

Charter Township of Orion

Ordinance No. 79

Noxious Weeds

Adopted August 20, 1984

AMENDED

September 3, 1985

June 17, 1991

August 15, 1994

April 21, 2008

AN ORDINANCE TO PROVIDE FOR THE REMOVAL AND DESTRUCTION OF NOXIOUS WEEDS IN THE CHARTER TOWNSHIP OF ORION, AND FOR THE COLLECTION OF SUCH REMOVAL BY THE CHARTER TOWNSHIP OF ORION, AND FOR THE IMPOSITION OF PENALTIES FOR THE VIOLATION THEREOF.

Section 1 - Title

This Ordinance shall be known and cited as the Orion Charter Township "**Noxious Weed 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 is to further protect the health, safety, and welfare of the residents and taxpayers of the Charter Township of Orion by providing for:

- A. The appointment of a Weed Control Officer;
- B. The removal and destruction of noxious weeds within the Township;
- C. The collection of the cost of such removal and destruction;
- D. The imposition of penalties for the violation of the provisions of this Ordinance.

Section 3 - Definitions

Noxious Weeds - includes:

- . Canada thistle (*Cirsium arvense*)
- . Dodders (any species of *Cuscuta*)
- . Mustards (charlock, black mustard, Indian mustard, species of *Brassica* or *Sinapis*)
- . Wild carrot (*Daucus carota*)
- . Bindweed (*Convolvulus arvensis*)
- . Perennial sowthistle (*Sonchus arvensis*)
- . Hoary alyssum (*Berteroa incana*)
- . Ragweed (*Ambrosia elatior* L.)
- . Poison ivy (*Rhus toxicodendron*)
- . Poison sumac (*Toxicodendron vernix*)
- . Ox-eyed daisies
- . Goldenrod
- . Or other plant which is recognized as deleterious to the health, safety, or public welfare and recognized as a common nuisance
- . And all types and varieties of grass and weeds which exceed the height of twelve (12) inches above the ground level.

Owner - any person holding an ownership interest in land in the Charter Township of Orion upon which there are noxious weeds growing. For the purposes of this Ordinance, the name and address listed on the Township tax assessment roll shall indicate ownership interest in such land.

Section 4 - Weed Control Officer

- A. Appointment. The Township Board shall appoint a competent person to be Weed Control Officer, and shall fix a salary for such office.
- B. Oath. The Weed Control Officer shall take the oath required of the Township officers.
- C. Term. The Weed Control Officer shall hold office for two (2) years provided, however, that the Weed Control Officer shall remain in office until a successor is appointed and qualified. All full terms shall start at noon on November 20 of each even-numbered year.
- D. Removal. The Township Board may at any time remove the Weed Control Officer from office for good cause, and appoint a successor to serve the remaining portion of the removed Weed Control Officer's term.

Section 5 - Prohibited Acts

- A. It shall be unlawful for the owner, agent, or occupant of any lot or lots in any subdivision in the Township where buildings have been erected on fifty percent (50%) or more of the lots in such subdivision, or of any lot or lots facing a street in common usage in the Township to grow, or cause or permit to grow, any noxious weeds.
- B. It shall be unlawful for any person to dump, place, pile, or otherwise deposit any noxious weeds, grass clippings, tree branches, brush, leaves, cut or dead plants of any nature on any vacant property without the written permission of the owner of said vacant land.
- C. The presence of noxious weeds, grass over twelve (12) inches high, grass clippings, brush, tree branches, leaves, or cut or dead plants of any nature is hereby deemed to be detrimental to the public health, safety, and welfare and shall constitute a public nuisance.

Section 6 - Noxious Weed Abatement Procedures

- A. Notification Required. Each year during the months of April and May, the Weed Control Officer shall cause to be published in a newspaper of general circulation within the Charter Township of Orion notice of *(amended 04.21.08)*:
 - 1. The prohibited acts contained in Section 5 of this Ordinance.
 - 2. Failure to remove such weeds, grass, or other items shall result in the Township Weed Control Officer causing such public nuisance to be removed and the costs billed to the property owner.
 - 3. Failure to pay such costs within thirty (30) days shall cause that cost plus a twenty five percent (25%) administration fee, or other fee set by resolution of the Township Board, to be placed as a lien on said property and to be placed on the tax roll. *(amended 06.17.91)*
- B. Action Authorized.
 - 1. If, after May 15, the owner, agent, or occupant of any lot or lots to which this Ordinance applies shall fail to comply or refuse to comply with the provisions herein, the Weed Control Officer shall cause a notice to be sent by first class mail to the owner as listed on the Township assessment roll, or by posting said notice on the property in question. *(amended 04.21.08)*
 - 2. If, after ten (10) days of the notice provided for in Paragraph 1 above having been sent, the owner, agent, or occupant of said lot or lots still has not complied with the provisions of this Ordinance, then the Weed Control Officer may enter upon such lot or lots and cut and destroy, or cause to be cut and destroyed, any and all noxious weeds, tall grass, or other items of a public nuisance located thereon.
 - 3. The Weed Control Officer may use or cause to be used any hand or mechanical means of removing any and all items of public nuisance and shall take or cause to be taken all due care to avoid unnecessary damage to property.
- C. Failure to Give Notice. Failure of the Weed Control Officer to give the notice provided herein does not, however, constitute a defense to an action to enforce the payment of a fine provided for or debt created under this Ordinance. *(added 04.21.08)*

Section 7 - Costs and Reimbursement of Abatement Costs to the Township *(amended 04.21.08)*

- A. Costs. The owner, agent, or occupant of any lot or lots on which the Township is compelled to cut and destroy noxious weeds, tall grass, or other items of a public nuisance shall be liable for all costs incurred by the Township in connection with such cutting and destruction. The costs shall be computed as follows: *(amended 09.03.85, 06.17.91, 04.21.08.)*
 - 1. Whenever the Township shall enter upon any parcel of land in order to accomplish abatement of an existing violation, pursuant to the provisions of this Ordinance, the Township Weed Control Officer is hereby authorized and directed to keep an accurate account of all expenses incurred, and, based upon same, and pursuant to authorized costs set per resolution of the Township Board, issue a certificate determining and certifying the reasonable cost involved for such work with respect to each parcel of property.

2. The Township Weed Control Officer is also authorized to add to such costs a twenty five percent (25%) administration charge, or other charge set by resolution of the Township Board, to cover the expenses of administering the work performed, costs of publication, overhead and other contingent expenses.
3. Within ten (10) days after receipt of the certificate, the Township treasurer shall forward a statement of the total charges assessed on each parcel of property to the person as shown by the last current assessment or tax roll and such assessment shall be payable to the Township treasurer within thirty (30) days from the date the statement was forwarded.
4. If not paid within the prescribed thirty (30) day period, such statement shall be filed with the Township assessor and shall thereupon be assessed against the land in question and become a lien on such property in accordance with the provisions of General property Tax Act. Such amount shall be a debt of the person to whom assessed until paid and, in case of delinquency, may be enforced as delinquent Township property taxes or by a suit against such person.

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 - Violation and Penalties *(added 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 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.

Section 10 - Effective Date

This Ordinance shall take effect immediately upon publication in a newspaper of general circulation in the Charter Township of Orion.