

Charter Township of Orion

Ordinance No. 72

Trailways

Adopted October 3, 1983

AMENDED

August 15, 1994

AN ORDINANCE TO PROVIDE FOR THE OPERATION, CONTROL, AND MAINTENANCE OF THE PAINT CREEK/CLINTON RIVER TRAILWAYS, SUBJECT TO THE CONTROL OF THE TRAILWAYS COMMISSION ESTABLISHED PURSUANT TO 1967 PA 7, AS AMENDED, BY THE CHARTER TOWNSHIP OF AVON, THE TOWNSHIPS OF OAKLAND AND ORION, AND THE CITY OF ROCHESTER, COUNTY OF OAKLAND, ADOPTED IN FULFILLMENT OF THE PURPOSES OF 1976 PA 204, AS AMENDED, AND 1982 PA 223, AS AMENDED; AND PROVIDING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS.

Section 1 - Title

This Ordinance shall be known and cited as the Orion Township "**Uniform Trailways Ordinance**"; and it shall be deemed sufficient, in any action for enforcement of the provisions hereof, to define the same by such short title and by reference to the number hereof.

Section 2 - Purpose

The purpose of this Ordinance shall be:

- A. To further secure and protect the general welfare and safety of the citizens and other persons within the Township of Orion;
- B. To regulate and control the operation and maintenance of the Paint Creek/Clinton River Trailways property within Orion Township subject to the control of the Trailways Commission established pursuant to 1967 PA 7, as amended, by the Charter Township of Avon, the City of Rochester, and the Townships of Oakland and Orion;
- C. To provide for the enforcement of the provisions of this Ordinance;
- D. To provide for penalties upon the violation of these provisions.

Section 3 - Definitions

The following words and phrases, when used in this Ordinance, shall have the meanings respectively ascribed to them in this section:

Motor Vehicle - Any power driven vehicle or remote controlled vehicle, whether propelled by means of wheels, tracks, runners, skis, or other means, and whether eligible for licensing and registration under the Michigan Motor Vehicle Code.

Person - Any individual, partnership, corporation, organization or other entity.

Trailways - Land owned by the Trailways Commission as more specifically described in Section 4 of this Ordinance.

Section 4 - Applicability

This Ordinance shall apply to and be in effect for all lands located within the Township of Orion owned by the Trailways Commission which was created by an Agreement between the City of Rochester, the Charter Township of Avon, and the Townships of Oakland and Orion, dated December 23, 1981. Within the Township of Orion, County of Oakland, State of Michigan, said lands are described as:

Southeast 1/4, southwest 1/4 of Section 12, Township 4 North, Range 10 East, and the Northeast 1/4 of Section 13, Township 4 North, Range 10 East.

Section 5 - Regulations and Prohibitions

- A. **Hours** - No person shall enter or occupy any area of the Trailways land when it is closed, except by written permission of the Trailways Commission. All areas shall be deemed to be closed between the hours of 10:00 p.m. and 6:00 a.m. the next day.
- B. **Camping** - No person shall camp or establish temporary lodging places within the boundaries of the Trailways land.
- C. **Fires** - No person shall start or maintain a fire within the boundaries of the Trailways land.

