

ORDINANCE NO. 6

BERRIEN COUNTY PARKING ORDINANCE

AN ORDINANCE GOVERNING THE OPERATION, SPEED AND PARKING OF VEHICLES UPON THE PROPERTY OF THE BERRIEN COUNTY BUILDING AUTHORITY, INC., AND/OR THE COUNTY OF BERRIEN, STATE OF MICHIGAN, LOCATED WITHIN THE CORPORATE LIMITS OF THE COUNTY OF BERRIEN, MICHIGAN, AND PROVIDING FOR THE PENALTIES AND PROCEDURES FOR ENFORCEMENT OF ANY VIOLATIONS OF THIS ORDINANCE.

THE BERRIEN COUNTY BUILDING AUTHORITY, INC., AND THE COUNTY OF BERRIEN, STATE OF MICHIGAN, ORDAIN:

SECTION 1. AUTHORITY FOR ADOPTION

Session of 1948, as amended, having authorized any County of the State to incorporate an Authority for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating and maintaining buildings, automobile parking lots or structures and the necessary site or sites therefore for the use of the County; the Berrien County Board of Supervisors having incorporated the Berrien County Building Authority, Inc., on January 15, 1962, for the purpose aforesaid; Article V, Section 1(g) of the Articles of Incorporation of said authority having granted the said corporation power to acquire, maintain and control parking facilities used in conjunction with the building or buildings to be purchased, constructed or leased by said Authority; the said Authority having heretofore leased to the County of Berrien a Courthouse building and adjacent parking facilities; and the County of Berrien being the owner of other parking facilities in said County; the County of Berrien also having authority by virtue of Public Act 58 of 1945, as amended, to maintain and regulate parking lots and to enact such rules and regulations for the safe and proper use of said parking lots in accordance with the statute in such case made and provided; it is, therefore, determined that the public peace, health, safety and welfare require the adoption of this Ordinance.

Section 2. DEFINITIONS

For the purpose of this ordinance certain terms and words are herein defined as follows:

- (a) **"AUTHORITY"** shall mean the Berrien County Building Authority, Inc.
- (b) **"CONTROL DEVICE"** shall mean any sign, signal, marking and device erected upon the property of the Authority and the County by the County governing the operation, parking and speed of vehicles on said property.
- (c) **"COUNTY"** shall mean the County of Berrien, State of Michigan.
- (d) **"DRIVER"** shall mean any person who drives or is in actual physical control of a vehicle.
- (e) **"DRIVEWAY"** shall mean an area upon the property of the Authority and/or the County reserved for vehicle traffic ingressing or egressing the areas designated for parking on said property.
- (f) **"PARKING"** shall mean standing a vehicle, whether occupied or not, when not loading or unloading, except when marking necessary repairs.

- (g) **“PARKING SPACE”** shall mean an area designated by a control device erected or placed by the County on the property of the Authority and/or the County as a parking area for a single vehicle.
- (h) **“PARKING VIOLATION NOTICE”** shall mean a notice, other than a citation, directing a person to appear at the Parking Violations Bureau at the Courthouse, St. Joseph, Michigan or the South County Building, Niles, Michigan, and to respond to an alleged parking or standing violation of this Ordinance.
- (i) **“PROPERTY OF THE AUTHORITY”** shall mean all property owned by or under the control of the Commission of said Authority, whether in fee, under lease or otherwise, situated within the Berrien County, Michigan.
- (j) **“PROPERTY OF THE COUNTY”** shall mean all property owned by or under the control of the County, whether in fee, under lease or otherwise, situated within the City of St. Joseph, Berrien County, Michigan.
- (k) **“VEHICLE”** shall mean and include any device upon or by which any person or property may be transported, and includes bicycles or snowmobiles, as defined by the Michigan Motor Vehicle Code.
- (l) **“VEHICLE OWNER”** shall mean a person in whose name the vehicle is registered in this State or another state at the time of any alleged violation of this Ordinance.

SECTION 3. OPERATION OF VEHICLES

Every vehicle shall be operated upon the property of the Authority and/or the County in accordance with the following regulations:

- (a) No driver shall operate any vehicle upon the property of the Authority or the County except upon driveways, parking areas, or other places specifically provided or designated for the operation of vehicles by control devices erected upon said property by the County.
- (b) No driver operating a vehicle upon the property of the Authority or the County shall operate the same in the manner directed by any control device erected upon said property by the County.
- (c) No driver shall operate a vehicle upon any sidewalk or lawn located upon or adjacent to property of the Authority or the County, nor shall any person operate a vehicle upon any area or place where the operation of such vehicle is prohibited by any control device erected upon the property of the Authority or the County by the County.

