

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 13th 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. 81

AN ORDINANCE TO REGULATE PRIVATE SANITARY SEWAGE DISPOSAL, TO PROVIDE FOR THE CONNECTION OF BUILDING SEWERS TO THE TOWNSHIP SEWER 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 Palmer, Clerk Renton, Trustee Kerlikowske, Trustee Albers, Treasurer Schalk, Trustee Damron, Supervisor Hildebrand.

NAYS: Members: None.

ABSTAIN: Members: None.

The Township Clerk declared the Ordinance adopted.

The following is Ordinance No. 81 as adopted:

ADOPTED: JANUARY 13, 2015

EFFECTIVE: FEBRUARY 20, 2015

THE CHARTER TOWNSHIP OF ORONOKO ORDAINS:

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**ARTICLE I
SHORT TITLE**

Section 101. Short Title. This Ordinance shall be known as the “Oronoko Charter Township Sewer 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 Sewer Collection and Treatment 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 Sewer Collection and Treatment Ordinance. In the event of a conflict between the provisions of this Ordinance and the provisions of the Sewer Collection and Treatment 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 Sewer Collection and Treatment 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 Sewer Collection and Treatment Ordinance shall control.

Section 104. Objectives Re: Wastewater Service Agreement. This Ordinance is adopted in accordance with and in furtherance of the Township’s obligations set forth in the Wastewater Service 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. This determination is based, in part, upon the express determination of the State Legislature set forth in Section 12752 of the Michigan Public Health Code, which reads as follows:

“Sec. 12752. Public sanitary sewer systems are essential to the health, safety, and welfare of the people of the state. Septic tank disposal systems are subject to failure due to soil conditions or other reasons. Failure or potential failure of septic tank disposal systems poses a threat to the public health, safety, and welfare; presents a potential for ill health, transmission of disease, mortality, and economic blight; and constitutes a threat to the quality of surface and subsurface waters of this state. The connection to available public sanitary sewer systems at the earliest, reasonable date is a matter for the protection of the public health, safety, and welfare and necessary in the public interest which is declared as a matter of legislative determination.”

Section 106. Finding Re: Measure of Sewer Use by 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 discharge to and the

use of the Township System. However, the Township recognizes that the cost for the implementation, use and maintenance of this technology is often high especially for residential users of the Township System. To the extent practicable and consistent with the Wastewater Service Agreement, the Township will seek to use and require metering of domestic water supply for measuring discharges to and use of the Township System. For users not connected to a public water supply system, the Township finds that the use of a flat-rate charge based upon residential equivalent units in accordance with the Wastewater Service Agreement is a valid, cost effective, and practical method for measuring use of the Township System, particularly with respect to detached single family residential users.

ARTICLE II DEFINITIONS

Section 201. Definitions. The terms used in this Ordinance shall have the meanings as defined in the Sewer Collection and Treatment Ordinance and, in addition, the following meanings:

(1) **Available Public Sanitary Sewer System.** A public sewer 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 in Which Sanitary Sewage Originates on the parcel of property; provided, however, that with respect to a parcel of property located in the Special Assessment District, an Available Public Sewer System shall be a public sewer 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 Sewer System from the Structure in Which Sanitary Sewage Originates located on the parcel of property.

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

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

(4) **MDEQ.** Michigan Department of Environmental Quality or its successor.

(5) **Nuisance.** Without limitation, any condition where Sanitary Sewage or the effluent from any Sanitary Sewage Disposal Facilities is exposed to the surface of the ground, or is permitted to drain on or to the surface of the ground or into any Natural Outlet.

(6) **Sanitary Sewage Disposal Facilities.** Any on-site private Septic Tank, Subsurface Disposal System or other device used in the disposal of Sanitary Sewage and which is not part of the Township System.

(7) **Septic Tank.** A watertight tank or receptacle used to receive Sanitary Sewage and intended to provide for the separation of substantial portions of the Suspended Solids in such Sanitary Sewage and the partial decomposition by bacterial action on solids so separated.

(8) **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

tee/wye, valve, check valve, connector pipes, the sewer lead or lateral and appurtenances which connect to but do not include the Building Sewer.

(9) **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.

(10) **Sewer Collection and Treatment Ordinance.** Township Ordinance No. 74 known as the Oronoko Charter Township Sanitary Sewer Collection and Treatment Ordinance, as amended from time to time.

(11) **Shall.** Is mandatory.

(12) **Special Assessment District.** Township Special Assessment District No. 2014-1 determined by the Township Board for the provision of sanitary sewer service by the Township System.

(13) **Structure in Which Sanitary Sewage Originates.** A building in which toilet, kitchen, laundry, bathing, or other facilities which generate Sanitary Sewage are used or are available for use for household, commercial, industrial, or other purposes.

(14) **Subsurface Disposal System.** An arrangement for distribution of Septic Tank effluent beneath the ground surface (also referred to as a “drainfield system,” “tile field,” “dry well” or a “soil absorption system”).

