

CHARTER TOWNSHIP OF UNION
NOTICE OF PUBLICATION BY POSTING A SUMMARY OF THE PROPOSED PRIVATE ROAD ORDINANCE

Notice is hereby given that the First Reading of the proposed Private Road Ordinance was held during the March 13, 2024 regular meeting of the Charter Township of Union Board of Trustees held in the Township Hall Board Room. The ordinance will be considered for a second reading and adoption at the regular Board of Trustees meeting on Wednesday, March 27, 2024 at 7:00p.m., which will also be held in the Township Hall Board Room at 2010 S. Lincoln Road, Mt. Pleasant, MI 48858.

A true copy of the proposed ordinance may be inspected or obtained upon request during business hours at the Charter Township of Union office, 2010 South Lincoln Road, Mt. Pleasant, MI 48858, or on the Township's website. The following is a summary of the proposed ordinance:

Section 1.0 (Title) establishes the title of the ordinance.

Section 2.0 (Purpose and Intent) states the health, safety, and welfare-related purposes of the ordinance, and the intent of the ordinance that all private roads meet minimum standards.

Section 3.0 (Scope) establishes the scope of the ordinance as applying to all private roads.

Section 4.0 (Requirements for Existing Private Roads and Shared Driveways) establishes minimum public safety-related standards for existing shared driveways and private roads.

Section 5.0 (Road Names) establishes requirements for new private road names and re-naming or re-addressing of existing private roads.

Section 6.0 (Maintenance Agreement) sets minimum standards for new private road maintenance agreements.

Section 7.0 (Special Assessment Districts) confirms that owners of land served by a private road can seek to establish a special assessment district for road maintenance costs.

Section 8.0 [Optional Pre-Application Meeting(s)] allows for informal meetings about conceptual plans, procedures, and standards prior to a formal application.

Section 9.0 (Required Application Information) sets the application requirements for Private Road Permit applications.

Section 10.0 (Private Road Permit Review Procedures) establishes a process for Planning Commission review and approval of Private Road Permit applications.

Section 11.0 (Expiration and Extension) provides for expiration of approved Private Road Permits, for completion of all required improvements, and for extensions of approval.

Section 12.0 (Outside Agency Permits and Approvals) confirms applicant responsibility for obtaining all necessary permits or approvals from applicable outside agencies.

Section 13.0 (Recording of Rights-of-Way and Maintenance Agreements) provides for recording of rights-of-way and maintenance agreements with the County Register of Deeds.

Section 14.0 (Private Road Standards and Specifications) sets the specifications for private roads based on lots served.

Section 15.0 (Inspections) provides for inspections of private roads under construction.

Section 16.0 (Building Permits) provides for issuance of building permits on land served by a private road.

Section 17.0 (Fees and Escrow Deposits) confirms Board of Trustees authority to set fees and escrow deposit amounts required for Private Road Permit applications by resolution.

Section 18.0 (Performance Guarantees) sets standards for requiring a performance guarantee to be deposited with the Township to ensure completion of all required improvements.

Section 19.0 (Violations and Penalties) establishes the penalties for violating this ordinance and lists the legal remedies available to the Township for resolution of violations.

Section 20.0 (Definitions) defines certain terms used in the ordinance.

Section 21.0 (Severability) confirms that all sections, terms, provisions or clauses of this ordinance are severable.

Section 22.0 (Repeal) confirms the repeal of the current Private Road Ordinance No. 2000-09.

Section 23.0 (Publication) confirms that state law publication requirements will be met.

Section 24.0 (Effective Date) establishes the ordinance effective date based on adoption and publication requirements.

Publication of the ordinance was made by this notice and posting of the true copy of the proposed ordinance at the Charter Township of Union office and on the Township's website pursuant to the requirements of the Charter Township Act (Public Act 359 of 1947, as amended, being MCL 42.1 – MCL42.34).

**CHARTER TOWNSHIP OF UNION
ISABELLA COUNTY, MICHIGAN**

PRIVATE ROAD ORDINANCE NO. _____

An ordinance adopted under the provisions of the Charter Township Act (Public Act 359 of 1947, as amended, being MCL 42.1 – MCL 42.34) to regulate the construction, maintenance, and use of private roads within the Township; to establish minimum maintenance standards for existing private roads and shared driveways; to provide for the administration and enforcement thereof, and for the establishment of fees, escrow deposits, and performance guarantees to defray the administrative and enforcement costs incident thereto, and to ensure that all required improvements are completed in accordance with approved plans; to ensure that residences and buildings within the Township may be accessible to police and fire protection, ambulance service, and other public services; and for other purposes.

CHARTER TOWNSHIP OF UNION, ISABELLA COUNTY, MICHIGAN HEREBY ORDAINS:

Section 1.0 Title.

