

ORDINANCE No. 2012-1

OTSEGO COUNTY LOUIS M. GROEN NATURE PRESERVE ORDINANCE

Adopted: March 13, 2012
Effective: May 2, 2012

AN ORDINANCE TO REGULATE THE USES AND ACTIVITIES (AND OTHER MATTERS) WITH REGARD TO THE LOUIS M. GROEN NATURE PRESERVE AND TO PROVIDE FOR PENALTIES FOR THE VIOLATION OF THIS ORDINANCE

WHEREAS, Section 11(j) of the County Boards of Commissioners Act, MCL 46.11(j), provides that a county board of commissioners, by majority vote of the members of the county board of commissioners, elected and serving, may pass ordinances that relate to county affairs and do not contravene the general laws of the State of Michigan or interfere with the local affairs of a township, city, or village within the limits of the county, and can further provide suitable sanctions for the violation of those ordinances.

NOW, THEREFORE, THE COUNTY OF OTSEGO, MICHIGAN, HEREBY ORDAINS:

Section 1 Purpose and Intent

The Otsego County Board of Commissioners hereby finds that it is necessary for the public health, safety, and welfare to regulate the use, maintenance, and other aspects of the Louis M. Groen Nature Preserve. It is the intent of this Ordinance to minimize problems associated with trespass, trail use, litter, parking, and similar matters with regard to the Louis M. Groen Nature Preserve.

Section 2 Title

This Ordinance shall be known and may be cited and referred to as the "Louis M. Groen Nature Preserve Ordinance," and shall hereinafter be referred to as the "Ordinance".

Section 3 Definitions

"Authorized Use" means a use on the Preserve that has been authorized by the Board through ordinance or resolution, or through the posting of a notice or the establishment of a written policy.

"Board" means the Otsego County Board of Commissioners.

"Bicycle Trail" means any trail designated by the Commission for bicycle riding.

"Commission" means the Otsego County Parks and Recreation Commission.

"County" means Otsego County.

“Equestrian Trail” means any trail designated by the Commission for horseback riding.

“Hours of Operation” means the time periods during which the Preserve is open to the public, as established from time to time by the Commission.

“Pedestrian Trail” means any trail designated by the Commission for uses that include walking, hiking, jogging, skiing, or snowshoeing.

“Person” means any individual, partnership, association, or corporation.

“Preserve” means the Louis M. Groen Nature Preserve.

“Vehicle” means any device intended to transport a person or people or another vehicle or vehicles from one place to another.

“Water Craft” means any vehicle intended to be used for transportation on the water or ice.

Section 4 Applicability

This Ordinance shall apply to the real property located within Charlton Township, Otsego County, Michigan, commonly known as the Louis M. Groen Nature Preserve and legally described in Quit Claim Deed Liber 1272 Page(s) 480-483, recorded in the Otsego County Register of Deeds.

Section 5 Hours of Operation

The hours of operation of the Preserve shall be set and posted by the Otsego County Parks and Recreation Commission. No person shall enter at any other point than through the designated Parking Area referenced in Section 8. No person shall enter the property outside of posted hours of operation unless receiving written permission from the Otsego County Parks and Recreation Director, the Otsego County Administrator, or the County Board of Commissioners Chairperson.

Section 6 Fees

There shall be no fee for entering the Preserve. The County may, at its discretion, by resolution or motion, set any required fees for any services or similar matters provided at the Preserve.

Section 7 Use at Own Risk

Any person who utilizes the Preserve does so at that person’s own risk.

Section 8 Traffic and Parking

No person shall drive, park, or store any vehicle within the Preserve, except in the areas specifically designated for such purposes. No vehicle or person shall block any entrance, exit, or parking area within the Preserve. Any parking area which is designated with a handicap parking sign shall be utilized only by handicapped persons as defined by Michigan law. It shall be

unlawful for any person to allow a vehicle under his or her control to remain parked on the Preserve property at a time other than the hours of operation. The County has the authority to remove or tow any vehicle which is improperly parked, placed, or stored anywhere within the Preserve, and the owner of such vehicle shall be responsible for reimbursing the County for any and all towing or removal costs and expenses. This provision does not apply to vehicles or equipment utilized by the County or the Commission for the maintenance and upkeep of the Preserve, and for the enforcement of this Ordinance.

