

**GARFIELD TOWNSHIP ORDINANCE No. 19**

**Anti-Blight & Nuisance Ordinance**

An Ordinance to promote the public health, safety, and general welfare of property owners of the Garfield Township, Bay County, Michigan, by the regulation of excessive noise, junk, junk automobiles, and other nuisance conditions in the Township, each of which is a serious hazard to the public health, welfare, and quality of life in Garfield Township; and to prescribe the penalties for violations of the regulations.

**THE GARFIELD TOWNSHIP BOARD OF TRUSTEES ORDAINS:**

**SECTION 1     Title.**

This Ordinance is to be known and may be cited as the Garfield Township Nuisance Ordinance.

**SECTION 2     Purpose; Preamble; Findings.**

The purpose of this Ordinance is to prohibit and make unlawful the committing, creating, or maintaining any public nuisance within the Township, including among other things items deemed to be blight, a nuisance, junk, junk automobiles, to minimize or reduce the potential safety hazards associated by such conduct, and otherwise provide for the health, safety, and welfare of residents and property owners of the Township by the prohibitions described in this Ordinance.

The Township is empowered by Act 246 of the Public Acts of 1945, as amended (now MCL 41.181), to adopt this Ordinance regulating the public health, safety, and general welfare of persons and property, and to provide penalties for the violation of this Ordinance.

The Garfield Township Board of Trustees finds that:

- A.     The nuisance conditions regulated in this Ordinance can, if not regulated, constitute a serious hazard to the public health, safety, welfare, and the quality of life of its citizens and property owners.
- B.     People and property owners in Garfield Township have a right to an environment free from nuisance conditions that may jeopardize the health, safety, welfare of others, or otherwise degrade the quality of life of its citizens and property owners.

**SECTION 3     Definitions.**

As used in this Ordinance, the following terms have the following meanings:

- A.     "Person" means an individual, firm, or entity who (a) causes or makes a nuisance condition; (b) is in control of the property or premises from which a nuisance condition originates or emanates; or (c) owns the property or premises from which a nuisance condition originates or emanates.
- B.     "Disabled motor vehicle" means any motor-driven vehicle that is incapable of being self-propelled upon the public streets, or which does not meet the statutory requirements for operation upon the public streets, including a current registration and valid license plates.

**SECTION 4     Public Nuisance Prohibited.**

A public nuisance is defined to be any act or condition that is forbidden by any provision of this Ordinance. A person must not commit, create, or maintain any public nuisance. All complaints of an alleged public nuisance must be in writing to a member of the Township Board or a representative thereof, and include location, owner of the land at issue (if known), date, time, and a general description of the alleged nuisance condition.

**SECTION 5     Public Nuisances Per Se.**

The following acts or conditions are each declared to be a public nuisance per se:

- A.     The outdoor storage upon any property of three or more disabled motor vehicle, except as permitted by this or another Ordinance of the Township of Garfield. For the purpose of this Ordinance, the term “disabled motor vehicle” shall include any motor driven vehicle which is incapable of being self-propelled upon the public streets, or which does not meet the statutory requirements for operations upon the public streets, including a current license.
  - (1)     Disabled motor vehicles shall not be permitted to be parked nor stored in a front or side yard of a parcel as defined by the Garfield Township Zoning Ordinance. However, a reasonable time not to exceed seven (7) days from the time of disability shall be permitted for the removal or servicing of a disabled vehicle in an emergency caused by accident or breakdown of the vehicle.
  - (2)     Two or fewer disabled motor vehicles will be permitted in the rear yard, as defined by the Garfield Township Zoning Ordinance, on any lot or parcel of land in the Township. However, a disabled vehicle shall not be permitted to remain outside of a building for a period in excess of thirty (30) days on any lot used for residential purposes or on that portion of any lot within twenty (20) feet of an abutting lot used for residential purposes.
  
- B.     The storage or accumulation of rubbish, refuse, waste materials, garbage, paper, glass, cans, bottles, trash, debris, junk or other foreign substances of every kind and description. Domestic refuse which is stored in such a manner as not to create a nuisance for a period not to exceed thirty (30) days is permitted. The term “junk” shall include parts of machinery or motor vehicles, unused stoves or other appliances stored in the open remnants of wood, metal or other material or other cast-off material of any kind, whether or not the same could be put to any reasonable use.
  
