

Adopted March 9, 1999.
Effective April 16, 1999

Orleans Township Ordinance No. 1-48

**AN ORDINANCE TO REGULATE ANIMAL
FEEDING OPERATIONS IN THE
TOWNSHIP OF ORLEANS, COUNTY OF
IONIA, STATE OF MICHIGAN AND TO
PROVIDE SANCTIONS AND PENALTIES
FOR THE VIOLATION THEREOF**

**THE TOWNSHIP OF ORLEANS, COUNTY OF IONIA, MICHIGAN
ORDAINS:**

Section 1. Title. This Ordinance shall be known and cited as the Orleans Township "Animal Feeding Operations Ordinance."

Section 2. Purpose. The purpose of this Ordinance is to protect the public health, safety, and welfare of the residents of the Township of Orleans, Ionia County, Michigan by regulating the operation of certain Animal Feeding Operations located within the Township. Recognizing that Animal Feeding Operations benefit the community and society by providing agricultural products and preserving open space and the rural character of the Township, this Ordinance seeks to encourage Animal Feeding Operations within the Township while protecting the public from any harmful effects such as noise, odor, or contamination of ground or surface water from such operations.

Section 3. Definitions. As used in this Ordinance, the following words and terms shall have the meaning set forth in this section. Any word or term used in this Ordinance that is not defined in this section shall be considered to be defined in accordance with its common or standard definition.

(A) "Animal Feeding Operation" means any lot, facility or Farm that has as its purpose the breeding, feeding, husbandry, or raising of Farm Animals, which exceeds the confinement of Farm Animals in excess of 1,000 Animal Units.

(B) "Applicant" means a person applying to the Township for a Permit to operate an Animal Feeding Operation.

(C) "Animal Unit" means any number of Farm Animals that, when aggregated, total 1,000 pounds of body weight. For example, one beef cow that weighs 1,000 pounds equals one Animal Unit. See Table 1 for additional examples of Animal Unit classifications and comparisons.

Table 1.*
Animal Unit Classifications and Comparisons

F a r m Animal	Type and Average Size (lbs)	AU Equivalent	No. of actual animals per 1 AU †	No. of AUs permitted ‡
Cattle	Dairy Cattle - 1,000 lbs.	1 AU	1	1,000
Cattle	Beef Cattle - 1,000 lbs.	1 AU	1	1,000
Swine	Nursery Pig - 35 lbs.	0.035 AUs	28.5	28,500
Swine	Growing Pig - 65 lbs.	0.065 AUs	15.3	15,300
Swine	Finishing Pig - 150 lbs.	0.15 AUs	6.6	6,600
Swine	Gestating Sow - 275 lbs.	0.275 AUs	3.6	3,600
Swine	Sow with litter - 375 lbs.	0.375 AUs	2.6	2,600
Swine	Boar - 350 lbs.	0.35 AUs	2.8	2,857
Horse	1,000 - lbs.	1 AU	1	1,000
Sheep	100 lbs.	0.10 AUs	10	10,000
Poultry	Turkey - 16 lbs.	0.016 AU	62.5	62,500

* Information contained within Table 1 is provided from the *Generally Accepted Agricultural and Management Practices for Manure Management and Utilization*, adopted by the Michigan Agriculture Commission, June 1997.

† Figures are estimated after dividing 1 AU by the AU Equivalent.

‡ Figures are estimated after multiplying the Number of Actual Animals per 1 AU by 1,000 (minimum number of AUs to constitute an Animal Feeding Operation).

(D) “Animal Waste Collection System” means a system for the collection, storage and treatment of waste generated by an Animal Unit on an Animal Feeding Operation.

(E) “Comprehensive Nutrient Management Plan” or “CNMP” means a document that, at a minimum, contains information relating to all of the following: feed management, manure handling and storage, land application of manure, land management and record keeping. A CNMP shall be prepared in cooperation with the Natural Resources Conservation Service, or its successor agency, and in accordance with the requirements of the federal government through either the U.S. Department of Agriculture, the Environmental Protection Agency, or other federally-designated agency, or its successor agency.

(F) "Dwelling" or "Residence" means a building designed primarily for residential use, including a structure erected on-site, a mobile home or mobile structure, a pre-manufactured or pre-cut structure, above or below ground.

