

Charter Township of Orion

Ordinance No. 60

Land Division & Private Roads

Adopted May 18, 1981

AMENDED

September 20, 1982 (60-1)

July 17, 1989 (60-2)

August 21, 1989 (60-3)

August 15, 1994 (60-4)

September 2, 1997 (60-5)

April 21, 2003 (60-6)

March 7, 2005 (60-7)

AN ORDINANCE TO REGULATE THE DIVISION OF LAND AND TO ESTABLISH CERTAIN STANDARDS FOR THE CONSTRUCTION OF PRIVATE ROADS.**Section 1- Purpose, Intent and Findings** *(added 03.07.05)*

- A. It is the purpose of this Ordinance to carry out the provisions of the Land Division Act, Act 288 of the Public Acts of 1967, as amended, by providing regulations governing the division of land, and by providing regulations governing the use of parcels and tracts created by land division.
- B. It is the further purpose of this Ordinance to provide regulations designed to minimize confusion among purchasers and potential purchasers of parcels and tracts of land created by the process of division, and to promote the orderly development of the Township.
- C. It is the intent of this Ordinance to recognize that while the Township is required to comply with the Land Division Act, such compliance may result in the following:
 - 1. Creation of parcels and tracts of record that may not be used as building sites or independent sites for residential use and/or other uses.
 - 2. Creation of parcels and tracts which do not have adequate vehicular access as the Township has, as a matter of policy, consistently required in order to ensure access by police, fire and other emergency vehicles.
 - 3. Providing incentives for the creation of new parcels intended to be building sites having driveways entering directly upon heavily traveled thoroughfares, rather than promoting new building sites which do not create new driveways onto thoroughfares, as implicitly found to be preferable under MCL 560.108(3)(a).
 - 4. Requiring the Township to review and approve divisions based upon applications which do not require more than approximate dimensions of parcels, and thus precludes meaningful determinations on the compliance of proposed parcels with applicable law and ordinance.
- D. Finally, it is found that the Land Division Act does not permit the following actions on the part of the Township:
 - 1. To specify conditions applicable to a division of land which may be needed in order to protect the long and short term interest of the public health, safety and general welfare, including, without limitation, conditions designed for the: preservation of important natural resources; the avoidance of drainage, erosion, and other problems resulting therefrom; assurance that the establishment of divisions does not create other dangers or health and safety hazards due to steeply sloping topography; avoidance of parcels without adequate water and sanitary sewage disposal, and the like; assurance that there will be adequate distances between improvements on parcels and adjoining rights-of-way, adjoining buildings and other adjoining uses; and, the assurance that consumers in the market place are not financially harmed in connection with the purchase of parcels which may not be usable.
 - 2. Requiring the preservation of open space and farmland, which the Land Division Act appears to promote; however, such appearance is illusory in actual practice, thus creating confusion and unfounded expectations.
- E. Thus, it is found that there are provisions and authorizations in the Land Division Act with regard to the creation of divisions that may result in confusion and otherwise permit actions or results the Township Board believes should be minimized in the interest of the public health, safety and general welfare.

Section 2 - Definitions *(amended 09.02.97, 04.21.03, 03.07.05)*

- A. **Accessible** - Accessible shall have the definition as provided in MCL 560.102. *(added 03.07.05)*
- B. **Alley** - A public or private right-of-way which provides secondary access to a lot, block or parcel of land. *(added 04.21.03)*
- C. **Applicant** - A natural person, firm, association, partnership, corporation, or combination of any of them which may hold any ownership interest in land, whether recorded or not, who is seeking approval for a division, partition, or combination pursuant to this Ordinance.

