

# RECORD OF ORDINANCES

ORDINANCE NO. 14

Township of Evangeline County of Charlevoix

Ordinance No. 14 enacted by the Board May 6, 19 91

Published: May 8, 19 91, within 10 days after enactment.

Effective May 8, 19 91.

Record of votes of Board Members:  
(Yes or No)

(Yes or No.)

Doug Shields ( yes ) Bruce Janssen ( yes )

Michelle Cortright ( yes ) Mike Weeks ( yes )

Linda Fry ( yes ) ( )

I CERTIFY that publication was made on May 8, 19 91  
within 10 days after enactment of ordinance.

Signed:  , Township Clerk

THE TOWNSHIP OF Evangeline ORDAINS,

See the following 13 pages.

Signed

  
Supervisor

  
Clerk

TOWNSHIP OF EVANGELINE  
COUNTY OF CHARLEVOIX, STATE OF MICHIGAN  
PRIVATE ROAD ORDINANCE

An Ordinance to regulate the construction of private roads or accesses, the creation of lots, parcels or condominium units adjacent to said private roads and the construction of structures on said lots, parcels or condominium units. This Ordinance is pursuant to, but not limited to, Act 288 of the Public Acts of 1967, as amended; Act 246 of the Public Acts of 1945, as amended; and Act 132 of the Public Acts of 1970, as amended; of the State of Michigan; to provide a procedure therefore; to repeal any ordinance or provisions thereof in conflict herewith and to prescribe a penalty for the violation of the provisions of this ordinance.

Article I

Section 1.01-Title

- A. This ordinance is named the EVANGELINE TOWNSHIP PRIVATE ROAD ORDINANCE.

Article II

Section 2.01-Legislative Determination

- A. It has been determined in order to maintain the orderly development within the Township and to provide for the health, safety and welfare of the residents and property owners of the township, that the Township of Evangeline regulate the construction of private roads, and the creation of lots, parcels or condominium units served or to be served by said private roads and construction of structures on said lots, parcels or condominium units.

Article III

Section 3.01-Definitions

- A. Applicant: A person, firm, association, partnership, corporation, or combination of any of them which may hold any divisible interest in land, whether recorded or not, who is seeking approval for construction of a private road or the division or partitioning of land pursuant to this Ordinance.

- B. Divide or partition: The process of dividing any tract of land into parts (e.g. lots, parcels, or condominium units) where the division is not subject to or pursuant to procedures under the Subdivision Control Act (P.A. 288 of 1967 as amended).
- C. Condominium Act: Michigan P.A. 59 of 1978 as amended.
- D. Condominium Structure or Building Envelope: The principle building or structure intended for or constructed upon a lot or condominium unit, together with any attached accessory structures, e.g., in a residential development, the condominium structure or building envelope would refer to the dwelling and any accessory structures.
- E. Condominium Unit: That portion of a condominium project designed and intended for separate ownership interest and use, as described in the Master Deed.
- F. Condominium Project: Any land developed under the provisions of the Condominium Act.
- G. Land: The surface area known as real estate.
- H. Lot, parcel or tract: Contiguous areas of land under the ownership of the same person(s). Lot may also refer to land which is described and fixed in a recorded plat. Lot as it is referred to in a Condominium Project shall mean that portion(s) of a Condominium Project designed and intended for separate ownership interest and use, as described in the Master Deed, regardless of whether it is intended for residential, office, industrial, business or recreational use as a time-share unit, or any other type of use.
- I. Master Deed: The legal document prepared and recorded pursuant to the Condominium Act, within which are, or to which is attached as exhibits and incorporated by reference, the approved by-laws for the project and the approved condominium subdivision plan for the project.
- J. Private road: An area of land used for passage to and from land which does not abut a public road, and said area of land is not owned or maintained by the public.
- K. Public road: An open way for passage or travel under public ownership and/or maintenance.
- L. Structure: Any production or pieces of work artificially built up or composed of parts joined together in some definite manner, including but not limited to dwellings, decks, garages, buildings, satellite dishes, sewage

disposal systems, drainfields, signs and signboards. This definition does not include incidental items such as birdhouses, birdbaths, utility poles, flag poles, swingsets, etc.

- M. Township Board: The Evangeline Township Board of Trustees.

#### Article IV

##### Section 4.01-Creation of Lots, Parcels or Condominium Units and Construction of Structures

- A. It shall be unlawful to create, divide or partition any lot, parcel or condominium unit or construct a structure on a lot, parcel or condominium unit which does not have a lot line running a minimum distance as called for in the Evangeline Township Zoning Ordinance abutting either a public road or a private road which meets the provisions of this Ordinance, and that directly connects to a public road.
- B. The minimum distance between private road outlets on a single side of a public road shall be six hundred (600) feet.