(G) "Farm" means the animals, land, plants, building structures, including an Animal Waste Collection System, machinery, equipment, and other appurtenances used in an Animal Feeding Operation .

(H) "Farm Animals" means any domestic animal that is used as, or to produce, a commodity for sale such as meat, milk, eggs, hides, feathers, fur, poultry, or pork and includes, but is not limited to, the following: boars, cows, chickens, horses, pigs, sheep and turkeys.

(I) "GAAMPs" means Generally Accepted Agricultural Management practices as currently promulgated and revised from time-to-time by the Michigan Department of Agriculture or its designee or successor agency, which relates to or addresses matters concerning farm animals.

(J) "Manure" means the waste produced by Animal Units on an Animal Feeding Operation.

(K) "Permit" means written authorization from the Township Board to operate an Animal Feeding Operation in compliance with this Ordinance.

(L) "Permittee" means a Person that has applied for and been issued a valid Permit by the Township Board to operate an Animal Feeding Operation in the Township.

(M) "Person" means any individual, firm, partnership, association, corporation, company or organization.

(N) "Related Dwelling" means a dwelling used by relatives or employees of an operator of an Animal Feeding Operation that is located on the same parcel as the Animal Feeding Operation.

(O) "Township" means the Township of Orleans, Ionia County, Michigan.

(P) "Watercourses" means a natural or artificial lake, pond, or impoundment; a river, stream, or creek which may or may not be serving as a drain as defined by the drain code of 1956, Act No. 40 of the Public Acts of 1956 or any other body of water that has

definite banks, a bed, and visible evidence of the intermittent or continued flow or occurrence of water.

Section 4. Operation of an Animal Feeding Operation; Conformance to Generally Accepted Agricultural Practices; Permit Required.

(A) A Person may operate an Animal Feeding Operation within the Township, provided that the Animal Feeding Operation is conducted in accordance with this Ordinance and GAAMPs. If there is a conflict between the terms of this Ordinance and the GAAMPs, the terms of this Ordinance shall govern.

(B) A person seeking to construct and operate an Animal Feeding Operation shall file an application meeting the requirements of this Ordinance to obtain a Permit from the Township Board prior to the construction or operation of an Animal Feeding Operation.

(C) To defray the cost of reviewing the application for a Permit, the Applicant shall submit a fee to the Township in an amount determined by resolution of the Township Board. The Permit fee shall be uniform for all applicants and may be changed from year-to-year by resolution of the Township Board.

(D) The Township Board, after review of the application, shall grant a Permit to the Applicant provided that the application conforms to the requirements of this Ordinance. The Permit shall be valid for a period of five years and may be renewed upon the filing of a Permit renewal application in accordance with the requirements of Section 5(C) of this Ordinance.

(E) The Township may deny an application for a Permit if the application does not conform to the requirements of this Ordinance; provided, however, that the Township Board shall provide written notice to the Applicant detailing the reasons why the application was denied. Such notice shall be given to the Applicant within eight (8) days of the Board's denial decision. An Applicant may submit a corrected application for approval, which corrects the defects and conforms to the Ordinance without being required to pay another Permit fee.

Section 5. Application Requirements.

(A) Form. An Applicant shall make such application on a form provided by the Township.

(B) Site Plans and Other Submittals. In addition to the application form and fee, an Applicant shall provide the following documents to the Township for review and consideration by the Township Board:

- (1) A site plan showing the following:
 - (a) the proposed location of the Animal Feeding Operation in the Township;
 - (b) the location of any buildings used for the Animal Feeding Operation;
 - (c) the location of the Animal Waste Collection System for the Animal Feeding Operation;
 - (d) the location of and actual measured distance from any existing Watercourses that are located within a one mile radius of the proposed Animal Feeding Operation;
 - (e) the proposed and actual locations of any existing public alleys, roads, and streets that provide or will provide access to the Animal Feeding Operation;
 - (f) the proposed and actual locations of any driveways or private roads or other points of ingress or egress for the Animal Feeding Operation;
 - (g) the location of and actual measured distance from any pre-existing residential homes, including platted developed and undeveloped residential and site condominium subdivisions that are located within a one mile radius from the proposed Animal Feeding Operation; and
 - (h) the location of and actual measured distances from any pre-existing churches, schools, parks or recreational areas, and any other publicly-owned facility that are located within a one mile radius from the proposed Animal Feeding Operation.