- D. **Building Site** - A parcel with existing structures proposed for use, and/or a parcel on which the improvement of new structures is proposed. *(added 03.07.05)*
- E. **Character** - The combination of traits which, when considered together, distinguish specified land and/or development from other specified land and/or development. In assessing character, the following may be considered, along with any other expressly identified factors *(added 03.07.05)*:
1. Current zoning and land usage
 2. Size of parcel(s)
 3. Percentage of a lot(s) covered by structures and other impervious improvements
 4. Type of structure(s)
 5. Type, extent, location and use of natural landscape
 6. Topography and soil
 7. Traffic flow and the relationship of traffic to pedestrian and vehicular thoroughfares
 8. Density of land uses
 9. Intensity of uses
 10. Type and location of utilities and other infrastructure improvements
 11. Police/fire protection
 12. Natural areas
 13. Natural features
- F. **Combination** - Attaching two or more parcels of land to form a new parcel. *(amended 09.02.97)*
- G. **Development Site** *(amended 09.02.97)* - Any parcel or lot on which exists or which is intended for building development other than the following:
1. Agricultural use involving the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.
 2. Forestry use involving the planting, management, or harvesting of timber.
- H. **Divide or Partition** - The dividing, 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 (1) year, or of building development that results in one (1) or more parcels of less than forty (40) acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of PA 591 of 1996, as amended. Division does not include a property transfer between two (2) or more adjacent parcels, if the property taken from one (1) 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 this act or the requirements of an applicable local ordinance. *(amended 09.02.97, 03.07.05)*
- I. **Driveway** - A strip of land, that is not dedicated to the public, used to provide vehicular access to a single zoning lot. *(amended 09.02.97)*

- J. **Easement** - A specific area of land over which a liberty, privilege, or advantage is granted by the owner to the public, a corporation, or some particular person or part of the public for specific uses and purposes, and which shall be designated a 'public' or 'private' easement, depending on the nature of the use. *(added 04.21.03)*
- K. **Exempt Split** - 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 (1) or more parcels of less than forty (40) acres or the equivalent. For a property transfer between two (2) or more adjacent parcels, if the property taken from one (1) parcel is added to an adjacent parcel, any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this act or the requirements of an applicable local ordinance. *(amended 09.02.97)*
- L. **Forty Acres or the Equivalent** - Forty (40) acres, a quarter-quarter section containing not less than thirty (30) acres, or a government lot containing not less than thirty (30) acres. *(amended 09.02.97)*
- M. **Land** - All land areas occupied by real property, and the surface area known as real estate. *(amended 09.02.97)*
- N. **Lot** - A parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal uses and uses accessory thereto, together with such yards and open spaces as are required under the Township Zoning Ordinance. A lot may or may not be specifically designated as such on public records. *(amended 09.02.97)*
- O. **Lot Area** - The total horizontal area within the lot lines of the lot. For lots adjacent to private or public roads, the lot area shall not include any portion of the private or public road or road right-of-way. *(amended 09.02.97, 04.21.03)*
- P. **Outlot** - When included within the boundary of a recorded plat, means a lot set aside for purpose other than a development site, park, or other land dedicated to public use or reserved to private use. *(amended 09.02.97)*
- Q. **Parcel** - A continuous area or acreage of land. *(amended 09.02.97)*
- R. **Parent Parcel or Parent Tract** - A parcel or tract, lawfully in existence on April 1, 1997. *(amended 09.02.97)*
- S. **Proprietor** - A natural person, firm, association, partnership, corporation, or combination of any of them which may hold any ownership interest in land, whether recorded or not. *(amended 09.02.97)*
- T. **Plat** - A map or chart approved for the division of land pursuant to the laws of the State of Michigan.
- U. **Right-of-Way** - Land used or to be used, either public or private, to facilitate pedestrian and/or vehicular movement. *(added 04.21.03)*
- V. **Road** - A public or private right-of-way which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, street, and any other thoroughfare, except an alley or driveway, to a building. A road also includes the land between the road lines, whether improved or unimproved. *(added 04.21.03)*
- W. **Road, Private** - A road constructed within a dedicated right-of-way, in accordance with this Ordinance, which provides vehicular access to one (1) or more parcels, where said right-of-way and road have not been dedicated to the Road Commission for Oakland County, or other public jurisdiction. *(amended 09.02.97, 04.21.03)*
- X. **Road, Public** - A road accepted, by dedication or otherwise, by the Road Commission for Oakland County or the Michigan Department of Transportation. *(amended 04.21.03)*
- Y. **Township Board** - The Orion Township Board of Trustees. *(added 03.07.05)*
- Z. **Township Official** - The Township Assessor or his designee. *(added 03.07.05)*
- AA. **Tract** - Two (2) or more parcels that share a common property line and are under the same ownership. *(amended 09.02.97)*

