



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



DANIEL EICHINGER
DIRECTOR

Subject: Private Road Easement Application

Dear Applicant:

Thank you for your interest in applying to purchase a private road access easement. The Department of Natural Resources (DNR) is happy to work with you in determining whether your request can be granted. In an effort to provide better customer service, we have put together an outline of information that is needed in order for the DNR to move forward with reviewing your request for a private road access easement.

There is both information that we'll need from you, as well as information we want to share with you. Our goal is twofold – to help speed the process and to explain the DNR's role and responsibility in reviewing these requests.

Enclosed please find:

- The Private Road Easement Application (PREA) form;
- Contact/location information for DNR operation service center (OSC); and
- An excerpt from Michigan Compiled Laws, outlining the DNR's responsibilities and guidelines with regard to easements (under Public Act 451 of 1994).

There is a lot of work that goes into the review of a private road easement request. Before granting an easement, the DNR has to consider a variety of competing interests, ensure we work within the existing legal framework, and weigh the potential effects on the public land we're charged with protecting and managing for the enjoyment of everyone. For all of these reasons, we recommend that you first explore all other possible access routes before submitting your application.

Local Assistance

Before submitting your application package, please contact the staff at your nearest OSC. Staff in these offices will be able to provide you with the contact information to schedule a meeting. This meeting will serve as an opportunity for you to discuss your proposal, including the route of the easement, with appropriate DNR staff. You will also learn what specifications the DNR will require for the easement survey that will be submitted with your application. This will help to ensure that your application is complete once you submit it and prevent the potential need for multiple surveys. In addition to determining the appropriate route for your easement request and the survey requirements, DNR staff can also provide insight and suggestions that may prove helpful.

While local DNR staff will provide their best effort to assist you in delivering a complete and thorough application package, the final authority to approve or deny your easement request rests with the DNR director. This authority is governed by the Natural Resources and Environmental Protection Act (PA 451 of 1994). As mentioned above, we have included a reference page explaining the specific legal constraints the DNR must consider when evaluating private easements on public lands.

Supporting Documents and Information

To help us fully understand your proposed easement, please fill out the enclosed application. It's designed to provide the information we need to perform an initial review and make our best decision within the required timeframe. **This application must be completed and submitted along with all required documentation as part of your application package.** If your proposal meets the legally mandated criteria of Act 451, we will move to the full review where we can evaluate potential impacts to the land.

Please provide any information that you think is relevant to and supportive of your easement request. At minimum, the following items must be included:

- Completed Private Road Easement Application also signed by local DNR staff following the pre-application meeting;
- A copy of the deed for your parcel;
- The local tax identification number of your parcel;
- The results of a title search on all real estate transactions involving the parcel and its parent parcel(s) for the past 40 years;
- If available, provide a copy of your title insurance policy for the parcel to be accessed;
- A detailed map showing the following:
 - The location of your property in relation to nearby public or private roads;
 - Indicate the property that you own and the approximate location desired for the requested easement;
 - Indicate the state-owned land in relationship to your property and the requested easement;
 - If deed research indicates that your parcel was split from a larger parent parcel (as described in Section 560.108 of the Land Division Act of 1967, Public Act 288), show the location of that residual parent parcel in relation to the location of your parcel (please see attached excerpt); and
- A recordable survey describing the route of your requested easement as well as a legal description of the land to be benefitted by the easement, that meets the DNR specifications that were provided at the pre-application meeting.

The DNR will review the documents that you have submitted and will make a determination within 30 days of receiving the application as to whether or not it is complete. If the DNR determines that your application is not complete, you will be notified as to what specific information is needed in order to complete your application.

Additional Help, Suggested Resources

If you require assistance or guidance in researching or gathering the required documents, please consider working with a private title company, your local Register of Deeds office, a real estate agent or an attorney who specializes in real estate law.

