GREEN OAK CHARTER TOWNSHIP
ORDINANCE NUMBER 09-2019

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR GREEN OAK CHARTER TOWNSHIP, BY ADDING A NEW CHAPTER 33, PRIVATE ROADS, TO PROVIDE PROCEDURES, STANDARDS AND SPECIFICATIONS FOR PRIVATE ROADS CONSTRUCTED IN THE TOWNSHIP; AND TO PROVIDE PENALTIES FOR A VIOLATION THEREOF.

GREEN OAK CHARTER TOWNSHIP ORDAINS:

Section 1 of Ordinance. Amendment Adding Chapter 33, PRIVATE ROADS

The Code of Ordinances for Green Oak Charter Township is amended to add Chapter 33, Private Roads, to read as follows:

Chapter 33 - PRIVATE ROADS

Sec. 33-1. Intent.

It is the intent of this ordinance to provide procedures and minimum standards and specifications for private roads constructed in the Township in order to provide unobstructed, safe, and continuous vehicle access, and promote and protect the public health, safety, and welfare. It is further the intent of this ordinance to ensure that private roads are maintained and repaired by the private property owners who own and use the roads.

A private road shall mean an area of land that is privately-owned and maintained, which provides vehicular access to two (2) or more lots and has not been dedicated for public use other than access by emergency and public safety vehicles and is maintained by its private owner(s). Private roads may also provide space for public and private utilities.

Sec. 33-2. Authority.

This ordinance is enacted pursuant to the statutory authority granted by the Public Highways and Private Roads Act, and Public Act No. 283 of 1909 (MCL 220.1 et seq.).

Sec. 33-3. Subdivisions and condominium projects.

All private roads located within a subdivision plat or condominium project (site condominium or attached condominium) shall be constructed in accordance with the standards and specification of this ordinance and the Township Engineering Design Standards, Chapter 17 of the Code, as amended.

Sec. 33-4. Private roads classifications

All private roads shall be constructed in accordance with the standards and specifications set forth in this ordinance and the Township Engineering Design Standards, Chapter 17 of the Code, as amended.
(a) Private roads serving seven (7) or more lots shall require a class A road.

(b) Private roads serving four (4) to six (6) lots shall require a class B road.

(c) Private roads serving two (2) or three (3) lots shall require a class C road.

(d) Private roads involving a land division as described in the Land Division Act, Public Act No. 288 of 1967 (MCL 560.101 et seq.), as amended, or Chapter 18 of the Code, pertaining to land divisions and subdivisions, must be reviewed by the officials designated by the Township Board.

Sec. 33-5. Permits required.

No private road shall be constructed unless and until a permit is obtained by the applicant from the Township. Such permit must be requested by proper application, upon forms provided for such purpose by the Township, and must meet the requirements set forth in this ordinance and the Township’s Engineering Design Standards. Prior to such permit being granted to an applicant by the Township, a right-of-way permit shall be obtained from the Livingston County Road Commission by the applicant for any private road which intersects a public road.

Sec. 33-6. Permit application requirements and approval procedures.

(a) Application requirements. A complete application for a proposed private road permit shall be filed with the Township Zoning Administrator and shall include the following:

(1) A completed private road application form.

(2) A complete legal description and survey of the lots or parcels and the names and addresses of the owners of the lots or parcels to be served by the private road.

(3) A complete legal description of the private road easement for ingress and egress, and related utility and drainage easements.

(4) Three (3) full sized copies and one (1) electronic copy of the engineering plans, profiles, and cross sections of the proposed private road, showing all materials, grades, dimensions, and bearings in compliance with the applicable standards set forth in the Township Engineering Design Standards. Such plans shall be prepared and sealed by a civil engineer or land surveyor registered in the state.

(5) Existing topography, at two (2) foot contour intervals, and soil and drainage characteristics of the subject site.

(6) Proposed improvements, including but not limited to roads, sewers, and ditches, shown in plan and profile, and indicating all materials, grades, dimensions, and bearings in compliance with the standards set forth in the Township Engineering Design Standards.
(7) A minimum of two (2) soil borings at a minimum of every five hundred (500) feet along the proposed route of the road.

(8) The location of existing buildings on the lots or parcels being served, or intended to be served, by the private road, as well as any existing buildings or structures in or adjacent to any proposed road easement.