This ordinance shall be known and cited as the Private Road Ordinance and herein as “this Ordinance.”

Section 2.0 Purpose and Intent.

Unobstructed, safe, and continuous access to lots is necessary to promote and protect the health, safety, and welfare of the public through police and fire protection, and ambulance service. Such access is necessary to ensure that such services can safely and quickly enter and exit private property at all times. Access to the interior of certain sections within the Township should meet minimum standards and specifications to permit the subsequent upgrading and dedication of such access rights of way to the Road Commission or other road agency with jurisdiction when public dedication is desirable or required.

Section 3.0 Scope.

Every lot in the Township that is improved with a building shall abut a road dedicated to the public or a private road which meets the requirements of this Ordinance and provides access for ingress and egress for all vehicular traffic. No person shall construct, alter, or extend a private road without compliance with this Ordinance. This Ordinance shall also apply to all existing private roads and shared driveways.

The procedures, standards, and specifications of this Ordinance are determined to be the minimum necessary to meet the purpose and intent of this Ordinance.

Prior to the creation of any new private road, extension of an existing road as a private road, or creation of new lot(s) or any increase in the number of lots or number of dwellings to be served for ingress and egress purposes by an existing private road, shared driveway, or shared access easement lawfully established prior to the effective date of this Ordinance, approval of a new Private Road Permit and completion of associated improvements shall be required pursuant to this Ordinance.

Section 4.0 Requirements for Existing Private Roads and Shared Driveways.

Existing shared driveways and existing private roads without a recorded maintenance agreement or that were developed prior to the establishment of this Ordinance shall be maintained by the owners of land abutting to or accessing the private road in accordance with the following minimum requirements:

1. Existing private roads without a recorded maintenance agreement or developed prior to the establishment of this Ordinance shall be maintained by the owners of land abutting to or accessing the private road in accordance with approved development plans and in a manner that ensures that the road remains passable by automobiles and emergency vehicles. Where no approved development plan exists, at a minimum such maintenance shall include proper and adequate drainage, a minimum 15.0-foot-high clear vertical zone over the roadway, and a minimum gravel roadway surface width of 20.0 feet. Existing conditions that exceed these minimum requirements shall not be reduced.
2. Existing shared driveways shall be maintained by the owners of land abutting to or accessing the shared driveway in a manner that ensures that the shared driveway remains passable by automobiles and emergency vehicles. At a minimum such maintenance shall include proper and adequate drainage, a minimum 15.0-foot-high clear vertical zone over the driveway, and a minimum gravel roadway surface width of 12.0 feet. Existing conditions that exceed these minimum requirements shall not be reduced.
3. Any existing private road or shared driveway found by the Fire Department or Township to be in violation of these minimum standards or in a condition that would impair emergency vehicle access shall be in violation of this Ordinance. All owners of land abutting to or accessing a private road or shared driveway shall be jointly and severally responsible for maintenance and for any violations of this Ordinance.

Section 5.0 Road Names.

The following minimum requirements shall apply to the naming of any new private road or the re-naming or re-addressing of an existing private road:

1. Roads shall have names and not simply numbers or letters.
2. No road should change direction by more than 90 degrees without a name change.
3. A road name that is determined by the Planning Commission or County Road Commission to be duplicative, confusing, inappropriate, a public safety concern, or easily mistaken with an existing road or street in Isabella County shall be prohibited.
4. The landowner and applicant shall be jointly and severally responsible for comparing a proposed road name against the master listing of road names maintained by the County Road Commission.
5. The applicant shall be responsible for securing written documentation that the County Road Commission has no objection to the proposed road name.
6. Changing the name or addressing of an existing private road is discouraged due to the potential to adversely impact landowners, visitors, emergency response personnel, and other agencies with jurisdiction. Private road names or addressing changes shall conform to the following:
 - a. The Township may initiate a private road name or addressing change upon determination that the existing name or addressing scheme is deficient from a public safety perspective, or if the Township receives notice from the Mt. Pleasant Fire Department or the Isabella County Sheriff's Office or Emergency Management Department of a public safety deficiency related to the existing road name or addressing. A Township-initiated road name or addressing change shall be subject to Planning Commission review and action, following a public hearing. Notice of the public hearing shall conform to the following requirements:

- (1) Notice shall be posted at the Township Hall, published in a newspaper of general circulation, and sent to all persons to whom real property is assessed that abut the private road not less than thirty (30) days before the date the application will be considered for approval. If the name of the occupant is not known, the term “occupant” may be used in making notification. Notice shall be deemed to be sent by its deposit in the United States mail.
 - (2) The Township shall prepare and retain a list of property owners and occupants to whom notice was mailed or delivered.
 - (3) The notice shall describe the nature of the request; indicate the lots affected by the request, include a listing of existing street addresses; and state when and where the public hearing will occur and where written comments may be submitted concerning the request.
- b. An application for a private road name change by a private party shall follow the same procedures and application information requirements as for a new private road, except that it shall also be required to be accompanied by signed and notarized letters of support from all owners of record for land abutting and accessing the private road. Failure to provide all required documentation shall be grounds for rejection of any name change.

