

WEBSTER TOWNSHIP PUBLIC NUISANCES ORDINANCE

Ordinance No. 2011-1

An ordinance to promote the health, safety, and welfare of the people of Webster Township, Washtenaw County, Michigan, by defining and prohibiting public nuisances; declaring certain acts, apparatus, accumulations, violations, and activities as public nuisances per se; providing the procedure for abatement of public nuisances, enforcement of this ordinance, and recovery of costs incurred by Webster Township; and repealing all ordinances or parts of ordinances in conflict with this ordinance.

THE TOWNSHIP OF WEBSTER, WASHTENAW COUNTY, MICHIGAN, ORDAINS:

SECTION 1: TITLE. This ordinance shall be known and cited as the Webster Township Public Nuisances Ordinance.

SECTION 2: PUBLIC NUISANCE DEFINED AND PROHIBITED. The term “*Public Nuisance*” means whatever annoys, injures, or endangers the safety, health, welfare, comfort, or repose of the public; offends public decency or aesthetic sensibilities; interferes with, obstructs, or renders dangerous any street, highway, navigable lake, or stream; or in any way renders the public insecure in life or property, and is hereby declared to be a public nuisance. Public nuisances shall include, but shall not be limited to, whatever is forbidden by any provision of this Ordinance. No person shall commit, create or maintain any public nuisance.

SECTION 3: PUBLIC NUISANCES *PER SE*. The following acts, apparatus, accumulations, violations, and activities within the Township are hereby declared to be public nuisances *per se*:

1. No person shall throw, place, or leave; or permit the throwing, placing, or leaving any of the following substances: organic refuse, food wastes, ashes, dead animals, fish, animal bones, hides, rotten soap, grease, tallow, offal, shell, food containers or wrappings, cans, bottles, jars, crockery, garbage, discarded furniture, cartons, boxes, crates, rags, discarded clothing, bedding, floor covering, wallpaper, sweepings, waste paper, newspapers or magazines, discarded appliances, rubbish, excrement, rot, construction debris including, but not limited to, lumber, bricks, block, plumbing or heating materials, roofing materials, concrete, cement, electrical materials or siding, yard debris or rubbish including, but not limited to, grass clippings, clippings from hedges or shrubs, or detached tree branches, industrial waste, unclean or nauseous fluids or gases, in any of the following locations:
 - a. On the premises of another without permission.
 - b. On any public street, highway, lane, road, alley, public place, square, sidewalk, sewers, or any lands within the boundaries of the Township owned by the Township or other municipal corporation.

- c. In any river, lake, stream, or other body of water.
 - d. No person shall maintain or permit to remain on their premises, so owned, occupied, or possessed by another, substances that constitute a dangerous condition or are detrimental to the public health, safety, or welfare or may cause sickness or attract flies, insects, rodents, or vermin.
2. The emission of noxious fumes or gas, smoke, ashes, or soot in such quantities as to render occupancy of property dangerous to a person of ordinary sensibilities.
 3. The keeping, either inside or outside of any building, structure, or dwelling, in a place accessible to children, any abandoned, unattended, unused, or discarded icebox, refrigerator, or any airtight container of any kind which has a snap latch or other locking device thereon without first removing the snap latch or other locking device or the doors from such icebox, refrigerator, or other such airtight container.
 4. Abandoning, leaving, keeping, or maintaining a junk or abandoned motor vehicle, as provided in the Michigan Vehicle Code (MCL 257.1 et seq.), unless such vehicle body or chassis is enclosed in a building or is not visible from surrounding properties,
 5. The registered owner or lessee of a vehicle from which litter is thrown, dropped, dumped, deposited, placed or left is presumed to be the person responsible for littering.
 6. Violating the following noise regulations:
 - A. General Regulation. It shall be unlawful for the owner of any premises within the Township of Webster, or for the occupant or person in possession of any premises within the Township of Webster, or for any person to knowingly make, allow to be made, or to permit to be made upon the premises so owned, occupied, or possessed, any excessive, unnecessary, unnatural, repeated, prolonged, unusually loud noise, which is clearly audible from nearby properties, within the limits of the Township of Webster.
 - B. Specific Noise Violations. The following recurring noise disturbances are hereby declared to be a violation of this Ordinance provided, however, that the specification of the same is not to be construed to exclude other violations of this Ordinance not specifically enumerated below:
 - (i) The playing of any radio, phonograph, television, or other electronic or mechanical sound-producing device, including any musical instrument.
 - (ii) Yelling, shouting, singing or other noise making at any time or place.
 - (iii) The keeping of any animal, bird or fowl that emanates frequent or extended noise such as allowing or permitting any dog to bark repeatedly.