In summary, in order to apply for an easement, please 1) schedule a pre-application meeting with the appropriate local DNR staff, 2) obtain a survey describing the route of your requested easement as established at the pre-application meeting, 3) complete the PREA form, 4) attach the required documentation (as outlined above) and 5) submit the packet and the required application fee to the DNR at the address shown on the PREA form. Your application will then be reviewed. If your application is approved, you will receive an invoice for the easement fee. Once the invoice is paid, you will receive the easement document. If you have general questions about the application process or the PREA form please do not hesitate to contact me at (517) 284-5941.

Thank you again for contacting the DNR. We look forward to hearing more details about your proposed easement, and our staff is here to assist you throughout every step of the application and review process.

Sincerely,

Marlene Harris
Real Estate Services

Enclosures



PRIVATE ROAD EASEMENT APPLICATION

By authority of Part 21 of Act 451, P.A. 1994, as amended.

DNR Cashier's Use Only

Please Note: For road access only. Not for Utility Easements. See page 3 for requirements.

LOCATION OF DESIRED EASEMENT

County	Township, City, or Village Name	Town	Date
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Description

Dimensions of easement request crossing State-owned land – Width: _____ feet (20 ft. standard)
 Total Length: _____ feet

If the DNR determines that a similar road easement across your land is necessary in order to provide public access to State-owned land, you will be required to offer such an easement to the State in order to be eligible to receive an access easement. Are you willing to offer an easement to provide public access across your land if it is determined to be necessary by the DNR?

No
 Yes

LOCATION OF OFFERED EASEMENT

County	Township, City, or Village Name	Town	Date
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Description

PRIVATE ACCESS EASEMENT QUESTIONS

1. Which type of private easement are you considering?

The construction of a new access route or trail crossing (skip to question #5)
 The legal recognition of an existing access route across State-owned land or trail corridor
 The modification of a legally recognized access easement or trail corridor crossing
 Other (please describe): _____

2. If you are currently crossing State-owned land or trail corridor to access your property, for what purpose(s) are you using the access route? (Check all that apply)

For access to _____ single-family residence(s) For access to vacant property used for recreational purposes only
 For access to _____ multi-family residence(s) For access to property used for a commercial or industrial use
 I am not currently crossing State-owned land or trail corridor For access to a platted subdivision
 For access to property for agricultural or timber management activities
 Other (please describe): _____

3. If you are currently crossing State-owned land or trail corridor to access your property without a legally recognized easement, has the DNR provided to you written authorization for this activity?

No
 Yes (Please attach copies of all documents authorizing this use)
 I am not currently crossing State-owned lands or trail corridor

4. If you are currently crossing State-owned land or trail corridor to access your property without a legally recognized easement and without any other form of written authorization from the DNR, provide any evidence that will document the span of time that you have been using the access route. Potential sources of documentation are listed below as examples for you to consider.

<input type="checkbox"/> County Road Commission driveway permit	<input type="checkbox"/> Private landowners leases, licenses or letters of permission
<input type="checkbox"/> Water well permit	<input type="checkbox"/> Railroad leases, licenses, or letters of permission
<input type="checkbox"/> Septic drain field construction permit	<input type="checkbox"/> Verifiable photographic evidence showing use of the access route
<input type="checkbox"/> Local building permit	<input type="checkbox"/> Soil and sedimentation permits
<input type="checkbox"/> This question is not applicable to my situation	<input type="checkbox"/> Other (please describe):

PRIVATE ACCESS EASEMENT QUESTIONS

5. If this easement will involve a new access route, what is the intended purpose for the new access route? (Check all that apply)

<input type="checkbox"/> Provide access to _____ single-family residence(s)	<input type="checkbox"/> This easement request does not require a new access account
<input type="checkbox"/> Provide access to _____ multi-family residence(s)	<input type="checkbox"/> Provide access to property for a commercial or industrial use
<input type="checkbox"/> Provide access to vacant property for recreational use	<input type="checkbox"/> Provide access to a platted subdivision
<input type="checkbox"/> Provide access to property for agricultural or timber management activities	
<input type="checkbox"/> Other (please describe):	