Section 6.0 Maintenance Agreement.

For any new private road subject to the requirements of this Section, or the new extension portion of an existing road, there shall be a recorded private maintenance agreement or restrictive covenant agreement that runs with the land and ensures that the road will be regularly maintained in accordance with the requirements of this Ordinance, an approved Private Road Permit and associated development plans, and any conditions of approval.

1. All owners of land abutting the new private road or new extension portion of an existing road shall be signatory parties to the agreement, which shall be a continuing obligation on the land and any future landowners.
2. At a minimum, the agreement shall specify who will be responsible for road maintenance and improvements, reference the applicable standards, approved plans, and any conditions of private road approval, and describe how the funds for such work will be collected and administered.
3. Owners of land abutting a new private road or an extension portion of an existing road shall agree to indemnify and hold harmless the Township and its representatives from any and all claims for personal injury and property damage arising out of the use of the private road.
4. A disclosure statement shall be placed in the agreement informing the purchaser that the road abutting or servicing the parcel is private and is not required to be maintained by any government agency.

Section 7.0 Special Assessment District.

The owner(s) of land served by a private road subject to the requirements of this Ordinance may file petition(s) with the Township in accordance with established procedures and requirements to request establishment of a special assessment district for maintenance of the private road in accordance with applicable state statutes. This may be done concurrently with an application for Private Road Permit approval under this Ordinance and shall be further subject to the following:

1. The owner(s) of land served by the private road shall be responsible for arranging for and completing all necessary construction, maintenance, improvement, or alteration of the road that may be performed with funds collected through a special assessment district.
2. The Township and any state or county road authority with jurisdiction are not responsible for damages resulting from the construction, maintenance, improvement, or alteration of private roads that may be performed with special assessment district funds.
3. The Township is not responsible for construction, maintenance, improvement, or alteration of private roads that may be performed with special assessment district funds.

Section 8.0 Optional Pre-Application Meeting(s).

An applicant may request a pre-application meeting with Township staff or the Planning Commission for the purpose of discussing conceptual plans, submittal requirements, review procedures, and approval standards. Any required fee for this meeting shall be paid to the Township at the time of the meeting. Conceptual plan comments shall be advisory only.

Section 9.0 Required Application Information.

At a minimum, the application for a Private Road Permit shall include the following:

1. Name, address, telephone number, and email address for the applicant and owners of record, along with proof of ownership.
2. The applicant's interest in the property, and if the applicant is not the owner of record, a signed authorization of the owner(s) for the application.
3. Survey drawings and development plans prepared and sealed by a land surveyor or civil engineer registered in the State of Michigan and drawn to a standard engineer's scale of 1:10, 1:20, 1:30, 1:40, 1:50, or 1:100 as appropriate for the scope of the project and legibility at the submitted sheet size, which shall include the following details:
 - a. Legal description(s), address(es), and tax parcel number(s), legal descriptions of the private road right-of-way and of each lot to be served by the road, and the names and addresses of all persons or parties owning an interest in the title to the lots and right-of-way area.
 - b. A detailed description of the scope and extent of the project.
 - c. Outline of existing and proposed road rights-of-way, and dimensions and bearings thereof.
 - d. Existing and proposed topographic contours at two (2) foot intervals.
 - e. Locations, layout, dimensions, and gross and net land area for existing and proposed lots.
 - f. Soil characteristics and wet areas; trees; streams and all bodies of water.
 - g. Location of existing drainage patterns, drain tiles, pipelines, culverts, and utilities, with notes regarding their preservation or alteration.
 - h. Details of existing natural features on the site, including water courses, regulated wetlands, floodplains, woodlands, and any additional features uniquely affecting the site; with indications of features to be preserved, removed, or altered; and with mitigation measures as required per state law or Township ordinances.

