

TORCH LAKE TOWNSHIP NUISANCE ORDINANCE
Ordinance No. #2018-01

AN ORDINANCE TO PROHIBIT NUISANCES WITHIN TORCH LAKE
TOWNSHIP TO ENSURE THE PUBLIC HEALTH, SAFETY AND WELFARE
AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF

THE TOWNSHIP OF TORCH LAKE ORDAINS:

Section 1 - Definitions

As used in this Ordinance the following terms shall have the meanings prescribed in this section.

"Building materials" includes but is not limited to lumber, bricks, concrete or cinder blocks, plumbing or heating materials, electrical wiring or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in construction of any structure.

"Compost pile" is one (1) pile consisting of decaying organic substances intended for fertilizing land.

"Dismantled and partially dismantled motor vehicle" means a motor vehicle from which a part or parts integral to the operation of such motor vehicle, or a part or parts required by any law or regulation to be present on a motor vehicle, has been removed or is missing.

"Farm operation" means an active enterprise primarily involving the commercial production, harvesting, and storage of plant and animal products useful to human beings on a site or sites within the Township having a combined area of ten (10) or more acres.

"Garbage" means rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that relate to the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables.

"Inoperable motor vehicle" means a motor vehicle, which by reason of dismantling, disrepair, lack of licensing or other cause is either incapable of being propelled under its own power or is prevented by law from being propelled on a public highway.

"Junk" means items or objects that are discarded, or not currently being used for the purpose or purposes for which they are designed or normally used, including but not limited to used or salvaged metals and their compounds or combination; used or salvaged rope; rubber; rotting wood; scrap iron; tires and snowmobile treads; parts for motor vehicles, boats, all-terrain vehicles, recreational vehicles, snowmobiles,

and/or trailers; mobile homes not connected to operable utilities or waste disposal system; inoperable or dismantled refrigerators, stoves, dishwashers, dryers, washing machines, beach equipment and furniture; and inoperable or dismantled lawn mowers, weed trimmers, snow blowers, snow plows, tractors, and any other machinery used for excavation, maintenance, or snow removal. "Junk" shall not include reused materials used as ornamental displays.

"Junk dealer" means a person who owns or operates a lawful junkyard located within the Township.

"Liquid industrial wastes" means any liquid brine, by-product, industrial wastewater, leachate, off specification commercial product, sludge, grease-trap clean-out residue, used oil, or other liquid waste produced by, incident to or resulting from industrial or commercial activity except any liquid brine normally used or stored in regard to oil or gas extraction on a site permitted by the Michigan Supervisor of Wells.

"Motor vehicle" means any wheeled vehicle which is designed to be self-propelled. A motor vehicle includes, but is not limited to cars, trucks, vans, sport utility vehicles, motorcycles, ATVs, snowmobiles and motor homes.

"Person" means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

"Public Highway" means any publicly maintained way upon which any part thereof is open to the use of the public for the purposes of vehicular travel.

"Rubbish" means hazardous or non-hazardous, non-putrescible solid wastes, including but not limited to combustible waste such as paper, cardboard, brush, bags, rags, and litter of any kind and noncombustible waste such as metal containers, glass, bedding, crockery, and demolished items, objects, or materials of any kind and excluding building materials.

"Sealed container" means a covered, closable container which is rodent-proof, fly-proof and watertight such as garbage cans with properly fitting tops or plastic garbage bags which have been closed or twisted shut.

"Totally closed structure" means a building capable of being sealed on all sides such as a house, garage or storage shed with a roof, floor and walls or closable doors around its perimeter.

Section 2 - Nuisances

The intent of the person, who commits, creates or maintains a nuisance, or the purpose for which any nuisance is undertaken, created or maintained is not a factor in determining whether a violation of this Ordinance exists. The following are hereby declared to be nuisances:

- A. The keeping or storage of building materials outside on private property six (6) months after an occupancy permit is issued by the Antrim County Building Department. This subsection, however, shall not apply to building materials kept or stored outside on private property if the building material is kept or stored in an orderly fashion. As used in this subsection, the phrase "building material kept or stored in an orderly fashion" shall mean that all building material of the same type, including but not limited to lumber (both stick and sheet wood), cement blocks, bricks, roofing material, and siding shall be kept or stored together and not kept or stored intermingled with building material of a different type and shall be stacked in an organized fashion customary for that type of building material. By way of example and not limitation, stick lumber shall be piled with all sticks substantially parallel to one another, sheet wood shall be piled one on top of another with the area of one sheet covering as much as possible the area of the sheet beneath it, cement blocks and bricks shall be stacked in the shape of a cube in such a manner that they will not fall off the stack, and siding shall be piled with each piece substantially parallel to one another.
- B. The keeping or storage of ashes, junk, garbage or rubbish outside of a totally enclosed structure on private property except in a sealed container designed for the purpose of holding such ashes, junk, garbage, or rubbish and where such materials are subject to routine or contracted removal by a licensed trash transporter.
- C. The placing of ashes, junk, garbage or rubbish on private property without the owner's permission or on public property. This provision applies regardless of whether the ashes, junk, garbage or rubbish is in a sealed container.
- D. The keeping or storage of junk, garbage or rubbish on private property, including inside a building, in such a manner that the items, regardless of the method of containment, have become a breeding ground, food source or habitation of insects, rodents or vermin.
- E. Intentional depositing of liquid petroleum crude oil, liquid petroleum crude oil by-products and derivatives or liquid industrial wastes on the ground.
- F. The existence of any vacant building, garage, house or outbuilding unless such structure is kept secure from entry by the public.