SECTION 4. SPEED OF VEHICLES

Every vehicle shall be operated upon the property of the Authority and/or the County in accordance with the following speed regulations relating:

- (a) Any driver operating a vehicle upon the property of the Authority and/or the County shall operate said vehicle at a careful and prudent speed, not greater than nor less than is reasonably proper, having due regard to the vehicle and pedestrian traffic, property surface and any other conditions then existing and at a speed not greater than will permit such driver to bring said vehicle to a stop within the assured clear distance ahead.

(b) Unless a lower speed shall be designated at any place by a control device erected by the County and subject to the provisions of subparagraph (a) of this Section, it shall be prima facie lawful for a driver of a vehicle to drive the same upon the property of the Authority and/or the County on any driveway, parking area or place provided or designated for the operation of a vehicle at a speed not exceeding fifteen (15) miles per hour.

(c) It shall be unlawful for the driver of any vehicle to exceed the speed of fifteen (15) miles per hour or to exceed any lower speed designated by any control device erected by the County as aforesaid.

SECTION 5. PARKING OF VEHICLES

Every vehicle shall be parked upon the property of the Authority and/or the County in accordance with the following parking regulations:

(a) No person shall park any vehicle upon the property of the Authority and/or the County except in or upon areas designated by control devices erected by the County as parking areas and, then, only in the manner prescribed by the control device designating said parking areas.

(b) No vehicle shall be parked within any such parking area in a manner so as to block or interfere with the passage or driving of other vehicles on or along driveways located upon the property of the Authority and/or County.

(c) No vehicle shall be parked in any place on the property of the Authority and/or the County where parking is prohibited by control devices erected by the County.

(d) No person shall park any vehicle in a parking space which is in any manner expressly reserved and designated for the use of another person by a control device erected by the County.

(e) No person shall park in a parking space for a time period longer than designated by a control device erected by the County.

(f) No person, except an employee of the Authority and/or the County, shall park on said property between the hours of 1:00 a.m., and 6:00 a.m., local time.

(g) No person shall park in a parking space designated by a control device erected by the County as being reserved for handicappers, unless the person is a handicapper as described in MCLA 257.19a or unless the person is parking the vehicle for the benefit of such a handicapper. A certificate of identification issued under MCLA 257.675 (5) to a handicapper shall be displayed on the lower left corner of the front windshield or a special registration plate issued under Section MCLA 257.803d to a handicapper shall be displayed on any vehicle parked in such a parking space.

SECTION 6. VIOLATIONS

(a) Any person who shall violate any of the provisions of this Ordinance shall be responsible for a civil infraction violation which shall be noticed as provided in Section 7 or 8 of this Ordinance and which shall be enforced pursuant to Section 9 of this Ordinance.

(b) Any person admitting responsibility for or being found responsible for a civil infraction shall be subject to the penalties set out in Section 10 of the Ordinance.

SECTION 7. PARKING VIOLATIONS NOTICE

(a) A Parking Violations Bureau is hereby established with offices in both the Courthouse, City of St. Joseph, Michigan, and the South County Building, City of Niles, Michigan, for the collections of the civil fines and costs established for parking violations under this Ordinance.

(b) If a vehicle is parked in violation of Section 5 of this Ordinance prohibiting or restricting the parking of a vehicle, the violation is a civil infraction and the person in whose name that vehicle is registered in this state or another state at the time of the violation is prima facie responsible for that violation and is subject to the penalties of this Ordinance.

(c) The owner of a vehicle cited for a parking violation pursuant to subsection (b) may assert as an affirmative defense that the vehicle in question, at the time of the violation, was in the possession of a person whom the owner had not knowingly permitted to operate the vehicle.

(d) The registered owner of a vehicle who is found to be responsible for a civil infraction as the result of subsection (b) has the right to recover in a civil action against the person who parked the vehicle in question, damages in the amount of any civil fine or costs, or both, imposed pursuant to this Ordinance. The registered owner of a vehicle may provide in a written agreement that the person who parked the vehicle in violation of the local Ordinance, when the violation is a civil infraction, shall indemnify the registered owner for any civil fine and costs imposed upon the registered owner for that civil infraction.

(e) Any Berrien County Sheriff's Deputy who witnesses a violation of the provisions of this Ordinance with regard to parking, may issue a parking violation notice to the registered owner of said vehicle by attaching a copy of said notice to the vehicle involved in a violation of this Ordinance and returning a copy of said notice to the Parking Violations Bureau closest to the site of the violation.

(f) Any person receiving a parking violation notice under this Ordinance may admit responsibility for said violation and pay the civil fines and costs established by this Ordinance within five (5) days of the date said notice is attached to the vehicle involved in said violation at the Parking Violations Bureau.