- i. Location and outline of existing buildings and driveways.
 - j. A standard cross-section detail of the proposed private road.
 - k. Plan and profile drawings and of the proposed improvements clearly showing materials, grades, dimensions, and cut and fill areas.
 - l. For alteration or extension of an existing private road, also include the location, extent, and dimensions of the existing road right-of-way and driving surface, drainage improvements, and a cross-section detail of the existing road.
4. A complete statement of all existing and proposed private road terms and conditions, including but not limited to copies of all agreements or intended agreements regarding responsibilities and funding for future maintenance and improvements of the right of way and roadway.
 5. The proposed road name, along with documentation from the County Road Commission that it has no objection to the proposed name.
 6. Special assessment district information, if proposed.
 7. For lots and dwellings located outside of the service area for publicly-owned and operated water supply and sanitary sewerage systems, documentation shall be provided from the Central Michigan District Health Department that all lots and dwellings can be adequately served by individual private well and septic systems.
 8. Other information as requested by the Planning Commission to verify compliance with the requirements of this Ordinance and other applicable Township ordinances or state statutes.

Section 10.0 Private Road Permit Review Procedures.

Applications for Private Road Permit approval shall be subject to Planning Commission review and approval in accordance with the following procedures:

1. **Applicant eligibility.** The application shall be submitted by the owner of an interest in the land for which the Private Road Permit approval is sought, or by the owner's designated agent. If the applicant is not the owner of the property, the applicant shall submit a notarized statement signed by the owner(s) consenting to the application.
2. **Application filing and eligibility.** Application shall be made by filing with the Township at least eight (8) paper copies and two (2) digital copies (in a format compatible with Township systems) of a complete and accurate application, along with the required review fee and escrow deposit. Applications submitted without the required fee or escrow deposit, or found by the Township Engineer, Township Planner, or Planning Commission to be incomplete or inaccurate shall be returned to the applicant without further consideration.
3. **Coordination of development review.** Where an application under this Ordinance is associated with an application for subdivision plat approval, condominium subdivision plan approval or site plan approval under another Township ordinance, the reviews may take place concurrently provided that all applicable Township ordinance procedures and requirements are fully satisfied.
4. **Technical review.** Prior to Planning Commission consideration, the application materials shall be distributed to the Township Engineer, Township Planner, and Zoning Administrator for review and comment. The Planning Commission may also request comments from the Township Attorney, other Township consultants, or outside agencies with jurisdiction.

5. **Planning Commission consideration and action.** Subsequent to the technical review, the Planning Commission shall review the application and plans, together with any reports and recommendations. The Planning Commission is authorized to approve, approve subject to conditions, postpone action on, or deny the Private Road Permit as follows:
 - a. **Approval.** The Private Road Permit shall be approved by the Planning Commission upon determination that the application is administratively complete, that all necessary information has been provided, and that the application satisfies all applicable Township ordinance requirements necessary for Permit approval.
 - b. **Approval subject to conditions.** The Planning Commission may approve a Private Road Permit subject to reasonable conditions as it deems necessary to ensure the standards of this Ordinance and other applicable Township ordinances are satisfied.
 - c. **Postponement.** Upon determination by the Planning Commission that a Private Road Permit application is not sufficiently complete for approval or denial, failure of the applicant to attend the meeting, or upon request by the applicant, the Planning Commission may postpone consideration until a later meeting.
 - d. **Denial.** Upon determination that a Private Road Permit application is not in compliance with the requirements or standards of this Ordinance or would require extensive modifications to comply with these standards, the Private Road Permit shall be denied. If a Private Road Permit is denied, a written record shall be provided to the applicant listing the findings of fact and conclusions or reasons for such denial. Failure of the applicant to attend two (2) or more meetings shall be grounds for the Planning Commission to deny the Private Road Permit.
6. **Recording of Planning Commission action.** Planning Commission action on the Private Road Permit shall be recorded in the Planning Commission meeting minutes, including the name, description, and location of the project; the findings of fact and conclusions or grounds for the Planning Commission's action; and any conditions of approval.
7. **Reapplication.** If an application is denied, the applicant may submit a new Private Road Permit application for the same premises at any time, provided that documentation of new information or material changes in the application, road plans, site conditions or other factors relevant to the reasons for the previous denial are submitted with the new application for consideration.
8. **False statements.** Statements in an application or supporting documentation that are based on deceit or falsity shall render any such application void. Any permits issued on the basis of such false statements shall be revoked.

Section 11.0 Expiration and Extension.

An approved Private Road Permit under this Ordinance shall expire and be of no effect unless:

1. Within 545 calendar days following the date of approval, construction has begun in accordance with the approved Permit; and
2. Within 910 calendar days following the date of approval, all required improvements have been completed in full conformance with the approved Permit and any conditions of approval.
3. The Planning Commission may, at its discretion and upon written request and showing of good cause by the applicant, grant an extension of Permit approval for up to an additional 365 calendar days, provided that site conditions have not changed in a way that would affect the character,

design or use of the site, and that the approved Permit plans remain in conformance with applicable provisions of this Ordinance.

Section 12.0 Outside Agency Permits and Approvals.