Section 3 - Division and Partitioning of Land *(amended 09.02.97, 03.07.05)*

- A. Compliance with Land Division Act. It shall be unlawful for any person to divide, partition, or combine any lot, outlot, or other parcel of land in a recorded plat, or divide, partition or combine any unplatted parcel or tract of land, except in accordance with the provisions of this Ordinance, and the State Land Division Act, provided the following shall be exempted from this requirement:
1. A parcel proposed for subdivision through a recorded plat, pursuant to the Orion Township Subdivision Regulations Ordinance (No. 27) and the State Land Division Act, as amended.
 2. A lot in a recorded plat proposed to be divided in accordance with Orion Township Subdivision Regulations Ordinance (No. 27) and the State Land Division Act, as amended.
 3. An exempt split as defined in this Ordinance.
- B. Authorized. All divisions of land, whether platted or unplatted, shall comply with the following *(amended 03.07.05)*:
1. Approval. An approval pursuant to this Ordinance shall be obtained.
 2. Conformance with Zoning Ordinance and Subdivision Regulations. Any lot, outlot or other parcel of land shall be in conformance with the applicable width, area, and design layout requirements of the Orion Township Subdivision Regulations, Ordinance No. 27, and the Orion Township Zoning Ordinance, Ordinance No. 78, as amended. Length-to-width ratio for proposed land divisions pursuant to this Ordinance shall not exceed a ratio of 4-to-1. Land within dedicated public or private road rights-of-way shall not be included in the calculation of lot area, width, depth, building setbacks, or other applicable requirements. The depth of a parcel created by a land division shall be measured 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. *(amended 04.21.03, 03.07.05)*
 3. Lots Without Utilities. If public sewer and water are not available, the resulting lot size and width of any residential lot shall not be less than the minimum requirements of the Orion Township Zoning Ordinance. Compliance with such minimum requirements may or may not adhere to the requirements of the Oakland County Health Department.
 4. Access. *(amended 04.21.03, 03.07.05)* Every resulting parcel shall abut a public road, or right-of-way; or if there is not a public road, there shall be a private road approved, pursuant to Section 6, prior to any division, partitioning, or combination. Each parcel shall be accessible by one (1) or both of the following methods:
 - a. An area where a driveway can provide vehicular access to an existing road and meets all applicable location standards of the Michigan Department of Transportation, Road Commission for Oakland County, and the Charter Township of Orion, or has an area where a driveway can provide vehicular access to any existing road and meet all such applicable location standards.
 - b. An existing public or private road or road right-of-way providing vehicular access to an existing road and meeting all applicable location standards of the Michigan Department of Transportation, Road Commission for Oakland County, and the Charter Township of Orion, or can be served by an existing driveway that will provide vehicular access to an existing road and that will meet all such applicable location standards.
 5. Each resulting parcel that is a development site shall have adequate easements for public utilities from the parcel to existing public utility facilities. An easement shall be deemed to be adequate if it is in a location reasonably adapted for lawful underground installation, and the instrument creating the easement is recorded as a condition to finalization of the division. *(amended 03.07.05)*
 6. Subject to Paragraph 7 below, 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:
 - a. For the first ten (10) acres or fraction thereof in the parent parcel or parent tract, four (4) parcels.
 - b. For each whole ten (10) acres in excess of the first ten (10) acres in the parent parcel or parent tract, one (1) additional parcel, for up to a maximum of eleven (11) additional parcels.

- c. For each whole forty (40) acres in excess of the first one hundred twenty (120) acres in the parent parcel or parent tract, one (1) additional parcel.
7. For a parent parcel or parent tract of not less than twenty (20) acres, the division may result in a total of two (2) parcels in addition to those permitted by Paragraph 6, if one or both of the following apply:
 - a. Because of the establishment of one (1) or more new roads, no new driveway accesses to an existing public road for any of the resulting parcels, under Paragraph 6 or this paragraph, are created or required.
 - b. One of the resulting parcels under Paragraph 6 above and this subsection comprises not less than sixty percent (60%) of the area of the parent parcel or parent tract.
8. A parcel of forty (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 Paragraphs 6 and 7 above.
9. 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, if all of the following requirements are met:
 - a. Not less than ten (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 (2) parcels for the first ten (10) acres or fraction thereof in the parcel or tract, plus one (1) additional parcel for each whole ten (10) acres in excess of the first ten (10) acres in the parcel or tract.
 - ii. Seven (7) parcels, or ten (10) parcels if one of the resulting parcels under this subsection comprises not less than sixty percent (60%) of the area of the parcel or tract being partitioned or split.