#### Article V

##### Section 5.01-General Standards

- A. All private roads constructed in Evangeline Township shall be constructed in a good and workmanlike manner upon and parallel to the centerline of a permanent right-of-way easement duly recorded with the Charlevoix County Register of Deeds. Such easements shall meet the following requirements:
1. Shall be a minimum of sixty six (66) feet wide, unless additional right-of-way is required for adequate construction.
  2. The right-of-way easement width on curved portions of roads shall be the same as for tangent portions.
- B. All roads constructed in Evangeline Township shall be constructed so as to sufficiently control storm water runoff and permit effective storm water drainage and prevent soil erosion.

- C. Soil erosion control measures shall be applied as per Charlevoix Soil & Water Conservation District standards and specifications.
- D. Private roads shall be laid out to the greatest extent feasible to achieve the following objectives: (Listed below in order of priority, as it is recognized that some may conflict with others on any given site).
1. On soils not classified as "hydric" (wetland soils) by the USDA Soil Conservation Service.
  2. Along fence rows or the edges of the open fields adjacent to any woodlands (to reduce impact upon agriculture or forestry uses and shelter from winter winds, and to enable new construction to be visually absorbed by natural landscape features).
  3. On areas not considered prime or unique farmlands or in areas considered as prime forestland soils on a national or regional basis.
  4. In locations least likely to impact scenic vistas, as seen from public roads.
- E. All private roads shall have names approved by the Township Board and accepted by the Charlevoix County Numbering System and Charlevoix County Road Commission.
- F. Identification signs shall be required for private roads and shall be similar in design to those identifying public roads in the township. In addition to road identification, private road signs shall also include the wording "PRIVATE ROAD" in a minimum of four (4) inch high letters and "NOT MAINTAINED BY CHARLEVOIX COUNTY ROAD COMMISSION" in a minimum of two (2) inch high letters.
- G. All private roads servicing or to serve two (2) or more lots, parcels or condominium units shall have a road maintenance agreement and deed restrictions which provides for the perpetual private (non-public) maintenance of such roads and/or easements to a necessary and reasonable standard to serve the several interests involved. These documents shall contain the following provisions:
1. A method of initiating and financing of such road and/or easements in order to keep the road in a reasonably good and usable condition.
  2. A workable method of apportioning the costs of maintenance and improvements.

3. Contain provisions that the owners of any and all of the property using the easement shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen and others bound to or returning from any of the properties having a right to use the road. Provisions shall be included to allow ingress and egress of emergency and other public vehicles for whatever public services are necessary.
4. A notice that if repairs and maintenance are not made, the Township Board may bring the road up to the design standards specified in in this Ordinance and assess owners of parcels on the private road for the improvements, plus an administrative fee in the amount of 25% for out-of-pocket costs.
5. A notice that no public funds of the Township of Evangeline are to be used to build, repair or maintain the private road.

#### Section 5.02-Specific Standards

- A. A private road serving or to serve less than seven (7) lots, parcels or condominium units shall at a minimum meet the following design standards:
  1. Have a sand and gravel base of not less less than twelve (12) inches in depth of which the top six (6) inches in depth shall be at a minimum road grade gravel;
  2. Have a roadbed not less than sixteen (16) feet wide;
  3. Be constructed over adequate culverts where necessary;
  4. Maximum sustained road grades shall not exceed seven (7%) percent.
  5. Shall have a maximum length of three thousand (3,000) feet.
- B. A private road serving or to serve more than six (6) lots, parcels or condominium units but less than thirteen (13) lots, parcels or condominium units shall at a minimum meet design specifications and

road construction standards as outlined in Divisions 4 through 6 and Division 10 of the Charlevoix County Road Commission Requirements and Specifications for Plat and Development Road Construction with the following exceptions:

1. On the Typical Road Cross Section in Division 10.1 the:
  - a. minimum Finished Grade shall be nineteen (19) feet;
  - b. minimum Pavement width shall be eighteen (18) feet;
  - c. the minimum Gravel Base width shall be nineteen feet (19) feet;
  - d. gravel shoulders are not required but the pavement shall be flush with the shoulder elevation;
  - e. in situations where the proposed road grade shall not exceed three (3%) percent the Township Board or its designated agent may waive the requirement for a bituminous surface and require a sand and gravel base of not less less than twelve (12) inches in depth of which the top six (6) inches in depth shall at a minimum be road grade gravel.
- C. A private road serving or to serve more than than twelve (12) lots, parcels or condominium units shall meet design specifications and road construction standards as outlined in the Charlevoix County Road Commission Requirements and Specifications for Plat Development and Road Construction.

## Article VI

### Section 6.01-Application Procedures

- A. Before construction of a private road shall begin, approval must be given by the Evangeline Township Board or its designated agent.
- B. The applicant shall file an Application for Private Road Construction with the Evangeline Township Clerk or designated agent on a form to be provided and pay the appropriate fee.