- C.     The existence of any partially completed residence unless such structure is in the course of construction in accordance with a valid building permit, and unless such construction is completed within the original deadline of the building permit or any valid extension of the deadline of such building permit.
  
- D.     The placing or maintaining by any person, or permitting to remain on premises owned or occupied by him or her, or the throwing, placing, or leaving, or permitting the throwing, placing or leaving in any public place or on the premises of another any of the following substances: organic refuse, food wastes, ashes, dead animals, fish, animal

bones, hides, 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, motor vehicle parts, machinery parts, 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, or unclean or nauseous fluids or gases.

- E. The emission of noxious fumes or gas, smoke, ashes, or soot in such quantities as to render occupancy of property dangerous or uncomfortable to a person of ordinary sensibilities.
- F. The keeping of explosives, inflammable liquids, or other dangerous substances stored in any manner or in any amount contrary to the provisions of any statute or applicable administrative regulation of the State of Michigan.
- G. The owning, driving or moving upon the public streets and alleys of a truck or other motor vehicle which: (i) is constructed or loaded so as to permit any part of its load or contents to be deposited upon any street, alley, sidewalk, or other public or private place, or (ii) deposits from its wheels, tires, other parts unto the street, alley, sidewalk or other public or private place dirt, grease, sticky substances or foreign matter of any kind. However, under circumstances determined by the Township Supervisor to be in the public interest, he or she may grant persons temporary exemption from the provisions of this subsection conditioned upon: (i) the applicant's agreement to clean and correct the violating condition as specified by the Township Supervisor, and (ii) the applicant's execution of a performance guarantee to reimburse the Township for any extraordinary maintenance expenses incurred by the Township in connection with such violation.
- H. The keeping, either inside or outside of any building, structure, or dwelling, in a place accessible to children, any abandoned, unattended, or discarded icebox, refrigerator, or any air tight 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 air tight container.

**SECTION 6     Dangerous Buildings Prohibited.**

- A. It is unlawful for any person in control of real property to keep or maintain any dangerous building on that property as defined in this Ordinance.
- B. As used in this Section 6, "Dangerous Building" means any building or structure that is dangerous to be inside of, including without limitation any dwelling, garage, outbuilding, warehouse, or other structure (or part of a structure) that is (a) no longer habitable as a dwelling nor useful for the purpose for which it was intended when built because of physical deterioration, demolition, or partial demolition; or because of fire, wind, or

other natural disaster; or (b) has uncovered openings that may provide unrestrained access to enter the structure.

- C. Notice Requirement. Whenever the Township has reason to believe that the whole or any part of any building or structure is a dangerous building, as defined in Sub-Section (B), the Township must follow the following procedure in handling a complaint involving an alleged dangerous building:
- (1) The Township Supervisor, one of the two Township Trustees, or another authorized representative of the Township Board, will make visual inspection of the premises in question per law.
  - (2) The Township Supervisor, one of the two Township Trustees, or another authorized representative of the Township Board will notify the owner of record by first class mail, certified mail, or personal delivery, using the last known address on file in the Township's records, of that person's initial determination of a violation and the owner of record's right to a hearing on the matter.
  - (3) If there is no response within 10 days after the date of postmark of the Township's initial determination notice, then the Township Board will determine if a violation notice should be issued at a public meeting. But if the owner of record contacts the Township Supervisor, one of the two Township Trustees, or another authorized representative of the Township Board within the 10-day period and requests an appeal of the initial determination of a violation, the Township Board will schedule a public hearing on the issue of whether a violation exists before any further actions are taken.
  - (4) If the Township Board decides to issue a violation notice, then owner of record must abate the violation within 14 days of the date the Township mails notice to the owner of record. If the violation is not abated within that 14-day period, the Township Board may pursue further remedial actions per Section 10 of this Ordinance.
  - (5) The cost of the demolition, of making the building safe, or of maintaining the exterior of the building, structure or grounds adjoining the building or structure, incurred by the Township to bring the property into conformance with this Ordinance must be reimbursed to the Township by the owner or party in interest in whose name the property appears.
  - (6) The owner or party in interest in whose name the property appears on the last local tax assessment records must be notified by the assessor of the amount of the cost of the demolition, of making the building safe, or maintaining the exterior of the building, structure or grounds adjoining the building or structure, by first class mail at the address shown on the records. If the owner or party in interest fails to pay the cost within thirty (30) days after mailing by the assessor of the notice of the amount of the cost, the Township must have a lien for the cost incurred by the Township to bring the property into conformance with this Ordinance. The lien must not take effect until notice of the lien is filed or

recorded as provided by law. A lien provided for in this subsection does not have priority over previously filed or recorded liens or encumbrances. The lien for the cost must be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, Act 206 of the Michigan Public Acts of 1893, as amended, being Sections 211.1 to 211.157 of the Michigan Compiled Laws.