(2) Copies of other applications to or approvals from any other governmental entity including, but not limited to, any federal, state, or county agency.

(3) A copy of the Comprehensive Nutrient Management Plan for the Animal Feeding Operation and, if not included in the Comprehensive Nutrient Management Plan, the following information and documentation:

- (a) the name of the Farm owner or operator that has agreed to accept the Manure generated at the Animal Feeding Operation;
- (b) the number of acres upon which the Manure will be utilized; and
- (c) submit a copy of the agreement(s) permitting application or disposal of the Manure at the location(s) specified in (a) and (b) above.

(C) Renewal of Permit. A Permittee may seek renewal of a Permit in accordance with this subsection.

(1) A Permittee seeking renewal of a Permit shall apply for renewal of the Permit at least 180 days prior to the date of the expiration of the current Permit by completing a renewal application to be provided by the Township.

(2) In addition to the renewal application, the Permittee shall:

- (a) update the information required in Section 5(B),
- (b) provide copies of any other application to or approvals from any other governmental entity including, but not limited to, any federal, state, or local agency; and
- (c) provide an affidavit that the Permittee has not violated any federal, state or local laws, ordinances or regulations in the operation of the Animal Feeding Operation.

(3) If the Permittee has been the subject of any type of investigation or enforcement action by any government entity for the operation of the Animal Feeding Operation during the term of the current Permit, the Permittee shall:

- (a) disclose the facts underlying the action;
- (b) provide the Township with copies of documents relating to such action; and

(c) detail how the action has been or will be resolved.

(4) In reviewing the Permit renewal application, the Township shall consider compliance with the Permit, the Ordinance, and any other applicable federal, state or local laws and regulations. If the Township Board concludes that the Permittee has complied with the Permit, Ordinance and applicable federal, state and local laws and regulations, the Township Board shall renew the permit for another 5 year period from the date of expiration of the current Permit. If the Township Board finds that the Permittee has not complied with the requirements of this Ordinance or any applicable federal, state or local laws and regulations, the Permittee shall be entitled to a hearing to be held at the next regularly scheduled Board meeting to present evidence or arguments on why the Permit should be renewed despite non-compliance. The hearing, including notice requirements, shall be held in accordance with Section 7(B) of this Ordinance.

Section 6. Regulations. The following regulations shall apply to Animal Feeding Operations in the Township:

(A) The Township shall not issue a Permit to an Animal Feeding Operation that does not comply with GAAMPs.

(B) The Township shall not issue a Permit to an Animal Feeding Operation that does not contain a minimum lot size of at least forty (40) acres.

(C) The following site and developmental requirements shall apply to Animal Feeding Operations that meet, but do not exceed, GAAMPs:

(1) Minimum lot width shall be one thousand (1,000) feet.

(2) Farm buildings, structures, and areas which are designed to contain, house or confine the Animal Units shall meet the following minimum requirements:

(a) setback a minimum distance of three hundred (300) feet from a public right-of-way or any adjacent property line;

(b) setback a minimum distance of five hundred (500) feet from any pre-existing Residence, other than the Residence of the operator of the Animal Feeding Operation or a Related Dwelling;

(c) setback a minimum distance of fifteen hundred (1,500) feet from a pre-existing church, business, recreation area, or public building;

(d) setback a minimum distance of two thousand (2,000) feet from the property line of a pre-existing property within a platted subdivision or site condominium.

(3) Animal Waste Collection Systems including, but not limited to self-contained storage systems, lagoons, storage ponds or other systems used for the collection of Manure, shall meet the following minimum requirements:

(a) setback a minimum distance of three hundred (300) feet from a public right-of-way or any adjacent property line and five hundred (500) feet from any pre-existing Residence, other than the house of the operator of the Animal Feeding Operation or a Related Dwelling;

(b) lined or contained so as to prevent leakage or seepage into any Watercourse in accordance with requirements or specifications of the Natural Resources Conservation Service or Midwest Plan Service and GAAMPS;

(c) equipped with a water quality monitoring system to permit sampling of the groundwater near the Animal Waste Collection System that complies with this subsection.

