

**STATE OF MICHIGAN
COUNTY OF BERRIEN
ORONOKO CHARTER TOWNSHIP**

PRIVATE ROAD ORDINANCE

ORDINANCE NO. 65

AN ORDINANCE TO REQUIRE THAT ALL LOTS OR PARCELS OF LAND WHICH DO NOT ABUT PUBLIC STREETS ABUT A PRIVATE ROAD WHICH PRIVATE ROAD SHALL MEET THE STANDARDS AND SPECIFICATIONS AS SET FORTH HEREIN FOR CONSTRUCTION AND MAINTENANCE, TO PROVIDE FOR AN APPLICATION PROCESS FOR THE ESTABLISHMENT OF A PRIVATE ROAD, AND TO PROVIDE FOR PENALTIES FOR VIOLATIONS HEREOF.

SECTION 1: TITLE.

This Ordinance shall be known as and cited as Oronoko Charter Township Private Road Ordinance.

SECTION 2: PURPOSE.

The purpose of this Ordinance is to ensure that lots within Oronoko Charter Township that do not abut a public street or road nonetheless abut a private road. To this end, this Ordinance is intended to provide minimum standards and specifications for the construction, maintenance and extension of private roads within the Charter Township of Oronoko, Berrien County, Michigan, to protect the public health, safety and general welfare of persons and property pursuant to MCL 41/181; MSA 5.45(1). It is recognized that such standards are necessary because of the need for road services adequate to provide year round access by fire, police, and like emergency vehicles. It is further recognized that if roads are not constructed in accordance with certain minimum standards, such roads frequently become impassable, and vehicles which do try to use them during such periods of impassability are likely to become mired, find it impossible to gain access to the persons or structures located on the roadway, block the roadway and otherwise pose a threat to the health, safety and welfare of the residents located along the roadway, as well as to those other residents who would find use of the roadway essential. Further, it is recognized that it is beneficial to the public to provide for means to access public utilities during the planning and construction of a private road rather than after construction has occurred.

SECTION 3: DEFINITIONS.

For purposes of this Ordinance, certain terms and words used herein shall have the following meaning:

- A. *“Applicant”* the person seeking township approval for a proposed private road.
- B. *“Board”* the Oronoko Charter Township Board of Trustees

- C. “*Commission*” or “*Berrien County Road Commission*” the Board of County Road Commissioners, County of Berrien, State of Michigan.
- D. “*Developer*” the applicant.
- E. “*Easement*” a grant of one or more property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.
- F. “*Extend*” to lengthen, expand or broaden the physical size of the road or roadway or to increase the total number of lots serviced by such road.
- G. “*Lots*” a parcel of land of at least sufficient size, and containing sufficient buildable area, to meet the minimum zoning requirements for use, coverage and area and to provide such yards and other open spaces as are required by the Oronoko Charter Township Zoning Ordinance. The word lot includes the word plot and parcel. In the context of the Condominium Act, Act 59 of Michigan Public Acts of 1989, the word lot shall also mean the same as building site and is that portion of a site condominium subdivision project designed and intended for separate ownership and/or exclusive use, as described in the site condominium subdivision project’s master deed and which meets minimum zoning requirements for use, coverage and area as required by the Oronoko Charter Township Zoning Ordinance. In the context of the Condominium Act, “Lot” may be further defined as:
1. A condominium unit consisting of the area under a building or building envelope and the contiguous area around the building or building envelope.
 2. The contiguous limited common element under and surrounding a condominium unit that is or shall be assigned to the owner(s) of the condominium unit for the owner(s) exclusive use.
- H. “*Minor Private Road*” a private road which serves five or fewer lots.
- I. “*Major Private Road*” a private road which serves six or more lots.
- J. “*Person*” any individual, firm, association, partnership, corporation, public corporations, schools, or any combination thereof.
- K. “*Road*” or “*Public Road*” a public street or a thoroughfare dedicated and accepted for public use which affords vehicular traffic circulation and principal means of access to abutting property, including those referred to as an avenue, place, way, drive, lane, boulevard, path, highway, street, ally, or other thoroughfare, except a private driveway.

