

Charter Township of Orion

Ordinance No. 10

Civil Defense

Adopted June 14, 1960

AMENDED
August 15, 1994

AN ORDINANCE TO PROVIDE CIVIL DEFENSE PROTECTION WITHIN THIS TOWNSHIP AND VILLAGE; TO CREATE A LAKE ORION-ORION TOWNSHIP OFFICE OF CIVIL DEFENSE AND TO PRESCRIBE ITS POWERS AND DUTIES; TO PRESCRIBE THE POWERS OF THE TOWNSHIP, VILLAGE, AND THE DIRECTOR; TO PRESCRIBE RIGHTS AND IMMUNITIES; AND TO PRESCRIBE PENALTIES.

ARTICLE I - Civil Defense Protection; Scope of Ordinance

Section 1

- A. It is the intent of this Ordinance to provide for the organization of civil defense forces within the Township and Village, for the purpose of preparing passive resistance to direct attack or sabotage by a hostile nation, and to minimize the effects of such attacks if they should occur. It is also intended that this Ordinance will apply to the relief of disaster occurring as a result of natural causes.

It is hereby found and declared to be necessary:

1. to create a township and village civil defense agency;
 2. to confer upon the executive heads or governing bodies of the Township and the political subdivisions of the Township the emergency powers provided herein;
 3. to provide for the rendering of mutual aid among the political subdivisions of the county, and with other counties and with the federal government with respect to the carrying out of civil defense functions;
 4. to authorize the establishment of such organizations and the taking of such steps as are necessary and appropriate to carry out the provisions of this Ordinance.
- B. It is further declared to be the purpose of this Ordinance and the policy of the township and village that all civil defense functions of this Township and village be coordinated to the maximum extent with the comparable functions of the county and state including their various departments and agencies, and other localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources and facilities for dealing with any disaster that may occur within the intent of this act.

Section 2

- A. **"Civil Defense"**, as used in this Ordinance, shall have the broad meaning of preparation for protection against, and relief from, the effects of direct attack or sabotage by a hostile nation or the agents thereof; except that it shall not include functions for which military forces and other federal agencies are responsible. It shall also include such activity as is required under this Ordinance for relief from the effects of natural disaster as defined herein.
- B. **"Attack"** shall mean any activity declared by the Governor of the State of Michigan to be a direct assault against the State by a hostile nation or the agents thereof, including bombing, chemical or biological warfare and sabotage.
- C. **"Natural Disaster"** shall mean any condition, such as fire, flood, et cetera, resulting from natural or accidental cause and which is declared by the Governor to be a "natural disaster" within the intent of this Ordinance; such natural disaster being limited to incidents of such proportions as to be beyond the control of local public and private agencies.
- D. **"Civil Defense Volunteer"** is any person who serves with or without compensation in the civil defense forces of the state or political subdivision thereof.
- E. **"Civil Defense Forces"** shall mean all agencies, volunteer personnel, public officers and employees (temporary, substitute or auxiliary) having duties and responsibilities under or pursuant to this act in connection with civil defense.

ARTICLE II - Creation of Civil Defense Office and Director**Section 3**

- A. There is hereby created within the executive branch of the village and township government a department of civil defense to be known as the Lake Orion-Orion Township Office of Civil Defense with a Director of Civil Defense, hereinafter called the director, who shall be the head thereof. The director shall be appointed by the village council and township board and shall hold office at the pleasure of the village council and township board. He shall receive such salary for his services as the village council and township board may prescribe. The director may employ such technical, clerical, stenographic and other personnel, and may make such expenditures within the appropriation therefor, or from other funds made available to him for the purposes of civil defense, as may be necessary to carry out the purposes of this Ordinance.
- B. No person shall be ineligible for appointment as a member of the local civil defense organization because he holds any other public office or trust, nor shall any person forfeit his right to any public office or trust by reason of his appointment, under this Ordinance, notwithstanding any contrary provisions of law; Provided further, that the director of the civil defense organization may also be appointed director for any village or city within such township.