Section 4 - Submittal Requirements *(amended 09.02.97, 03.07.05)*

- A. Application. An applicant for a division or partition regulated by this Ordinance shall submit to the Township Assessing Department an application on the forms provided by said department, setting forth the information required by this Ordinance. A land division application that is found to be incomplete may be returned to the applicant without review or further action.
- B. Plan Submittal. *(amended 03.07.05)* The applicant may, at their discretion, submit information in two stages. A two-stage process would require the submittal of a plot plan for tentative approval. The plot plan would include only the most basic information necessary for the Township Official to make a preliminary determination as to whether or not a proposed land division may be acceptable. A plot plan need not be prepared by a licensed surveyor or registered engineer.
 1. Plot Plan for Tentative Approval. The applicant shall submit a plot plan to include, at a minimum, the following information *(amended 03.07.05)*:
 - a. The subject property, including approximate dimensions of all property lines.
 - b. The location of all existing structures with dimensions to all property lines.
 - c. Proposed means of access.
 - d. A signed statement which reads as follows: "This plan is for the purpose of gaining a preliminary determination and shall not constitute the submittal of a final plan for approval. As such, the Township Official is not required to grant final approval on this proposal within forty-five (45) days of submittal." However, tentative approval or disapproval of the plot plan will be given within forty-five (45) days of submission.
 2. Complete Application for Final Plot Plan Approval. In order to receive final plot plan approval, the applicant shall submit a complete application that includes a plot plan drawn to scale by a registered engineer or licensed surveyor

and meeting all requirements of the Certified Survey Act, Act 132 of PA 1970, MCLA 54.211, as amended. Such plans shall include at least the following (*amended 03.07.05*):

- a. The subject property, including dimensions of all property lines.
- b. The location of all existing structures, with dimensions to all property lines.
- c. Adequate and accurate legal descriptions for all means of access, including all existing or proposed private roads.
- d. The location of existing and proposed utilities.
- e. The area of existing and proposed parcels.
- f. An adequate and accurate legal description of each resulting parcel that will be created by the division. A legal description shall be deemed adequate if it is sufficient for all decision-making required under this Ordinance.
- g. Specific information and detail needed to identify which parcels, if any, will retain the rights for future splits in order to ascertain whether the requirements of the Land Division Act (MCL 560.108 and 109) and this Ordinance are met.

A decision on the application shall be made by the Township Official, approving or disapproving the proposed division, within forty-five (45) days after the filing of the Final Plans for the proposed division with the Township.

There shall also be presented, for approval, a written instrument fully executed in a form legally sufficient for recording with the Oakland County Register of Deeds. Such instrument shall contain a legal description of all of the lots, outlots and/or parts that will result from the division, partition, or combination of the parcel(s) described therein.

C. Additional Data. In addition to the required plot plans and application forms, the following data shall be submitted (*amended 03.07.05*):

1. A copy of a Warranty Deed showing the applicant, or co-applicant, as the owner of the property must be provided with a Final Plan. If ownership interest was obtained after March 31, 1997, the Warranty Deed must specify land division rights for all parcels of unplatted land.
2. If the property is the subject of a land contract, a title insurance policy must be included with the application and the signature of the person holding the land contract must be provided with a Final Plot Plan.
3. The Township departments, through the Assessing Department, or the Township Board may also require the applicant to furnish such additional data as will enable the Township to make a determination.

D. Fees. Fees to be charged pursuant to this Ordinance shall be set, or from time to time amended, by a Resolution of the Township Board.

Section 5 - Approval Procedure (*amended 08.21.89, 09.02.97, 03.07.05*)

No building or occupancy permits shall be issued by the Building Department for the use of any parcel of land which has resulted from a division, partition, or combination without the approvals required by this Ordinance, if the division, partition, or combination is accomplished after the effective date of this Ordinance.

A. Review. The Assessing Department shall refer the application to the various Township departments and consultants for review and recommendation for approval. (*amended 03.07.05*)

B. Findings for Approval. The Township Official shall find in each case, before giving its approval, that (*amended 03.07.05*):

1. The division, partition, or combination will result in lots or parcels of land consistent with the character of the area in which the property is located, and the Orion Township Zoning Ordinance.

2. There has been compliance with the requirements of this Ordinance, and the other applicable Township Ordinance Code Provisions, Standards, Rules and Regulations.
 3. The provisions for any private road shall be in compliance with Section 6 of this Ordinance, and that the proposed division, partition, or combination will not be injurious to the public health, safety and welfare, and will be generally compatible with the surrounding land use and development.
- C. Decision. (*amended 03.07.05*) The Township Official shall review and act upon each request for division, partition, or combination of land submitted, in accordance with the provisions of this Ordinance. They may:

1. Grant tentative approval, with final approval conditioned upon the petitioner fulfilling certain requirements.
2. Grant final approval if the request meets all requirements of this Ordinance.
3. Deny approval with a statement of all the reasons for disapproval.