1. The water quality monitoring system shall be comprised of either one of the following systems:

a. a subsurface tiling system which extends around the perimeter of the Animal Waste Collection System and channels water and other liquids around the exterior of the Animal Waste Collection System. A sump pump, or equivalent mechanism, shall be installed to enable the extraction of water and liquid from the tiling channel for testing in accordance with this subsection. The tiling system shall be installed such that: (1) dimensions of the perimeter tile are no less than the dimensions of the Animal Waste Collection System at its designed full depth, and (2) the depth of tile is no less

than two (2) feet below the Animal Waste Collection System's designed bottom; or

b. a system designed with the assistance of, or in accordance with specifications promulgated by the Michigan Department of Agriculture, Michigan Department of Environmental Quality, Natural Resources Conservation Service, or the Environmental Protection Agency, or successor agencies to any one of the foregoing, which is certified by any one of the aforementioned agencies for use as a method to monitor the groundwater quality around the Animal Waste Collection Unit.

2. Irrespective of the type of water quality monitoring system selected and installed as required in subsection 6(C)(3)(c) above, a Permittee shall sample the groundwater around the Animal Waste Collection Unit in accordance with this subsection:

a. samples shall be drawn from the water quality monitoring system at least once every six (6) months. The sampling shall be utilized to determine the quality of the groundwater and whether there is any seepage emanating from the Animal Waste Collection Unit;

b. the Permittee shall provide the Township with at least seven (7) days prior written notice of the date and time of the water sampling to allow the Township to have a representative present at the time of the taking of the samples;

c. on the day of sampling, at least two (2) separate samples shall be taken from the water quality monitoring system;

d. the samples shall be analyzed at a licensed laboratory and results shall be submitted to the Township

and the Ionia County Health Department for review within thirty days of the taking of the sample; and

e. prior to the initial loading of an Animal Waste Collection System, a Permittee shall obtain two (2) samples of the groundwater. The samples shall be taken, analyzed by a licensed laboratory, and the results reported to the Township and the County Health Department in accordance with Section 6(C)(3)(c)2a-d above.

(4) If an Applicant proposes to construct and utilize a storage pond, lagoon, or other method for the Animal Waste Collection System that is otherwise not located within an enclosed building or structure, the Applicant shall comply with the following:

(a) the Animal Waste Collection System shall be fenced in so as to prevent animals and persons from entering the Animal Waste Collection System;

(b) the Animal Waste Collection System shall be surrounded by a berm that:

1. is constructed of earthen material;
2. rises from the original ground elevation of the lot to a minimum height of three (3) feet on all sides of the Animal Waste Collection System; and
3. is seeded with a suitable grass or grass and legume mix.

(c) an Applicant shall not be required to comply with the requirements of Section 6(C)(4)(b) of this Ordinance if the Applicant proposes an Animal Waste Collection System that incorporates as part of the design, a berm or other structure that will meet or exceed the requirements of Section 6(C)(4)(b) and such berm or structure is designed with the assistance of, or in accordance with specifications promulgated by the Michigan Department of Agriculture, Michigan Department of Environmental Quality, Natural Resources Conservation Service, or the Environmental Protection Agency.

(D) The Township Board may approve a Permit for the operation of an Animal Feeding Operation in the Township that otherwise does not meet the site and developmental

requirements specified in Section 6(C) of this Ordinance if an Applicant demonstrates to the satisfaction of the Township Board that the proposed Animal Feeding Operation:

- (1) exceeds GAAMPs for all aspects of the operation; and
- (2) exceeds GAAMPs in such a way so as to provide equivalent protection of the health, safety and welfare of the Township and its residents as the site and developmental requirements of Section 6(C) of this Ordinance.

Section 7. Sanctions and Penalties.

(A) Civil Infraction Violation.