ARTICLE III - Emergency Powers of Township Supervisor and/or Village President**Section 4**

- A. In the event of attack or natural disaster as defined herein, the township supervisor and/or village president may declare that a state of emergency exists and he shall immediately convene the legislative body for the purpose of legislating on subjects relating to the proclaimed state of emergency, and thereafter, the village president and/or township supervisor shall have and may exercise for such period as the legislative body determines such state of emergency exists the following additional emergency powers:
1. To enforce all laws, rules and regulations relating to civil defense, and to assume, with the director, direct operational control of all civil defense forces and helpers in the township or village.
 2. To take, use or destroy any and all real or personal property, or any interest therein, necessary or proper for the purposes of civil defense. Provided, that no property owned or operated by any public utility providing communication services shall be so taken, used or controlled until such time as the services being provided by the utility become inadequate: And provided further, that the power herein granted to the township supervisor and/or village president shall be subordinate to any similar power granted to the Governor of the State of Michigan by any legislative act.
 3. To perform and exercise such other functions, powers and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population.

ARTICLE IV - Director: Authority and Powers**Section 5**

- A. Prior to the declaration of a state of emergency by the Governor, as provided in this Ordinance, the director is authorized and empowered to:
1. Make, amend, and rescind orders, rules and regulations to carry out the provisions of this Ordinance with due consideration for plans of the federal government as prescribed and set out in Act No. 197 of the Public Acts of 1952, as amended, being Sections 24.101 to 24.110 inclusive, of the Compiled Laws of 1948, and in Act 88 of the Public Acts of 1943, as amended, being Sections 24.71 to 24.82 inclusive, of the Compiled Laws of 1948; and State Act #154 (1953).
 2. Prepare a comprehensive plan and program for the civil defense of this township and village, such plan and program to be integrated into and coordinated with the civil defense plans of the County of Oakland and the State of Michigan to the fullest possible extent;

3. Delegate, with approval of the village president and/or township supervisor, to the several departments and agencies of the township or village government appropriate civil defense responsibilities, which responsibilities shall be exercised after a state of emergency has been declared, and review and coordinate the civil defense activities delegated to the several departments and agencies with those of the Lake Orion-Orion Township Office of Civil Defense;
 4. Coordinate the preparation of plans and programs for civil defense by the political subdivisions of this township, such plans to be integrated into and coordinated with the civil defense plan and program of this county to the fullest possible extent;
 5. Ascertain the requirements of the township and village for food, clothing and other necessities of life in the event of attack, and to plan for the procurement of supplies, medicines, materials and equipment;
 6. Make, or cause to be made, surveys of industry, resources and facilities within the township and village which are necessary to carry out the purposes of this Ordinance;
 7. Institute training programs and public information programs and to take all preparatory steps, including the partial or full mobilization of the civil defense organizations in advance of actual attack or natural disaster in order to insure the furnishing of adequately trained forces of civil defense personnel;
 8. Administer and authorize others to administer the oath taken by all persons who shall be employed or associated in any capacity in any civil defense organization established under this Ordinance;
 9. Delegate any authority vested in him under this Ordinance and to provide for the subdelegation of any such authority;
 10. Sponsor and develop plans and agreements between the political subdivisions of this township;
- B. During a state of emergency declared by the village president and/or township supervisor, as provided in this Ordinance, the director is authorized and empowered:
1. To utilize the services and facilities of existing officers and agencies of the township and of political subdivisions thereof, including civil defense forces: All such officers and agencies shall cooperate with and extend their services and facilities to the director as he may request; and
 2. To use and employ any of the property, services and resources within the township for the purposes set forth in this Ordinance and in accordance with the township, village and County civil defense plans.

ARTICLE V - Personnel of Civil Defense Forces: Powers, Duties, Etc.