(g) If a parking violation notice is attached to a motor vehicle, and if an admission of responsibility is not made and the civil fine and cost prescribed are not paid at the Parking Violations Bureau within the time allowed by this Ordinance, a citation may be filed with the Fifth District Court and a copy of the citation may be served by first-class mail upon the registered owner of the vehicle at the owner's last known address. The citation shall consist of a sworn complaint containing the allegations stated in the parking violation notice and shall fairly inform the defendant how to respond to the citation.

(h) A citation issued pursuant to subsection (g) herein shall be processed in the same manner as a citation issued personally to a defendant under Section 9 of this Ordinance.

SECTION 8. MOVING VIOLATIONS CITATION

(a) Subject to Section 7 of this Ordinance dealing with parking violations,
(1) Any Berrien County Sheriff's Deputy who witnesses a person violating any provision of this Ordinance may stop the person, detain the person temporarily for purposes of making a record or vehicle check, and prepare and subscribe, as soon as possible and as completely as possible and as completely as possible, an original and three (3) copies of a written citation, which shall be a notice to appear in court for one (1) or more civil infractions. If said officer witnesses a person violating any provision of

this Ordinance, that officer may pursue, stop and detain the person outside the village, city, township, or county where the violation occurred for the purpose of exercising the authority and performing the duties prescribed in this Section.

(2) Any Berrien County Sheriff's Deputy may issue a citation to a person who is a driver of a vehicle involved in an accident when, based upon personal investigation, the deputy has reasonable cause to believe that the person is responsible for a civil infraction in connection with said accident.

(3) Any Berrien County Sheriff's Deputy may issue a citation to a person who is a driver of a vehicle when, based upon personal investigation by the deputy of a complaint by someone who witnessed the person violating any of the provisions of this Ordinance, the deputy has reasonable cause to believe that the person is responsible for a civil infraction and the prosecuting attorney approves, in writing, the issuance of the citation.

(b) The form of the citation issued under subsection (1), (2) and (3) above shall be as prescribed in MCLA 257.743 and MCLA 257.727c.

(c) The Berrien County Sheriff's Deputy issuing said citation shall inform the person of the alleged civil infraction or infractions and shall deliver the third copy of the citation to the alleged offender, and the original thereof shall be filed with the Fifth District Court.

SECTION 9. PROCEDURE FOR ENFORCEMENT OF PENALTIES FOR VIOLATIONS

(a) CIVIL INFRACTION ACTION

(1) A civil infraction action is a civil action in which the defendant is alleged to be responsible for a violation of this Ordinance. A civil infraction action is commenced upon the issuance and service of a citation as provided for in this Ordinance. The Plaintiff in such a civil action shall be the County.

(2) Subject to the provisions made in Section 7 for enforcement of parking violations, the Fifth Judicial District Court for the State of Michigan shall have jurisdiction over civil infractions actions arising under this Ordinance and the place specified in the citation for the defendant's appearance shall be either the District Court, Courthouse, St. Joseph, Michigan or the District Court, South County Building, City of Niles, Michigan.

(3) If the person cited is a minor, that individual shall be permitted to appear in court or to admit responsibility for a civil infraction without the necessity of appointment of a guardian or next friend and the court shall have jurisdiction over the minor and may proceed in the same manner and in all respects as if that individual were an adult.

(4) If a Berrien County Sheriff's Deputy issues a citation under Sections 7 or 8 of this Ordinance, the court may accept an admission "with explanation" or an admission of denial of responsibility upon the citation without the necessity of a sworn complaint. If the person denies responsibility for the civil infraction, further proceedings shall not be had until a sworn complaint is filed with the court. A warrant for said person as provided for under MCLA 257.744 for failure to appear on the civil infraction citation shall not issue until a sworn complaint relative to the civil infraction is filed with the court.

(b) APPEARANCE OF PERSON ISSUED CITATION

(1) A person to whom a citation is issued under Section 7 or 8 of this Ordinance shall appear at or by the time specified in the citation and may respond to the allegations in the citation as provided in this section.

(2) If the person wishes to admit responsibility for the civil infraction, the person may do so by appearing in person, by representations, or by mail. If appearance is made by representation or mail, the court may accept the admission with the same effect as though the person personally appeared in court. Upon acceptance of the admission, the court may order any of the sanctions permitted under Section 10 of this Ordinance.

(3) If the person wishes to admit responsibility for the civil infraction "with explanation," the person may do so in either of the following ways:

(a) By appearing by mail.

(b) By contacting the court in person, by mail, by telephone, or by representation to obtain from the court a scheduled date and time to appear, at which time the person shall appear in person or by representation.