- L. “*Road Maintenance Agreement*” a written statement by the applicant which provides who shall grade, plow, repair and otherwise maintain the private road in compliance with this Ordinance.
- M. “*Private Road*” a privately owned and maintained road which has not been accepted by the public for ownership and maintenance, used by persons, in addition to the owners of the property underlying said road, having a lawful right to use for ingress and egress, whether as an invitee, by common custom or otherwise. This definition does not include a private driveway which serves only on one-family or one two-family residence.
- N. “*Private Road Easement*” an easement which is granted for private access to one or more lots and which contains or is intended to contain a private road.
- O. “*Structure*” anything constructed or erected on site, a mobile home structure, a premanufactured or precut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.

SECTION IV: GENERAL PROVISIONS.

- A. Requirement. Any lot or parcel of land which does not abut a public road shall abut a private road as set forth herein, which private road shall meet the standards of this Ordinance and shall be constructed and maintained as provided herein and established pursuant to the permit required hereafter.
- B. Private Road Easements. All private roads shall be located within a private road easement. Such easement shall not be less than sixty six (66') feet in width at any point. At any dead end of such easement that exceeds 300 feet the easement shall have a cul de sac with a diameter of 134 feet.
- C. Grade. The maximum longitudinal grade for any major private road shall not exceed eight percent.
- D. Names and Signage. All private roads created hereunder shall be named with the suffix “Path” with said name to be approved by the Township Board. Name signs and sign posts shall be erected at the expense of the applicant by either the Berrien County Road Commission or Oronoko Charter Township. Name signs shall be blue in color with white letters. Where a private road meets any public road, a stop sign shall be installed at the intersection. All traffic signs must meet Berrien County Road Commission standards.
- E. Utility Easements. The proposed private roadway shall provide easements for the entire width and length of the private road for all utilities and services as may be necessary to provide all public services to the lots which benefit from the private road.

- F. Improvements. All improvements installed or constructed as required under the terms of this Ordinance shall be made and maintained at the expense of the property owner(s) or developer.
- G. Extending Existing Private Roads. If the applicant seeks to extend an existing private road, such extension shall be permitted only if the existing private road complies with the standards as set forth in this Ordinance. All of such standards shall be deemed to apply to the existing roadway and the proposed extension. Such applicant shall obtain the consent from a majority of all persons who, to the knowledge of the applicant, possess any interest in the existing private road or have a right of access to their property thereby, which consent shall be in writing and shall be filed with the Township contemporaneously with the filing of the application for permit hereunder. Said consent shall state:
1. That the owner consent to the extension of the roadway pursuant to the application, and
 2. That the consenting party consent to the upgrading of the existing roadway to the standards as set forth in this Ordinance, and where applicable, will agree to grant such easements or rights-of-way as are necessary to satisfy the requirement of this Ordinance.
- H. Private Road Construction Specifications. Minor Private Roads: minor private roads shall have a minimum width of 20 feet with two-foot shoulder on each side and shall be built to the specifications shown on the illustration attached to this Ordinance as Exhibit 1. Any private road that exceeds 300 feet shall have a cul de sac with a paved diameter of 100 feet. A tree lawn or grass area is allowed in the center of the cul de sac, as long as a 20 feet wide road way exists along the outer circumference of the cul de sac.
- I. Private Road Construction Specifications. Major Private Roads: A major private road shall have a minimum width of 30 feet with two-foot shoulder on each side and shall be built to the specifications shown on the illustration attached to this ordinance as Exhibit 2. The road shall widen at any dead end so there is at least a 100 feet diameter paved road surface for a cul de sac.
- J. Private Road Maintenance Specifications.
1. Road surfaces shall be paved to assure vehicle transit at all times of the year.
 2. Drainage facilities shall be maintained to be open and freely draining.
 3. Road signs and traffic control signs, etc., shall be maintained and replaced by the owner(s) of the private road.

- K. Other Requirements. In addition to the above, the Township Board may impose any reasonable requirements it determines are necessary to fulfill the purpose of this Ordinance.

SECTION V: APPLICATION CONTENTS.