- D. **Hunting & Weapons** - No person shall hunt, or discharge any firearm or weapon including, but not limited to, a bow or BB gun, within the Trailways land.
- E. **Disposal** - No person shall deposit or abandon in or on any lands or water areas within the Trailways land any garbage, glass, trash, waste, sewage or other obnoxious or polluting material, except in receptacles provided for that purpose.
- F. **Damage to Property** - No person shall injure, deface, disturb, befoul, change or remove any portion of any marker, structure, equipment, fence or any other property within the Trailways land.
- G. **Natural Features** - No person shall dig for, remove, injure or destroy any tree, flower, shrub, plant or growing thing or any wild bird or animal, or any earth, rock or other material within the boundaries of the Trailways land without written permission from the Trailways Commission.
- H. **Closed Areas** - No person shall enter or occupy any portion of the Trailways land which has been designated as *closed* to public use or entry.
- I. **Horses** - No person shall ride or lead a horse within the boundaries of the Trailways land except in designated areas.
- J. **Obstruction** - No person shall locate or deposit any bicycle, equipment, or material upon the Trailways land, or loiter, sit or lie upon the Trailways land so as to obstruct other persons in their use of the trail.
- K. **Disorderly Conduct** - No person shall engage in any drunken, loud, boisterous, or disorderly or indecent conduct, nor shall any person or group of persons engage in any activity which shall endanger or annoy other persons or disturb the peace or good order within the boundaries of the Trailways land.
- L. **Noise** - No person shall operate or play any musical instrument, radio, mechanical record or tape player or other sound amplifying equipment of any kind within the boundaries of the Trailways land in such a manner as to create excessive or unusual noise.
- M. **Sales** - No person shall sell or offer for sale any article, privilege or service within the Trailways land without a written permit from the Trailways Commission.
- N. **Advertising** - No person shall display, distribute or place any sign, advertisement, circular notice, or statement, or display any banner within the Trailways land without a written permit from the Trailways Commission.
- O. **Groups** - No person shall promote, arrange for, or participate in any function occurring within the Trailways land and involving more than thirty-five (35) persons without a written permit from the Trailways Commission. The Commission may impose such conditions upon the issuance of such permit as it deems necessary to maintain the public use of the trail, to prevent damage to the trail or any part thereof, and to protect the public safety.
- P. **Motor Vehicles** - No person shall drive, propel or park a motor vehicle or motorized sports equipment of any nature upon the Trailways land, except motor vehicles used by authorized law enforcement or maintenance personnel.
1. Vehicles Illegally Parked.
 - a. Citation or Impoundment - Any motor vehicle or equipment which is parked in violation of this Ordinance may be issued a citation for the violation, or may be towed away and impounded as provided in this section, or both, in the discretion of the enforcement officer.
 - b. Ownership; Presumption - In the prosecution for a violation of parking a motor vehicle in violation of this Ordinance, proof that the particular motor vehicle described in the complaint was parked in violation of the Ordinance, together with proof, by verifying ownership of the motor vehicle with the Secretary of State, that the defendant named in the complaint was at the time of the violation the registered owner of the motor vehicle, shall create in evidence a presumption that the registered owner of the motor vehicle was the person who parked or placed the motor vehicle at the point where and for the time during which the violation occurred. If it appears that the motor vehicle was at the time of the violation leased, proof that the defendant named in the complaint was the lessee of the motor vehicle at the time of the violation, shall create in evidence a presumption that the lessee of the motor vehicle,

not the registered owner, was the person who parked or placed the motor vehicle at the point for the time during which the violation occurred.

- c. Parking Violations; Civil Infractions - All violations of this Ordinance pertaining to the parking of motor vehicles are hereby declared to be civil infractions. Authority is hereby granted for issuance of Parking Violation Notices or appearance citations, the procedure after issuance, fines to be assessed and all other provisions relating to violations of parking provisions of this Ordinance.

2. Towing.

- a. Authority Granted - The Oakland County Sheriff's Department is hereby authorized to remove and tow away, or have removed and towed away by a commercial towing service, any motor vehicle parked in violation of this Ordinance.
- b. Impounding - Motor vehicles so towed away for illegal parking shall be stored in a safe place.
- c. Payment of Fine and Charges - Motor vehicles so towed away for illegal parking shall be restored to the owner or operator of such motor vehicle upon payment of the fine as provided in Section 7 and the reasonable towing and storage charges.

Section 6 - Enforcement

This Ordinance shall be enforceable by any Deputy Sheriff of the Oakland County Sheriff's Department or any Michigan State Police Officer. Said officers shall have the authority to issue and serve appearance citations pursuant to the Michigan Statute, C.L. 1979, Sec. 764.9f, as amended. In addition, the Township Board may appoint a limited duty officer who shall have authority to issue Parking Violation Notices and Complaints for vehicles illegally parked.

Section 7 - Violation and Penalties *(amended 08.15.94)*

I. Violations of Subsections 5 (A), 5 (B), 5 (E), 5 (F), 5 (G), 5 (H), 5 (J), 5 (K) or 5 (L).

A person who violates Subsections 5 (A), 5 (B), 5 (E), 5 (F), 5 (G), 5 (H), 5 (J), 5 (K) or 5 (L) of this Ordinance shall, upon conviction thereof, be guilty of a misdemeanor punishable by a fine not to exceed Five Hundred Dollars (\$500) plus costs and/or ninety (90) days in jail.

II. Violations of Subsections 5 (C), 5 (D), 5 (I), 5 (M), 5 (N) and 5 (O).

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 or 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 fines 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 judgement 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 (1) 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).

