

Charter Township of Orion

Ordinance No. 70

Hazardous Waste

Adopted March 7, 1983

AMENDED

August 15, 1994

AN ORDINANCE TO PROVIDE FOR THE CONTROL OF POLLUTION IN THE TOWNSHIP OF ORION, AND TO PROHIBIT THE STORING OR DISPOSITION OF CERTAIN HAZARDOUS WASTE.

Section 1 - Title

This Ordinance shall be known as the "**Hazardous Waste Ordinance**".

Section 2 - Purpose

The purpose of this Ordinance is to regulate and restrict the storing, disposition and treatment of certain hazardous wastes in the Township of Orion.

Section 3 - Definitions

The following definitions shall apply in the interpretation and enforcement of this Ordinance:

Stability - Stability means that the hazardous waste has a decomposition rate in soil approximately equal to or less than the decomposition rate of the materials set forth in Table A.

Heavy Metal - Heavy metal includes, but is not limited to, chromium, cadmium, mercury, lead, molybdenum, tungsten, beryllium, copper, nickel, selenium and arsenic.

Hazardous Waste - Waste or a combination of waste and other discarded material including solid, liquid, semi-solid, or contained gaseous material which because of its quality, concentration, or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or increase in serious irreversible illness or serious incapacitating, but reversible illness, or pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed. Hazardous waste does not include solid or dissolved material in domestic sewage discharge, or solid or dissolved material in an irrigation return flow discharge, authorized industrial discharge to a municipal treatment system, or industrial discharge which is a point source subject to permits under Section 402 of the Clean Water Act of 1977, 33 U.S.C. 1342, or is a source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, 42 U.S.C. 2011 to 2282.

Section 4

No hazardous waste facility shall operate in the Township of Orion except in accordance with the laws of the State of Michigan and applicable ordinances of the Township of Orion.

Section 5 - Water Pollution Prohibited

No hazardous waste which has the potential of contacting the subsurface ground water shall be stored, disposed of, or in any way treated in the Township of Orion, if the hazardous waste has a stability in soil comparable to, or greater than, that of any of the materials listed in Table A.

TABLE A

Polychlorinated Biphenyl	Trichloroethylene	Aldrin
Polybrominated Biphenyl	Carbon Tetrachloride	Hexachlorocyclopentadiene
Tetrachloroethylene	Dieldrin	

Section 6 - Air Pollution Prohibited

No hazardous waste shall be stored, disposed of or treated at any facility in the Township of Orion, if the gaseous effluent from said storage, disposal or treatment results in the air in Orion Township containing any one of the following materials in the amounts indicated:

AMOUNTS

Heavy metal containing materials (of heavy metal) 0.1 milligrams/cubic meter

Section 7 - Severability

This Ordinance shall be deemed to be severable, and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

Section 8 - Violation & Penalties**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).

H. Lien Against Land, Building, or Structure.

If a defendant does not pay a civil fine or costs or installment ordered under Subsection A or B within thirty (30) days after the date upon which the payment is due for a violation of this Ordinance involving the use or occupation of land or a building or other structure, the Township of Orion may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fine and costs with the Register of Deeds for Oakland County. The court order shall not be recorded unless a legal description of the property is incorporated in or attached to the court order.

1. The lien is effective immediately upon recording of the court order with the Register of Deeds.
2. The court order recorded with the Register of Deeds shall constitute the pendency of the lien. In addition, a written notice of the lien shall be sent by Orion Township by first class mail to the owner of record of the land, building, or structure at the owner's last known address.
3. The lien may be enforced and discharged by Orion Township in the manner prescribed by its Charter, by the General Property Tax Act, Act No. 206 of the Public Acts of 1893, being Sections 211.1, *et seq.*, of the Michigan Compiled Laws, or by an ordinance duly passed by the Township. However, property is not subject to sale under Section 60 of Act No. 206 of the Public Acts of 1893, being Section 211.60 of the Michigan Compiled Laws, for non-payment of a civil fine or costs or an installment ordered under Subsections A or B unless the property is also subject to sale under Act No. 206 of the Public Acts of 1893 for delinquent property taxes.
4. A lien created under this section has priority over any other lien unless one or more of the following apply:

- a. The other lien is a lien for taxes or special assessments.
 - b. The other lien is created before the effective date of the amended ordinance that added this section.
 - c. Federal law provides the other lien has priority.
 - d. The other lien is recorded before the lien under this section is recorded.
5. The Township may institute an action in a court of competent jurisdiction for the collection of the fines and costs imposed by a court order for a violation of this Ordinance. However, an attempt by the Township to collect the fines or costs does not invalidate or waive the lien upon the land, building, or structure.
 6. A lien provided for by this subsection shall not continue for a period longer than five (5) years after a copy of the court order imposing a fine or cost is recorded unless within that time an action to enforce the lien is commenced.

Effective Date

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

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