6. Do you believe that your property has legal access?

No

Yes (This may make your application for an access easement ineligible)

7. If you answered "No" to question #6, your application will not be considered complete for review until documentation is provided that a title search has been conducted on all real estate transactions involving the parcel and its parent parcel(s) for the past 40 years and that the search failed to discover any means of legal access. In addition, you may provide copies of any other documentation that will support your claim that your property does not have legal access.

An attorney has rendered an opinion regarding the status of legal access to the parcel.

8. Have you discussed the details of your proposed easement with any employees from your local DNR office?

No

Yes

If "Yes", which staff members have you contacted?

CONTACT INFORMATION (Please print or type)

Applicant Name		Organization	
Telephone Number	Fax Number	E-mail Address	
Mailing Address		City, State, ZIP Code	
Applicant Signature			Date
DNR Staff Signature (<i>Proposal reviewed by staff only. This signature is not approval of easement request.</i>)			Date

Please indicate how title to the desired land is to be conveyed.

In Applicant's name only – If applicant is someone other than an individual, please identify legal entity (i.e. a Michigan limited liability company, a Michigan corporation, a municipal governmental unit, etc.). If the applicant is a man, please indicate single or married.

As Tenants by the entirety (a married couple)

As Joint Tenants with full right of survivorship

As Tenants in Common (Two or more persons, each owning a separate undivided interest in the whole property)

ISSUE EASEMENT TO:

Please use full given name and indicate marital status of all males.

Names (s) (*Print or Type*)

Street Address

City, State, ZIP Code

Telephone Number

Applications will NOT be reviewed without payment. Mail completed application, required documents and check or money order, made payable to the "State of Michigan", to:

**CASHIER'S OFFICE
MICHIGAN DEPARTMENT OF NATURAL RESOURCES
PO BOX 30451
LANSING MI 48909-7951**

INFORMATION:

REQUIRED DOCUMENTATION OF PROPOSED EASEMENT TO BE SUBMITTED WITH APPLICATION:

1. Completed Private Easement Application also signed by local DNR staff following the pre-application meeting
2. A copy of the deed for your parcel;
3. The local tax identification number for your parcel;
4. A detailed map showing the following:
 - a. The location of your property in relation to nearby public or private roads;
 - b. Indicate the property that you own and the approximate location desired for the requested easement;
 - c. Indicate the state-owned land in relationship to your property and the requested easement;
 - d. If deed research indicates that your parcel was split from a larger parent parcel (as described in Section 560.108 of the Land Division Act of 1967, Public Act 288), show the location of that residual parent parcel in relation to the location of your parcel (please see attached excerpt);
5. A recordable survey describing the route of your requested easement as well as a legal description of the land to be benefitted by the easement that meets the DNR specifications that were provided at the pre-application meeting. To meet document recording requirements, description must be provided:
 - On 8.5 X 14 inch paper,
 - using a minimum font size of 10 point, and
 - minimum 0.5 inch margins
6. A title search on all real estate transactions involving the parcel and its parent parcel(s) for the past 40 years; and,
7. If available, provide a copy of your title insurance policy for the parcel to be accessed.
8. **Application Fee of \$300.00.**

ADDITIONAL REQUIREMENTS OF PROPOSED EASEMENT AFTER REVIEW BY DNR:

1. Some Department-managed lands were acquired with assistance from the Federal Government. Permission from Federal Agencies may be required prior to the Department granting final approval of your request.
2. No easement shall be granted for land in excess of the amount necessary for the approved use. Easements shall only be granted for the current fair market value for such easement rights as determined by the Department.
3. **If the Michigan Department of Natural Resources approves this application, an invoice will be sent for the easement rights, and vegetation consideration fee. The easement will be issued after receipt of payment in full.**