(1) Unless specified otherwise in this Ordinance, violations of this Ordinance shall be a municipal civil infraction which is an act or omission that is prohibited, made or declared to be unlawful, or an offense by this Ordinance, but which is not a crime under this Ordinance, and for which civil sanctions, including without limitation, fines, damages, expenses, and costs may be ordered as authorized by Act 236 of Public Act of 1961 as amended, subject to the following provisions:

(a) Sanctions for a violation of a civil infraction shall be a civil fine in the amount of not less than \$500.00, plus other costs, damages, expenses and other sanctions for each infraction;

(b) Increased civil fines may be imposed for repeat violations by a person of any requirement or provision of this Ordinance. As used in the section, "repeat offenses" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this Ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:

1. The fine for any offense which is a first repeat offense shall be no less than \$750.00, plus costs, plus an additional \$50.00 per day until the violation is remedied;

2. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$1,000.00, plus an additional \$50.00 per day until the violation is remedied;

(c) Failure to answer a citation or notice to appear in court for a municipal civil infraction is a misdemeanor violation punishable by a fine of not more than \$500.00, plus other costs, or by imprisonment for a term not to exceed 90 days, or both fine and imprisonment.

(d) Failure to comply with an order, judgment, or default in payment of a civil fine, costs, damage, or expenses so ordered may result in enforcement actions, including but not limited to imprisonment, collections, placement of liens or other remedies as permitted in Chapter 87 of Act 326 of Public Acts of 1961 as amended.

(e) A municipal civil infraction shall not be considered to be a lesser included offense of criminal offense or an ordinance violation that is not a civil infraction.

(B) Suspension or Revocation of Permit: Hearing. The Township Board may suspend or revoke an Animal Feeding Operation Permit as a result of any violations of the terms and conditions of the Permit, the Ordinance, or any applicable federal, state or local law or regulation. Such suspension or revocation shall be determined by the Township Board at a public hearing to be held at a regular meeting of the Board. The Township Board shall provide at least seven (7) days prior written notice to the Permittee of the proposed suspension or revocation of the Permit, the grounds for suspension or revocation, and the time, date, and place of the meeting at which the matter will be heard. At the hearing, the Permittee shall have an opportunity to present any evidence or arguments on his behalf. The extent of any suspension or revocation of the Permit shall be in the discretion of the Township Board and shall be based upon the nature of the violation or violations which have occurred, the frequency thereof, and the likelihood of their correction with respect to future operations. At the conclusion of the hearing, the Township Board may vote to suspend or revoke the Permit by a majority vote of the Board. If the Permit is suspended or revoked by the Board, the reasons for same shall be set forth in writing and mailed to the Permittee at the Permittee's address, as provided on the Application, within eight (8) days after the Township Board's suspension or revocation decision.

(C) Continuing Offenses. Each day on which a violation of the Ordinance continues, constitutes a separate or repeat offense and shall be subject to penalties or sanctions as a separate or repeat offense.

(D) Enforcement Actions. This Ordinance shall be enforced by the person or persons designated by the Orleans Township Board. A municipal civil infraction action may

be commenced upon the issuance of a municipal civil infractions citation directing the alleged violator to appear in court.

(E) Misdemeanor Violations. It shall be a misdemeanor, punishable upon conviction by a fine of not to exceed \$500.00 (plus other costs), plus an additional \$50.00 per day until the violation is remedied, imprisonment for a term of not to exceed 90 days, or both fine and imprisonment for any person who makes a knowing false statement, representation, or certification in an application, report, record, plan or other document filed or required to be maintained pursuant to this Ordinance or other state or federal law.

Section 8. Severability. The provisions of this Ordinance are hereby declared to be severable and should any provision, section or part thereof be declared invalid or unconstitutional by any court of competent jurisdiction, such decision shall only affect the particular provision, section or part thereof involved in such decision and shall not affect or invalidate the remainder of such Ordinance, which shall continue in full force and effect.

Section 9. Repeal. All ordinances or parts thereof which are in conflict in whole or in part with any of the provisions of this Ordinance as of the effective date of this Ordinance are hereby repealed to the extent of such conflict.

Section 10. Effective Date. This Ordinance takes effect 30 days after publication in a newspaper circulating within the Township of Orleans, Ionia County, Michigan.

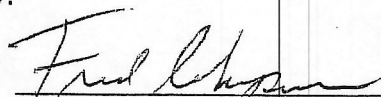
Moved by Board Member Joe Noe, seconded by Board Member Joyce Doty, that the foregoing Ordinance be adopted.

Yeas: Fred Chapman, Joyce Doty, Joe Noe, Herman Peterson


Nays: None.

Absent: Jerry Gallagher

ORDINANCE DECLARED ADOPTED.