- A. An Application to secure the Permit required for establishment and construction of a Private Road prepared by a registered land surveyor, civil engineer, or landscape architect at a scale of at least 1 inch = 100 feet together with a fee established by the Township Board shall be submitted to the Township Clerk or designated agent. The plans shall include the following information:
1. The proposed name of development.
 2. Lot identification number(s) and/or a legal description.
 3. The names and addresses of the proprietor, owner proprietor, and planner, design engineer, landscape architect or surveyor.
 4. The scale of the drawing.
 5. The date of preparation.
 6. A north arrow.
 7. A location map showing the general relationship of the affected property to the surrounding area.
 8. The proposed property lines and dimensions of each parcel benefited by the proposed private road.
 9. The zoning classification of subject lot and surrounding parcels.
 10. The location of existing buildings and structures.
 11. The locations, widths, legal descriptions and names of existing or prior easements of record, located on the subject lot.
 12. The location of existing and proposed sanitary sewers, water mains, storm drains, and other utilities.
 13. The existing and proposed topography drawn at contour intervals of four feet.
 14. The location of significant natural features such as lakes, streams, wetlands, and slopes over 20 percent.

15. The layout and preliminary design of the proposed private road, indicating the proposed easement width and connections to adjoining rights-of-way.
 16. Locations of proposed building sites including approximate grades and building setbacks.
 17. Easements for the benefit of the Charter Township of Oronoko for purposes of public utilities such as water and sewer, or for whatever other public services are deemed necessary by the Township, including but not limited to municipal water and sewer. The developer shall provide drainage way easements as required by the regulations established by the Berrien County Drain Commissioner.
- B. Ten copies of the application for a private road, or extension of an existing private road shall be submitted to the Oronoko Charter Township Clerk, who shall immediately provide the application to the Zoning Administrator who shall review the application and determine whether the application's content satisfies the requirements listed herein. If the application is deficient, the building inspector shall immediately notify the applicant and provide written notice of the deficiency. Once the building inspector determines that the application satisfies the requirements listed herein, the Zoning Administrator shall forward it to the planning commission for consideration.

SECTION VI: PERMIT PROCESS.

- A. Consideration by the Planning Commission. The planning commission shall consider the application and shall recommend to the Oronoko Charter Township Board either preliminary approval or denial of the application based upon the following standards: the proposed private road shall:
1. Be compatible with the adjacent uses of land.
 2. Be consistent with, and promote the intent and purpose of the Zoning Ordinance.
 3. Be consistent with the capacities of public services and facilities affected by the proposed private road.
 4. Not harm the public health, safety or welfare.
 5. Not create unreasonable or dangerous noise, dust, pollution or traffic conditions.
 6. Be consistent with the public street network.

B. Preliminary Approval by Township Board.

1. The Oronoko Charter Township Board shall, after review of the Application and the recommendation of the Planning Commission, issue a denial of the request or make a preliminary approval. Preliminary approval by the Township Board authorizes the applicant to commence road construction. Preliminary approval expires in one calendar year if the applicant fails to obtain final approval. The one-year period may be extended if applied for in writing by the applicant and granted by the Township Board. And extension granted herein shall be for a period not to exceed one year. The Township Board shall review the application and recommendation of the planning approval only if the proposed private road satisfies the standards set forth in section.
2. The Township Board shall have the final decision regarding application for private road construction. If the application is denied, a detail analysis of the reason(s) for the denial shall be provided to the Applicant.

C. Road Construction. All necessary approvals and permits of the Berrien County Road Commission shall be obtained by the applicant prior to the commencement of road construction.

D. Final Approval by the Township Board.

1. The Township Board shall consider for final approval, only applications which contain all of the following:
 - (a) A final inspection and approval of private road by the Township's building inspector;
 - (b) Proof of installation of street name sign and traffic control devices.
2. Information required: The following information shall be submitted to the Township Clerk at least 14 days prior to the board meeting at which final approval of the proposed private road will be considered.
 - (a) Eight copies of recorded land survey and legal descriptions showing easements for underground electrical communication service lines, drainage, sanitary sewer, water and private road and dedication of any public road right-of-way;
 - (b) Two copies of the recorded road maintenance agreement;
 - (c) Two copies of the recorded deed restrictions, if any, and easements;

- (d) If there is compliance with this and all other applicable Township Ordinances, the Township Board shall give final approval to the private road.

