

STATE OF MICHIGAN
COUNTY OF BERRIEN

ORONOKO CHARTER TOWNSHIP LAND DIVISION
ORDINANCE NO. 90

An ordinance to amend the existing Oronoko Charter Township Land Division Ordinance, present Ordinance No. 57 by repealing said Ordinance No. 57 and replacing with this ordinance which is intended to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended and Act 246 of 1945, as amended, being the Township General Ordinance statute; to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this ordinance.

CHARTER TOWNSHIP OF ORONOKO
BERRIEN COUNTY. MICHIGAN ORDAINS:

SECTION I
TITLE

This ordinance shall be known and cited as the Oronoko Charter Township Land Division Ordinance, Ordinance No. 90.

SECTION II
PURPOSE

The purpose of this ordinance is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with the applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the Township by establishing reasonable standards for prior review and approval of land divisions within the Township.

SECTION III
DEFINITIONS

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

- A. "Applicant" - a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.
- B. "Divide" or "Division" - the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act.

"Divide" and "Division" does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the State Land Division Act, or the requirements of other applicable local ordinances.

- C. "Exempt split" or "exempt division" - the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent.
- D. "Forty acres or the equivalent" - either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
- E. "Non-Developmental Site"-Sites that cannot be built upon per Oronoko Township Zoning Ordinance Article III, Section 3.03. [Access to Public or Private Streets]
- F. "Governing body" - the Oronoko Charter Township Board.

SECTION IV **PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS**

Land in the Township shall not be divided without the prior review and approval of the Township assessor, or other official designated by the governing body, in accordance with this ordinance and the State Land Division Act; provided that the following shall be exempted from this requirement:

- A. A parcel proposed for subdivision through a recorded plat pursuant to the State Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act.
- C. An exempt split as defined in this Ordinance, or other partitioning or splitting that results in parcels of 20 acres or more if each is not accessible and the parcel was in 'existence on March 31, 1997 or resulted from exempt splitting under the State Act.

SECTION V **APPLICATION FOR LAND DIVISION APPROVAL**

An applicant shall file all of the following with the Township assessor or other official designated by the governing body for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

- A. A completed application form on such form as may be approved by the Township Board.
- B. Proof of fee ownership of land proposed to be divided.

- C. A tentative parcel map drawn to scale including an accurate legal description of each proposed division, and showing the boundary lines, approximate dimensions, and the accessibility of each division for automobile traffic and public utilities.
- D. Proof that all standards of the State Land Division Act and this Ordinance have been met.
- E. If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- F. A fee shall be set from time to time by the Oronoko Charter Township Board by resolution to cover costs of review of the application and administration of this Ordinance and the State Land Division Act.

SECTION VI
PROCEDURE FOR REVIEW OF APPLICATIONS FOR
LAND DIVISION APPROVAL

- A. The Township shall approve or disapprove the land division applied for within 45 days after receipt of a complete application conforming to this Ordinance's requirements and the State Land Division Act, and shall promptly notify the applicant of the decision, and if denied, the reasons for denial.
- B. Any person or entity aggrieved by the decision of the assessor or designee may, within 30 days of said decision, appeal the decision to the Zoning Board of Appeals or such other body or person designated by the governing body which shall consider and resolve such appeal by a majority vote of said Board or by the appellate designee at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.
- C. The assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.
- D. Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.
- E. The Township and its officers and employees shall not be liable for approving a land division if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to this effect.
- F. All Land Division approvals expire on December 31 of the year of application. If the application expires, the applicant will forfeit all monies paid to the Township for the review of the Land Division Application. If, after this date, the applicant wishes to continue with the proposed division, a new application will need to be completed and approved.

SECTION VII
STANDARDS FOR APPROVAL OF LAND DIVISIONS

A proposed land division reviewable by the Township shall be approved if the following criteria are met:

- A. All parcels created by the proposed division(s) have a minimum width of 90 feet as measured at the (road frontage; required front setback line, whichever is appropriate) unless otherwise provided for in an applicable zoning ordinance.
- B. All such parcels shall contain a minimum area of 12,000 square feet unless otherwise provided for in an applicable zoning ordinance.
- C. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-development sites. The depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement. The depth to width ratio requirements do not apply to a parcel larger than 10 acres and do not apply to the parent parcel or parent tract retained by the proprietor.
- D. The proposed land division(s) comply with all requirements of this Ordinance and the State Land Division Act.
- E. All parcels created and remaining have existing adequate accessibility, or an area available therefore, for public utilities and emergency and other vehicles documented by an accurate and adequate legal description as provided by Act 288 560.109.
- F. Any parcel created must not land-lock a cemetery.
- G. All proposed parcels must contain an adequate and accurate legal description.
- H. The proposed division must not exceed the allowable number of divisions as provided by Act 288 560.108.

SECTION VIII
CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION
APPROVAL REQUIREMENT

Any division of land in violation of any provision of this Ordinance shall not be recognized as a land division on the Township tax roll and no construction thereon which requires the prior issuance of a construction or building permit shall be allowed. The Township shall further have the authority to initiate injunctive or other relief to prevent any violation or continuance of any violation of this Ordinance. Any division of land in violation of this Ordinance shall further not be eligible for any zoning or building permit for any construction or improvement thereto. In addition, any person, firm or corporation who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine of not more than \$500 along with costs which may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction. In no case however, shall costs of less than \$9.00 not more than \$500.00 be

ordered. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan Law. Pursuant to Section 267 of the Land Division Act (MCL 560.267), an unlawful division or split shall also be voidable at the option of the purchaser and shall subject the seller to the forfeiture of all consideration received or pledged therefore, together with any damages sustained by the purchaser, recoverable in an action at law.

SECTION IX
SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this Ordinance other than said part or portion thereof.

SECTION X
REPEAL

Existing Ordinance 57 is repealed as of the effective date of this Ordinance. 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 or prosecutions pending or rights to prosecute existing violations either of which may exist as of the effective date hereof.

SECTION XI
EFFECTIVE DATE

This Ordinance is ordered to take effect immediately following publication of adoption in the Journal Era, a newspaper having general circulation in the Township, under the provisions of 2006 Public Act 110, except as may be extended under the provisions of such Act.

MOTION TO ADOPT ORDINANCE:

Proposed by Board member: Trustee Robert Palmer

Supported by Board member: Trustee Richard Albers

Roll Call:

Ayes: Trustee Richard Albers, Trustee Robert Palmer, Treasurer Lawrence Schalk,
Trustee Don Damron, Clerk Suzanne Renton, Supervisor Mike Hildebrand.

Nays: None.

Abstain: None.

Absent: Trustee Marc Kerlikowske

ORDINANCE DECLARED ENACTED:

The foregoing Ordinance was enacted by the Oronoko Charter Township Board of Trustees, Berrien County, State of Michigan on the 10th day of January 2017 and approved by its Supervisor and Clerk on said date.

ORONOKO CHARTER TOWNSHIP

By: _____
Michael Hildebrand, Supervisor

and

By: _____
Suzanne Renton, Clerk

Public Hearing: December 6, 2016
First Reading: December 13, 2016
Second Reading: January 10, 2017
Publication of Notice: January 18, 2017