(4) If a person admits responsibility for a civil infraction "with explanation" under Section (3), the court shall accept the admission as though the person has admitted responsibility under subsection (2) and may consider the person's explanation by way of mitigating any sanction which the court may order under Section 10. If appearance is made by representation or mail, the court may accept the admission with the same effect as though the person personally appeared in court, but the court may require the person to provide a further explanation or to appear in court.

(5) If the person wishes to deny responsibility for a civil infraction, the person shall appear in the manner provided by this subsection and request an informal or formal hearing. Unless the hearing date is specified on the citation, the person shall contact the court in person, by representation, by mail, or by telephone, and obtain a scheduled date and time to appear for an informal or formal hearing. The court shall schedule an informal hearing, unless the person expressly requests a formal hearing. If the person expressly requests a formal hearing, the court shall schedule a formal hearing. If a hearing is scheduled by telephone, the court shall mail the defendant a confirming notice of that hearing by regular mail to the address appearing on the citation or to an address which may be furnished by the defendant. An informal hearing shall be conducted pursuant to MCLA 257.747.

(c) **DEFAULT** Except as provided by MCLA 257.321a(2), if the person to whom a citation is issued for a civil infraction fails to appear as directed by the citation or other notice at a scheduled appearance under Sections 9(b) (3) (B) or 9 (b) (4) of this Ordinance, at a scheduled informal hearing, or at a scheduled formal hearing, the court shall enter a default judgment against that person and the person's license shall be suspended in accordance with Section MCLA 257.321a.

SECTION 10. PENALTIES

(a) Any person admitting responsibility for a parking violation under Section 7 of this Ordinance shall be subject to a civil fine of five (\$5.00) dollars.

(b) (1) Except as provided in subsection (a), when a person is determined pursuant to Section 9 of this Ordinance to be responsible or responsible "with explanation" for a civil infraction under this Ordinance, the judge or district court magistrate may order the person to pay a civil fine of not more than \$100.00 and costs as provided in subsection (b) (2). Permission may be granted for payment of a civil fine and costs to be made within a specified period of time or in specified installments, but in

the absence of permission being included in the order or judgment, the civil fine and cost shall be payable immediately.

(b) (2) If a civil fine is ordered to be paid under subsection (b) (1), the judge or magistrate shall summarily tax and determine the costs of the action, which shall not be limited to the costs taxable in ordinary civil actions, and may include all expenses, direct and indirect, to which the plaintiff has been put in connection with the civil infraction, up to the entry of judgment. Except in a civil infraction for a parking violation, costs of not less than \$5.00 shall be ordered. Costs shall not be ordered in excess of \$100.00.

(c) A district court magistrate shall impose the sanctions permitted under subsections (b) (1) and (b) (2) only to the extent expressly authorized by the chief judge of the district court.

(d) A default in the payment of a civil fine or costs ordered under subsection (2) or an installment of the fine or costs may be collected by any means authorized for the enforcement of a judgment under Chapter 40 of Act No. 236 of the Public Acts of 1961, as amended being Sections 600.4001 to 600.4065 of the Michigan Compiled Laws, or under Chapter 60 of Act No. 236 of the Public Acts of 1961, as amended, being Sections 600.6001 to 600.6097 of the Michigan Compiled Laws.

(e) Except as provided by MCLA 259.321a(2), if a person fails to comply with an order or judgment issued pursuant to this Section, within the time prescribed by the court, the driver's license of that person shall be suspended in accordance with MCLA 257.321a. In addition to this suspension, the court may also proceed under MCLA 257.908.

SECTION 11. REMOVAL OF VEHICLES

(a) The County and/or the Authority may authorize a Berrien County Sheriff Deputy to immediately remove a vehicle from an area on its property to a place of safekeeping at the expense of the registered owner of the vehicle in any of the following circumstances:

- (1) If the vehicle is parked in a posted tow-away zone;
- (2) If removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or man-made disaster, or other emergency; or
- (3) If the vehicle is parked in a manner which impedes the movement of another vehicle.

(b) After such removal of a vehicle is made, the deputy authorizing said removal shall promptly comply with the provisions of MCLA 257.252d(2), which shall govern the release and/or retention of said vehicle after removal.

SECTION 12. SEVERABILITY

In any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be declared a separate, distinct and independent provision, and such holdings shall not affect the validity of the remaining portions or provisions of this Ordinance.

SECTION 13. EFFECTIVE DATE

This Ordinance, if approved by the Governor of the State of Michigan, shall take effect and be in force from and after sixty (60) days of the date of its adoption by the Berrien County Board of Commissioners or the Berrien County Building Authority, Inc.

SECTION 14. PUBLICATION

This Ordinance shall be published in a newspaper of general circulation within the County of Berrien, State of Michigan, once before the effective date hereof.

ADOPTED: July 21, 1983

REPEALED: January 21, 1993

REPEALED