- G. The parking or storage for a period of more than thirty (30) consecutive days of three (3) or more dismantled, partially dismantled or inoperable motor vehicles, or their equivalent, outside a building such that the dismantled, partially dismantled, or inoperable motor vehicles can be seen from any public highway or seen from any adjoining land owned by another person. This subsection shall apply to the collection of such materials, even if the particular materials are rotated. This subsection, however, shall not apply to any lawfully existing junk dealers, farm operations, or to garages and service stations openly and actively engaged in making service repairs to motor vehicles for the public.
- H. A compost pile that is larger than fifteen feet (15') square. However, a compost pile is not considered a nuisance per se if either.
- 1) The compost pile is located on the property so that it cannot be seen from any public highway or seen from any adjoining land owned by another person; or
 - 2) It is a registered composting facility, which has been registered with the State of Michigan pursuant to section 11521 of the Natural Resources and Environmental Protection Act (being MCL 423.1151), as amended and which is operating in compliance with all applicable statutes, regulations and best practices.

Section 3 - Prohibition

No person shall commit, create, or maintain and shall not permit the existence of any nuisance on the property owned or possessed by such person.

Section 4 - Industrial Usage

The storage or keeping of salvageable metal or wood shall not be prohibited on property on which is located a factory engaged in manufacturing, assembling or machining as long as the salvageable metal or wood is for resale or reuse by the occupant of the property.

Section 5 - Penalty/Civil Infraction

Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation. Any action taken under this Section shall not prevent civil proceedings for abatement termination of the prohibited activity.

Section 6 - Enforcement Officers

Any person authorized in the Township Municipal Infraction Ordinance to issue Municipal Civil Infractions, namely the Supervisor, the Zoning Administrator, the Fire Chief, the Emergency Services Director, the Ordinance Enforcement Officer, the Treasurer and other individuals authorized by the township board are hereby designated as the authorized township officials directing alleged violators of this ordinance to appear in court.

Section 7 - Abatement Process by the Township

- A. When the Township desires to abate a nuisance on property that exists in violation of this Ordinance, the Township shall send a written notice to the owner and/or occupant of the property. The notice shall describe the location of the property, describe the nature of the nuisance and the provision(s) of this Ordinance being violated, give the owner and/or occupant of the property no less than thirty (30) days to eliminate the nuisance on the property without intervention by the Township. The written notice shall be served on the owner and/or occupant of the property by (1) personal service or (2) posting a copy of the notice on the land on which the nuisance exists along with mailing a copy of the notice to the owner or occupant by first class mail at the owner's or occupant's last known address as reflected on the Township's tax assessment records. The thirty (30) day time period shall commence on the date of the personal service or in the case of service by posting and mail shall commence three (3) days from the date of mailing.

The township will issue a Municipal Civil Infraction to the owner(s) if the property is not brought into compliance within 30 days of the notice or a timeline as agreed to in writing between the owner(s) and the township.

- B. The reasonable costs of abating the nuisance incurred by the Township, including reasonable attorney fees, may be collected in a lawsuit against the owner and/or occupant of the property on which the nuisance existed and/or against the person who committed, created, or maintained the nuisance.

Section 8 - Civil Action

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 9 - Validity

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

Section 10 - Repeal

Any previous junk or nuisance police power ordinance is hereby repealed.

Section 11 - Effective Date

This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the township.

Ordinance No. 2018-01 was adopted on the 17th day of April, 2018, by the Torch Lake Township Board as follows:

Motion by: Petersen Seconded by: Schultz

Roll Call: Martel: Y Windiate: Y Schultz: Y Schoenherr: Y Petersen: Y

Kathy Windiate
Kathy Windiate, Clerk

Kathy Windiate, Clerk

Alan A. Martel
Alan A. Martel, Supervisor

I certify that this is a true copy or of Ordinance No. #2018-01 that was adopted at a meeting of the Torch Lake Township Board on April 17th, 2018 and it or a summary was published in the _____ on _____, 2018.

Dated: _____