

Charter Township of Orion

Ordinance No. 130

Construction Code

Adopted July 16, 2001

AMENDED

April 4, 2005

June 4, 2007

AN ORDINANCE TO DESIGNATE THE TOWNSHIP OF ORION AS AN ENFORCING AGENCY UNDER THE PROVISIONS OF THE STATE CONSTRUCTION CODE ACT, ACT NO. 230 OF THE PUBLIC ACTS OF 1972, AS AMENDED, AND TO REPEAL ORDINANCE NOS. 111, 112, 113, 114 AND 115.

Section 1 - Purpose and Intent

This Ordinance is adopted to designate Orion Township as an enforcing agency under the provisions of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended.

Section 2 - Township Administration and Enforcement

- A. The Charter Township of Orion assumes responsibility for the administration and enforcement of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended.
- B. The Township Building Department, its officials, inspectors, administrative personnel, plan review and inspection personnel and consultants, and personnel and consultants of the Township that perform acts or provide services in the administration and enforcement of the State Construction Code, are hereby designated as the enforcing agency to discharge the responsibility of the Township to administer and enforce the State Construction Code.
- C. Pursuant to the provisions of the State Construction Code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the Township Building Department, its officials, inspectors, administrative personnel, plan review and inspection personnel and consultants, personnel and consultants of the Township engineering, planning, and code enforcement departments, the planning commission, and the Township Board of Trustees within the Charter Township of Orion. *(added 06.04.07)*
- D. Designation of Regulated Flood Prone Hazard Areas. The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled "Flood Insurance Study, Oakland County, Michigan, and Incorporated Areas" and dated September 29, 2006, the Flood Insurance Rate Maps (FIRMS) panel numbers of 26125C0212F, 26125C0214F, 26125C0216F, 26125C0217F, 26125C0218F, 26125C0219F, 26125C0236F, 26125C0237F, 26125C0238F, 26125C0239F, 26125C0352F, 26125C0354F, 26125C0356F, 26125C0357F, 26125C0358F, 26125C0359F, 26125C0376F, 26125C0377F, 26125C0378F, 26125C0379F and dated September 29, 2006 are adopted by reference and declared to be part of Section 1612.3 of the Michigan Building Code. *(added 06.04.07)*
- E. The Planning Commission, (and the Township Board when required by ordinance) with the assistance of the Building and Planning Department, and appropriate Township Consultants, shall conduct the review for permit issuance with respect to all site plans, platted subdivisions and manufactured home parks under to State Construction Code Appendix G, Section G103, G104 and G301 which involve development and construction of improvements in flood hazard prone areas delineated on the Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMS) adopted in Subsection D, above. The review for permit issuance for all other types of proposals shall be completed administratively by the Township's Building and Planning Department. *(added 06.04.07)*
- F. The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood levels may be increased by man-made or natural causes. Thus, approval of the use of land under this article shall not be considered a guarantee or warranty of safety from flood damage. This article does not imply that areas outside the flood zones or flood hazard areas will be free from flood damage. This Article does not create liability on the part of the Township or any officer or employee thereof for any flood damage that results from reliance on this article, or any administrative decision lawfully made. *(added 06.04.07)*

Section 3 - Definitions

As the following terms are used in this Ordinance, the following definitions shall be applicable:

- A. **Board of Appeals** means the Construction Board of Appeals.
- B. **Commission** means the State Construction Code Commission created by the Single State Construction Code Act, being Act No. 230 of the Public Acts of 1972, as amended.

- C. **State Construction Code** means and includes the Single State Construction Code Act, being Act No. 230 of the Public Acts of 1972, as amended, and the State Construction Code prepared and promulgated as provided in that Act.

Section 4 - Agency Designations

- A. Building Code.

Pursuant to the provisions of the Michigan Building Code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Township Building Department, inclusive of its building officials and supporting administrative staff and consultants, are hereby designated as the enforcing agency to discharge the responsibility of the Charter Township of Orion under Act 230, of the Public Acts of 1972, as amended, State of Michigan.

- B. Electrical Code.

Pursuant to the provisions of the Michigan Electrical Code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Township Building Department, inclusive of its electrical officials and supporting administrative staff and consultants, are hereby designated as the enforcing agency to discharge the responsibility of the Charter Township of Orion under Act 230, of the Public Acts of 1972, as amended, State of Michigan.

- C. Mechanical Code.

Pursuant to the provisions of the Michigan Mechanical Code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Township Building Department, inclusive of its mechanical officials and supporting administrative staff and consultants, are hereby designated as the enforcing agency to discharge the responsibility of the Charter Township of Orion under Act 230, of the Public Acts of 1972, as amended, State of Michigan.