Section 6

Personnel of Civil Defense forces while on duty shall:

- A. If they are employees of the township or village, have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment.
- B. If they are not employees of the township or village, be entitled to the same rights and immunities as are provided by law for the employees of the township and village. All personnel of civil defense forces shall, while on duty, be subject to the operational control of the authority in charge of civil defense activities in the area in which they are serving, and shall be reimbursed in accordance with state law for all actual and necessary travel and subsistence expenses.

Section 7 - Political Activity

No organization for civil defense established under the authority of this Ordinance shall participate in any form of political activity, nor shall it be employed, directly or indirectly, for political purposes.

Section 8 - Oath

Each person appointed to serve in an organization for civil defense shall take an oath in writing as prescribed by the statutes of this state and by federal statutes pertaining to civil defense, before entering upon his duties.

Section 9 - Violation & Penalties *(amended 08.15.94)***A. Municipal Civil Infraction/Payment of Fine.**

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

B. Costs.

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

C. Additional Writs and Orders.

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

D. Default on Payment of Fines and Costs.

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

E. Failure to Comply with Judgment or Order.

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

F. Failure to Appear in Court.

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

G. Civil Contempt.

1. If a defendant defaults in the payment of a civil fine, costs, or other damages or expenses, or installment as ordered by the district court, upon motion of the Township of Orion or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.
2. If a corporation or an association is ordered to pay a civil fine, costs, or damages or expenses, the individuals authorized to make disbursements shall pay the fine, costs, or damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this subsection.

3. Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.
4. If it appears that the default in the payment of a fine, costs, or damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment or revoking the fine, costs, or damages or expenses.
5. The term of imprisonment on civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall be specified in the order of commitment and shall not exceed one day for each Thirty Dollars (\$30) due. A person committed for nonpayment of a civil fine, costs, or damages or expenses shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of Thirty Dollars (\$30) per day.
6. A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall not be discharged from custody until one of the following occurs:
 - a. Defendant is credited with an amount due pursuant to Subsection G, 5.
 - b. The amount due is collected through execution of process or otherwise.
 - c. The amount due is satisfied pursuant to a combination of Subdivisions G, 6, a and b.
7. The civil contempt shall be purged upon discharge of the defendant pursuant to Subsection G, 6.

Section 10 - Scope of Ordinance

This Ordinance shall be construed liberally in order to effectuate its purposes.

Section 11 - Continuity of Government

- A. The township board or village council, that is, those surviving will convene on the call of:

TOWNSHIP

1. Supervisor
2. Treasurer
3. Clerk
4. Members of the board in alphabetical order.

The board will convene at the township hall if possible, if not, at the Lake Orion Village Hall, if available, if not, at the Gingellville Community Center, if available, if not, at the nearest safe place in the township.

VILLAGE

1. President
2. President Pro Tem
3. Members of the Council in alphabetical order.

The Council will convene at the Village Hall if possible, if not, at the Orion Township Hall, if available, if not, at the Orion Community Center, if available, if not, at the nearest safe place in the Township.

- B. The members present shall constitute a temporary quorum and shall elect a temporary chairman and chairman pro-tem who shall also act as executive officers.
- C. They shall have power to make temporary appointments to fill vacancies, to take such temporary measures and to make such rules and regulations as they deem necessary to temporarily meet the emergency pending replacement of those persons made

absent by the emergency. As soon as duly elected persons are seated on the council or township board, all actions temporarily taken shall be reviewed, repealed, rescinded, modified, or affirmed as the board or council shall determine.

- D. It shall be the duty of the Office of Civil Defense to forthwith ascertain and notify the person who shall be responsible for convening the village council and/or the township board, and the nearest safe place for them to convene.

Section 12 - Severability

If any section, clause, or provision of this Ordinance shall be declared to be inconsistent with the constitution and the laws of the state of Michigan and void by any court of competent jurisdiction, said section, clause or provision declared to be unconstitutional and void shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall remain in full force and effect.

Section 13 - Effective Date

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

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