

**KEARNEY TOWNSHIP NUISANCE ORDINANCE**  
**Ordinance No. 1 of 2017**

AN ORDINANCE PURSUANT TO ACT 246 OF THE PUBLIC  
ACTS OF 1945, AS AMENDED, TO PROHIBIT NUISANCES  
AND TO PROVIDE PENALTIES FOR VIOLATIONS  
THEREOF

THE TOWNSHIP OF KEARNEY ORDAINS:

**Section 1 - Definitions**

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

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

"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.

"Junk" means items or objects that are old, 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; inoperable or dismantled refrigerators, stoves, dishwashers, dryers, washing machines, 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.

"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.

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

"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 non-combustible waste such as metal containers, glass, bedding, crockery, and demolished items, objects, or materials of any kind.

"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 enclosed 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 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.
- 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 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 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.

### **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 Two Hundred and 00/100 Dollars per violation. Each day this Ordinance is violated shall be considered as a separate violation.

### **Section 6 - Enforcement Officers**

The Township Zoning Administrator, Township Supervisor, and other individuals appointed by the Township Board are hereby designated as the authorized township officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

### **Section 7 - Abatement by Township**

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Township may abate the nuisance conditions on the property through the procedures specified in this section.

- 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 possessor 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 possessor of the property no less than thirty (30) days to eliminate the nuisance on the property without intervention by the Township, and inform the owner and/or possessor of the property of his or her right to request that a municipal civil infraction citation be issued by the Township as provided in Subsection B below. The written notice shall be served on the owner and/or possessor of the property personally or sent to the owner and/or possessor of the property by certified mail, restricted delivery and return receipt requested. The thirty (30) day time period shall commence on the date of the personal service or in the case of service by certified mail shall commence on the date the owner and/or possessor of the property signs for the certified mail.
- B. Within thirty (30) days after service of the written notice from the Township of the existence of a nuisance on his or her property, the owner and/or possessor of the property may request in writing that the Township issue a municipal civil infraction citation and that a formal hearing be held in the District Court concerning whether a nuisance exists on the property. If the owner and/or possessor makes this written request, then the Township shall issue a municipal civil infraction citation, shall request that a formal hearing be held in the District Court, and shall not enter the property to abate the nuisance as authorized under subsection C below, unless authorized to do so by the District Court Judge.
- C. If the owner and/or possessor of any property on which a nuisance exists fails to eliminate the nuisance within thirty (30) days after service of the written notice from the Township and has failed to request within this same thirty (30) day time period that a municipal civil infraction citation be issued as provided in subsection B above, the Township Zoning Administrator, Township Supervisor, and other individuals designated by the Township Board, after receiving authorization from the Township Board, are hereby empowered to enter upon the property for the purpose of removing from the property and disposing of any building materials, junk, trash, rubbish, garbage, refuse, and other nuisance conditions that exist on the property in violation of this Ordinance.
- D. 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 possessor 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 effect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

**Section 10 - Repeal**

The Kearney Township Blight Elimination Ordinance, Ordinance No. 2 of 2015, is hereby repealed in its entirety.

**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. 1 was adopted on the 6<sup>th</sup> day of February, 2017, by the Kearney Township Board as follows:

Motion by: Valuet  
Seconded by: Fleet  
Yeas: Valuet, Fleet, Hagood, Niepoth. (4)  
Nays: - 0 -  
Absent: Petrie

Sally Petrie  
Sally Petrie, Clerk

Edward Niepoth  
Edward Niepoth, Supervisor

I certify that this is a true copy of Ordinance No. 1 that was adopted at a regular meeting of the Kearney Township Board on Feb. 6, 2017 and published in the Antrim Review on 3-23-17.

Dated: 3-23-17

Sally Petrie  
Sally Petrie, Clerk