Approval of a division, partition, or combination is not a determination that the resulting parcels comply with other ordinances or regulations. Accordingly, with a decision approving an application, the Township shall include:

- a. To the extent ascertained, a statement of the aspects of the resulting parcels which do not conform with the applicable requirements for building and use of the parcels;
 - b. A statement that the Township's approval does not represent that the Township has determined that any of the resulting parcels meet the requirements of law, ordinances or regulations for building or other use purposes;
 - c. A statement that the Township shall require further application and approval as a condition to the issuance of a building permit and/or other required permits, certificates and the like;
 - d. A statement that the Township and its officers, employees and contractors shall not be liable if any of the resulting parcels may not be used for building purposes and other purposes;
 - e. A statement that the Township and its officers, employees and contractors shall not be liable if a building permit is not issued for the resulting parcels if needed facilities to serve the parcels, such as public or on-site water or sanitary sewage disposal facilities are not available and/or are not approved on the parcel.
 - f. A statement that all outstanding and due special assessment installments and delinquent taxes must be paid, and all other processing requirements of MCL 211.25a shall be met, as a condition to the issuance of new parcel identification numbers.
- D. Appeal to the Township Board. If a petitioner's request is denied, the petitioner may appeal that decision to the Township Board. An appeal shall be taken by filing an application within twenty-one (21) calendar days from the date of the notice of the decision. The Township Board's majority decision shall be final. (*amended 03.07.05*)
- E. Time Limit. Where an applicant chooses a two-stage process, if the final plot plan for land division is not submitted within six (6) months of the date that tentative approval is given, the application shall be deemed to be null and void. (*amended 03.07.05*)

Section 6 - Private Road Requirements

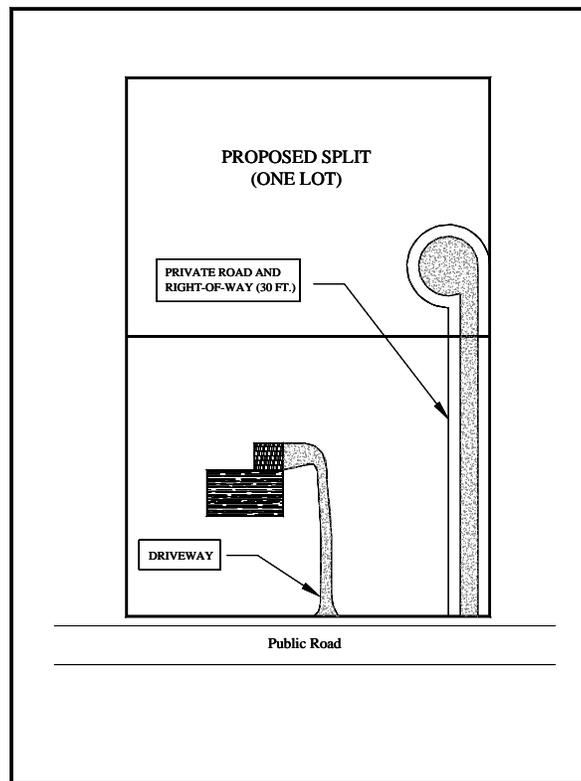
- A. No person shall create any divided parcel of land within the corporate limits of the Township without platting, unless such parcel or lot fronts on a public or private road, as enumerated herein, and improved to the standards of this section. (*amended 04.21.03*)
- B. A copy of the written easement agreement for such private road shall be given to each new owner of record of the divided parcel by the grantor thereof, and containing a legal description of any and all private roads abutting, traversing, and/or adjacent to the original parcel prior to the division. Said notice shall be attached to each transmitting instrument of interest in each successive division of land and said legal description of the private road shall be recorded with the Oakland County Register of Deeds at the time of land division. Such covenant shall contain reasonable methods for cost

sharing of future maintenance of said private road by the property owners benefiting from the use thereof. Such covenant shall contain a legal description of all lands to be served by said private road. A copy of the easement agreement shall be filed with the Township Clerk. *(amended 04.21.03)*