(9) The location of existing and proposed utilities and easements, such as gas, telephone, and electric.

(10) The proposed private road agreement, in a form suitable for recording, which specifically addresses the rights, liability, and responsibility of the parties to the agreement to maintain the private road pursuant to the specifications provided for in this and other applicable ordinances. Such agreement shall be drafted substantially in the form of the sample agreement provided in the Engineering Design Standards. The agreement shall state that it shall run with the land to inform subsequent purchasers that the road is private, that the parties along the private road are solely responsible for maintenance and repair of the private road, and that the private road may never be maintained or accepted by the Township, the Livingston County Road Commission or any other applicable road authority. Such private road agreement shall be subject to review and approval of the Township Attorney.

(11) An application fee and applicable consultant review fee as established by resolution of the Township Board.

(b) Permit approval procedure.

(1) Upon receipt of an application, the Township Zoning Administrator will refer the application to the Planning Commission, at its next regular meeting, for the purpose of making a recommendation to the Township Board on the application.

(2) The private road plans shall be referred to the Township engineer and Township planner for review and recommendation. The Township engineer and Township planner will submit a written report on whether the proposed private road conforms to the standards set forth in this ordinance and the Engineering Design Standards, and further make a recommendation as to approval or denial. Such reports may include any suggested conditions to be attached to the permit that are necessary to achieve the intent of this ordinance.

(3) Within forty-five (45) days following the written review of the Township Planner and Township Engineer, and recommendation from the Planning Commission, or a longer period if mutually-agreed to by the applicant and the Township, the Township Board shall consider the application. The Township Board will consider the reports provided by the Township engineer and planner, the recommendation of the Planning Commission
and other relevant information in determining whether to grant the permit application.

(4) If the information submitted by the applicant demonstrates that the proposed private road conforms to the standards and specifications set forth in this ordinance, the Township Board shall grant the permit.

(5) As a condition to the granting of any permit under this ordinance to the applicant shall deposit with the Township building, zoning, and planning department cash, an automatically-renewable irrevocable letter of credit, or certified check, in a form suitable to the Township, in an amount sufficient to guarantee that the applicant shall perform the terms and conditions of the permit, including the payment of required fees. Upon completion of all improvements required by this ordinance, any unused portion of the escrow/deposit shall be refunded to the applicant.

(6) Upon receipt of the required deposit and predetermined fees and approval of the application by the Township Board, the Township Zoning Administrator or designee shall issue the permit pursuant to the terms established by the Township Board in approving the application.

(7) Only the Township Board shall have the authority to approve or deny applications for a permit for a private road. No other permit issued by any Township official or other governmental body or official shall be a substitute for a Township private road permit or create any expectation that the private road permit will be granted.

Sec. 33-7. Fees.

The Township shall, by resolution of the Township Board, adopt a schedule of review fees. All applications for private roads shall be accompanied by review and inspection fees. The fees shall be imposed to cover Township administrative costs, as well as engineering review, field inspection, planning review, and legal and other professional services. The Township also reserves the right to require escrow fees for field inspections. The balance of any escrow amount shall be refunded to the applicant upon final approval. Should the Township’s costs exceed the fees submitted and/or the escrow amount, the applicant shall be responsible for payment of such amounts prior to the issuance of the certificate of completion.

Sec. 33-8. Standards.

Except as otherwise provided in Sec. 33-4, the design and construction of all private roads shall comply with the standards for the criteria applicable to the private road as set forth in the Township Engineering Design Standards, Chapter 17 of the Code, as amended.

Sec. 33-9. Inspections.

(a) All required improvements shall be inspected by the Township engineer at various stages of construction. At a minimum, inspections shall occur:
(1) After the subbase has been prepared and before the base is placed.

(2) After the final lift of aggregate material is placed and before the bituminous pavement is placed.

(3) Upon completion of construction, including final signing and restoration.

(b) The applicant shall notify the Township engineer a minimum of forty-eight (48) hours before the inspections are required. The Township engineer shall make a final inspection upon completion of construction and shall report the results of the final inspection to the Township Zoning Administrator or designee in writing. The applicant’s engineer shall certify to the Township engineer, before the final inspection and report thereon are made, that the required improvements were made in accordance with this ordinance and all approved plans. A letter of completion by the Township engineer shall be delivered to the Township building, zoning, and planning department and the applicant. The cost of inspection, including compensation of the Township engineer, shall be paid by the applicant prior to the issuance of the certificate of completion.