- (iv) The operation of any automobile, motorcycle or other vehicle so out of repair or so loaded or constructed as to cause loud and unnecessary grating, grinding, rattling, or other unreasonable noise including the noise resulting from exhaust, which is clearly audible from nearby properties. The modification of any noise abatement device on any motor vehicle or engine, or the failure to maintain same so that the noise emitted by such vehicle or engine is increased above that emitted by such vehicle as originally manufactured shall be in violation of this Section.
- (v) The sounding of any unreasonably disturbing horn unless necessary to operate said vehicle safely or as required by the Michigan Motor Vehicle Code.
- (vi) The construction, excavation, demolition, alteration or repair of any building or premises in any part of the Township, including the streets and highways, other than between the hours of 7:00 a.m. and sundown on any day, except in cases of urgent necessity in the interest of public health and safety. Urgent necessity would include snow plowing, utility repairs, and similar situations.
- (vii) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance, show, sale, display or other commercial purpose..
- (viii) The operation of any machinery, equipment or mechanical device, so as to emit unreasonably loud noise or frequent noise.
- (ix) The operation of any race track, proving ground, testing area or obstacle course for vehicles of any kind or nature in any area of the Township.

C. Exceptions. None of the prohibitions enumerated above shall apply to the following:

- (i) Any police vehicle, ambulance, fire engine or emergency vehicle while engaged in necessary emergency activities.
- (ii) Excavation or repair of bridges, streets or highways or other property by or on behalf of the State of Michigan, Webster Township, or the County of Washtenaw, between sundown and 7 a.m. when the public welfare, safety and convenience render it impossible to perform such work during other hours.
- (iii) Warning devices emitting sound for warning purposes as authorized by law.
- (iv) Activities permitted by Township actions.

- (v) Home owners performing ordinary property maintenance (i.e. lawn mowing, general repairs, gardening, snow removal...etc)

SECTION 4: ABATEMENT; NOTICE; CIVIL INFRACTIONS AND CIVIL PROCEEDINGS; AUTHORITY OF OFFICERS TO ABATE PUBLIC NUISANCES.

1. Public Nuisances on Township Property. Whenever any public nuisance described in Sections 2 or 3 shall exist upon Township property or upon the property of another municipal corporation within the boundaries of the Township, such public nuisance may be abated by the Township Zoning Administrator or his/her agent without notice and the cost of abatement charged as provided in Section 6.

2. Public Nuisances on Private Property. Except as provided in the Michigan Vehicle Code (MCL 257.1 et seq.) for junk or abandoned motor vehicles, whenever any public nuisance shall exist on private premises within the Township, the Township Ordinance Enforcement Officer or his/her agent shall give notice in writing by certified mail, return receipt requested, addressed to the owner or occupant of the property where the public nuisance exists or to the person otherwise responsible for such public nuisance. Such notice shall specify the location and nature of the public nuisance and shall indicate that such owner or occupant or person otherwise responsible is required to repair, tear down, abate, or otherwise remove the public nuisance within ten days of the receipt of the notice. Following the issuance of such notice, the Township Ordinance Enforcement Officer or his/her agent may proceed to initiate civil infraction or other civil proceedings permitted by law to abate the public nuisance.

3. Civil Infractions. Any person or other entity who causes or permits to continue a public nuisance as prohibited by the Ordinance is responsible for a municipal civil infraction as defined by Michigan law and is subject to a civil fine of not more than \$500.00, plus costs, which may include all direct or indirect expenses to which the Township has incurred in connection with the violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan law. Each day a violation of this Ordinance continues to exist constitutes a separate violation.

