

FINAL COPY – Dated 9/11/06

Ordinance #41 of 2006

GREEN TOWNSHIP

NUISANCE ORDINANCE

THE TOWNSHIP OF GREEN ORDAINS:

Section 1. DEFINITIONS

The following definitions shall apply in the interpretation of this ordinance:

- A. “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.
- B. “Garbage” means rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that is related to the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetables.
- C. “Junk” means any personal property which is or may be salvaged for reuse, resale or reduction, or which is possessed, accumulated or dismantled for any of the aforesaid purposes. By way of example and not limitation, the term shall include used or salvaged metals and their compounds or combinations, used or salvaged rope, rubber or car parts.
- D. “Rubbish” means nonputrescible solid wastes, excluding ashes, consisting of both combustible or noncombustible wastes, such as paper, cardboard, metal containers, wood, glass, bedding, crockery, bags, rags and demolished building materials.
- E. “Person” means an individual, firm or corporation.
- F. “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.
- G. “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 following are hereby declared to be nuisances:

- A. The keeping or storage of ashes, junk, garbage or rubbish outside of a totally closed structure on private property except in a sealed container designed for the purpose of holding such ashes, junk, garbage or rubbish.
- B. The placing of ashes, junk, garbage, rubbish, or dead animals on private property without the owner's permission, or on any street or alley, or on any public property. This provision applies regardless of whether the ashes, junk, garbage, rubbish, or dead animal is in a sealed container.
- C. The keeping or storage of junk, garbage, rubbish or dead animals on private property, including inside a building or in a house, 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, emit offensive or unhealthy odors, or are kept or stored so as to permit them to be scattered on adjoining property by the wind, animals or other means.
- D. The keeping or storage of building materials in an unsightly manner.
- E. Intentional depositing of oil, gasoline or industrial wastes on the ground.
- F. The pollution of any well or cistern, stream or body of water by sewage, industrial wastes or other substances.
- G. The existence of any structure or damaged partial structure which, because of fire, wind or other natural disaster or physical deterioration, is no longer habitable if a dwelling, nor currently useful for any other purpose for which it may have been intended.
- H. The existence of any vacant building, garage, house or outbuilding unless such structure is kept secure from entry by the public.
- I. The distributing, placing, posting or fixing of posters, notices or handbills on public buildings, public property, lamp posts or utility poles except as may be authorized or required by law.
- J. The distribution, placing, posting or fixing of posters, notices or handbills on private property without consent of the owner or occupant except as authorized or required by law.
- K. The keeping or maintaining of any fierce, vicious or dangerous dog or other animal so as to allow or permit such dog or other animal to be upon any public street, alley or other public place, unless securely muzzled and led by a leash.
- L. The keeping or maintaining of any animal, including but not limited to dogs, cats, snakes, mice, rats, gerbils and hamsters, that is infected with rabies, the mange or other diseases so as to allow such animal to run at large within the Township.

- M. The keeping or confining of cows, horses, pigs, sheep, goats, fowl, and other farm and/or wild animals (including exotic pets) in platted subdivisions where any dwelling is within 200 feet of another dwelling within that subdivision.
- N. The outdoor burning of any garbage, rubbish or animal hides, feathers or other organic animal matter or any burning that causes dense smoke, noxious fumes, gas or soot, or cinders in unreasonable quantities.
- O. In platted subdivisions where any dwelling is within 200 feet of another dwelling, the growth of noxious weeds, including but not limited to poison ivy, poison oak, poison sumac, ragweed and goldenrod, or the growth of lawn grass that is allowed to remain eight (8) inches or more in length for more than seven (7) days.
- P. In platted subdivisions where any dwelling is within 200 feet of another dwelling, the placing of trash for curbside pickup cannot be placed for pickup prior to 6:00 p.m. on the day before scheduled pickup.

Section 3. PROHIBITION

Subject to Section 4, no person shall commit, create or maintain any nuisance. Subject to Section 4, no person shall knowingly permit the existence of a nuisance on the property owned or possessed by such person. Each day a nuisance shall exist shall constitute a separate and distinct violation under the provisions of this ordinance.

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. ENFORCEMENT.

Except where herein otherwise stated, the provisions of this Ordinance shall be administered and enforced by the Green Township Supervisor and the Green Township Zoning Administrator. Said officer or officers shall have the power of police officers in the enforcement of this Ordinance.

- a. Violations: Any activities considered possible violations of the provisions of this Ordinance shall be reported to the Zoning Administrator.
- b. Inspection of Violation: The Zoning Administrator shall inspect each alleged violation of this Ordinance and issue an order to correct to the offender within ten (10) days of his inspection.

- c. Correction Period: All violations shall be corrected within a period of thirty (30) days after the order to correct is issued or in such longer period of time, not to exceed six (6) months, as the Green Township Board may permit. A violation not corrected within this period shall be reported to the Zoning Administrator who shall initiate prosecution procedures.