- D. Plumbing Code.

Pursuant to the provisions of the Michigan Plumbing Code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Township Building Department, inclusive of its plumbing officials and supporting administrative staff and consultants, are hereby designated as the enforcing agency to discharge the responsibility of the Charter Township of Orion under Act 230, of the Public Acts of 1972, as amended, State of Michigan.

- E. Residential Code. *(added 06.04.07)*

Pursuant to the provisions of the Michigan Residential Code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as Amended, the Township Building Department, inclusive of its building officials and supporting administrative staff and consultants, are hereby designated as the enforcing agency to discharge the responsibility pf the Charter Township of Orion under Act 230, of the Public Acts of 1972, as amended, State of Michigan.

Section 5 - Construction Board of Appeals

- A. The Construction Board of Appeals shall consist of five (5) members.
- B. The Board of Appeals members shall be appointed for two-year terms by the Township Supervisor based upon experience or training to perform the duties of members of the Board of Appeals. Any member may be removed by the Supervisor, after notice and opportunity to be heard, for misfeasance, malfeasance, or nonfeasance.
- C. The Board of Appeals shall have jurisdiction and conduct its business at public meetings as provided by Public Act 230 of 1972, as amended.

Section 6 - Board of Appeals: Variances

- A. After public hearing, the Board of Appeals may grant variance relief from the specific terms of the State Construction Code, if a literal application thereof shall result in an exceptional, practical difficulty to the applicant, and if both of the following requirements are satisfied:

1. The performance of the particular item or part of the structure with respect to which the variance is requested shall be adequate for its intended use and shall not substantially deviate from performance required by the State Construction Code of that particular item or part for the health, safety and welfare of the people of the Township.
 2. The specific condition justifying the variance shall be neither so general nor recurrent in nature so as to make an amendment of the State Construction Code with respect to the condition reasonably practical or desirable.
- B. The Board of Appeals may attach to any decision granting a variance any written condition in connection with the variance that, in its judgment, is necessary to protect the health, safety and welfare of the people of the Township. The breach of a condition shall automatically invalidate the variance, and also invalidate any permit, license or other permission granted on the basis of the previously issued variance. In no case shall more than minimum variance from the State Construction Code be granted than is necessary to alleviate the exceptional, practical difficulty.

Section 7 - Appeals

Decisions of the Board of Appeals may be appealed to the Commission; provided, however, that such an appeal shall not stay the decision of the Construction Board of Appeals unless specifically so ordered by a court having jurisdiction.

Section 8 - State Registration and Licensing *(amended 04.04.05)*

Registration and licensing shall be as required by the State of Michigan. An electrical contractor, master electrician, electrical journeyman, fire alarm contractor, fire alarm specialty technician, sign specialty contractor, sign specialist and others shall be licensed, and an apprentice electrician, fire alarm specialty apprentice technician and others shall be registered as required and provided in the Electrical Administrative Act, Act No. 217 of the Public Acts of 1956, as amended. Consistent with the repeal of prior Orion Township Ordinances 111, 112, 113, 114, and 115, the Township will no longer perform such licensing and examination functions and will transfer copies of its license applications and information for individuals previously licensed by the Township to the licensing authority under the Electrical Administrative Act.

Section 9 - Violation and 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.

Section 10 - Fees

The Township Board of Trustees shall establish all fees applicable under this section by resolution. Fees shall be reasonably related to the costs and may be modified by a majority of the Township Board of Trustees.

Section 11 - Repealer

- A. All ordinances or parts of ordinances in conflict with or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.
- B. Township Ordinance No.111 Building Code Ordinance, Township Ordinance No.112 Plumbing Ordinance, Township Ordinance No.113 Mechanical Code Ordinance, Township Ordinance No.114 Electrical Ordinance, and Township Ordinance No.115 Electrical Code Ordinance are specifically repealed.

Section 12 - Savings Clause

Nothing in this Ordinance shall restrict or nullify an enforcement action relative to any act or offense committed before the effective date of this Ordinance, and any enforcement action or prosecution thereon is saved.

Section 13 - Severance Clause

Should any section, subdivision, sentence, clause or phrase of this Ordinance, be declared by the courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part invalidated.

Section 14 - Adoption, Publication, and Effective Date

This Ordinance is declared adopted by Orion Township Board of Trustees at a meeting called and held on the 16th day of July, 2001 and ordered to be given effect after legal publication and in accordance with the provisions of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended.

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