Sec. 33-10. Private Road Permit validity.

A permit shall be valid for a period of one (1) year from the date of issuance, or such longer period as determined by the Township Board. If the required improvements have not been completed upon the expiration of one (1) year or a longer period of time, the permit shall be void and of no force and effect, and any unused portion of the escrow shall be refunded to the applicant.

Sec. 33-11. Recording of Easements and Maintenance Agreement.

The appropriate easement, the required maintenance agreement, and all other relevant agreements including allowances for public and franchise utilities, shall be recorded in the office of the Livingston County Register of Deeds prior to the issuance of the certificate of completion. Easement documents, the maintenance agreement, and other relevant documents that require recording, shall be provided to the Township for recording with Livingston County Register of Deeds. All cost associated with recording shall be paid by the applicant prior to the issuance of the certificate of completion.

Sec. 33-12. Certificates of occupancy.

No certificate of occupancy shall be issued for any building on a lot unless all of the requirements of this ordinance have been met.


Maintenance of private roads is the sole responsibility of the persons holding ownership along the private roads. Should a private road fall into a state of disrepair, the Township may, at its discretion, establish a special assessment district for the maintenance, repair, and/or improvement thereof as provided by state law.
Sec. 33-14. Waivers and appeals.

(a) Where there are practical difficulties in the way of carrying out the strict letter of this ordinance, such as topographical and other physical characteristics of a parcel, the Township Board shall have the power to vary or modify the application of the provisions of this ordinance so that the intent and purpose of this ordinance shall be observed, and public safety secured. Findings of practical difficulty shall be reviewed by the Township Board in accordance with the criteria established herein. Any applicant may apply for a waiver from any provision of the ordinance by filing an application for a waiver with the Zoning Administrator or designee.

(b) Prior to granting any waiver the Township Board shall find all of the following apply. No such variance or modification of the provisions of this chapter shall be granted unless it appears that, at a minimum, all the following facts and conditions exist:

1. There are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the Township (e.g., changes in grade, wetlands, woodlands, etc.).

2. Such waiver is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zoning district.

3. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a waiver.

4. The granting of such waiver or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the area in which the property is located.

5. The granting of such waiver will not adversely affect the purpose or objectives of the Master Plan of the Township.

6. The condition or situation of the specific piece of property, or the intended use of such property, for which the waiver is sought is not of so a general or recurrent a nature.

7. The practical difficulty causing the need for the waiver request was not self-created by the applicant.

The Township Board may attach reasonable conditions in granting any waiver from any provision of this ordinance, and the breach of any condition or the failure of any applicant to comply with the conditions shall void the waiver. This subsection is intended, in part, to enable waivers to be granted and conditions attached to the waiver to facilitate the upgrading of prior nonconforming rights-of-way and private roads to the standards of this ordinance, in a reasonably practical manner, including, but not limited to, such rights-of-way and private roads as have been established, recorded, constructed, or maintained prior to the date of adoption of this ordinance,
which cannot be brought into conformity with this ordinance without unnecessary hardship or practical difficulty due to soil conditions, topographical considerations, or other factors.

Sec. 33-15. Violation.

A violation of this ordinance shall be punishable as a municipal civil infraction.

Section 2 of Ordinance. Repealer.

This ordinance repeals any ordinances in conflict thereof.

Section 3 of Ordinance. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decisions shall not affect the validity of the remaining portions of this ordinance. The Township Board of Trustees hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 4 of Ordinance. Savings Clause.

Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 5 of Ordinance. Publication and Effective Date.

The Township Clerk is hereby ordered and directed to cause this ordinance or a summary of this ordinance to be published in the manner required by law within thirty (30) days after it has been duly adopted by the Township Board. The effective date shall be the date of publication.

Section 6 of Ordinance. Adoption.

That this ordinance was duly adopted by the Green Oak Charter Township Board at its regular meeting called and held on July 17, 2019 and was ordered given publication in the manner required by law.
GREEN OAK CHARTER TOWNSHIP

Michael H. Sedlak, Township Clerk

Adoption Date: July 17, 2019
Publication Date: July 24, 2019
Effective Date: July 24, 2019