**Section 2.18 - LOT CREATION, LAND DIVISION & CONDOMINIUM DEVELOPMENT**

A. Approval Required - For the purposes of this Ordinance, the Township of Elk Rapids shall not recognize any lot which was not a lot of record as of the effective date of this Ordinance, or any amendment thereto, is not of sufficient size and configuration to meet all zoning requirements, or which has not been subsequently approved by the Elk Rapids Township Board as established under this Section. Subdivisions, **site condominiums**, or plats may be made only in accordance with the Michigan Subdivision Control\Land Division Act or the **Michigan Condominium Act** as amended and in accordance with the conditions of the Elk Rapids Township Subdivision Control Ordinance or the Land Division Ordinance and the Elk Rapids Township Zoning Ordinance

B. Application for Lot Creation, Land Division & **Condominium Development** -

Application for a lot creation, land division & **condominium development** shall be to the Elk Rapids Township Clerk. If generally complete, the application shall be processed in accordance with this Ordinance and the Elk Rapids Township Subdivision Control Ordinance or the Land Division Ordinance. The application shall be signed by all parties of interest in the property.

C. Required Application Information -The following required information shall be included on all applications for lot creation, land division & condominium development:

1. Property survey signed and sealed by a land surveyor registered in the State of Michigan, including the following:

a. North arrow, date, and scale.

b. Existing and proposed lot lines and dimensions.

c. Existing utilities and official County drainage courses within fifty (50) feet of the lot(s) to be created.

d. Location and dimensions of existing and proposed easements, lot numbers, roadways and lot irons.

e. Existing structures on the proposed lot(s) and all structures within 50 feet of the proposed lot lines.

f. Zoning classification of the lot(s) to be created and all abutting lots.

g. All required front, rear and side yard setbacks resulting from the requested lot creation.

h. All required open space.

i. Location of natural or artificial drainage courses, lakes, streams, wetlands, and dunes, high risk erosion zones, threatened or endangered species, unusual topography, and major stands of trees.

j. At the discretion of the Elk Rapids Township Board, the owner shall provide a preliminary plan for the feasible plan development, division and access to any remaining or abutting lands affected by the proposed lot creations. The Elk Rapids Township Board may also at their discretion, **require the preliminary plan to be reviewed by the Elk Rapids Township Planning Commission.**

2. A written instrument fully executed in a form legally sufficient for recording with the Antrim County Register of Deeds, including a legal description of the requested parcels. Areas shall be shown to the square foot on parcels of less than one acre and acres to the one-hundredth of an acre on parcels larger than one (1) acre.

3. All existing and proposed deed restrictions for the property(s), including any required easements for drainage, roads or utilities attached in recordable form.

4. Name, address and phone number of the property owner(s) and all others holding interest in the property. Satisfactory evidence of ownership or interest shall be presented to the Township.

5. If the division or partition of the parcel will result in a lot size less than the requirements of the Land Division Act, Michigan Public Act 288 of 1967, as amended, and/or the applicable provisions of the Zoning Ordinance or its successor ordinance, if any, then the applicant shall submit in addition a fully executed affidavit in form legally sufficient for recording with the Antrim County Register of Deeds and signed by all persons who have any legal or equitable interest in the parcel, acknowledging that they understand the partitioned or divided parcel or parcels may not thereafter be developed or used separately, but only in conjunction with the adjoining parcel or parcels of land.

D. Criteria for Approval or Denial of Lot Creation - The following criteria shall be used as a basis upon which lot creation will be reviewed by the office of the Supervisor, Clerk, Treasurer, Board and Assessor:

1. No lot creation shall be approved if the proposed resultant parcels contain less area than required by the minimum standards of this Zoning Ordinance, except where resultant abutting parcels under the same ownership are combined to meet, or exceed the minimum size.

2. The ratio of lot depth to width shall not exceed four (4) to one (1).

3. All lots shall be provided with a satisfactory means of access to a public road or a private road complying with the provisions of this Ordinance and the provisions of the Elk Rapids Township Subdivision Control Ordinance or the Land Division Ordinance. Property lines shall be laid out to promote efficient development with shared access to roads available for future development.

4. The size, shape, orientation, and existing zoning of the lots shall be appropriate for the type of development and land use contemplated. No lot creation shall be approved which would conflict with existing drainage ditches, natural watercourses, easements or public right-of-way.

5. No lot creations shall be granted which are contrary to, or in violation of, the Land Division Act, Michigan Public Act 288 of 1967, as amended.

6. No lot creation shall be approved if the division would reduce any required open space, yard space or off-street parking space below the minimums required by this Ordinance or if the division would effectively allow the avoidance of the requirements of this Ordinance and those of the Elk Rapids Township Subdivision Control Ordinance or the Land Division Ordinance.