- C. *(amended 04.21.03)* All private roads not connecting to another road shall terminate in a cul-de-sac or T-turn-around, at the discretion of the Township Board. Private road rights-of-way shall not be less than sixty (60) feet wide, unless serving only one (1) lot, for which the right-of-way may be decreased to thirty (30) feet wide (see Figure 1). Adjoining property owners may dedicate thirty (30) feet each for joint private road construction. Cul-de-sac circles shall not be less than ninety-four (94) feet in diameter at the outside of the roadway surface with right-of-way diameter of at least one hundred (100) feet for residential developments, and one hundred sixty (160) feet for industrial developments. "T"-turn-around may be allowed for residential uses only. Each leg of the "T"-turn-around shall be at least thirty (30) feet in length.

The Township Board may, upon petition by a property owner or owners, approve a different standard for roadway width and length, if it decides that a different standard is more appropriate. It is the responsibility of the requesting property owner or owners to present the request and the supporting documentation for that request. The decision of the Township Board shall be final. *(This paragraph added per Township Board approval 07.17.89, and amended 09.02.97)*

Figure 1 *(added 04.21.03)*



- D. All final plans for land division, legal descriptions, and private road specifications shall be drawn and sealed by a Registered Engineer prior to presentation to the Township for consideration. The drawing shall indicate all existing structures, and existing and proposed elevations based on USGS datum at a contour of two (2) feet maximum within the boundaries of the parcel(s) and within one hundred (100) feet of the boundary of the land parcel(s). *(amended 09.02.97, 04.21.03)*
- E. Standards for Private Road development shall be as follows:
 - 1. All private road right-of-way widths shall be shown on the land division drawing as a perpetual easement for ingress, egress, and public utilities. *(amended 09.02.97, 04.21.03)*
 - 2. Plans shall show all existing and proposed grades, and the location of all existing and proposed drainage facilities.

Revised 03/09/05

3. Maximum gradient shall be eight percent (8%) on said private road. Vertical curves shall be used at all changes in grade. Sight distances on said curves shall be a minimum of one hundred fifty (150) feet.
4. Intersecting streets shall be between a 75-degree and 90-degree angle at said intersection. Minimum radius at intersections shall be thirty (30) feet, measured from the lot lines.
5. To ensure adequate site distance, a minimum of fifty (50) feet of flat gradient, measured from shoulder line to shoulder line in all directions at the intersection of any private road and any public road, shall be required. *(amended 04.21.03)*
6. *(amended 04.21.03)* No private road right-of-way shall be less than sixty (60) feet in width for its full length, except when serving only one (1) residential lot, as per Section 6(I), or as otherwise allowed in this Ordinance. The aggregate surface of the (residential) private road serving two or more lots shall conform to the specifications outlined below:
 - a. A minimum thirty (30) feet wide of aggregate surface, fifteen (15) feet wide each side of right-of-way centerline, shall be required for all private roads serving three (3) or more parcels. A minimum eighteen (18) feet wide aggregate surface shall be required for private roads serving not more than two (2) parcels, or for private road right-of-way reduced to thirty (30) feet in width to serve one (1) parcel.
 - b. Minimum eight (8) inch depth uniform #22A aggregate surface on granular sub-grade, or minimum eight (8) inch depth uniform #22A aggregate on six (6) inches of Michigan Department of Transportation (MDOT) Class III granular material on cohesive soils (see Paragraph 8 below).
 - c. Aggregate surface cross slope of 0.03 feet per foot, from centerline down to edge of surface at top of ditch banks on both sides of centerline.
 - d. Ditches shall be provided on both sides of the road, with minimum bottom depth of two (2) feet below center line elevation, minimum flat bottom width of two (2) feet, maximum side slopes of one (1) foot vertical to four (4) feet horizontal (1v. to 3h. adjacent to wetlands), and graded to drain with longitudinal slope between minimum cleansing velocity and maximum erosive velocity for the 10-year frequency design rain event.
 - e. Unless allowed otherwise in this Ordinance, private roads shall also conform to all requirements and standards of the September 24, 1998 Rules and Regulations for Plat Development as well as the January 2001 Permit Rules, Specifications and Guidelines, both by the Road Commission for Oakland County.
7. The surfacing material shall be compacted in the excavated area for the full length and width so that a uniform and generally smooth surface will result.
8. For private roads, serving two (2) or more lots, a granular soil sub-grade shall be installed. The minimum total depth of the compacted material shall be eight (8) inches, laid in two (2) separate four (4) inch courses. For cohesive soil sub-grade, minimum total depth of the compacted material shall be fourteen (14) inches, laid in three (3) separate courses, with the upper eight (8) inches (two (2) separate four (4) inch courses) over a six (6) inch bottom course of Michigan Department of Transportation (MDOT) Class III Granular Material. Each course, as well as the sub-grade, shall be compacted separately to ninety-eight (98) percent of its maximum unit weight per cubic foot, as defined by the Michigan Cone Test. Both the top and the bottom four (4) inch courses shall consist of a minimum of MDOT #22A aggregate. Any stones larger than 1 – 1 ½ inches shall be removed before placing the top four (4) inch course. All trees, stumps, brush, and the roots thereof shall be entirely removed from within the grading limits of all private roads and shall be disposed of outside the sixty (60) foot right-of-way area. *(amended 04.21.03)*
9. Drainage ditches shall be constructed as required and approved by the Township Engineer, in accordance with Ordinance No. 92, Stormwater Management and Erosion Control Ordinance, or as otherwise required. *(amended 04.21.03)*
10. The Township shall designate a Registered Professional Civil Engineer to inspect and approve the plans and construction of private road improvements prior to the issuance of any building permits along said road. The applicant/developer shall pay such fee as the Township Board shall establish to cover the cost of such inspections,