The applicant for Private Road Permit approval shall be responsible for obtaining all necessary permits or approvals from applicable outside agencies, including but not limited to the Fire Department, state or county road authority with jurisdiction, Isabella County Transportation Commission, Isabella County Soil Erosion and Sedimentation Control, Township Engineer for Stormwater Management Permit approval, and Township Public Services Department for water and sewer utility approval where applicable. The applicant or landowner shall be responsible for submitting copies of all required outside agency permits and approvals to the Township Planner prior to the start of construction.

The Township Planner shall have authority to accept Permit incidental Private Road Permit plan changes to conform to outside agency requirements or determined necessary during construction due to unanticipated site constraints. Changes determined by the Township Planner to be more than incidental shall be subject to Planning Commission review and approval of an amended Private Road Permit following the same procedure and requirements as applied to the original application.

Section 13.0 Recording of Rights-of-Way and Maintenance Agreements.

The applicant for Private Road approval and owner(s) of land served by the private road shall be jointly and severally responsible for recording all private road rights-of-way and maintenance agreements with the County Register of Deeds, and for furnishing paper and digital copies (in a format compatible with Township systems) of the recorded documents to the Township Planner prior to the issuance of the certificate of completion per Section 15.0 (Inspections).

Section 14.0 Private Road Standards and Specifications.

The following standards and specifications shall apply to private roads in the Township:

1. **Minimum specifications by type of private road.**

Specifications	Minimum Specifications for Private Roads		
	Serving up to Eight (8) Lots	Serving Nine (9) or More Lots	
Minimum road right-of-way width	66.0 feet	The private road shall fully conform to the Isabella County Road Commission's residential road standards	
Minimum sub-base	6.0 inches in depth of compacted sand spread to a sufficient width to extend to the front slope of the roadside ditch		
Minimum base for gravel surface	Crushed limestone or processed road gravel (MDOT 22A or 21AA or equal as accepted by the Township Engineer):		
	6.0 inches in depth in two (2) equal courses, each compacted to 24.0 feet wide		
Minimum base for paved surface	Same materials as for a gravel surface: 8.0 inches in depth in two (2) equal courses, each compacted to 24.0 feet wide		
Roadway pavement	Not required. If proposed, then 3.0 inches in depth in two (2) equal lifts of bituminous aggregate MDOT 1100 or E mixes-20AA at least 20.0 feet wide		
Minimum turnaround area and the terminus of the private road	75.0-foot radius right-of-way with a 55.0-foot outside radius roadway surface		
Roadside ditches:	Ditches shall be of width, depth, and grades to provide for adequate and positive drainage, subject to the following standards:		
Minimum grade	0.5%		
0.5% to 4.0% grade	sod or otherwise stabilize		
4.1% and steeper grade	rip-rap		
Front and back slopes	1 on 4 or flatter		
Roadway Grade	Minimum		0.5%
	Maximum		6.0%
Minimum Roadway curves	Horizontal		230.0-foot centerline radius
	Vertical	100.0 foot long for changes in gradient of 2% or more	

2. **Additional specifications for all private roads.** The following additional specifications shall apply to all private roads:
 - a. The roadway surface and turnaround area shall be centered in the right-of-way.
 - b. Underground crossroad drainage shall be provided where the right-of-way crosses a stream or other drainage course, subject to Township Engineer acceptance.
 - c. The right-of-way and roadway shall be adequately drained so as to prevent flooding or erosion of the roadway. Where required, ditches shall be located within the right-of-way. Roadway drainage shall be constructed so that the runoff water shall be conveyed to existing watercourses or water bodies. The discharged water shall not be cast upon the land of another property owner unless the water is following an established watercourse. Connection to county drains shall be approved by the Isabella County Drain Commissioner's Office. Connection to public road ditches shall be approved by the state or county road authority with jurisdiction.
 - d. The private road's name assignment and installation and maintenance of road signs shall conform to the Michigan Manual of Uniform Traffic Control Devices and the standards and assignment procedures of the state or county road authority with jurisdiction.
 - e. The right-of-way shall provide for ingress, egress, drainage, and installation and maintenance of public and private utilities.
3. **Additional specifications for private roads serving nine (9) or more lots.** To establish an integrated road network in the Township, the following additional specifications shall apply to all new private roads and extensions of existing private roads serving nine (9) or more lots:
 - a. They shall be connected to adjacent public and private roads, and stub road ends and road rights-of-way shall be provided to the lot boundaries of adjacent land at suitable locations for future road connections, subject to Planning Commission approval. Road ends shall be marked and barricaded per County Road Commission standards for local public streets, with details shown on the Private Road Permit plan.
 - b. They shall provide for at least two (2) means of vehicular ingress and egress to each lot served by the private road. This requirement can be satisfied through a boulevard-style divided roadway connection to the public road, subject to approval from the state or county road authority with jurisdiction and acceptance of the design and proposed boulevard length by the Fire Department and Planning Commission.