SECTION VII: PERMIT NOT TO BE ISSUED; FEES:

- A. Permits Not To Be Issued. No building permits shall be issued by the building inspector for the use of any lot served by a private road, unless such road has received final approval by the Township Board as provided herein, unless said lot is accessible by an existing road.
- B. Fees. Fees to be charged pursuant to this Ordinance shall be set as a policy by or from the Township Board and may be amended from time to time.

SECTION VIII: SEVERABILITY, PENALTY, REPEAL, AND EFFECTIVE DATE.

- A. Severability Repeal. The sections and provisions of this code are declared to be severable and if any section or party hereof is declared to be illegal, unenforceable or void for any reason, such illegality or unenforceability shall not affect the remaining sections or parts of this code.
- B. Penalties; Separate Offenses; Civil Infraction. Any person found responsible for violating any provision of this Ordinance shall be responsible for a civil infraction and shall be sanctioned by a civil fine having a maximum of five hundred (\$500.00) dollars, and having a minimum sanction of fifty (\$50.00) dollars for the first violation, a minimum fine of one hundred and 00/1000 (\$100.00) dollars for the second violation and a minimum fine of two hundred fifty and 00/100 (\$250.00) dollars for the third and each additional violation. Each day the violation continues to exist from the time of the issuance of a citation may constitute a separate offense.
- C. Repeal. All provisions of other Ordinances in conflict with this Ordinance are hereby repealed; however, this Ordinance shall not be construed to repeal any provision in any applicable Zoning Ordinances, Building Codes or other ordinances of the Township which shall remain in full force and effect notwithstanding any land division approval hereunder.
- D. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its publication.

SECTION IX: ADOPTION.

This Ordinance was adopted by the Oronoko Charter Township Board of Trustees, Berrien County, Michigan, at a regular meeting thereof, held on the 9th day of January, 2007.

MOTION TO ADOPT ORDINANCE

MOTION PROPOSED by Township Board Trustee Robert Pagel, supported by Township Board Trustee Philipp Riess.

ROLL CALL VOTE:

AYES: Trustee Pagel, Clerk Renton, Trustee Hildebrand, Treasurer Hill, Trustee Riess, Supervisor Hildebrand

NAYS: None.

ABSTAIN: None.

ABSENT: Trustee Holman

MOTION CARRIED.

ORDINANCE DECLARED ENACTED:

The foregoing Ordinance was enacted by the Charter Township of Oronoko, State of Michigan, on the 9th day of January, 2007 and entered by its Supervisor and Clerk on said date.

Ernest Hildebrand, Supervisor

Suzanne G. Renton, Clerk

CERTIFICATION

I hereby certify that the foregoing is a true copy of an ordinance entitled "Private Road Ordinance, No. 65" which ordinance was duly adopted by the Board of Trustees of Oronoko Charter Township, Berrien County, Michigan, on the 9th day of January, 2007. First introduced and read prior to enactment by Oronoko Charter Township Board of Trustees on the 12th day of December, 2006.

ORDINANCE NO. 65 WAS FIRST PUBLISHED IN THE JOURNAL ERA ON THE 3rd DAY OF JANUARY, 2007, AFTER FIRST BEING INTRODUCED. SAID ORDINANCE WAS THEREAFTER PUBLISHED IN THE JOURNAL ERA, AFTER ENACTMENT ON THE 17th DAY OF JANUARY, 2007. SAID ORDINANCE IS EFFECTIVE THIRTY (30) DAYS AFTER PUBLICATION, THAT EFFECTIVE DATE BEING FEBRUARY 16, 2007.

Suzanne G. Renton, Clerk

A TRUE COPY OF THIS ORDINANCE MAY BE OBTAINED FOR PURCHASE AT REASONABLE COST, OR FOR INSPECTION, AT THE ORONOKO CHARTER TOWNSHIP HALL, LOCATED AT 4583 EAST SNOW ROAD, BERRIEN SPRINGS, MICHIGAN, DURING NORMAL BUSINESS HOURS OF 8:30 A.M. TO 5:00 P.M., MONDAY THROUGH FRIDAY, EXCLUDING HOLIDAYS.