Operations Service Centers



Baraga Operations Service Center

427 US-41 North
Baraga, MI 49908
[1-906-353-6651](tel:1-906-353-6651)

Bay City Operations Service Center

3580 State Park Drive
Bay City, MI 48706
[1-989-684-9141](tel:1-989-684-9141)

Operations Service Centers

Cadillac Operations Service Center

8015 Mackinaw Trail
Cadillac, MI 49601
1-231-775-9727

Gaylord Operations Service Center

1732 West M-32
Gaylord, MI 49735
1-989-732-3541

Marquette Operations Service Center

1990 US-41 South
Marquette, MI 49855
1-906-228-6561

Newberry Operations Service Center

5100 State Highway M-123
Newberry, MI 49868
1-906-293-5131

Plainwell Operations Service Center

621 North 10th Street
Plainwell, MI 49080
1-269-685-6851

Roscommon Operations Service Center

I-75 & M-18 South
8717 North Roscommon Rd.
Roscommon, MI 48653
1-989-275-5151

Rose Lake Field Office

8562 Stoll Rd.
East Lansing, MI 48823
1-517-641-4903

Detroit Customer Service Center

1801 Atwater Street
Detroit, MI 48207
1-313-396-6890

LAND DIVISION ACT (EXCERPT)
Act 288 of 1967

560.108 Parent parcel or parent tract; number of parcels resulting from division; limitations; requirements.

Sec. 108.

- (1) A division is not subject to the platting requirements of this act.
- (2) Subject to subsection (3), the division, together with any previous divisions of the same parent parcel or parent tract, shall result in a number of parcels not more than the sum of the following, as applicable:
 - (a) For the first 10 acres or fraction thereof in the parent parcel or parent tract, 4 parcels.
 - (b) For each whole 10 acres in excess of the first 10 acres in the parent parcel or parent tract, 1 additional parcel, for up to a maximum of 11 additional parcels.
 - (c) For each whole 40 acres in excess of the first 120 acres in the parent parcel or parent tract, 1 additional parcel.
- (3) For a parent parcel or parent tract of not less than 20 acres, the division may result in a total of 2 parcels in addition to those permitted by subsection (2) if 1 or both of the following apply:
 - (a) Because of the establishment of 1 or more new roads, no new driveway accesses to an existing public road for any of the resulting parcels under subsection (2) or this subsection are created or required.
 - (b) One of the resulting parcels under subsection (2) and this subsection comprises not less than 60% of the area of the parent parcel or parent tract.
- (4) A parcel of 40 acres or more created by the division of a parent parcel or parent tract shall not be counted toward the number of parcels permitted under subsections (2) and (3) and is not subject to section 109, if the parcel is accessible.
- (5) A parcel or tract created by an exempt split or a division is not a new parent parcel or parent tract and may be further partitioned or split without being subject to the platting requirements of this act if all of the following requirements are met:
 - (a) Not less than 10 years have elapsed since the parcel or tract was recorded.
 - (b) The partitioning or splitting results in not more than the following number of parcels, whichever is less:
 - (i) Two parcels for the first 10 acres or fraction thereof in the parcel or tract plus 1 additional parcel for each whole 10 acres in excess of the first 10 acres in the parcel or tract.
 - (ii) Seven parcels or 10 parcels if one of the resulting parcels under this subsection comprises not less than 60% of the area of the parcel or tract being partitioned or split.
 - (c) The partitioning or splitting satisfies the requirements of section 109.
- (6) A parcel or tract created under the provisions of subsection (5) may not be further partitioned or split without being subject to the platting requirements of this act, except in accordance with the provisions of subsection (5).

Definitions:

(i) "Parent parcel" or "parent tract" means a parcel or tract, respectively, lawfully in existence on the effective date of the amendatory act that added this subdivision.

