual property owner who fails to comply with the provisions of this agreement.

12. RECORDING OF DOCUMENTS AND STATEMENTS REQUIRED ON LAND TRANSFER DOCUMENTS.

- a. The legal description (i.e., lot number along with subdivision name, metes and bounds description, property ID number) of all lots and parcels with access, as defined in this agreement, to the private roads shall be made a part of this agreement.
- b. Statements shall be entered onto every property transfer document (i.e, deed) for such lot or parcel that clearly identifies them as being bound by the provisions of this agreement.
- c. This agreement, and any and all amendments thereto, shall be recorded in the office of the Gladwin County Register of Deeds within 7 days following approval of the documents by the township board.

13. SEVERABILITY.

If any portion of this agreement is found to be invalid by a court of competent jurisdiction the remaining portions of the agreement shall remain in full force and effect.

I (We) have carefully reviewed and hereby adopt this agreement as the Private Road Maintenance Agreement for the lots and/or parcels being developed for sale as identified in this agreement. I (We) understand that this agreement, after approval by the Tobacco Township Board is binding upon myself, my heirs or assigns, and upon all persons who purchase said lots or parcels. I (We) understand that the agreement must be recorded in the Gladwin County Register of Deeds office, and that appropriate statements must be entered upon all property transfer documents that clearly informs the purchaser of the provisions of this agreement, and that said purchaser is bound by the provisions of said agreement. I (We) further understand that I must furnish a copy of this agreement to all purchasers of said lots or parcels.

Finally, I (We) understand that failure to comply with the provisions of this agreement is a violation of the township’s Private Road Ordinance and may also provide the purchaser with a cause of action to void the purchase of said lot or parcel and/or to recover damages.

(This agreement must be signed by ALL persons having an ownership interest in the property that is the subject of this agreement.)

(Signature)

(Signature)

(Signature)

(Signature)

(Signature)

(Signature)

All parties signing this agreement are known to me or have properly identified themselves to me. This document was signed by all parties before me on the _____ day of _____ 200__.

My commission expires on: _____

(Signature of Notary Public)

APPROVAL OF AGREEMENT BY THE TOBACCO TOWNSHIP BOARD

**By majority vote the township board approved this agreement on _____,
and authorizes the Supervisor and Clerk of said township to execute this agreement.**

Signature of Township Supervisor

Signature of Township Clerk