- C. The applicant shall provide proof of ownership and/or written consent of such owner and the names and addresses of those concerned with the application.
- D. The applicant shall provide copies of all other permits or waivers of permits which may be required by County, State or Federal statute.
- E. The applicant shall provide six (6) copies each of the proposed road maintenance agreement, easement agreement and deed restrictions.
- F. Where a private road shall serve less than 5 lots, parcels or condominium units the applicant shall submit a site plan containing the following information:
  - 1. Identification and description:
    - a. Proposed name of development.
    - b. Parcel identification number and/or legal description.
    - c. Names and addresses of proprietor, owner proprietor, and planner, design engineer, landscape architect or surveyor, if any.
    - d. Scale of drawings.
    - e. Date of preparation.
    - g. North arrow.
  - 2. Existing conditions:
    - a. A location map showing the general relationship of the proposed property division to the surrounding area within 1/4 mile, in a scale not less than 1" = 2,000'.
    - b. Proposed lines of division and dimensions.
    - c. Zoning classification.
    - d. Location of existing buildings and structures.
    - e. Locations, widths, and names of existing or prior easements of record, public and/or private if any.



- f. Location of existing sanitary sewers, water mains, storm drains, and other underground facilities, if any.
- h. Location of significant natural features such as lakes, streams, wetlands, slopes over 20%, stands of trees, scenic views, and other significant geologic features.

3. Proposed conditions:

- a. Proposed locations of easements for open space, pathways, utilities and other activities.
- b. Layout of the private road, indicating easement width and connections to adjoining rights-of-way.
- c. Indication of possible future divisions. This is for information purposes only; approval of the plan does not give approval of future divisions.
- d. Locations of proposed lots, parcels or condominium units as well as proposed building envelopes.
- e. Location of private road identification signs.
- f. Other items may be required by the Township Board or its designated agent.

G. In cases where the private road shall serve five (5) or more parcels or dwelling units, a site plan shall be prepared by a registered land surveyor, civil engineer or landscape architect in a scale of at least 1" = 100'. In addition to the items listed above the site plans shall include the following information:

- 1. Topographic map of the site drawn at contour intervals of two feet.
- 2. Road construction plans prepared by a civil engineer. These plans shall include the following information:
  - a. Cover sheet.
  - b. Typical cross sections and cut and fill sections as well as estimated quantities of earth to be moved.
  - c. Paving and drainage plan.

- d. Sanitary sewer and water main plan (if any).
- e. Utilities plan (gas, electric and telephone).
- f. Intersection alignment including sight distance for intersection of private and public roads.
- g. Method of constructing "Dead End" streets.
- h. Road plan and profile elevations and grades.
- i. Soil borings 500 feet maximum spacing and 10 feet minimum depth below proposed grade or existing ground whichever is deeper (to be shown on plan and profile sheets).
- j. Area to be cleared or disturbed during grading and installation of improvements. This area shall be shaded or cross-hatched.
- k. Disposition of unsuitable materials removed for road construction.
- l. Other items may be required by the Township Board or its designated agent.

Section 6.02 - Application Review and Approval

- A. The Township Board or its designated agent shall review and approve, review and approve with conditions, or review and deny all applications submitted under this Ordinance. Each application and site plan shall comply with the provisions of this Ordinance. Each action taken with reference to application and site plan review shall be duly recorded in the minutes of the Township Board or its designated agent.
- B. All applications shall be acted upon within sixty (60) days of receipt by the Township Board or its designated agent of a complete application meeting the requirements above.
- C. The Township Board or its designated agent will consider all applications at a scheduled meeting.
  1. Upon determination of the Township Board or its designated agent that an application is in compliance with this Ordinance and other plans or regulations, it shall be so indicated on the application.
  2. Upon determination of the Township Board or its designated agent that an application is in compliance, except for minor revisions, said changes shall be so indicated. When these changes have been

adequately addressed, the petitioner shall resubmit the application to the Township Board or its designated agent for application approval.