Section 15.0 Inspections.

All required improvements shall be inspected by the Township Engineer at various stages of construction. The Township Engineer shall make a final inspection upon completion of construction and shall report the results of the final inspection to the Township Planner in writing. The applicant's engineer shall certify to the Township Engineer before the final inspection that the required improvements were made in accordance with this Ordinance and all approved plans and conditions of Permit approval. A letter of completion by the Township Engineer shall be delivered to the Township Planner and applicant upon satisfactory completion of the work and receipt of all required documentation per Section 13.0 (Recording of Rights-of-Way and Maintenance Agreements).

The costs of inspection, including compensation for the Township Engineer, shall be paid from an inspection escrow deposit submitted by the applicant prior to the start of construction. The Township and the applicant will be notified upon expenditure of seventy-five percent (75%) of the escrow deposit.

If additional funds are necessary to complete the required activities, the Township Engineer will provide the Township and the applicant with an estimate of the amount. If additional funds are required, those funds shall be paid prior to issuance of the letter of completion.

Section 16.0 Building Permits.

Except as follows, a building permit shall not be issued for any building on a lot subject to the provisions of this Ordinance unless a letter of completion for the private road shall have been received by the Township Planner, as provided for in Section 15.0 (Inspections) of this Ordinance. A building permit may be issued prior to the issuance of a certificate of completion upon recommendation by the Township Engineer and upon deposit with the Township of a performance guarantee in an amount sufficient to guarantee completion of the remaining required improvements pursuant to a Private Road Permit and associated development plan approved in accordance with the requirements of this Ordinance.

Section 17.0 Fees and Escrow Deposits.

The Township Board shall have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this Ordinance. The Township may also require an applicant to deposit funds in escrow with the Township to defray anticipated variable costs and expenses incurred by the Township for application reviews and inspections. No action shall be taken on any application or appeal until all applicable fees and escrow deposits have been accepted by the Township. Escrow deposit funds shall be managed by the Township consistent with the following:

1. The funds will not be deposited in an interest-bearing account.
2. The escrow deposit shall be held in the applicant's name and shall be used solely to defray applicable variable costs and expenses.
3. Upon request by the applicant, the Township shall provide copies of any written reports and statements of variable costs and expenses.
4. The Township shall provide a written request to the applicant for an additional escrow deposit if at any time the sum on deposit appears insufficient to cover anticipated costs and expenses.
5. The applicant shall promptly deposit additional funds in accordance with the written request from the Township. If additional funds are not promptly deposited, the Township may issue a stop work order, postpone action on the application, or cease to process the project.
6. Sums remaining after final action on the application and inspections, and after all of the Township's variable costs and expenses have been deducted, shall be returned to the applicant.

Section 18.0 Performance Guarantees.

To ensure compliance with the provisions of this Ordinance and any conditions imposed thereunder, the Planning Commission or Township Planner may require that a performance guarantee be deposited with the Township to insure faithful completion of required improvements consistent with an approved Private Road Permit plan. The performance guarantee shall meet the following requirements:

1. The performance guarantee shall be in the form of an insurance bond, an irrevocable bank letter of credit, or cash escrow. The performance guarantee shall not have an expiration date and shall include a provision that calls for notification of the Township at least ninety (90) calendar days prior to any cancelation. If the applicant posts a letter of credit, the credit shall require only that the Township present the credit with a sight draft and an affidavit signed by the Township

Manager attesting to the Township's right to draw funds under the credit. If the applicant posts a cash escrow, the escrow instructions shall provide that the escrow agent shall have a legal duty to deliver the funds to the Township whenever the Township Manager presents an affidavit to the agent attesting to the Township's right to receive funds, whether or not the applicant protests that right.

2. The performance guarantee shall be submitted at the time of issuance of the Private Road Permit or prior to the start of construction, except in cases where the guarantee is intended to insure completion of limited number of remaining details by a specific deadline date that the Township Planner has determined to not impede allowing the road to open for use prior to full completion of construction. If appropriate based on the type of performance guarantee submitted, the Township shall deposit the funds in an account in a financial institution with which the Township regularly conducts business.
3. The amount of the performance guarantee shall be sufficient to cover the estimated cost of the improvements for which the performance guarantee is required. The applicant may provide an itemized schedule of estimated costs to complete all such improvements. The exact amount of the performance guarantee shall be determined by the Township Planner.
4. The performance guarantee shall not be returned to the applicant unless a letter of completion for the private road shall have been received by the Township Planner, as provided for in Section 15.0 (Inspections.) of this Ordinance.