Section 6. ABATEMENT BY TOWNSHIP.

If the owner or possessor of any property on which a nuisance exists fails to eliminate a nuisance, the Zoning Administrator, after receiving authorization by the Township Board, shall take such steps as are necessary to abate or eliminate the nuisance.

The cost of elimination of the nuisance by the Township, including reasonable attorney fees, may be collected in a lawsuit against the owner and/or possessor of the property on which the nuisance existed and/or against the person who committed, created or maintained the nuisance.

Section 7. PENALTIES/CIVIL INFRACTIONS.

- A. Any person who shall violate any provision of this Ordinance shall be responsible for a municipal civil infraction as provided by 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.
- B. The Green Township Supervisor and the Green Township Zoning Administrator are hereby designated as authorized local officials who shall administer and enforce this ordinance and who are authorized to issue municipal civil infraction citations.
- C. “Municipal Civil Infraction” means a civil infraction as defined by Section 113 of the Revised Judicature Act of 1961, being Act No. 236 of the Public Acts of 1961, as amended (the “Act”), involving a violation of this ordinance.
- D. “Citation” means a written complaint or notice to appear in court upon which an authorized local official records the occurrence or existence of one or more municipal civil infractions by the person, corporation, or association cited (the “defendant”).
- E. “Municipal Civil Infraction Action” means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- F. A municipal civil infraction may be commenced upon the issuance by an authorized local official of a citation directing the defendant to appear in court.

- G. A citation shall be issued and served by an authorized local official in accordance with the provisions of Sections 8707 and 8709 of the Act.
- H. A citation shall contain the information required under Section 8709 of the Act.
- I. An authorized local official may issue a citation to a defendant if the official witnesses a defendant commit a violation of this ordinance or based upon investigation, the official has reasonable cause to believe that the defendant is responsible for a violation of this ordinance; or if based upon investigation of a complaint by someone who allegedly witnessed the defendant commit a violation of this ordinance, the official has reasonable cause to believe that the defendant is responsible for violation of this ordinance.
- J. Failure of the defendant to appear within the time specified on a citation or at the time scheduled for a hearing or appearance is a misdemeanor punishable by up to 90 days in jail and/or up to a \$500.00 fine plus costs of the prosecution, and will result in a entry of a default judgment against the defendant on the municipal civil infraction.
- K. A defendant found responsible by the judge or magistrate for a violation of this ordinance shall pay a fine not to exceed \$500.00 plus costs of not less than \$9.00 nor more than \$500.00 which are not limited to the costs taxable in ordinary civil actions and may not include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction, up to the entry of judgment. Except as otherwise provided by law, costs shall be payable to the general fund of the Township. In addition to ordering a defendant to pay a civil fine and costs, the court may issue and enforce any judgment, writ, or order necessary to enforce this ordinance, in accordance with Section 8302 of the Act.
- L. If a defendant fails to comply with an order or judgment issued pursuant to Section 8727 of the Act within the time prescribed by the court, the court may proceed under Sections 8302, 8729, and 8731 of the Act, as applicable.
- M. If a defendant does not pay a civil fine or costs or an ordered installment within 30 days after the date on which payment is due in a municipal civil infraction action brought for a violation involving the use or occupation of land or a building or other structure, the Township 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 the county in which the land, building, or structure is located. The court order shall not be recorded unless a legal description of the property is incorporated into or attached to the court order. A lien is effective immediately upon recording of the court order with the register of deeds. The court order recorded with the register of deeds shall constitute notice of the pendency of the lien. In addition, a

written notice of the lien shall be sent by the Township by first-class mail to the owner of the record of land, building or structure at the owner's last known address. The lien may be enforced and discharged by the Township in the manner prescribed by Section 8731 of the Act.

- N. Each day on which any violation of this ordinance continues constitutes a separate offense and shall be subject to the applicable fine, costs, penalties, and sanctions as a separate offense.
- O. In addition to any remedies available at law, Green Township may bring an action for an injunction or other process against a defendant to restrain, prevent, or abate any violation of this ordinance.

Section 8. VALIDITY

If any section, provision or clause of this ordinance or the application thereof to any person or circumstances 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 9. SEPARATE COURT ACTIONS.

Nothing in this ordinance shall prohibit the Township or any interested party from seeking such other relief as may be permitted in law or in equity regarding the existence of a nuisance.

Section 10. EFFECTIVE DATE

This ordinance shall become effective 30 days after publication in a local newspaper in general circulation within Green Township.

A synopsis of this ordinance was published in the Alpena News on September 22, 23 and 25, 2006.

The effective date of this ordinance will be October 25, 2006.

Copies of this ordinance are available by contacting the Green Township Clerk Melony Sumerix at 379-2398.