

Effective Date 9/12/98

CLEARWATER TOWNSHIP NUISANCE ORDINANCE

Ordinance No. 16

AN ORDINANCE WHICH DECLARES CERTAIN MATTERS TO BE NUISANCES, PROHIBITS NUISANCES, AND PROVIDES FOR ENFORCEMENT OF THE ORDINANCE THROUGH MUNICIPAL CIVIL INFRACTIONS, AND ALLOWS THE TOWNSHIP TO ABATE OR ELIMINATE NUISANCES AND TO COLLECT THE COSTS OF ABATEMENT OR ELIMINATION FROM RESPONSIBLE PARTIES.

THE TOWNSHIP OF CLEARWATER ORDAINS:

The following sections 1 through 10 shall be collectively known as "The Clearwater Township Nuisance Ordinance".

Section 1 - Definitions

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

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 relate to the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables. "Garbage" does not include one (1) compost pile consisting of decaying organic substances intended for fertilizing land; provided, however, that the compost pile is no larger than five feet (5') square and 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.

C. "Junk" - By way of example and not limitation the term shall include used or salvaged metals and their compounds or combination, used or salvaged rope, rubber, tires or car parts.

D. "Junkyard" means a business at a fixed location or locations operated by a person who buys, stores, sells, processes, receives or recycles used rags, paper, used bags, used metal, used tires, used car parts, used appliances or any other type of machinery or automobile, when such appliance, machinery or automobile is acquired for the purpose of dismantling or stripping for the sale or recycling of used metals or parts.

E. "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 in oil or gas extraction on a site permitted by the Michigan Supervisor of Wells.

F. "Rubbish" means nonputrescible solid wastes including ashes consisting of both combustible and noncombustible wastes, such as paper, cardboard, metal containers, glass, bedding, crockery, bags, rags, and demolished materials.

G. "Person" means an individual, firm, corporation, association, partnership, or limited liability company.

H. "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.

I. "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 building materials outside on property six (6) months after an occupancy permit is issued by the Clearwater Township Zoning Administrator. 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.

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 byproducts and derivatives or liquid industrial wastes on the ground.

F. 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 as a dwelling, nor currently useful for any other purposes for which it may have been intended.

G. The existence of any vacant building, garage, house, mobile home or outbuilding unless such structure is kept secure from entry by the public.

H. The distributing, placing, posting, or affixing of posters, notices, or handbills on private property without consent of the owner or occupant except as authorized or required by law.

Section 3 - Prohibition

No person shall commit, create, or maintain any nuisance. 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 be construed as a separate violation.

Section 4 - Exception

The prohibition of this Ordinance relating to the storage of ashes, junk, garbage or rubbish shall not apply to a lawful junkyard or lawful landfill.

Section 5 - 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 6 - Penalty/Civil Infraction

Any person who shall violate 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 One Hundred and 00/100 (\$100.00) 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 or termination of the prohibited activity.

Section 7 - Enforcement

This Township Zoning Administrator, Township Supervisor and Kalkaska County Sheriff's Department are hereby designated as the authorized township officials to issue municipal civil citations directing alleged violators of this Ordinance to appear in court.

Section 8 - Abatement by Township

Should the Township take action to abate 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 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 effect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

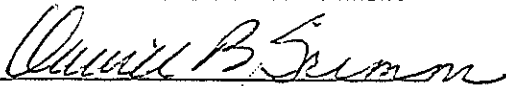
Section 10 - Separate Court Action; Nuisance Per Se


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. A violation of this Ordinance is deemed to be a nuisance per se.

Section 11 - Effective Date

This Ordinance shall become effective thirty (30) days after its first publication.

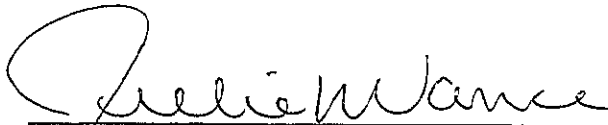
TOWNSHIP OF CLEARWATER


BY: David B. Grimm, Township Supervisor


BY: Julie K. Vance, Township Clerk

I, the undersigned, the Clerk of the Township of Clearwater, Kalkaska County, Michigan, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by the Clearwater Township Board of said municipality at its regular meeting held on July 21, 1998, relative to adoption of the ordinance therein set forth; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Dated: July 21, 1998



Julie K. Vance, Township Clerk