III. Violation of Subsection 5 (P).

- A. A person who violates Subsection 5 (P) of this Ordinance by the operation of a vehicle shall be deemed responsible for committing a trailway municipal civil infraction and may be subject to penalties specified in Subsection 7 (II) of this Ordinance as well as those specified in this subsection.

- B. An authorized local official may seize and impound a vehicle operated in the commission of a trailway municipal infraction in violation of this Ordinance. Upon impoundment, the vehicle is subject to a lien subordinate to a prior lien of record, and the amount of any fine and cost the defendant may be ordered to pay under Subsection 7 (II) and any expenses the defendant may be ordered to pay under Subsection 7 (III) (C). The defendant or a person with an ownership interest in the vehicle may post with the court a cash or surety bond in the amount of Seven Hundred Fifty Dollars (\$750). If such bond is posted, the vehicle shall be released from impoundment. The vehicle shall also be released, and the lien shall be discharged, upon a judicial determination that the defendant is not responsible for the trailway municipal civil infraction or upon payment of the fine, costs, damages, and expenses.
- C. A person who is found or admits responsibility to a trailway municipal civil infraction may be ordered by the court to pay one or both of the following:
1. The amount of damages to any land, water, wildlife, vegetation, or other natural resource or to any facility damaged by the violation of the Ordinance. Money collected under this subsection shall be distributed to Orion Township.
 2. The reasonable expenses of impoundment. Money collected under this subsection shall be distributed to Orion Township.
- D. If the court determines the defendant is responsible for a trailway municipal civil infraction and the defendant defaults on the payment of the fines, costs, damages, or expenses or in any installment as ordered pursuant to this Ordinance, any bond posted under this section shall be forfeited and applied to the fines, costs, damages, expenses, or installment. The court shall certify any remaining unpaid amount to the township attorney for the Township of Orion. The township attorney for the Township of Orion may enforce the lien by a foreclosure sale. The foreclosure sale shall be conducted in the manner provided and subject to the same rights as apply in the case of execution sales under Section 6031, 6032, 6041, 6042, and 6044-6047 of the Revised Judicature Act of 1961, Act No. 236 of the Public Acts of 1961, being Section 600.6031, 600.6032, 600.6041, 600.6042, and 600.6044-600.6047 of the Michigan Compiled Laws.
- E. Not less than twenty-one (21) days before the foreclosure sale, the attorney for the Township of Orion shall, by certified mail, send written notice of the time and place of the foreclosure sale to each person with a known ownership interest and/or lien of record on the vehicle. In addition, not less than ten (10) days before the foreclosure sale, the attorney shall twice publish notice of the time and place of the foreclosure sale in a newspaper of general circulation in the county in which the vehicle was seized. The proceeds of the foreclosure sale shall be distributed in the following order of priority:
1. To discharge any lien on the vehicle that was recorded prior to the creation of the lien under this Ordinance.
 2. To the clerk of the court for payment of the fines, costs, damages, and expenses the defendant was ordered to pay under this Ordinance.
 3. To discharge any lien on the vehicle that was recorded after the creation of the lien under this Ordinance.
 4. To the owner of the vehicle.
- F. An authorized local official issuing a citation for a trailway municipal civil infraction shall require the defendant to appear at a formal hearing if either or both of the following apply:
1. The trailway municipal civil infraction caused damage to a natural resource or a facility.
 2. The authorized local official impounds the vehicle.
- G. Parking Violations. A violation of Subsection 5 (P) of this Ordinance which involves the parking of a vehicle shall be a municipal civil infraction punishable as provided in Section 7 (II) of this Ordinance and the following provisions shall be applicable:
1. The vehicle may be removed by a law enforcement official by the impoundment of the vehicle. Before the owner or person in charge of such impounded vehicle shall be permitted to remove the same from the custody of the Township, he or she shall:
 - a. Furnish evidence of his or her identify or ownership.
 - b. Sign a receipt for the vehicle.

- c. Pay a fee of Twenty-Five Dollars (\$25) to cover the cost of removal and storage.
 - d. Pay an additional storage fee of Five Dollars (\$5) per day for each day after the first twenty-four (24) hours the vehicle remains in the Township's custody.
2. Any such impounded vehicle unclaimed after six (6) months may be sold at public auction.

Section 8 - Severability

In the event that any section, sentence, word, phrase, or part of this Ordinance shall be held invalid, such holding shall not affect the balance of the provisions hereof.

Section 9 - Effective Date

The provisions of this Ordinance are hereby ordered to take effect thirty (30) days after publication in the Orion Review, a newspaper of general circulation in the Township of Orion.

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