(15) **Township System or System.** The Township System, as defined in the Wastewater Service Agreement.

(16) **U.S. EPA.** The United States Environmental Protection Agency which assures the protection of the environment by abating or controlling pollution on a systematic basis.

(17) **Wastewater Service Agreement.** The Wastewater Service Agreement, dated September 29, 2009, as amended on December 1, 2014, and as further amended from time to time, by and between the Township and the Village.

ARTICLE III USE OF TOWNSHIP SYSTEM REQUIRED

Section 301. Discharge of Sanitary Sewage. No Person shall discharge to any Natural Outlet, Storm Sewer or Storm Drain within the Service District any Sanitary Sewage or other polluted waters except where suitable treatment has been provided in accordance with standards established by the MDEQ, U.S. EPA and the Sewer Collection and Treatment Ordinance.

Section 302. Sanitary Sewage Disposal Facilities. Except as provided in this Ordinance, no Person shall construct or maintain in the Service District any Sanitary Sewage Disposal Facilities.

Section 303. Mandatory Connection of New Construction in Special Assessment District. The owner of a Structure in Which Sanitary Sewage Originates 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 Sewer Collection and Treatment Ordinance.

Section 304. Connection of Existing Improved Properties in Special Assessment District. The owner of a Structure in Which Sanitary Sewage Originates which was located within the Special Assessment District prior to June 21, 2014 and served by private on-site Sanitary Sewage Disposal Facilities, shall not be required to connect the Structure in Which Sanitary Sewage Originates to the Township System until such time as:

(1) the existing on-site private Sanitary Sewage Disposal Facilities fail (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 304 may voluntarily connect a Structure in Which Sanitary Sewage Originates to the Township System at any time in compliance with the terms of this Ordinance and the Sewer Collection and Treatment Ordinance.

Section 305. 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 in Which Sanitary Sewage Originates shall connect the Structure in Which Sanitary Sewage Originates to the Township System in accordance with the provisions of this Ordinance and the Sewer Collection and Treatment Ordinance.

Section 306. Connection of Existing Improved Properties in Service District Outside of the Special Assessment District. The owner of a Structure in Which Sanitary Sewage Originates which is located in the Service District, but outside the Special Assessment District, and which is currently served by private Sanitary Sewage Disposal Facilities, shall not be required to connect the Structure in Which Sanitary Sewage Originates to the Township System until such time as:

(1) the existing private Sanitary Sewage Disposal Facilities fail (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 306 may voluntarily connect a Structure in Which Sanitary Sewage Originates to the Township System at any time in compliance with the terms of this Ordinance and the Sewer Collection and Treatment Ordinance.

Section 307. 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 in Which Sanitary Sewage Originates. Newly constructed Structures in Which Sanitary Sewage Originates 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 in Which Sanitary Sewage Originates to the Township System when required shall be liable for a civil penalty, equal to the sewer rates and demand charges that would have been payable in accordance with the Wastewater Service Agreement with respect to the Structure in Which Sanitary Sewage Originates had the required connection been completed when required, until the required connection is completed, in addition to the penalties provided in this Ordinance.

Section 308. 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 307, 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 Sanitary Sewer 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 the manner provided by law 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 Sanitary Sewer System main or Service Connection.

Section 309. Connection Permit Required for Connection. No Person shall connect any Building Sewer to the Township System without first applying to and receiving a permit from the Village in accordance with the Sewer Collection and Treatment Ordinance and paying, or providing for payment of, the applicable fees and charges, which, in accordance with the Wastewater Service Agreement, shall be established, billed and collected by the Township and the Village in accordance with the Sewer Collection and Treatment Ordinance and the Wastewater Service Agreement.

Section 310. Disconnection. Once a Structure in Which Sanitary Sewage Originates is connected to the Township System, the Building Sewer for such 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 in Which Sanitary Sewage Originates.

ARTICLE IV PRIVATE SANITARY SEWAGE DISPOSAL

Section 401. Private Sanitary Sewage Disposal Facilities. If the Township System is not available to a parcel of land located in the Service District under the provisions of Article III, the Building Sewer shall be connected to private Sanitary Sewage Disposal Facilities constructed in compliance with requirements of the Health Department and the MDEQ.

Section 402. Operation and Maintenance. The owner shall operate and maintain the private Sanitary Sewage Disposal Facilities in a sanitary manner at all times, at no expense to the Township or the Township.

Section 403. 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.

Section 404. Connection to Township System; Abandonment. At such time as the Township System becomes available to a parcel served by private Sanitary Sewage Disposal Facilities, as provided in Article III, the Building Sewer shall be connected to the Township System in compliance with this Ordinance and the private Sanitary Sewage Disposal Facilities shall be abandoned for sanitary use in the manner required by the Health Department.

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 Sewer Collection and Treatment 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 Wastewater Service 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.

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 Sewer System Connection Ordinance (Township Ordinance No. 81) or a summary thereof was published in *The Journal Era* on January 21, 2015.

Dated: _____, 2015

Suzanne Renton
Oronoko Township Clerk