- (7) In addition to other remedies under this Ordinance, the Township may bring an action against the owner of the building or structure for the full cost of the demolition, of making the building safe, or of maintaining the exterior of the building, structure or grounds adjoining the building or structure. The Township must have a lien on the property for the amount of the judgment obtained pursuant to this Sub-Section (P). The lien provided for in this subsection must not take effect until notice of the lien is filed or recorded as provided by law. The lien does not have priority over previously filed or recorded liens and encumbrances. The lien provided for in this subsection must be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, Act 206 of the Michigan Public Acts of 1893, as amended, being Sections 211.1 to 211.157 of the Michigan Compiled Laws.
- (8) A judgment in an action brought pursuant to the above subsection may be enforced against any assets of the owner including, but not limited to, the building or structure, as allowed per law.
- (9) The Township must have a lien for the amount of a judgment obtained pursuant to this Ordinance against the owner's interest in all real property located in this State that is owned in whole or in part by the owner of the building or structure against whom the judgment is obtained. A lien provided for in this subsection does not take effect until notice of the lien is filed or recorded as provided by law and the lien does not have priority over previously filed or recorded liens and encumbrances.
- (10) An owner or party in interest aggrieved by any final decision or order of the Township Board under Section 8 may appeal the decision or order to the circuit court within twenty-one (21) days from the date of the decision.

## **SECTION 7     Abatement; Costs.**

All expenses, attorney fees, and costs incurred by the Township in abating a public nuisance under this Ordinance must be charged to the person responsible for the nuisance, the occupant of the land in question, or the person who appears as owner or party in interest according to the last local tax assessment records of the Township. If said person fails to pay said charge within 30 days after a statement therefor is mailed to him, the amount of expenses incurred by the Township in abating the public nuisance may be paid from the Township general fund, and the amount thereof assessed against the lands on which said expenditures were made on the next general assessment roll of the Township, and said amount must be collected in the same manner as other taxes are collected. The Township must have a lien upon such lands for such expense, said lien to be enforced in the manner prescribed by the general laws of the State providing for the enforcement of tax liens.

**SECTION 8      Enforcement and Penalties.**

The Township may enforce any violation of this Ordinance by:

- A.      Criminal Penalties. A violation of the provisions of this Ordinance constitutes a misdemeanor; any person who violates this Ordinance may, upon conviction thereof, be fined not more than five hundred dollars (\$500) or imprisoned for not more than ninety (90) days, or both. Each occurrence must be considered a separate offense.
  
- B.      Injunction and Abatement. In addition to any other remedies that may be available under this Section, the Township may commence proceedings in a court of proper jurisdiction to enjoin or abate a violation of this Ordinance. Such proceedings must be governed by the applicable statutes and court rules of the State of Michigan, and may include compensating the Township for its costs and reasonable attorney's fees.

**SECTION 9      Severability.**

If any provision of this Ordinance is declared invalid for any reason, that declaration does not affect the validity of all other sections of this Ordinance.

**SECTION 10     Repealer Clause.**

This Ordinance expressly repeals all Township ordinances and parts of ordinances in conflict herewith, including the Garfield Township Anti-Blight Ordinance of 1998, regulating blight; and any other anti-blight ordinance the Township may have previously adopted.

**SECTION 11     Effective Date.**

This Ordinance takes effect 30 days after publication of this Ordinance or a summary of it as permitted by law.

ADOPTED:

YEAS: Paul Niemiec, Kimberly Day, James Dubay, Betty Monsion, Gerald Rivard

NAYS: None

STATE OF MICHIGAN    )  
                                  )ss  
COUNTY OF BAY        )

**CLERK'S CERTIFICATION**

I, Kimberly Day the duly elected, qualified and acting Clerk of the Township of Garfield, Bay County, certify that the above Ordinance was adopted at a regular meeting of the Garfield Township Board held at the Garfield Township Office, 1138 W Erickson Rd, Linwood, Michigan 48634, on the 8th day of April, 2013, by a majority of the members of the board presenting and voting.