Section 9 Uses Prohibited

No person shall commit any of the following acts on Preserve property:

- a. Any residential, commercial, or industrial use;
- b. use of any vehicle or water craft except such vehicles or water craft utilized by the County or the Commission for the maintenance and upkeep of the Preserve. This subsection does not apply to use of vehicles in specifically designated parking areas, the use of non-motorized water craft for educational purposes as authorized by the Commission, and the use of Mechanized Aid for Persons with Disabilities;
- c. deposit, dump, or place any ashes, trash, rubbish, paper, garbage, refuse, debris or junk, except in containers provided by the Preserve for such purposes;
- d. destroy, deface, paint, alter, hide, change, break, mark upon, damage, take, remove, or excavate any Preserve property;
- e. remove or take any antiquities, artifacts, or other items found on the Preserve from the Preserve property;
- f. cut, remove, uproot, destroy, chip, blaze, box, paint, girdle, trim, deface, injure, break, remove, pick, or gather any portion of any tree, tree sapling, seedling, bush, shrub, flower, plant, mushroom, branch, berry, fruit, foliage, seed, sod, earth, downed timber, wood chips, peat, rock, sand, gravel, or any other natural material;
- g. perform any mowing, trimming, cutting, or pruning of any trees or other vegetation, living or dead, other than is reasonably required to be conducted by the County or the Commission for the safety of users of the Preserve, for control of active fire, and prevention of fire and disease, including exotic intrusion, and for restoration or enhancement of wildlife habitat;
- h. hunt, fish, pursue, trap, catch, disturb, molest, poison, remove, wound or kill any animal or fish, or disturb, molest, or rob the nest, lair, den, or burrow of any animal, unless necessary to keep the animal and fish populations within numbers consistent with the ecological balance of the Preserve property or as necessary to protect public health and safety. Notwithstanding the foregoing, supervised and educational catch and release fishing as authorized by the Board or Commission or their appointed representatives, shall be permitted;

- i. use of any chemical or biological pesticide, herbicide, or other substance or measure designed to kill or restrict any plant or insect;
- j. build a camp fire on the ground. A camp fire off the ground in a contained structure may be permitted in an area designated for such purpose.
- k. build a fire in a manner that threatens Preserve property;
- l. drop, throw away, or scatter any burning, lighted or hot colas, ashes, cigarette, cigar, firecracker, match, or other burning matter;
- m. leave a fire unattended or before it is extinguished to the point that its ashes, residue, and colas are cold to the human touch, unless such ashes, residue, or colas are deposited in a container designated by the Preserve for such purpose;
- n. ice skating on any of the lakes within the Preserve;
- o. interfere with, unreasonably disrupt, or delay any person employed or contracted by the County or Commission to maintain and supervise the Preserve, in the performance of his or her duties;
- p. set off or attempt to ignite any firecracker, fireworks, smoke bombs, rockets, black powder guns, or other pyrotechnics;
- q. engage in behavior or speech that provokes a breach of the peace or intimidates or unreasonably interferes with others in the normal, safe use of the Preserve property;
- r. disobey, ignore, or fail to comply with any lawful direction or order given by a person employed or contracted by the County or Commission to maintain and supervise the Preserve;
- s. be legally intoxicated or under the influence of any illegal controlled substance;
- t. consume or possess any alcoholic beverage, if such person is under the age of 21 years;
- u. possess, use, plant, cultivate, tend, or harvest any illegal controlled substances, including cannabis or any derivative thereof;
- v. give or deliver any alcoholic beverage to any person under the age of 21 years;
- w. use or possess any weapon including, without limitation, handgun, rifle, shotgun, bow and arrow, slingshot, cross bow, spear, spear gun, switchblade knife, stiletto, sword, blackjack, billy club, whip, axe, any weapon capable of discharging a projective by air, spirit, gas or explosive, any explosive substance, or harmful solid, liquid or gaseous substance, or any other dangerous weapon. This subsection does not apply to a concealed pistol carried by a person pursuant to a valid concealed pistol license provided however, that the person carrying the concealed pistol must have in his or her possession, the license to carry the pistol;

- x. quarrying, ditching, diking, draining, filling, excavating, dredging, removal of topsoil or other materials, or changing the topography of the land in any manner, except when necessary to maintain, preserve, and protect the natural features of the Preserve;
- y. smoking;
- z. use of glass containers;
- aa. bring in, or allow to remain, any dog that is on a leash longer six feet;
- bb. bring in, or allow to remain, any vicious or dangerous horse, dog, or other animal;
- cc. ride a horse on any area in the Preserve, other than an Equestrian Trail as designated by the Commission;
- dd. ride a bicycle on any area of the Preserve, other than a Bicycle Trail as designated by the Commission;
- ee. camping or overnight stays other than camping for educational purposes as authorize by the Commission;
- ff. gamble or play any game of chance; or
- gg. do or engage in any indecent, lascivious, lewd or improper act or conduct.