and any other Township expenses. The Township, through its Engineer, reserves the right to require construction to higher standards where warranted by special topographic or geographic conditions.

11. Cul-de-sacs or dead-end streets shall not exceed six hundred (600) feet in length, unless approved pursuant to Section 6(C). *(amended 09.02.97)*
 12. No private road right-of-way shall be less than sixty (60) feet in right-of-way width for its full length, unless serving only one (1) lot [see diagram in Section 6(C)], or as otherwise provided for in this Ordinance. *(added 04.21.03)*
 13. All private roads shall comply with all Township and County requirements for standardized road naming, addressing, and signage. *(added 04.21.03)*
- F. Construction permits must be obtained from the Road Commission for Oakland County before entrances are constructed into County rights-of-way. Private roads constructed under the provisions of this Ordinance shall not require the Township or the Road Commission for Oakland County to accept said area for maintenance at any future date.
- G. Road names shall not be permitted which might cause confusion with names of existing roads in or near the Township. Roads that will be continuations of existing roads shall be called by the same names of such existing roads. All names shall be approved by the Township Supervisor, with written recommendation from the Township Fire Chief. There shall be provided road signs at every road intersection which meets the specifications of the Road Commission for Oakland County and as approved by the Township Board. All costs of such signs shall be borne by the developer or property owner(s) of the lots to be served by the private road. *(amended 09.02.97, 04.21.03)*
- H. No building permits shall be issued by the Township Supervisor or his designee for any construction on any parcel of land fronting on any private road established after the effective date of this section, unless said private road meets the specifications contained in this Ordinance.
- I. This section shall apply where two (2) or more lots front or have direct access to a private road. If the number of lots is only one (1) [see diagram in Section 6(C)], the right-of-way for said road may be a minimum of thirty (30) feet in width. *(amended 04.21.03)*
- J. Where existing private roads are to be extended within the original property, but not to adjacent parcels, the existing road may be extended at its present right-of-way width, provided the entire private road is improved to the specifications of this Ordinance, except for width. *(amended 04.21.03)*

Section 7 - Violation and Penalties *(amended 08.15.94)*

A. Municipal Civil Infraction/Payment of Fine.

Any person, firm, or corporation violating a provision of this Ordinance, upon an admission or a finding of responsibility for such violation, shall be deemed responsible for a municipal civil infraction as that term is defined and used in MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended, and shall pay a civil fine as prescribed by ordinance or as determined by the district court, district court judge, or district court magistrate.

B. Costs.

A person, firm, or corporation ordered to pay a fine under Subsection A shall be ordered by the district court judge or magistrate to pay costs of not less than Nine Dollars (\$9) or more than Five Hundred Dollars (\$500), which costs may include all expenses, direct and indirect, to which the Township of Orion has been put in connection with the violation of the ordinance up to the entry of the court's judgment or order to pay fine and costs.

C. Additional Writs and Orders.

A person who admits or is found responsible for violation of this Ordinance shall comply with any order, writ, or judgment issued by the district court to enforce this Ordinance pursuant to Chapter 83 and Chapter 87 of the Revised Judicature Act, MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended.