7. No lot creations shall be approved which would preclude the feasible and efficient development, division or access for remaining or abutting lands affected by the proposed lot creation. No lot shall be created solely of sand dunes area, wetland area, drainage ways, lake or river bottom, lands within the 100 year flood plain or stream bed based on the Ordinary High Water (OHW) elevation, I.G.L.D. 1985 (International Great Lakes Datum).

**Section 2.19 - PRIVATE ROAD REGULATION**

Private Road - Any road or thoroughfare for vehicular traffic which is privately owned and maintained and which provides the principal means of access to abutting properties.

A. When private road development occurs in the Township of Elk Rapids and is not subject to the standards established under the Land Division Act, Michigan Public Act 288 of 1967, as amended, and the requirements of the Elk Rapids Township Subdivision Control Ordinance or the Land Division Ordinance, the following minimum private road standards shall apply. No person, firm, or corporation shall hereafter divide any land as hereinafter described without providing for public or permanent private easements for access to such divided lands with said private easements to conform to these minimum requirements:

1. All lots must be on a public or private road frontage and meet all Ordinance requirements.

2. All private roads constructed in Elk Rapids Township shall be accessible, usable, and constructed to the Antrim County Road Commission Standards parallel to and centered with the centerline of a permanent right-of-way easement duly recorded with the Antrim County Register of Deeds. Rights-of- way or easements, while not required to be dedicated, will be reserved for future dedication and preclude any development within this designated area. All plans as submitted for approval must show the private road easement including a legal description, the grades for the roads, and any drainage facilities and structures.

3. All private roads shall have names approved by the Elk Rapids Township Board, be consistent with the County address numbering system and the County Road Commission requirements.

4. There shall be a clear vision zone at corners of intersecting roads, or road junctions, consisting of a triangular area defined by the point of intersection of the right-of-way lines and the two points extended along such lines a distance of twenty-five (25) feet from the point of intersection, and within which area no obstruction to vision, excluding existing topography, shall be permitted from a height of two (2) feet to eight (8) feet above centerline elevation of abutting streets, except that not more than two (2) trees with trunks of not more than thirty (30) inches in diameter each, and clear of any branches for such heights may be located within such area; provided, however, that this section shall not prohibit the requirement of a greater clear vision area where such is necessary in view of permitted traffic, anticipated traffic volumes, or geographic conditions.

5. All private road easements shall meet the following requirements:

a. Unless otherwise specified in this Ordinance and the Elk Rapids Township Subdivision Control Ordinance or the Land Division Ordinance, easements shall be a minimum of sixty six (66) feet wide. The Township of Elk Rapids Planning Commission or its designated agent may require additional width to the right-of-way easement to insure for adequate construction in specific situations.

b. The right-of-way easement width on curved portions of roads shall be the same as for tangent portions.

c. The minimum distance between private road outlets on a single side of a public road shall be six hundred (600) feet.

d. Shall be posted with speed limits of fifteen (15) mph or less.

6. A drainage plan shall be submitted on a topographic map, indicating the manner in which surface drainage is to be dispersed. In no case shall runoff from a private road be diverted beyond the limits of that private road onto adjacent roads or property unless appropriate easements are provided.

7. All roads constructed in Elk Rapids Township shall be constructed so as to sufficiently control storm water runoff and permit effective storm water drainage and prevent soil erosion and shall have all required storm water and soil erosion control permits. No runoff shall be discharged to lakes, streams, or wetlands without adequate best management practices. Private roads shall be laid out to the greatest extent feasible to achieve the following objectives: (Listed below in order of priority, as it is recognized that some may not exist or may conflict with others on any given site)

a. Not on soil classified as “hydric” (wetland soils) by the USDA Soil Conversation Service or through wetland area as delineated pursuant to the Unified Federal Method of Wetland Delineation.

b. Not in areas of steep slopes (fifteen percent (15%) or greater), within two hundred (200) feet of a shoreline or over streams if they can be avoided.

c. Along fence rows or the edges of open field or other open spaces adjacent to any woodlands.

d. Within marginal areas of woodland (note: marginal areas shall extend a maximum of two hundred (200) feet into the interior of said woodlands).

e. On areas not considered prime or unique farmlands or in areas not considered as prime forestland soils on a national or regional basis.

f. In locations least likely to impact scenic vistas, as seen from public roadways or water.

8. A private road serving or to serve a maximum of two (2) lots, parcels or condominium units shall at a minimum meet the following design standards: **NOT APPLICABLE**

9. A private road serving or to serve a minimum of three (3) and a maximum of six (6) lots, parcels, or condominium units shall at a minimum meet all of the design standards presented in Item 8 of this section with the exception of that the minimum road bed width shall be sixteen (16) feet rather than twelve (12) feet. **NOT APPLICABLE**

10. A private road serving or to serve a minimum of seven (7) and a maximum to twelve (12) lots, parcels, or condominium units shall at a minimum meet all of the design standards presented in Item 8 of this section with the exception of the following:

a. Shall be located on a right-of-way easement a minimum of sixty six (66) feet wide.

b. Have a roadbed not less than nineteen (19) feet wide.

c. Paving shall be required in those areas that have grades greater than three (3) percent. Pavement in said areas shall be a minimum of eighteen (18) feet in width and other than pavement width meet or exceeding County Road Commission standards and specifications for materials, thickness, and roadbed construction. (Note: grade shall be determined by determining the differences in elevations at stations located at one hundred (100) feet intervals along the centerline of the final road grade).