3. If extensive revisions to the application are necessary to meet provisions of this Ordinance or other applicable regulations, the application shall be disapproved and the applicant requested to prepare an alternate application. In this case, "DISAPPROVED" shall be written on the plan and reasons for disapproval indicated in the Township Board or its designated agent's resolution.
- D. Before application approval, the Township Board or its designated agent may require a cash bond or other bond assurances of performance in the amount to be determined by the Township, to guarantee that the clearing and grading will conform with the approved plans.
  - E. When an application is reviewed and approved or disapproved by the Township Board or its designated agent and all steps completed, three (3) copies of the application will be marked by the Township Board or its designated agent for the following distribution:
    1. One (1) copy returned to the applicant signed by the Supervisor of the Township Board or its designated agent including any conditions of approval.
    2. One (1) copy forwarded to the Township Clerk or designated agent for filing.
    3. One (1) copy forwarded to the Zoning Administrator.
  - F. Upon application approval by the Township Board or its designated agent, construction may commence.
  - G. Failure to initiate construction of an approved application within 365 days of approval shall require the applicant to appear before the Township Board or its designated agent and demonstrate why the approval should not be revoked. After a hearing the Township Board or its designated agent may revoke a previously approved application for property on which no physical development activity has occurred upon making written findings that one or more of the following circumstances exist:
    1. An error in the original approval is discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency.

2. Regulations contained in this Ordinance have been changed and the previously approved application does not comply with them.
  3. A change in Township, County, State or Federal statutes has occurred affecting the previously approved application.
  4. Pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as previously approved.
- H. Thirty (30) days prior to expiration of an approved application, an applicant may make application for a one year extension of the application at no fee. The applicant shall explain in writing why the development has not proceeded, what the current time frame is and why an extension should be granted. If the original approval of the application was by the Township Board or its designated agent, the applicant shall present his/her case in person or by representative at the next meeting.
- I. Revocation of an approved application shall be communicated in writing by Certified Mail to the applicant.
- J. Any subsequent resubmittal shall be processed as a new request with new fees.

## Article VII

### Section 7.01-Road Construction and Certification

- A. Prior to the start of any clearing or grading, the developer shall, if required, deposit a cash bond or other bond assurances of performance to guarantee that the clearing and grading will conform with the approved plans.
- B. All private roads shall be inspected by the Township Zoning Administrator during the construction of the road. The applicant shall give the Township Zoning Administrator three (3) days notice before construction shall commence.
- C. In cases where the private road was designed by a civil engineer, prior to the Township Board or its designated agent certifying that the private road is complete, the engineer shall submit to the Zoning Administrator as built plans and a certification that the private road as constructed meets all provisions of this Ordinance.

- D. In cases where the private road was not designed by a civil engineer, prior to the Township Board or its designated agent certifying that the private road is complete, the applicant shall submit to the Zoning Administrator as built plans and a certification that the private road as constructed meets all provisions of this Ordinance.
- E. Upon receipt of as built plans and certification that the road meets all provisions of this ordinance, the Township Zoning Administrator shall submit his/her recommendation to the Township Board or its designated agent that it certify the road as complete.
- F. If there is any deviation from the plans, the Township Zoning Administrator shall report the deviation and reason for same to the Township Board or its designated agent. The Township Zoning Administrator has the right to reject the work and issue a stop work order if there is evidence that the road is not being constructed according to approved plans or if a contractor or contractor's equipment creates any unnecessary disturbance beyond the limits as shown on the approved plans.

#### Section 7.02-Certification of Completion of Private Road

- A. Before the Township Board or its designated agent may certify that a private road is complete it must have the following:
  - 1. Recommendation from the Township Zoning Administrator that the private road be certified complete.
  - 2. The applicant shall provide the following if required in Section Section 5.01 of this Ordinance:
    - a. Two (2) copies of recorded road maintenance agreement.
    - b. Two (2) copies of recorded deed restrictions and easements.
- B. If there is compliance with the above the Township Board or its designated agent shall certify that the private road is complete.

### Article VIII

#### Section 8.01-Permits Not To be Issued

- A. No Zoning Permit shall be issued by the Zoning Administrator for the use of any lot, parcel or condominium unit serviced or to be served by a private road until such road is certified as complete as per provisions of this Ordinance.

Section 8.02-Fees

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

Section 8.03-Severability

- A. This Ordinance and each of the various parts, subsections, sentences, phrases and clauses hereof are hereby declared to be severable. If any part, section, subsection, sentence, phrase, or clause is determined to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this Ordinance shall not be affected thereby and shall remain in full force and effect.

Section 8.04-Penalties

- A. Any person, firm, association, partnership, corporation, or combination who shall violate any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof may be imprisoned for a period not exceeding ninety (90) days or fined a sum not to exceed \$500.00 or both, in the discretion of the Court, together with the costs of such prosecution. Each day not in conformance of this Ordinance shall be considered a separate violation.

Article IX

Section 9.01-Variances

- A. The Evangeline Township Planning Commission shall have the power to authorize upon application, in specific cases, a variance from the terms of this Ordinance contained in Sections 5.01 or 5.02 of this Ordinance. Consideration by the Planning Commission shall be based upon the standards for consideration of a variance set forth in the Evangeline Township Zoning Ordinance, as amended.

Article X

Section 10.01-Effective Date

- A. This Ordinance shall become effective on the date of publication of notice of adoption in the Petoskey News-Review.