Whenever required improvements are not installed or maintained within the time stipulated or in accordance with the standards set forth in this Ordinance, the Township may complete the necessary improvements itself or by contract to an independent developer, and assess all costs of completing said improvements against the performance guarantee. Prior to completing said improvements, the Township shall notify the owner and applicant responsible for completion of the required improvements.

Section 19.0 Violations and Penalties.

The standards and requirements of this Ordinance reflect obligations to the community at large. It shall be the duty of the property owner and all persons having responsibility for the construction, alteration, or extension of a private road to verify that such work is not in violation of this Ordinance. Persons having responsibility for work in violation of this Ordinance shall be deemed responsible for such violations to the same extent as the property owner.

1. **Violations.** Any person, firm, corporation, or agent, or any employee, contractor, or subcontractor of same, who fails to comply with any of the provisions of this Ordinance or any approved Private Road Permit plan or conditions of approval, or who impedes or interferes with the enforcement of this Ordinance by a Township ordinance enforcement official, shall be deemed to be in violation of this Ordinance subject to issuance of a municipal civil infraction and other measures allowed by law. The imposition of any fine or other penalty shall not exempt the violator from compliance with this Ordinance.
2. **Correction periods and stop work orders.** All violations shall be corrected within thirty (30) days following the receipt of an order to correct from a Township ordinance enforcement official. The ordinance enforcement official may do one or more of the following:
 - a. Grant an extension of up to 180 days upon determining that the additional time is necessary for correction.

- b. Require the immediate correction of a violation upon determining that the violation presents an imminent peril to life or property.
 - c. Issue a stop work order to halt all construction activities or usage pending the resolution of the alleged violation.
 3. **Penalties and remedies.** The violator shall be subject to any or all of the following penalties and remedies:
 - a. **Civil infraction notice.** Civil infraction notices shall be administered and fines imposed per the Township’s Municipal Ordinance Violations Bureau Ordinance. The violator shall be responsible for a municipal civil infraction for which the Township shall impose a fine per the established Township fee schedule for each violation.
 - b. **Civil infraction citation.** Civil infraction citations shall be administered and fines imposed per the Township’s Municipal Ordinance Violations Bureau Ordinance. The violator shall be responsible for a municipal civil infraction for which the court may impose a civil fine of not less than \$100.00 nor no more than \$10,000.00 per day of violation plus all costs, direct or indirect, which the Township has incurred in connection with the violation, including the Township’s attorney fees.
 - c. **Injunctive relief.** The Township may commence civil suit seeking injunction, specific performance, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any violations of this Ordinance. In the event the Township commences civil suit pursuant to this Section and it is determined that a violation has occurred, in addition to any other remedies to which the Township shall be entitled, it shall also be entitled to recover from the violator its actual attorney fees and costs incurred in enforcing provisions of this Ordinance. A petition for injunctive relief shall in no way relieve the violator of any and all criminal or civil liability associated with the violation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, any other actions by the Township against the violator.
 4. **Public nuisance per se.** Any construction, expansion, alteration, or maintenance of or site preparation for a private road in violation of this Ordinance is hereby declared to be a nuisance per se, and may be abated by order of any court of competent jurisdiction.
 5. **Rights and remedies preserved.** Any failure or omission to enforce the provisions of this Ordinance, and failure or omission to prosecute any violations of this Ordinance, shall not constitute a waiver of any rights and remedies provided by this Ordinance or by law, and shall not constitute a waiver nor prevent any further prosecution of violations of this Ordinance.

Section 20.0 Definitions.

Whenever used in this Ordinance, the following words and phrases shall have the meaning ascribed to them in this Section:

Building. Any structure, either temporary or permanent, having a roof or other covering and used or built for the shelter or enclosure of persons, animals, or property or materials of any kind. A building shall not include such structures as signs, fences, or smokestacks, but shall include structures such as storage tanks, grain elevators, coal bunkers, or similar structures.

Building Permit. A document issued by the authorized agent for the Township in accordance with the State Construction Code adopted and enforced by the Township, which authorizes the holder to construct, enlarge, or alter a building on a particular lot.

Driveway. A private lane, designed primarily for use by vehicles, which connects a house, garage, or other buildings with the road.

Enforcement Official. The person or persons designated by the Township as being responsible for enforcing and administering requirements of this Ordinance.

Fixed Costs and Expenses. Monetary charges incurred by the Township that are generally shared by all functions performed under the authority of this Ordinance, including costs for telephone, copy services, supplies, equipment, utilities, per diem-hourly-salary expenses, and facility construction, maintenance and repair.

Fire Department. The Mt. Pleasant Fire Department.