11. A private road serving or to serve more than twelve (12) lots, parcels or condominium units shall meet design specifications and road construction standards as presented in Item 10 of this section with exception of the following:

a. Have a roadbed not less than twenty-four (24) feet wide unless it connects two public roads in which case all County Road Commission standards shall be met.

b. If more than twenty-five (25) lots have access to a private road then a second means of access meeting the requirements of this Ordinance (either a public road or an approved private road) shall be provided.

12. Construction permits from the Antrim County Road Commission are required for connection to County roads. Permits are required from the Antrim County Drain Commissioner under the Soil Erosion and Sedimentation Control Act, P.A. 347 of 1974, MCLA282.101 et seq., when applicable. No zoning permit shall be issued on any private road until such private road reviewed by the Elk Rapids Township Planning Commission and then approved by the Elk Rapids Township Board.

13. Application for road construction shall be made at the same time as a land division occurs creating a lot(s) without frontage on an existing public road. Applicant shall prepare a general property development plan complying with the requirements of this Ordinance, and the Elk Rapids Township Subdivision Control Ordinance or the Land Division Ordinance, as amended. Prior to review by the Elk Rapids Township Planning Commission and then approval by the Elk Rapids Township Board, the applicant will prepare and provide three (3) sets of:

a. Engineered road construction plans.

b. Drainage plan.

c. Road maintenance agreement and deed restrictions satisfactory to the Elk Rapids Township Attorney, signed by applicant/owner, providing for:

1) A method of initiating and financing of such road and/or easements in order to keep the road in a reasonably good and usable condition.

2) A workable method of apportioning the costs of maintenance and improvements to current and future users.

3) A notice that if repairs and maintenance are not made within six months of the date of official notice from the Elk Rapids Township Board of Elk Rapids Township may bring the road up to the design standards of this Ordinance and assess owners of parcels on the private road for the cost of all improvement, plus an administrative fee in the amount of twenty-five (25) percent of the total costs.

4) A notice that no public funds of Elk Rapids Township are to be used to initially build, thereafter repair, or maintain the private road.

5) Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.

6) 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, guest, invitee, vendors, trades persons, delivery person, and others bound to or returning from any of the properties having a need to use the road.

14. No private road shall be incorporated into the public road system unless built to the specifications of the Antrim County Road Commission for a public road.

B. The Elk Rapids Township Planning Commission shall review the plans of the private road and forward recommendations to the Elk Rapids Township Board. A Professional Engineer, who reports to the Elk Rapids Township Zoning Administrator, shall be hired by the private road developer. The Engineer and the Elk Rapids Township Zoning Administrator shall consult with water resource experts and/or Michigan Department of Natural Resources officials for a written review of environmental impacts. After road plans are reviewed by the Elk Rapids Township Board, a conditional construction permit may be issued by the Zoning Administrator which are subjects to performance bonds as established by the Township Board. The Engineer and Township Zoning Administrator will inspect and review the road during construction. Upon completion of construction of the road, a site inspection of the road will be made by the Engineer and the Zoning Administrator who shall forward his/her recommendation to the Township Board who shall then grant a final approval.

C. All private roads shall be designated as such and have a sign and name meeting county sign standards erected by the property owner. In addition to road identification, private road signs shall also include the wording “Private Road” in a minimum of four (4) inch letters and “Not maintained by the Antrim County Road Commission” in a minimum of two (2) inch high letters.

D. An application fee is to be established by the Elk Rapids Township Board. Before final approval the cost of review of plans and inspection by the Township Zoning Administrator of the private road and drainage shall be paid for by the applicant/developer.

E. All purchasers of property where a private road provides access to the premises shall, prior to closing of the sale, receive from the seller a notice of easement, in recordable form, substantially conforming to the following:

“This parcel of land has private road access across a permanent \_\_\_\_\_ (insert size of easement) foot easement which is a matter of record and a part of the deed. This notice is to make the purchaser aware that this parcel of land has egress and ingress over this easement only.”

F. Neither the County nor the Township of Elk Rapids has any responsibility for maintenance or up keep of any improvement across this easement. This is the responsibility of the owners of record. The United States mail service and the local school district are not required to traverse this private improvement and may provide service only to the closest public access. (Michigan P.A. 134 of 1972 as amended)

G. Where a private road or access easement is present on a lot, minimum required yard setbacks shall be measured from the private road or access easement right-of- way, regardless of whether the right-of-way provides frontage for the lot.