

**CHARTER TOWNSHIP OF ORONOKO**

**COUNTY OF BERRIEN**

**MICHIGAN**

Minutes of a Regular meeting of the Township Board of the Charter Township of Oronoko, County of Berrien, Michigan, held in the Oronoko Township Hall located at 4583 E. Snow Road, Berrien Springs, Michigan, on the 13<sup>th</sup> day of January, 2015, at 7:00 p.m. Local Time.

PRESENT: Members: Supervisor Mike Hildebrand, Clerk Suzanne Renton, Treasurer Lawrence Schalk, Trustees: Richard Albers, Don Damron, Marc Kerlikowske, Robert Palmer.  
ABSENT: Members: None.

It was moved by Trustee Albers, and seconded by Trustee Damron that the following Ordinance be adopted under the authority of the Revenue Bond Act of 1933, being Act 94 of the Public Acts of Michigan of 1933, as amended.

**ORDINANCE NO. 79**

**AN ORDINANCE TO PROVIDE FOR CONNECTIONS TO THE TOWNSHIP WATER SYSTEM, TO PROVIDE PENALTIES FOR ORDINANCE VIOLATIONS AND TO PROVIDE FOR MATTERS RELATED THERETO**

The Ordinance was then discussed.

Upon roll call vote, the vote upon the motion to adopt the Ordinance was as follows:

YEAS: Members Trustee Albers, Trustee Kerlikowske, Trustee Palmer, Treasurer Schalk, Trustee Damron, Clerk Renton, Supervisor Hildebrand.

NAYS: Members None.

ABSTAIN: Members None.

The Township Clerk declared the Ordinance adopted.

The following is Ordinance No. 79 as adopted:

**ADOPTED: JANUARY 13, 2015**

**EFFECTIVE: FEBRUARY 20, 2015**

THE CHARTER TOWNSHIP OF ORONOKO ORDAINS:

**ORDINANCE NO. 79**

**AN ORDINANCE TO PROVIDE FOR CONNECTIONS TO THE TOWNSHIP WATER SYSTEM, TO PROVIDE PENALTIES FOR ORDINANCE VIOLATIONS AND TO PROVIDE FOR MATTERS RELATED THERETO**

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## ARTICLE I SHORT TITLE

**Section 101. Short Title.** This Ordinance shall be known as the “Oronoko Charter Township Water System Connection Ordinance” and may be cited as such.

**Section 102. Intent.** This Ordinance is intended to apply to all properties served by the Township System located in the Service District within the Township. In addition, this Ordinance is intended to be applied such that this Ordinance and the Water Use and Enforcement Ordinance, taken together, provide comprehensive regulation of matters pertinent to the connection to, and use of the Township System and the rates and charges applicable thereto.

**Section 103. Conflict with Water Use and Enforcement Ordinance.** In the event of a conflict between the provisions of this Ordinance and the provisions of the Water Use and Enforcement Ordinance with regard to which properties are required to connect to the Township System, the related connection deadlines and the enforcement of such required connections, the provisions of this Ordinance shall control. In all other respects, in the event of a conflict between the provisions of this Ordinance and the Water Use and Enforcement Ordinance with respect to applications for connections, approval of connection applications, the technical requirements for making a connection to the Township System, the use of the Township System, the fees applicable to the connection to or the use of the Township System, the provisions of the Water Use and Enforcement Ordinance shall control.

**Section 104. Objectives Re: Water Supply Agreement.** This Ordinance is adopted in accordance with and in furtherance of the Township’s obligations as set forth in the Water Supply Agreement.

**Section 105. Findings Re: Public Health, Safety and Welfare.** The Township hereby determines that the Township System is immediately necessary to protect and preserve the public health, safety and welfare of the Township.

**Section 106. Finding Re: Metering of Water Supply.** The Township hereby finds that the metering of domestic water supply is the best available technology and preferred method for measuring with relative precision the use of the Township System.

## ARTICLE II DEFINITIONS

**Section 201. Definitions.** The terms used in this Ordinance shall have the meanings as defined in the Water Use and Enforcement Ordinance and, in addition, the following meanings:

(1) **Available Public Water System.** A public watermain which is part of the Township System (tapped or untapped) located in a right-of-way, easement, highway, street or public way which crosses, adjoins or abuts upon a parcel of property and passes not more than 200 feet at the nearest point from a structure whose use and occupancy requires Potable Water on the parcel of property; provided, however, that with respect to a parcel of property located in the Special Assessment District, an Available Public Water System shall be a watermain which is

part of the Township System (tapped or untapped) located in a right-of-way, easement, highway, street or public way which crosses, adjoins or abuts the parcel regardless of the distance of the Available Public Water System from the structure whose use and occupancy requires Potable Water located on the parcel of property.

(2) **Health Department.** Berrien County Health Department.

(3) **May.** Is permissive.

(4) **Potable Water.** Water intended for human consumption or prolonged bodily contact which is free from impurities in amounts sufficient to cause disease or harmful physiological effects. Its bacteriological and chemical quality shall conform to the applicable requirements of the Federal Drinking Water Standards and to the regulations of the Health Department and the Michigan Department of Environmental Quality.