4. Abatement by Township Officials. If the Township intends to abate the nuisance by entering the property and causing the work to be done to repair, tear down, abate, or otherwise remove the nuisance and charge the cost thereof to the property owner, such intent, and the advisement of the owner or occupant that a hearing may be requested within the ten-day period pursuant to section 5 of this ordinance, shall be done. If no hearing is requested in the time allotted, or following a hearing held pursuant to Section 5, such nuisance may then be repaired, torn down, abated, or otherwise removed by the Township Ordinance Enforcement Officer or his/her agent and the cost thereof charged as provided in Section 6. If the actual owner or occupant of the premises is unknown or cannot be located, notice may be given by posting a copy of such notice upon a conspicuous part of the property where the public nuisance is located and by mailing a copy of such notice by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the Township tax records at least 10 days before further action by the Township Ordinance Enforcement Officer.

SECTION 5: HEARING. If, after notice provided under Section 4(4), the recipient of the notice requests a hearing as therein provided, a hearing shall be held before the Township Supervisor or a hearing officer appointed by the Township Supervisor to determine whether a violation of this Ordinance has or is occurring on the property in question. The Township Supervisor or his appointed hearing officer shall make a decision with written findings of fact based upon his investigation and evidence presented at the hearing as to whether the condition in question violates the provisions of this Ordinance. If the Township Supervisor or his/her appointed hearing officer determines that the condition violates the provisions of this Ordinance, he/she shall order the person requesting the hearing or owner or occupant of the premises in question to repair, tear down, abate, or otherwise remove the nuisance in question within a reasonable time, but not less than five days. If the public nuisance is not repaired, torn down, abated, or otherwise removed within the period allowed in the order, the Township Ordinance Enforcement Officer or his/her agent may repair, tear down, abate, or otherwise remove such public nuisance and charge the cost thereof as provided in Section 6.

SECTION 6: ABATEMENT; COSTS. All expenses incurred by the Township Ordinance Enforcement Officer or his/her agent in repairing, tearing down, abating, or otherwise removing a public nuisance under this Ordinance shall be charged to the person responsible therefor, the occupant of the land in question, or the person who appears as owner or party in interest upon the last local tax assessment records of the Township. If such person fails to pay the charge within 30 days after a statement therefor is mailed to him or her, the amount of expenses incurred by the Township in repairing, tearing down, abating, or otherwise removing the public nuisance may be paid from the Township general fund and the amount thereof assessed against the lands on which the expenditures were made on the next general assessment roll of the Township and shall be collected in the same manner as other taxes are collected. The Township shall have a lien upon such lands for such expense, such lien to be enforced in the manner prescribed by the general laws of the state providing for the enforcement of tax liens.

SECTION 7: PUBLIC NUISANCES; EMERGENCY ABATEMENT; COSTS. The Township Ordinance Enforcement Officer may act to abate a public nuisance without giving notice as specified in Section 4, if the public health, safety, or welfare requires immediate action. The cost of abating such nuisance shall be charged as specified in Section 6.

SECTION 8: SEVERABILITY. The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section, or provision is hereafter declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

SECTION 9: REPEAL. All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided that this ordinance shall not be construed to repeal expressly or by implication any provision of the Township Zoning Ordinance.

SECTION 10: EFFECTIVE DATE. This ordinance shall take effect 30 days after publication as required by law.

The above ordinance was offered for enactment by Koch and was supported by Estleman at a regular meeting of the Webster Township Board, held at the Webster Township Hall, on the 24th day of May, 2011, at 6:30p.m., the vote being as follows:

YEAS: Koch, Estleman, Kingsley, Heller, Westman

NAYS: Kleinschmidt, Whitney

ABSENT/ABSTAIN: None

ORDINANCE DECLARED ADOPTED.

John Kingsley, Webster Township Supervisor

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Webster Township Board at a meeting held on May 24, 2011, pursuant to the procedures required by law.

Mary Dee Heller
Webster Township Clerk