Lot. A tract of land that (1) is of sufficient land area to satisfy the requirements of this Ordinance for maximum lot coverage and minimum lot area; (2) is of sufficient land area to provide the minimum buildable area, yard setbacks, and any other open space as required by this Ordinance for a principal building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, as allowed in the zoning district; and (3) has direct frontage on and access to a public or private road right-of-way. A condominium unit established under the Condominium Act, parcel created under the Land Division Act, and any other lot of record shall be a "lot" for purposes of this Ordinance only if the physical characteristics of the unit, parcel or lot of record include all three elements of this definition.

Pavement or Hard Surface. Plant-mixed bituminous material, concrete, or similar durable materials approved by the Township.

Performance Guarantee. A financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with the Ordinance, regulations, and approved plans and specifications.

Planning Commission. The Planning Commission for the Charter Township of Union, Isabella County, Michigan, as established under the Michigan Planning Enabling Act and the Michigan Zoning Enabling Act.

Private Road. Any road or street that is privately maintained and has not been accepted for maintenance by the Isabella County Road Commission, the State of Michigan or the federal government, but is subject to approval by the Township.

Private Road Permit. A right of way authorization issued pursuant to this Ordinance for construction, alteration, or extension of a private road.

Road or Street. Any public or private thoroughfare or right-of-way, other than a public or private alley, dedicated to or designed for travel and access to any land, lot or parcel whether designated as a thoroughfare, road, avenue, highway, boulevard, drive, lane, place, court, or any similar designation.

Road Commission. The Isabella County Road Commission.

Shared Driveway or Easement, Existing. A private way, lawfully established, which affords principal means of access to more than one lot or dwelling, but that was not approved as a private road under Township ordinances.

Township. Charter Township of Union, Isabella County, Michigan.

Township Board. The Supervisor, Clerk, Treasurer, and Trustees of the Charter Township of Union, Isabella County, Michigan.

Township Engineer. The person(s) or firm designated by the Township to advise on drainage, grading, paving, stormwater management and control utilities, and other related site engineering and civil engineering issues. The Township Engineer may be a consultant or Township employee.

Township Planner. The Director of the Township’s Community and Economic Development Department or the Director’s designee with responsibility to advise the Township administration, Township Board, Planning Commission, and Zoning Board of Appeals on planning, zoning, land use, housing and other related planning and development issues.

Variable Costs and Expenses. Monetary charges incurred by the Township that do not meet the definition of fixed costs and expenses, including items which vary depending upon the scope of the project, such as advisory services from the Township Engineer, Township Attorney, or other Township consultants, attorney fees, inspection costs, recording fees, and testing or laboratory costs.

Zoning Administrator. The Director of the Township’s Community and Economic Development Department and any person, persons or firm as delegated by the Director to have responsibility for administration and/or enforcement of the provisions of this Ordinance.

Section 21.0 Severability.

All sections, terms, provisions or clauses of this Ordinance shall be deemed independent and severable. Should a court of competent jurisdiction hold any section, term, provision or clause void or invalid, all remaining sections, terms, provisions and clauses not held void or invalid shall continue in full force and effect.

Section 22.0 Repeal.

All Ordinances or parts of Ordinances in conflict with this Ordinance, including Private Road Ordinance No. 2000-09, are hereby repealed, except that this Ordinance shall not be construed to repeal any provision of the Township’s Zoning Ordinance.

Section 23.0 Publication.

The Clerk for the Township shall cause this Ordinance to be published in the manner required by law.

Section 24.0 Effective Date.

This Ordinance was adopted by the Township Board on _____, 2024, after a first reading by the Township Board of Trustees on March 13, 2024, and publication after such first reading as required by Public Act 359 of 1947, as amended. This Ordinance shall become effective immediately upon publication of a summary of the ordinance and notice of adoption in a newspaper of general circulation in the Township.

Draft Date: March 20, 2024

CERTIFICATION OF ADOPTION AND PUBLICATION OF TOWNSHIP ORDINANCE

I, Lisa Cody, the duly elected Clerk of The Charter Township of Union, Isabella County, Michigan, hereby certify that the foregoing Ordinance was adopted at a meeting of the Charter Township of Union Board of Trustees on the _____ day of _____, 2024, at which the following members of the Board of Trustees were present and voted in person as follows:

(a) Voting in favor of the Ordinance: _____

(b) Voting against adoption of the Ordinance: _____

I further certify that a summary and notice of adoption of this Ordinance were published in The Morning Sun, a newspaper of general circulation in The Charter Township of Union on _____, 2024.

Certification Date: _____, 2024

Lisa Cody, Clerk

I, Bryan Mielke, the duly elected Supervisor of The Charter Township of Union, Isabella County, Michigan, hereby confirm the authenticity of this record and Ordinance.

Bryan Mielke, Supervisor

Date: _____, 2024