(5) **Service Connection.** The portion of the Township System which extends either to or onto a parcel of land adjacent to the path of the Township System, and includes the corporation cock, service lateral and curb stop.

(6) **Service District.** The area in the Township served by the Township System, including without limitation the M-139 corridor in the Township from the municipal limits of the Village to the U.S. 31 interchange and the Special Assessment District.

(7) **Shall.** Is mandatory.

(8) **Special Assessment District.** Township Special Assessment District No. 2014-1 determined by the Township Board for the provision of public water supply service by the Township System.

(9) **Township System or System.** The Township System, as defined in the Water Supply Agreement.

(10) **Water Supply Agreement.** The Water Supply Agreement, dated November 16, 2009, as amended on December 1, 2014, and as further amended from time to time, by and between the Township and the Village.

(11) **Water Use and Enforcement Ordinance.** Township Ordinance No. 73 known as the Oronoko Charter Township Water Use and Enforcement Ordinance, as amended from time to time.

### **ARTICLE III USE OF TOWNSHIP SYSTEM REQUIRED**

**Section 301. Mandatory Connection of New Construction in Special Assessment District.** The owner of a structure whose use and occupancy requires Potable Water that is constructed or first occupied after June 20, 2014 within the Special Assessment District is hereby required at his expense to install suitable plumbing fixtures and connect such facilities directly with the Township System in accordance with the provisions of this Ordinance and the Water Use and Enforcement Ordinance.

**Section 302. Connection of Existing Improved Properties in Special Assessment District.** The owner of a structure whose use and occupancy requires Potable Water which was located within the Special Assessment District prior to June 21, 2014 and served by a private water well, shall not be required to connect the structure whose use and occupancy requires Potable Water to the Township System until such time as:

(1) the existing private water well fails (as determined by the Health Department), or

(2) the connection of all improved properties within the area in which said premises is located is declared a necessity by the Township for the public health, safety and welfare.

An owner of property subject to this Section 302 may voluntarily connect a structure whose use and occupancy requires Potable Water to the Township System at any time in compliance with the terms of this Ordinance and the Water Use and Enforcement Ordinance.

**Section 303. Mandatory Connection of New Construction in Service District Outside of the Special Assessment District.** The owner of a parcel located in the Service District, but outside the Special Assessment District, which is presently undeveloped and which is hereafter improved by the construction of a structure whose use and occupancy requires Potable Water shall connect the structure whose use and occupancy requires Potable Water to the Township System in accordance with the provisions of this Ordinance and the Water Use and Enforcement Ordinance.

**Section 304. Connection of Existing Improved Properties in Service District Outside of the Special Assessment District.** The owner of a structure whose use and occupancy requires Potable Water which is located in the Service District, but outside the Special Assessment District, and which is currently served by a private water well, shall not be required to connect the structure whose use and occupancy requires Potable Water to the Township System until such time as:

(1) the existing private water well fails (as determined by the Health Department), or

(2) connection of all improved properties within the area in which said premises is located is declared a necessity by the Township for the public health, safety and welfare.

An owner of property subject to this Section 304 may voluntarily connect a structure whose use and occupancy requires Potable Water to the Township System at any time in compliance with the terms of this Ordinance and the Water Use and Enforcement Ordinance.

**Section 305. Connection Deadline.** As a matter of public health, all connections to the Township System required hereunder shall be completed promptly but not later than eighteen (18) months after the last to occur of the date of official notice by the Township to make said connections or the modification of a structure so as to become a structure whose use and occupancy requires Potable Water. Newly constructed structures whose use and occupancy requires Potable Water shall be connected prior to occupancy thereof. Notwithstanding the

preceding, if the Health Department requires completion of a connection to the Township System within a shorter period of time for reasons of public health, safety and welfare, such connection shall be so completed. A Person who fails to complete the connection of a structure whose use and occupancy requires Potable Water to the Township System when required shall be liable for a civil penalty, equal to the water rates and demand charges that would have been payable in accordance with the Water Supply Agreement with respect to the structure whose use and occupancy requires Potable Water had the required connection been completed when required, until the required connection is completed, in addition to the penalties provided in this Ordinance.

**Section 306. Enforcement in the Event of a Failure to Connect.** In the event a required connection to the Township System is not made within the time provided by Section 305, the Township shall require the connection to be made immediately after notice given by first class or certified mail or by posting on the property. The notice shall give the approximate location of the Available Public Water System main or Service Connection and shall advise the owner of the affected property of the requirement and enforcement provisions provided by Township ordinance and state law. In the event the required connection is not made within 90 days after the date of mailing or posting of the written notice, the Township may bring an action in a court of competent jurisdiction for a mandatory injunction or court order to compel the property owner to immediately connect the affected property to the Available Public Water System main or Service Connection.

**Section 307. Connection Permit Required for Connection.** No Person shall make any connection to the Township System without first applying to and receiving a permit from the Village in accordance with the Water Use and Enforcement Ordinance and paying, or providing for payment of, the applicable fees and charges, which, in accordance with the Water Supply Agreement, shall be established, billed and collected by the Township and the Village in accordance with the Water Use and Enforcement Ordinance and the Water Supply Agreement.