Section 10 Damage

Any person causing damage to the Preserve (or to any tree, flora, fauna, structure, building, or item within the Preserve) shall be responsible for fully reimbursing the County for any and all costs and expenses associated with the repair of the damage or replacement of the damaged item.

Section 11 Compliance with Rules and Regulations

Anyone using the Preserve or present at or on the Preserve shall comply with any and all rules and regulations regarding the Preserve adopted by the Board or the Commission.

Section 12 Authority of a County or Police Official

Any person directed by a police officer, law enforcement agent, or a County employee or person contracted by the County for supervision of the Preserve, to leave the Preserve shall do so promptly and peaceably. Any person carrying a concealed pistol upon the Preserve property must produce a valid license to carry the concealed pistol to a police officer, law enforcement agent, or a County employee or person contracted by the County for supervision of the Preserve. Failure to produce a valid license to carry the concealed pistol would subject the pistol to immediate seizure by the police officer, law enforcement agent, or a County employee or person contracted by the County for supervision of the Preserve. If a police officer or law enforcement agent seized the pistol, the person shall have 45 days in which to display his or her license or documentation to an authorized employee of the law enforcement entity that employs the police

officer or law enforcement agent. If the pistol is seized by a County employee or person contracted by the County for supervision of the Preserve, the person shall have 45 days in which to display his or her license or documentation to the County Administrator or Commission Director.

Section 13 Violation; Penalties, Remedies, and Enforcement

A violation of this Ordinance constitutes a municipal civil infraction. Any person, who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than Fifty Dollars (\$50.00) or more than Five Hundred Dollars (\$500.00), in addition to all other costs, damages, expenses and remedies provided by law. Subsequent offenses shall be subject to an increased civil fine as follows:

- i. The fine for a first subsequent offense shall be not less than Two Hundred Fifty Dollars (\$250.00), in addition to all other costs, damages, and expenses.
- ii. The fine for additional subsequent offenses shall be not less than Five Hundred Dollars (\$500.00), in addition to all other costs, damages, and expenses.

For purposes of this Section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.

The following officials are authorized to issue municipal civil infraction tickets/citations pursuant to this Ordinance:

- Deputies of the Otsego County Sheriff's Department
- Officers of the City of Gaylord Police Department
- Officers of the Michigan State Police
- Conservation Officers of the Michigan Department of Natural Resources
- Employees of the Otsego County Parks and Recreation Commission

Section 14 Exceptions

Specific provisions of this Ordinance shall not apply to any County official, County contractor, law enforcement officer, or firefighting or emergency personnel, engaged in a lawful governmental function, use or activity.

Additional exceptions to the mandate of this Ordinance may be granted only by special permission from the Commission, Commission Director, County Administrator, or the Board Chairperson. Such permissions shall not conflict with the provisions of the Conservation Easement recorded under Liber 1271, Pages 786-805, recorded in the Otsego County Register of Deeds.

Section 15 Severability

In the event that any one or more sections, subsections, provisions, phrases, or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, subsections, provisions, phrases, or other words of this Ordinance.

Section 16 Effective Date

The Ordinance shall be effective on the day when notice of its adoption is published in a newspaper of general circulation in Otsego County.

Adoption of the Ordinance was moved by Commissioner Doug Johnson.

YEAS: CLARK BATES, PAUL BEACHNAU, PAUL LISS, LEE OLSEN, ERMA BACKENSTOSE,

NAYS: NONE.

RICHARD SUMERIX, DOUG JOHNSON, KEN BORTON,
BRUCE BROWN.

ORDINANCE DECLARED ADOPTED ON March 13, 2012.

COUNTY OF OTSEGO

By: Paul M. Beachnau

Paul M. Beachnau

Its: Chairperson, Otsego County Board of Commissioners

STATE OF MICHIGAN)

) ss.

COUNTY OF OTSEGO)

The undersigned, being the Clerk of the County of Otsego, hereby certifies that the foregoing is a true and complete copy of the Ordinance duly adopted by the Otsego County Board of Commissioners at its regular meeting held on the 13th day of March, 2012, at which meeting a quorum was present and remained throughout and that an original thereof is on file in the records of the County. I further certify that the meeting was conducted, and public notice thereof was given, pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, and that the minutes of such meeting were kept and will be or have been made available as required thereby.

By: Susan I. DeFeyter
Susan I. DeFeyter, County Clerk

DATED: March 13, 2012