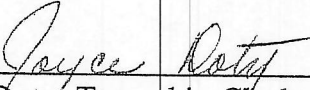
Fred Chapman, Supervisor



Joyce Doty, Clerk

CERTIFICATION

I hereby certify that this Ordinance was adopted by the Orleans Township Board in regular session held on March 9, 1999, and that it was published in the Sentinel-Standard March 17, 1999.



Joyce Doty, Township Clerk

Prepared by:
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Orleans Township Ordinance No. 51

AN ORDINANCE TO AMEND SECTIONS
3(E) AND 6(C) OF ORDINANCE NO. 48,
THE ANIMAL FEEDING OPERATIONS
ORDINANCE, TO MAKE CERTAIN
TECHNICAL AMENDMENTS THERETO,
AND TO ADD A NEW SECTION 6(C)(3) TO
EXEMPT FENCES FROM SET BACK
REQUIREMENTS

THE TOWNSHIP OF ORLEANS, COUNTY OF IONIA, MICHIGAN
ORDAINS:

Section 1. Amendment of Section 3(E).

Section 3(E) of Ordinance No. 48, the Animal Feeding Operations Ordinance, is hereby amended to read in its entirety as follows:

(E) "Comprehensive Nutrient Management Plan" or "CNMP" means a document that, at a minimum, contains information relating to all of the following: manure handling and storage, land application of manure, land management and record keeping. A CNMP shall be prepared in cooperation with the Natural Resources Conservation Service, or its successor agency, and in accordance with the requirements of the federal government through either the U.S. Department of Agriculture, the Environmental Protection Agency, or other federally-designated agency, or its successor agency. A CNMP shall contain information relating to feed management and the CNMP's provisions regarding feed management shall be, at a minimum, in accordance with GAAMPS.

Section 2. Amendment of Section 6(C)(2).

Section 6(C)(2) of Ordinance No. 48, the Animal Feeding Operations Ordinance, is hereby amended to read in its entirety as follows:

(2) Farm buildings and structures which are designed to contain, house or confine the Animal Units shall meet the following minimum requirements:

(a) setback a minimum distance of three hundred (300) feet from a public right-of-way or any adjacent property line;

(b) setback a minimum distance of five hundred (500) feet from any pre-existing Residence, other than the Residence of the operator of the Animal Feeding Operation or a Related Dwelling;

(c) setback a minimum distance of fifteen hundred (1,500) feet from a pre-existing church, business, recreation area, or public building;

(d) setback a minimum distance of two thousand (2,000) feet from the property line of a pre-existing property within a platted subdivision or site condominium.

Section 3. Addition of New Subsection 6(C)(3).

A new subsection (3) is added to existing Section 6(C) to read in its entirety as follows:

(3) Fences or other similar barriers which enclose the parcel(s) upon which an Animal Feeding Operation is located are not subject to the set back requirements set forth in subsection (2) above.

Section 4. Severability. The provisions of this Ordinance are hereby declared to be severable and should any provision, section or part thereof be declared invalid or unconstitutional by any court of competent jurisdiction, such decision shall only affect the particular provision, section or part thereof involved in such decision and shall not affect or invalidate the remainder of such Ordinance, which shall continue in full force and effect.

Section 5. Repeal. All ordinances or parts thereof which are in conflict in whole or in part with any of the provisions of this Ordinance as of the effective date of this Ordinance are hereby repealed to the extent of such conflict.

Section 6. Effective Date. This Ordinance takes effect 30 days after publication in a newspaper circulating within the Township of Orleans, Ionia County, Michigan.

Moved by Board Member Joel Noe, seconded by Board Member

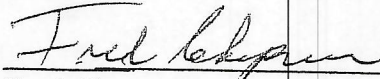
Herman Peterson, that the foregoing Ordinance be adopted.

Yeas: Frederick Chapman, Joyce E. Doty, Joel Noe, Herman Peterson


Nays: None

Absent: Jerry Gallagher

ORDINANCE DECLARED ADOPTED.




Fred Chapman, Supervisor



Joyce Doty, Clerk

CERTIFICATION

I hereby certify that this Ordinance was adopted by the Orleans Township Board in regular session held on August 10, 1999, and that it was published in The Sentinel-Standard on August 17, 1999.



Joyce Doty, Township Clerk

Prepared by:
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