**Section 308. Disconnection.** Once a structure whose use and occupancy requires Potable Water is connected to the Township System, the structure may not be disconnected or otherwise detached from the Township System, except if occupancy of the structure is permanently discontinued through fire, destruction or other circumstances such that the structure ceases to be a structure whose use and occupancy requires Potable Water.

#### **ARTICLE IV PRIVATE WATER WELLS**

**Section 401. Private Water Wells Permitted Only for Non-Potable Water Purposes.** If an Available Public Water System is available to a premises within the meaning of Article III, the owner of the premises shall not drill a new private water well for drinking water purposes but may drill a new private water well for non-Potable use. After a premises is connected to the Township System, the existing private water well shall either (i) be capped and abandoned in accordance with applicable Health Department and state requirements or (ii) maintained for non-Potable use. For purposes of this section, permissible non-Potable uses include lawn watering, irrigation, automobile or equipment washing, use in a building's heating or cooling system and similar uses not involving human consumption or prolonged bodily contact. All fixtures connected to a private water well maintained for non-Potable use shall be located outside of structures intended for human occupancy, employment, recreation or similar

purposes. In addition, piping connected to a private water well shall be physically and completely separated from all plumbing used for Potable Water in accordance with the Water Use and Enforcement Ordinance.

**Section 402. Governmental Requirements.** No statement contained in this Article shall be construed to interfere with or supersede any additional requirements that may be imposed by the Township, the Health Department, the MDEQ or any other governmental agency with jurisdiction over the Service District.

## **ARTICLE V ENFORCEMENT**

**Section 501. Enforcement of Ordinance by Village.** It is the Township's intent that the Village be empowered, to the extent permitted by law, to administer and enforce the provisions of this Ordinance on behalf of the Township.

## **ARTICLE VI PENALTIES**

**Section 601. Nuisance; Abatement.** Any nuisance or any violation of this Ordinance is deemed to be a nuisance per se. The Township in the furtherance of the public health may enforce the requirements of this Ordinance by injunction or other remedy and is hereby empowered to make all necessary repairs or take other corrective action necessitated by such nuisance or violation. The Person who violated the Ordinance or permitted such nuisance or violation to occur shall be responsible to the Township for the costs and expenses including reasonable attorney fees, incurred by the Township in making such repairs or taking such action.

**Section 602. Liability for Expenses.** Any Person violating any of the provisions of this Ordinance shall become liable to the Village, the Township and their authorized representatives for any expense, including reasonable attorney's fees, loss, or damage incurred by the Township or the Village by reason of such violation.

**Section 603. Remedies Are Cumulative.** The remedies provided by this Ordinance shall be deemed to be cumulative and not mutually exclusive with any other remedies available to the Township or the Village under the Water Use and Enforcement Ordinance.

## **ARTICLE VII MISCELLANEOUS**

**Section 701. Severability.** The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

**Section 702. Article and Section Headings.** The Article and Section headings used in this Ordinance are for convenience of reference only and shall not be taken into account in construing the meaning of any portion of this Ordinance.

**Section 703. Reservation of Right to Amend.** Subject to the provisions of the Water Supply Agreement, the Township specifically reserves the right to amend this Ordinance in whole or in part, at one or more times hereafter, or to repeal the same.

**ARTICLE VIII  
PUBLICATION AND EFFECTIVE DATE**

**Section 801. Publication.** A true copy or a summary of this Ordinance shall be published in *The Journal Era* within thirty (30) days after the adoption of the Ordinance by the Township and the same shall be recorded in the Ordinance Book of the Township with such recording authenticated by the signatures of the Township Clerk and Supervisor.

**Section 802. Effective Date.** This Ordinance shall be in full force and effect on the thirtieth (30th) day after the date of publication of this Ordinance as provided by law.

Passed and adopted by the Township Board of the Charter Township of Oronoko, County of Berrien, Michigan on January 13, 2015, and approved by me on January 13, 2015.

\_\_\_\_\_  
Michael Hildebrand, Supervisor  
Charter Township of Oronoko

Attest:

\_\_\_\_\_  
Suzanne Renton, Township Clerk

## CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Township Board of the Charter Township of Oronoko, County of Berrien, State of Michigan, at a regular meeting held on January 13, 2015, and that public notice of said meeting was given pursuant to Act No. 267, Public Acts of Michigan, 1976, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

I further certify that said Ordinance has been recorded in the Ordinance Book of the Township and such recording has been authenticated by the signatures of the Supervisor and the Township Clerk.

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Suzanne Renton, Township Clerk

**CERTIFICATE OF PUBLICATION**

I, Suzanne Renton, Township Clerk of the Charter Township of Oronoko, County of Berrien, Michigan, hereby certify pursuant to MCLA 42.22 that the Oronoko Charter Township Water System Connection Ordinance (Township Ordinance No. 79) or a summary thereof was published in *The Journal Era* on January 21, 2015.

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
Suzanne Renton  
Oronoko Township Clerk