(j) "Accessible", in reference to a parcel, means that the parcel meets 1 or both of the following requirements:

(i) Has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department or county road commission under 1969 PA 200, MCL 247.321 to 247.329, and of the city or village, or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards.

(ii) Is served by an existing easement that provides vehicular access to an existing road or street and that meets all applicable location standards of the state transportation department or county road commission under 1969 PA 200, MCL 247.321 to 247.329, and of the city or village, or can be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable location standards.

Department of Natural Resources
Private Easement on Public Lands – Legal Considerations

Natural Resources and Environmental Protection Act
(Public Act 451 of 1994)

By law, the director of the Department of Natural Resources has the final authority to approve or deny a request for a private-access easement on state-owned land. That authority is governed by the following excerpts from the Natural Resources and Environmental Protection Act (PA 451 of 1994). Excerpts from this law, shown below, outline the specific requirements the department has to consider when evaluating the potential benefit or detriment of a proposed easement.

*MCL 324.2123. The department **may grant** or otherwise provide for an easement for a road over state-owned land under the jurisdiction of the department to an individual if all of the following conditions are met:*

- (a) The individual applies for the easement on a form provided by the department.*
- (b) The individual does not have other legal access to the individual's land.*
- (c) The easement does not conflict with any of the following:*
 - (i) An existing program or management as described in a plan of the department*
 - (ii) A local ordinance.*
- (d) The road for which the easement is granted is open to public access and not for the exclusive use of the grantee.*
- (e) The easement provides the logical and most feasible access to the individual's land.*
- (f) The width of the roadway is restricted to the minimum consistent with the quality of the road required.*
- (g) The individual agrees to construct, if necessary and maintain the road.*
- (h) The individual offers a similar road easement to the department to provide public access to state-owned land across the individual's land to which the easement is to be granted by the department, where applicable. The department shall not accept a road easement under this subdivision if the road easement would end at a body of water.*
 - (i) The individual does all of the following:*
 - (i) Pays the cost of a survey*
 - (ii) Pays the department the fair market value of the easement. The fair market value of the easement granted by the department shall be offset by the fair market value of any easement granted to the department under subdivision (h).*

*MCL 324.2123a. Subject to section 2124 and notwithstanding section 2123, the department **shall grant** or otherwise provide for an easement for a road over state-owned land under the jurisdiction of the department to an individual if all of the following conditions are met:*

- (a) The individual applies for the easement on a form provided by the department.*
- (b) The individual does not have other legal access to the individual's land.*
- (c) The easement does not conflict with any of the following:*
 - (i) An existing program or management as described in a plan of the department*

- (ii) If the land was acquired using revenue from hunting and fishing license fees, federal funds from a wildlife or sport fish restoration program, or other state or federal program funds, with state or federal laws governing the use of lands acquired through the respective program.*
- (iii) A local ordinance.*
- (d) The easement does not cross an environmentally sensitive area, including, but not limited to, a wetland as defined in section 30301 or a critical dune area as defined in section 35301.*
- (e) The individual offers a similar road easement to the department to provide public access to state-owned land across the individual's land to which the easement is to be granted by the department, where applicable. The department shall not accept a road easement under this subdivision if the road easement would end at a body of water.*
- (f) The individual does all of the following:*
 - (i) Pays the cost of a survey*
 - (ii) Pays the department the fair market value of the easement. The fair market value of the easement granted by the department shall be offset by the fair market value of any easement granted to the department under subdivision (h).*

*MCL 324.2124. The department **shall not grant** an easement over state-owned land under the jurisdiction of the department if any of the following apply:*

- (a) The proposed easement is over land designated as a wilderness area, wild area, or natural area under part 351.*
- (b) The proposed easement is over land in an area closed to vehicular traffic pursuant to management as described in an existing plan of the department.*
- (c) The construction or use of the new or existing roadway will result in unnecessary damage to or destruction of the surface, soil, animal life or aquatic life, or property.*

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