D. Default on Payment of Fines and Costs.

A default in payment of a civil fine, costs, or damages or expenses ordered under Subsection A or B or an installment of the fine, costs, or damages or expenses as allowed by the court, may be collected by the Township of Orion by a means authorized for the enforcement of a judgment under Chapters 40 or 60 of the Revised Judicature Act, MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended.

E. Failure to Comply with Judgment or Order.

If a defendant fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court, the court may proceed under Subsection G.

F. Failure to Appear in Court.

A defendant who fails to answer a citation or notice to appear in court for a violation of this Ordinance is guilty of a misdemeanor, punishable by a fine of not more than Five Hundred Dollars (\$500) plus costs and/or imprisonment not to exceed ninety (90) days.

G. Civil Contempt.

1. If a defendant defaults in the payment of a civil fine, costs, or other damages or expenses, or installment as ordered by the district court, upon motion of the Township of Orion or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.
2. If a corporation or an association is ordered to pay a civil fine, costs, or damages or expenses, the individuals authorized to make disbursements shall pay the fine, costs, or damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this subsection.
3. Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.
4. If it appears that the default in the payment of a fine, costs, or damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment or revoking the fine, costs, or damages or expenses.
5. The term of imprisonment on civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall be specified in the order of commitment and shall not exceed one day for each Thirty Dollars (\$30) due. A person committed for nonpayment of a civil fine, costs, or damages or expenses shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of Thirty Dollars (\$30) per day.
6. A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall not be discharged from custody until one of the following occurs:
 - a. Defendant is credited with an amount due pursuant to Subsection G, 5.
 - b. The amount due is collected through execution of process or otherwise.
 - c. The amount due is satisfied pursuant to a combination of Subdivisions G, 6, a and b.
7. The civil contempt shall be purged upon discharge of the defendant pursuant to Subsection G, 6.

H. Lien Against Land, Building, or Structure.

If a defendant does not pay a civil fine or costs or installment ordered under Subsection A or B within thirty (30) days after the date upon which the payment is due for a violation of this Ordinance involving the use or occupation of land or a building or other structure, the Township of Orion may obtain a lien against the land, building, or structure involved in

the violation by recording a copy of the court order requiring payment of the fine and costs with the Register of Deeds for Oakland County. The court order shall not be recorded unless a legal description of the property is incorporated in or attached to the court order.

1. The lien is effective immediately upon recording of the court order with the Register of Deeds.
2. The court order recorded with the Register of Deeds shall constitute the pendency of the lien. In addition, a written notice of the lien shall be sent by Orion Township by first class mail to the owner of record of the land, building, or structure at the owner's last known address.
3. The lien may be enforced and discharged by Orion Township in the manner prescribed by its Charter, by the General Property Tax Act, Act No. 206 of the Public Acts of 1893, being Sections 211.1, 2211.157 of the Michigan Compiled Laws, or by an ordinance duly passed by the Township. However, property is not subject to sale under Section 211.60 of Act No. 206 of the Public Acts of 1893, being Section 211.60 of the Michigan Compiled Laws, for nonpayment of a civil fine or costs or an installment ordered under Subsections A or B unless the property is also subject to sale under Act No. 206 of the Public Acts of 1893 for delinquent property taxes.
4. A lien created under this section has priority over any other lien unless one or more of the following apply:
 - a. The other lien is a lien for taxes or special assessments.
 - b. The other lien is created before the effective date of the amended ordinance that added this section.
 - c. Federal law provides the other lien has priority.
 - d. The other lien is recorded before the lien under this section is recorded.
5. The Township may institute an action in a court of competent jurisdiction for collection of the fines and costs imposed by a court order for a violation of this Ordinance. However, an attempt by the Township to collect the fines or costs does not invalidate or waive the lien upon the land, building, or structure.
6. A lien provided for by this subsection shall not continue for a period longer than five (5) years after a copy of the court order imposing a fine or cost is recorded unless within that time an action to enforce the lien is commenced.

Section 8 - Severability

This Ordinance and the various parts, sections, subsections, provisions, sentences and clauses are severable. If any part of this Ordinance is found to be unconstitutional or invalid, it is declared the remainder of this Ordinance shall not be affected hereby.

Section 9 - Effective Date

This Ordinance shall become effective upon publication, as provided by law.

This page intentionally blank